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To: [*CI-StPaul_Contact-Council](#); [CouncilHearing \(CI-StPaul\)](#)
Cc: [Matthew Graybar](#); [Josh Williams](#); [Bill Dermody](#); [Crouse, Abigail S.](#); rkvischer@stthomas.edu; 9781.7.imanage@file.winthrop.com
Subject: Supplemental Appeal Letter to City Council – Enforcement Notice re University of St. Thomas CUP #04-054-501 (City File #24-078-362)
Date: Wednesday, February 26, 2025 3:30:02 PM
Attachments: [EXECUTED Supplemental Appeal Letter to City Council - Enforcement Notice re University of St. Thomas CUP #04-054-501 \(City File #24-078-362\) 20250226.pdf](#)

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Good afternoon,

On behalf of the University of St. Thomas, attached please find our supplemental appeal letter to the City Council regarding the Planning Commission decision to uphold the Enforcement Notice related to St. Thomas's 2004 conditional use permit (City File #24-078-362).

Please contact me if you have any questions.

Thank you,

Tami



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February 26, 2025

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City Council, City of Saint Paul
c/o Dept. of Planning & Econ. Devt., Zoning Section
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VIA E-MAIL

Re: Appeal of Planning Commission Decision to Uphold Enforcement Notice regarding Conditional Use Permit #04-054501 (City File #24-078-362)

Dear Members of the City Council:

On behalf of the University of St. Thomas (“**St. Thomas**”), this submission supplements the appeal filed on December 20, 2024 (the “**Appeal**”). The Appeal requests review of the decision of the Saint Paul Planning Commission (the “**Planning Commission**”) to uphold an Enforcement Notice dated July 1, 2024 (the “**Enforcement Notice**”) issued to St. Thomas by the Zoning Section of the Department of Safety and Inspections (“**DSI**”) of the City of Saint Paul (the “**City**”). The Enforcement Notice requires the removal of the loading drive and vehicle access from Goodrich Avenue to St. Thomas’ South Campus (the “**Goodrich Access**”) in order to comply with the conditional use permit (#04-054501) issued in 2004 (the “**CUP**”).

As demonstrated in the administrative record (the “**Record**”), and recognized by City staff in the Staff Report dated November 13, 2024 (the “**Staff Report**”), the Goodrich Access provides an important access point to South Campus for both operational and emergency and critical care purposes. The condition purporting to require its removal – imposed over two decades ago – is no longer needed to protect the health, safety and welfare of the community. Because the Planning Commission erred by failing to consider the evidence before it, and in recognition of the important policy question related to the City’s ability to control zoning within its boundaries, St. Thomas respectfully requests that the City Council reverse the decision of the Planning Commission and exercise its zoning authority to allow the Goodrich Access to remain.

I. Procedural History

St. Thomas’s South Campus is located within a H2 Residential zoning district. Pursuant to Saint Paul Legislative Code (the “**Code**”) Section 66.221, colleges and universities are designated as conditional uses within residential districts. St. Thomas has operated under conditional use permits since 1990 when the Code was revised to require the Planning Commission to issue “special conditional use permits” to set campus boundaries for existing universities in the City. Revisions to St. Thomas’s permit were incorporated over the years to allow for expansion and changes on campus. On August 11, 2004, as the result of a litigation-based settlement agreement between St. Thomas, the City, two

neighborhood associations and a local nonprofit organization (the “**Settlement Agreement**”), the City issued the 2004 CUP, which imposed conditions identical to the terms negotiated into the Settlement Agreement. Among other provisions, Section 16 of the CUP states:

At such time as the University remodels or replaces the Binz Refectory or replaces Grace Hall, the loading drive which currently exists between Goodrich Ave. and the Binz Refectory shall be removed, such that there shall be no vehicular access from Goodrich Ave. to any of the University’s buildings on the south campus.¹

