

May 21, 2018

Mr. Scott Gustin  
City Planner  
City of Burlington  
Planning and Zoning Department  
149 Church Street  
Burlington, VT 05401

Scott,

I am writing to you regarding Planning and Zoning's consideration of UVM's permit application for 97 Spear Street (new multi-event center and basketball stadium in the south campus).

I am hopeful that you, as the lead City Planner on this project, and members of Planning and Zoning's DAB and DRB committees, will consider including conditions that are listed below when preparing your decision regarding UVM's request for this land use permit. The suggested conditions are necessary to:

1. Increase UVM's compliance with 2004 and 2015 land use permits in the south campus.
2. Increase UVM's compliance with city ordinances and federal highway regulations for streets adjacent to south campus;
3. Reduce adverse aesthetic, health, property and financial impacts resulting from UVM traffic on streets adjacent to the south campus.

#### **Violation of 2004 and 2015 Land Use Permits**

Currently, UVM is violating its 2004 and 2015 State of Vermont land use permits for its south campus University Heights Living Learning Center complex and Virtue Field facilities.

In State of Vermont May 25, 2004 land use permit for UVM's south campus University Heights complex (#4C0025-1), the Environmental Court included a permit condition specifying that Davis Road traffic was prohibited from exiting onto South Prospect Street. For 10 years, (2004-2015), UVM did nothing to prevent traffic from exiting onto South Prospect Street other than random and rare enforcement.

On July 22, 2015, the State of Vermont's District Environmental Commission issued a decision regarding UVM's Land Use Permit for Virtue Field (Case No.4C348-6) that repeats, reinforces, and tightens the language used in the 2004 land use permit. In the 2015 permit, the Environmental Court restated the 2004 permit condition that Davis Road is to be maintained as a one-way street into campus at its intersection with South Prospect Street. The permit also tightened previous permit language to say that egress from Davis Road onto South Prospect Street is prohibited except when directed by emergency or

higher- level security personnel in emergency or high security situations. (Quotes from this land use permit are provided as an attachment to this letter.)

The Environmental Court's 2004 and 2015 decisions did not specify how UVM is to prevent campus traffic from exiting onto South Prospect Street. Although the existing permits do not require a gate, the court expects permit applicants to take reasonable action to create compliance with conditions.

Consequently, at the time of the Virtue Field Project, UVM installed a gate on Davis Road, about 40 feet east of its intersection with South Prospect Street. When operating properly, the gate is suppose to open when a car approaches it from the South Prospect Street side, and the gate is suppose to close after the car enters campus.

Unfortunately, UVM chose a poor quality gate. For the past 3 years, the gate has often been broken (including most of the 2017-2018 academic year). When the gate is broken, it is left open and campus traffic exits onto South Prospect Street.

Enforcement is rare, random and thus ineffective. Hence, for large swaths of past 3 years, UVM has been in violation of the conditions set by the State of Vermont Environmental Commission in the referenced 2004 and 2015 Land Use Permits.

Despite South Prospect Street residents telling UVM's Lisa Kingsbury and UVM Police for 3 years that its gate is not working properly, that is left open for too long, and that cars are driving out of campus onto South Prospect Street, only in the past few weeks has UVM started to address the problem of the broken gate.

In May 2018, UVM ordered a new gate and its receipt is expected soon. UVM's interest in receiving a permit for the 97 Spear Street project is likely why UVM is addressing this long-term circulation problem. UVM recognizes that being out of compliance with earlier permit conditions is an issue when requesting a new permit.

#### **REQUESTED CONDITIONS for 97 Spear Street Permit**

Specifically, it would be very helpful to see the permit for 97 Spear Street require a functioning gate at the intersection of South Prospect and Davis Road, and no bus, truck or construction traffic on South Prospect Street south of Maple during and after the 97 Spear Street project.

Regarding the gate, please can the permit for 97 Spear Street require:

- 1) UVM to install and maintain a gate that is functioning at all times and prevents traffic from exiting from Davis Road onto South Prospect; (An attachment details UVM's failure to make the existing gate function properly for the past 3 years.)
- 2) UVM (not the city police) to man the entrance 24/7 when the gate is not operating properly. The attendant should not be a UVM student.