(the “**Goodrich Avenue Condition**”). The loading drive is a small driveway into St. Thomas’s South Campus from Goodrich Avenue that provides access to the loading docks for the Binz Refectory (the “**Binz**”) and Brady Education Center, a classroom building. The loading drive also provides emergency access for the Binz, Brady Education Center and Grace Hall, a student residence hall, and restricted parking for a single St. Thomas vehicle. An annotated image of the loading drive and South Campus from Google Earth and correlating photos are attached hereto as Exhibit 1. St. Thomas currently uses the loading drive (i) to receive up to two vendor deliveries per week (with some weeks having no vendor deliveries), (ii) for emergency access, (iii) to deliver catered food to the Binz for seminarians,² and (iv) for occasional parking for a St. Thomas facilities maintenance vehicle. Importantly, the current use of this drive is not only consistent with the original intent, but it is also significantly less intense than the use in 2004 when the Binz housed one of the main university dining facilities.

At the time the Goodrich Avenue Condition was incorporated into the CUP, the Binz contained a cafeteria-style dining hall open to all St. Thomas students, faculty and staff and provided private dining for seminarians attending the Saint Paul Seminary School of Divinity (the “**Seminary**”).³ As a campus dining location, the Binz regularly received food deliveries through the loading dock accessed by the Goodrich Avenue loading drive. In 2004, neighbors were aware that St. Thomas’s long-term plans for the South Campus included the possible expansion of residence hall and dining facilities. As residents who live on or near Goodrich Avenue disliked the noise caused by delivery trucks to the Binz, there was concern that expanded residence life and dining facilities would worsen the noise and increase use of the Binz loading drive.⁴ However, St. Thomas’s 2004 vision to expand dining and residence hall operations on South Campus did not come to fruition.

¹ CUP, ¶16.

² When arena construction is complete, catered food will be delivered through the North entrance, as the loading dock is not needed for these deliveries and it is easier to deliver through the North (front) entrance of the Binz.

³ The Saint Paul Seminary School of Divinity is a school of the University of St. Thomas operated under an affiliation agreement between St. Thomas and the Seminary. The Seminary is a separate legal entity and is the former owner of the land on South Campus now owned by St. Thomas. The Binz has served as a dining facility for seminarians since it was built in 1978.

⁴ As additional insight into the intent of the parties at the time of approval of the CUP and Settlement Agreement, based on St. Thomas’s records, initial iterations of the CUP did not include a requirement that the Goodrich Avenue loading drive be removed. The provision was added shortly before finalizing the Settlement Agreement and CUP terms. The litigation that led to the CUP related to expansion of campus boundaries for the two blocks bounded by Summit Avenue to the North, Grand Avenue to the South, Cretin Avenue to the West, and Cleveland Avenue to the East. As such, most of the CUP provisions relate to the East and West Block.

In September 2020, St. Thomas opened two new residence halls and a new cafeteria-style dining facility on its North Campus and ceased using the Binz as a general campus cafeteria. While this change in use resulted in vacant space in the Binz, the Binz continues to provide private dining space for seminarians. In 2022, St. Thomas obtained building permits for “interior” demolition and a “minor remodel” of the Binz to create offices for athletic staff, to add unisex restrooms and create team space.⁵ Both permits note that “no structural work” would be involved. The permits note, respectively, that the scope of the work is “interior demo only” and “minor remodel.” Nine offices, space for several open work stations, a single classroom and a single lounge space were added as part of this project. On January 2, 2024, another building permit was issued to create temporary locker room facilities and a laundry closet in the basement.⁶ The permit again notes, “no structural work” and defines the scope as “minor remodel.” The locker rooms are temporarily being used by the women’s softball, women’s soccer, and men’s soccer teams. St. Thomas intends to discontinue use of these temporary spaces once the arena is completed and new spaces are complete.

In 2024, the City received a complaint (#24-035572) about an alleged violation of the Goodrich Avenue Condition (the “**Complaint**”). After investigation, DSI determined that “[d]espite the remodeling that has taken place [to the Binz Refectory], the loading drive between Goodrich Ave. and the Binz Refectory has not been removed, resulting in a violation of the CUP.”⁷ On July 1, 2024, St. Thomas received an Enforcement Notice from DSI (the “**Enforcement Notice**”), requiring the removal of the Goodrich Avenue loading drive and vehicle access on or before July 31, 2024 in order to comply with the CUP. On July 5, 2024, St. Thomas responded to DSI, acknowledging receipt of the Enforcement Notice, respectfully disagreeing with DSI’s determination that a violation of the CUP exists, and requesting a discussion with the Planning Commission regarding potential options for addressing this outdated condition. DSI subsequently delivered the Notification to the Planning Commission and has stayed enforcement action until the Planning Commission makes its determination or, if appealed, until the City Council makes its final decision.

In November and December 2024, the Planning Commission, through the Zoning Committee, held a public hearing (collectively, the “**Public Hearing**”) on the issue. In preparation for the hearing, City planning staff prepared the Staff Report, agreeing with St. Thomas’ position that removal of the Goodrich Access is unnecessary and recommending that the Planning Commission modify the Goodrich Avenue Condition of the CUP. After receiving public comments, the Zoning Committee recommended that the Planning Commission modify the Goodrich Avenue Condition to allow the loading drive to remain in use, subject to certain limitations. Despite this recommendation, on December 13, 2024, the Planning Commission determined that St. Thomas must work with DSI to have the Goodrich Access removed (the “**Planning Commission Decision**”). St. Thomas subsequently submitted this Appeal pursuant to Code Section 61.702(a) which provides that “[t]he city council shall have the power to hear and decide appeals where it is alleged by the appellant that there is an error in any fact, procedure or finding made by the board of zoning appeals or the planning commission.”

⁵ See City of Saint Paul Building Permit No. 20 22 066784 (issued June 30, 2022) (related to interior demolition); City of Saint Paul Building Permit No. 20 22 074023 (issued Sept. 29, 2022) (related to minor remodel).

⁶ See City of Saint Paul Building Permit No. 20 23 103724 (issued Jan. 2, 2024).

⁷ Complaint, p. 1.

In framing the City Council’s consideration of the Appeal, there are two additional points that must be considered. First, the City cannot ignore the ambiguity in the CUP language and second, the City should reject any argument that it lacks authority to clarify or modify the CUP as a result of the Settlement Agreement.

A. The Goodrich Avenue Condition is Ambiguous

As a preliminary matter, St. Thomas disagrees with DSI’s interpretation of the CUP condition that requires the removal of the Goodrich Access due to the minor remodel work that has been completed in the Binz. St. Thomas has consistently maintained that the work completed in the Binz in 2022-23 and 2024 did not constitute a “remodel” of the type contemplated by the CUP to require the removal of the Goodrich Access. The construction involved no structural work and did not require any site plan approval. Given the limited options available to select on the permit application, St. Thomas selected the option that appeared to be the closest description of the intended plan – *minor* remodel. Indeed, as is standard for this type of permit, the City issued the building permits for the minor remodel work without any reference to the CUP or potential interference with its conditions.

The work completed did not substantially change the primary use or structure of the Binz. The facility has been, and continues, to serve its primary purpose as a dining hall for Seminary students, and there are no plans to discontinue these services. The work completed on the Binz did not alter the structure of the facility or change the primary purpose of the facility. The “remodel” actions that have taken place have facilitated the creation of temporary space for certain parts of St. Thomas’s athletic department that had been displaced due to the demolition of former facilities and anticipated construction of the arena on South Campus. Upon completion of construction, current athletic uses in Binz will relocate to the arena. As such, St. Thomas contends that the interior remodel of the Binz did not constitute the type of “remodel or replacement” that informed the Goodrich Avenue Condition in the first place, particularly because the work did not result in greater usage of the loading drive or the building as compared to 2004 when the condition was imposed. “Remodel” is not defined in the Code or CUP, but such broad interpretation of this term would mean that any updates to the Binz which required a permit from the City would trigger the closure of the Goodrich Access. This interpretation appears wholly inconsistent with the intent of the Goodrich Avenue Condition at the time of the CUP’s approval, which was to remove the loading drive when it would be subject to increased use and disruption to the neighboring community.