- 3) A camera installed at the gate so UVM police or maintenance can monitor whether the gate is working properly and whether repair is needed. Timely repairs and enforcement of the one-way entrance are important.
- 4) UVM police to ticket all drivers who drive the wrong way on the one-way section of Davis Road. Perhaps the previously mentioned camera can be positioned to capture license plate information of cars driving the wrong direction on Davis Road.

#### NO UVM related TRUCK TRAFFIC on South Prospect Street

- 5) Prohibition of all trucks going to UVM, including construction vehicles, from using South Prospect Street south of Maple Street. The 2015 land use permit for Virtue Field prohibited construction vehicles from using South Prospect Street. The 97 Spear Street permit needs to restate this condition and expand the language to specify that UVM, UVM vendor, and UVM construction traffic is always prohibited from South Prospect Street south of Maple (during and forever after the project).

This is necessary because UVM believes that the truck regulations do not pertain to South Prospect Street or UVM traffic. UVM's Lisa Kingsbury says UVM is currently keeping its trucks off of South Prospect (not consistently) as a courtesy and not as a requirement.

But city ordinance (Title 27, Section 20-43) requires vehicles weighing more than 24,000 lbs (G.V.W.) to use city defined truck routes. This ordinance is posted at city entrances on Truck Routes. South Prospect Street is not a city designated truck route. Truck routes are listed in the city ordinances and Truck Routes are sign posted throughout the city.

Furthermore, South Prospect Street, south of Maple, is city sign posted as "No Thru Trucks". All trucks entering at Davis Rd would be thru truck traffic since traffic is not allowed to exit from Davis Road to South Prospect Street. Therefore, trucks going to UVM's campus should not be using South Prospect Street south of Maple.

#### NO UVM BUSES on South Prospect Street south of Maple Street

(6a) UVM is silent in its permit application for 97 Spear Street as to whether the proposed construction project will affect its on-campus bus routing. A condition is needed in the permit to specify that none of UVM's on-campus buses should be diverted to South Prospect Street south of Maple Street.

(6b) Furthermore, UVM has ignored pleas from the majority of South Prospect Street residents (25 signed a petition) to remove the UVM Redstone Bus from South Prospect Street south of Maple Street. Despite this petition, UVM has not removed its Redstone bus from South Prospect Street south of Maple. This is a daily violation of city regulations regarding vehicle weight limits on streets that are not designated truck routes.

Circulation on streets surrounding the south campus are relevant to the project at 97 Spear Street, because:

- The proposed 97 Spear Street project will be used for public events as well as UVM events, and will at times lead to increased traffic going to/from campus;

- The current routing of the Redstone bus from South Prospect to Main to University Place hinders the flow of traffic on Main Street;
- The Redstone bus can serve the south campus dorm and facilities equally well by using the internal campus road (Northbound: University Heights to Main to University Place) and (Southbound: South Prospect to Main to University Heights); and this proposed route would not hinder the flow of traffic on Main Street and would remedy the adverse impacts of the Redstone bus on South Prospect Street homeowners.

UVM's strong interest in obtaining a timely permit for 97 Spear Street is a rare and important opportunity that we as a city need to leverage to remedy adverse impacts from UVM's Redstone bus on Main Street and South Prospect Street. It is a rare and timely opportunity because UVM only accommodates city requests, especially those of residents, when UVM wants a new land use permit. (Example, the need of residents to appeal the 2004 and 2015 permits to the State of Vermont Environmental Court.)

UVM's Redstone bus provides its students a short 4-city block ride: from Coolidge Hall on the Redstone campus to the buildings located at the top of main campus green. Instead of using So Prospect Street south of Main to make this trip, the Redstone bus should use UVM's on-campus road (University Heights Road), as its 3 on-campus buses do, to travel from Coolidge Hall on the Redstone Campus to the west entrance of the Davis Center, and the same bus stops in front of buildings at the top of the main campus green along University Place.