Notwithstanding St. Thomas’ position on the scope and character of the “remodel” work that has been completed to-date, St. Thomas recognizes that this CUP language, which was drafted over twenty years ago, is ambiguous and lacks clarity since there is no clear definition of what it would mean to “remodel or replace” the Binz building. Unfortunately, the ambiguous language of the Goodrich Avenue Condition did not effectively capture the original intent of the parties as to when the loading drive should be removed. Accordingly, St. Thomas acknowledged the City’s authority to interpret the CUP and did not formally appeal DSI’s determination. Instead, St. Thomas voluntarily agreed that this issue should be reviewed by the Planning Commission to allow an opportunity to clarify this provision of the CUP and revisit whether this condition remains applicable.

While the subject of this Appeal is only the Goodrich Avenue Condition and the Planning Commission Decision related thereto, St. Thomas acknowledges that the language of the CUP is ambiguous in some provisions, and unusually detailed in others when compared to conditional use permits issued to other

private colleges and universities within the City. St. Thomas also recognizes that the CUP is more than twenty years old and, in many ways, no longer reflects the current needs or desires of the City. St. Thomas appreciates an open dialogue with the City regarding the appropriateness of the Goodrich Avenue Condition and other conditions to the CUP generally.

B. The City maintains the authority to determine land uses and modify conditional uses.

Private parties to the 2004 Settlement Agreement have argued that the City lacks authority to modify the CUP because its conditions were based on the same conditions contained in the Settlement Agreement and therefore cannot be amended without the consent of the parties to the Settlement Agreement. This argument is inconsistent with legal theory and public policy and, if adopted, would unlawfully strip the City of its crucial right and authority to control zoning and land use within its boundaries.

1. Zoning Theory & Public Policy

While general theories of zoning law support an argument that conditional uses “run with the land” and can exist for a long time, there is also an understanding that land use should be revisited from time to time and that property owners reserve the right to request modifications to conditional uses. The City recognizes this important right and codified the conditional use permit modification process in its Zoning Code.⁸ The modification process does not ignore the rights of other residents and, in fact, provides due process protections including the requirement for a public hearing⁹ and the right to appeal.¹⁰ These safeguards provide neighbors and concerned citizens with the opportunity to weigh in on zoning issues that impact them and challenge decisions once they are made. These codified protections balance the public’s right to participate in the zoning process while preventing any particular citizen from holding a “veto power” superior to the City’s zoning authority.

This understanding is also supported by public policy. It is essential that City professionals and elected officials retain the right to control zoning and growth within a municipality. It is absurd to think that council members who were elected decades ago could permanently and indefinitely transfer zoning rights to a group of private citizens. Zoning has always been a function of the municipality because it impacts the general welfare of the community. Accordingly, the right to control zoning decisions within a community lies with the elected officials who are obligated—by their oath of office—to maintain the general welfare on behalf of all citizens.

2. City Code

The City’s Zoning Code is consistent with zoning theory and public policy, and anticipates that land use conditions may need to change from time to time. This is reflected in the City’s authority to rezone

⁸ Code §§ 61.108; 61.502.

⁹ Code §§ 61.108; 61.502.

¹⁰ Code § 61.700.

property, change permissible uses or conditional uses in certain zoning districts, and also review the conditions that are attached to previously approved uses. Pursuant to Code Section 61.108, when the Planning Commission determines there has been a violation of a zoning condition, the Planning Commission may, at a public hearing, choose to impose additional conditions, modify existing conditions, or delete those conditions entirely that are deemed to be unnecessary, unreasonable or impossible of compliance. Based on this authority, even when a zoning violation has occurred, the Planning Commission—and the City Council through its authority to hear appeals—has the authority to modify or delete the violated condition under such circumstances.

The Code also gives the Planning Commission broad authority to remove, modify or clarify any conditions that are attached to a conditional use permit, even without a violation. Code Section 61.502 states that, after a public hearing, the Planning Commission may modify any or all special conditions when strict application would (1) unreasonably limit or prevent otherwise lawful use of a piece of property or an existing structure, and (2) result in exceptional undue hardship to the owner of such property or structure. So long as the modification does not impair the intent and purpose of the condition being modified, is consistent with the health, morals, and general welfare of the community, and is consistent with reasonable enjoyment of adjacent property, the Planning Commission may modify existing conditions.¹¹ Given the above, any argument that the City lacks authority to consider or modify the CUP condition at issue should be rejected.

II. The Planning Commission decision should be reversed because removal of the Goodrich Access is unnecessary and unreasonable and will result in exceptional hardship.

As noted above, the Code provides the City with authority to modify or delete unreasonable and unnecessary conditions to zoning approvals. Based on this authority, the City—regardless of determination of violation—may modify the CUP by removing, modifying or clarifying the Goodrich Avenue Condition. However, despite ample evidence in the Record, and in contradiction of the recommendation of the Zoning Committee and City staff, the Planning Commission ultimately determined that the Goodrich Avenue Condition should be upheld, and the Goodrich Access removed. In doing so, the Planning Commission ignored the evidence in the Record that supports a finding that the Goodrich Avenue Condition is unnecessary, unreasonable, and contradicts its intent and purpose when it was imposed in 2004.

Requiring the removal of the loading drive in the immediate future results in undue hardship for St. Thomas, which seeks to ensure not only operational efficiency but immediate and effective access to South Campus for emergency vehicles. As such, St. Thomas asks the City Council to reverse the decision of the Planning Commission.

A. The requirement to remove the Goodrich Access is unnecessary.

The Staff Report provided an extensive analysis of the Goodrich Avenue Condition and concluded that removal of the Goodrich Access is not necessary to satisfy the Goodrich Avenue Condition.¹² In this analysis, the Staff Report discussed the relevant findings for issuance of a conditional use permit to

¹¹ Code § 61.502.

¹² Staff Report, Finding 7 (emphasis added).

determine whether removal of the loading drive was necessary to continue to meet these findings.¹³ In doing so, staff determined that current use of the Goodrich Access is consistent with the objectives of the City's Comprehensive Plan, does not interfere with adequate ingress and egress or contribute to traffic congestion, is not detrimental to the character of the neighborhood or endangering public welfare, and does not impede with normal uses allowed in the applicable zoning district.¹⁴ Further, the Goodrich Access does not serve a parking lot or student, faculty or visitor traffic, and is lightly used for deliveries, maintenance and similar uses.¹⁵ St. Thomas agrees with planning staff's conclusion on these findings.

At the Public Hearing, concerns were raised that the loading drive is used for general traffic access to South Campus. This is not the University's current nor intended use of the Goodrich Access. The loading drive is a dead end and does not provide through access to other parts of campus. The loading drive is not, and will not be, used for through-traffic access between Summit, Cretin or Goodrich Avenues. St. Thomas believes that there is likely confusion over the intended and continued use of the loading drive onto South Campus due to the temporary circumstances of constructing the multi-purpose arena. While there have been traffic disruptions on Goodrich Avenue generally due to closure of other roads onto South Campus during construction, this should not be confused with St. Thomas's necessary use of the loading drive to serve the Binz. St. Thomas will use commercially reasonable efforts to enforce and maintain restrictions on the use of the Goodrich Access and does not anticipate, and will not encourage or tolerate, continued traffic disruptions on Goodrich Avenue after completion of the arena project.

As previously noted, the intent of the Goodrich Avenue Condition was to minimize disruption to the surrounding neighborhood caused by potential expanded use of the loading drive onto South Campus. This potential expanded use has not come to fruition. In fact, while continued delivery and maintenance-related access from Goodrich Avenue remains crucial to South Campus's operation, current use of the loading drive is notably less disruptive than it was when the 2004 CUP was originally issued. The Binz has always been and continues to be used for food service to the Seminary. However, food preparation no longer takes place at the Binz, and it is no longer used as a cafeteria-style dining facility for the main campus. Instead, food preparation for seminarians now takes place in updated culinary facilities on North Campus and meals are catered to the Binz. This means that deliveries by large food service suppliers or other vendors to the Binz over the past twenty years have decreased significantly from three to five deliveries per week in 2004 to two or fewer deliveries per week today. Further, arguments of community members that the loading drive will only see increased use due to construction of the arena are misplaced. The arena has been designed in collaboration with the City to critically evaluate its traffic implications during arena events. An event management plan is being developed to ensure safe and efficient traffic operations during these peak time frames. While St. Thomas does not anticipate that the Goodrich Access will be affected at these times, should neighborhood concerns related to increased use of the loading drive come to fruition, the City and St. Thomas may address corrective efforts in the event management plan. For these reasons, it is

¹³ Staff Report, Findings 5-6; Code §§ 61.501, 65.220(d)(6).