UVM's Redstone bus is offensive because it:

- Blocks 3 lanes of traffic on Main Street (one lane headed east and two lanes headed west) when turning left from Main Street and onto University Place (without a dedicated turn lane). Thus, the current routing of the Redstone bus (from South Prospect to Main Street to University Place) hinders the flow of vehicles on Main Street; which affects thousands of people driving into and out of Burlington; including rush hour traffic in both directions. From 7:40am to 5:10pm, (every 3 to 6 minutes between these hours), the Redstone bus is hindering of traffic flow on Main Street and reducing the appeal of coming to our city and its economic vitality.
- Is violating federal law regarding traffic flow on US highways. The federal government prohibits the hindering of traffic flow on US highways (US Route 2). The federal government, if made aware of this issue, can withdraw funding of road repair monies for US Rt 2 due to the Redstone bus's adverse traffic impacts.
- Drives by South Prospect Street homes 98 times a day (= every 3 to 6 minutes)
- Produces noise of 71dBA (measured by UVM at the curb); which is a health issue for So Prospect St residents. UVM bus noise is too frequent and too loud.
- Violates city street weight limit of 24,000 lbs on streets that are not designated truck routes. City regulation (Title 27, Section 20-43). The regulation exists to protect residents' life, safety and property values, and to protect streets from undue wear and tear.

- Misuses taxpayer dollars by accelerating the deterioration of the South Prospect Street's road surface. Heavy buses that circulate frequently are the worst causes of accelerated road deterioration. Even though \$200K of PILOT funds is designated for road repair and other UVM infrastructure impacts, this is a tiny amount compared to city expenses resulting from UVM's use of our city infrastructure. PILOT funds need to be used wisely. Moving UVM's over-weight private bus onto UVM's south campus road would reduce city expenses for road repair.
- Emits toxic CNG particles into the air on a residential street where there are children and elderly who are more susceptible to illnesses from air pollution,
- Provides students a ride of 4-blocks, a short distance that can be walked , biked or ridden via the 3 on-campus buses.
- Is redundant in that the Redstone Campus's Coolidge Hall, the Davis Center and buildings along University Place area also served 3 on-campus buses that use the on-campus University Heights road to get from the south campus to the main campus. Students already have the option of using the 3 existing on-campus buses instead of the UVM Redstone Bus to travel between the Redstone campus and main campus green. These on-campus buses are as fast as the Redstone bus and already operate the same (and longer hours).

#### CONCLUSIONS:

- 1) It is inadequate for UVM to reference the 2003 and 2009 South Campus Master Transportation Plans when defining what the circulation should be for the project at 97 Spear Street. These UVM documents are no longer available on-line for us to reference; and are superseded by the 2015 land use permit for Virtue Field. Thus, the permit for 97 Spear Street needs to refer to the circulation conditions required by the July 22, 2015 Environmental Commission permit for Virtue Field.
- 2) UVM has not effectively prevented traffic from exiting onto South Prospect Street via Davis Road despite the 2004 and 2015 land use permit conditions requiring them to do so. Therefore, the permit for 97 Spear Street needs to require that UVM install and maintain a highly functional gate at the intersection of Davis Road and South Prospect Street; and that UVM man the intersection 24/7 when the gate is not operating properly or otherwise not preventing traffic from exiting onto South Prospect Street.
- 3) UVM needs to remove its Redstone Bus from South Prospect Street south of Maple and instead use its internal south campus road (University Heights Road) for routing between the south campus bus stops and the main campus bus stops. This will improve traffic flow on Main Street, and benefit thousands of drivers on US Highway 2, and the city as a whole, eliminate a pressing and long-term neighborhood complaint regarding UVM's Redstone bus use of South Prospect Street; and get UVM in compliance with city

ordinances regarding street weight limits and federal highway regulations regarding not blocking traffic flow.

- 4) UVM's own, vendor and construction vehicles need to be prohibited from using South Prospect Street, south of Maple Street during and after this project at 97 Spear Street. This would be consistent with city regulations regarding weight limits for streets that are not designated truck routes and protect residents from adverse aesthetic, health and financial impacts.