¹⁴ Staff Report, Finding 5.

¹⁵ Staff Report, Finding 6.

unnecessary to remove the Goodrich Avenue loading drive in order to comply with the original intent of the CUP.

B. The requirement to remove the Goodrich Access is an unreasonable limitation on an otherwise lawful use.

1. Operational Access

Despite the decreased number of deliveries, those that still occur are essential and the Goodrich Access remains the most efficient way to provide deliveries to the Binz and Brady Education Center. As noted above, the primary use of the Binz continues to be the primary use that was in place in 2004 when the CUP was issued. As such, the conditions that necessitated the availability of a loading drive in 2004 remain today.¹⁶ The Goodrich Access continues to support deliveries to the Brady Education Center as well. The loading docks for the Binz and Brady Education Center can only be accessed through the loading drive. Requiring closure of the loading drive will deprive St. Thomas of its ability to use these loading dock areas. The loading drive is also used by St. Thomas's facilities management team for certain maintenance-related access on South Campus.

2. Emergency Access

In addition to supporting operational efficiencies, the Goodrich Avenue loading drive serves as a critical emergency access point and fire lane for the Binz, Grace Hall, and Brady Education Center. As discussed in the Initial Response, the Minnesota Fire Code requires that access roads to be within a certain distance of buildings, with the potential to extend this threshold if the building is equipped with certain fire suppression systems.¹⁷ Because the Binz and Brady Education Center do not have automatic fire suppression systems throughout the buildings, the Goodrich Access is the only access point to these facilities which adheres to the Fire Code requirements, particularly during construction of the new arena when other potential access points to South Campus are disrupted. While not mandated by Code in the same way as fire suppression, the logic of easy and efficient access should also be applied to other types of emergency services, such as emergency medical services and ambulance access to the buildings on South Campus. Without allowing emergency vehicles to use the Goodrich Access, critical services to these buildings could be unnecessarily delayed.

As the City Council will note from the Record, members of the public made several comments speculating that an additional emergency access route on Cretin Avenue constructed on South Campus in connection with the arena project could be used to provide emergency access. However, this new access does not eliminate the importance of the Goodrich Access loading drive for emergency vehicle access to student buildings. Analysis of access to South Campus indicates that a Saint Paul Fire engine could not use the new Cretin Avenue access for all South Campus emergencies because a fire engine would be unable to maneuver between the Binz and Grace Hall. Fire engine access along the west side of Grace Hall would require tearing out a sidewalk and greenspace and construction of a pathway

¹⁶ Because catered food for seminarians is delivered by van and does not require a loading dock, St. Thomas anticipates that catered food deliveries will move to the North entrance of the Binz when construction of the arena is completed. Notwithstanding the foregoing, the loading docks continue to be essential for other occasional deliveries.

¹⁷ Minn. Admin. R. 7511.0503.1.1; 7511.0503.1.1.1.

capable of sustaining the weight of emergency vehicles. In addition, this possible access route raises safety concerns for pedestrians using the sidewalk as the primary egress path west of Grace Hall. Should there be an emergency event, the pedestrian egress path is an important part of the overall emergency response plan. Engineering renditions of these analyses were provided with St. Thomas's Supplemental Response and are included in the Record to highlight the importance of maintaining access to South Campus via the Goodrich Access in the event of an emergency.

Public testimony in the Record also indicates that neighbors have never personally witnessed emergency vehicles accessing St. Thomas' South Campus. These neighbors questioned the value of the Goodrich Access for this purpose. As stated in the Supplemental Response, St. Thomas is proud that proactive measures on campus limit the number of emergency calls that require response from the City's emergency personnel. That said, as of December 2024, there were 164 calls placed for emergency services, averaging approximately 15 emergency calls each month last year. Approximately half of those calls resulted in Saint Paul Police and/or Fire arriving on campus. 10 of those calls were specific to South Campus, with 4 identified as needing emergency vehicle access to Grace Hall or Brady Education Center. Fortunately, none of these incidents resulted in severe injury or damage to any person or property. However, this does not negate or lessen the importance of emergency response planning for the entirety of South Campus. If a future event—such as a building fire—required emergency departments or vehicles to respond, the Goodrich Avenue loading drive would be an absolutely critical component of the response plan.

III. Conclusion

As demonstrated in the extensive Record for this Appeal, requiring removal of the Goodrich Access is unnecessary and unreasonable because (a) the work that occurred on the Binz was not the type of remodel that was intended by the CUP or would allow a change of access to the loading docks; (b) the concern over the potential intensity of delivery traffic on Goodrich Avenue in connection with the creation of a residential village has not come to fruition and, in fact, delivery activity to the Binz is less frequent than it was twenty years ago; (c) the loading drive, though used minimally, serves as an important access point for campus deliveries; (d) the loading drive is crucial for emergency response access South Campus buildings; and (e) continued existence and limited use of the loading drive is consistent with both the Code and the intent of the CUP.

For the above reasons, the argument that St. Thomas should remove the Goodrich Access as a matter of principle because of the ambiguity associated with the word “remodel” is unreasonable and unnecessary. The City's zoning authority is meant to protect the health, safety, and general welfare of its citizens in the present day. Requiring the removal of the drive does not advance these goals. To the contrary, it would (i) eliminate an important emergency access point to South Campus, (ii) deprive St. Thomas of the use of its property to serve its educational mission, and (iii) impose additional and unnecessary costs on St. Thomas, without serving any meaningful public purpose. The Planning Commission's decision to uphold the Enforcement Notice and require removal of the Goodrich Access is not supported by the Record. Accordingly, St. Thomas respectfully requests that the City Council

reverse the Planning Commission Decision and exercise the clear authority provided in the Code to modify the condition to the CUP.¹⁸

The City holds an important zoning authority which should be used to ensure land is used such a way that promotes both its best use and the prosperity, health and welfare of residents, both residential and corporate. An unreasonable and unnecessary condition to a decades-old zoning approval no longer promotes any of these purposes. St. Thomas acknowledges the likelihood that several conditions under the CUP no longer promote the City's goals. As such, St. Thomas welcomes all efforts of the City to exercise its zoning authority to evaluate the Goodrich Avenue Condition and the CUP generally, and an open collaboration with the City to determine more appropriate CUP terms for the current and future relationship between St. Thomas and the City.

St. Thomas appreciates the opportunity to further discuss the Planning Commission Decision and important issue of the Goodrich Access with the City Council, and looks forward to continued conversations between St. Thomas and the City with respect to this matter.

Very truly yours,

WINTHROP & WEINSTINE, P.A.



Tammera R. Diehm

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¹⁸ In the event the City Council elects to uphold the Planning Commission Decision, St. Thomas requests that enforcement actions to remove the Goodrich Access be stayed until December 31, 2026, to provide St. Thomas with reasonable time to coordinate with City staff and complete alternate emergency access to Grace Hall, the Binz, and Brady Education Center.

Exhibit 1

Annotated Google Earth Image –
Loading Drive and South Campus

[attached]

Grace
Residence
Hall
(GRA)

Brady Education
Center (BEC)

Sculpture
Garden

Binz Refectory (BIN)

15
minute
parking
zone

Loading
Dock
Access
Only

Restricted
Parking (UST)

Photo
#4

Photo
#5

Photo
#6

Photo
#3

Goodrich Ave

Photo
#1

Photo
#2

----- No Parking Fire Lane -----

100 ft





Photo #1



Photo #2



Photo #3



Photo #4



Photo #5



Photo #6