Thank you for your time and consideration.

### **3 YEAR HISTORY of PROBLEMS WITH EXISTING GATE**

Since 2004 UVM was suppose to keep Davis Road traffic from exiting onto South Prospect Street. Only in 2015, after residents on South Prospect Street appealed UVM's permit for Virtue Field, did UVM install a gate at the intersection of Davis Road and South Prospect.

But UVM chose a poor quality gate and has not kept it operating over the past 3 years, and as a result, the traffic violations have continued. This indicates that the permit for 97 Spear Street needs tighter language than prior permits. The requested permit should require UVM to install and maintain a highly functional gate; and that the entrance be manned 24/7 when the gate is not working properly.

Evidence:

- Soon after installation of the gate in 2015, it kept breaking. In order to reduce wear and tear on the gate, UVM adjusted the timing on the gate so it stays open for about 10 minutes after a car passes through. This was an unsatisfactory remedy because a delay in the gate closing allowed traffic to exit onto South Prospect Street.
- UVM leaves the gate open for weeks at a time, not just during school breaks, but also when classes are in session. Repair work is not timely and the repairs don't last long before the gate is broken again.
- UVM acknowledges that the gate has been broken and open for most of the 2017-2018 academic year. Residents have reported traffic violations to UVM and city police; but UVM's enforcement effort is too weak to stop traffic from driving the wrong way on Davis Road in order to exit onto South Prospect Street.

Before and after the gate installation, UVM has been lackluster in its efforts to stop traffic from exiting onto South Prospect Street, which is a violation of its 2004 and 2015 permits. New permits should not be granted if UVM cannot generate high confidence that it will comply with conditions of existing permits.

## QUOTES FROM VIRTUE FIELD PERMIT (#4C0348-6). July 22, 2015

### Page Item Excerpt

6 24 “Traffic from Special Events may egress from the PFG by either University Heights Road or onto Spear Street. Exceptional Special Events can allow some egress onto Prospect Street only when directed by emergency or higher level security personnel in emergency of high level security situations otherwise egress onto South Prospect Street is prohibited.”

**Findings of Fact**, page 6, item 19: “The traffic circulation at UVM was discussed and approved in the review of the University Heights (LUP #4C0025-1) issued on May 25, 2004. The Permits and Findings state: .... There will be no exiting from the site via Davis Road to South Prospect Street...”

Findings of Fact, page 11, item 46: “World Health Organization (WHO) Guidelines state that to avoid hearing impairment, (noise) (Leg924h) should not exceed 70dBA”

Findings of Fact, page 13, item 2: “An adverse aesthetic impact is undue if any of the following is true:

(1) The Project violates a clear written community standard intended to preserve the aesthetics of scenic beauty of the area [Evidence: South Prospect Street is not a city designated truck route; and thus the UVM Redstone bus, as a private bus, violates the city regulation of 24,000 lb weight limit for vehicles on streets that are not designated truck routes. This city sign is posted at the all the main entrances to the city and designated truck routes are listed in the city’s code of ordinances.. Furthermore, South Prospect Street is sign posted as no-thru truck traffic.]

(2) The Project offends the sensibilities of the average person [Evidence: 25 persons signed a petition to remove the Redstone bus from South Prospect Street south of Maple). A bus driving by 98 times a day is excessive. A bus driving students 4 blocks is wasteful and not environmentally sustainable.]

(3) The Applicants failed to take generally mitigating steps which a reasonable person would take to improve the harmony of the Project with its surroundings.” [Evidence: Despite permit conditions prohibiting campus traffic from exiting onto South Prospect Street, and city regulations that specify a 24,000 lb weight limit on streets that are not truck routes, UVM continues to allows its campus traffic and Redstone bus to have an undue adverse impact on South Prospect Street. In addition UVM allows construction trucks to use South Prospect unless it is expressly prohibited in the permits. This is despite the fact that there are alternative entrances into campus and South Prospect Street is sign posted as a “No Thru Truck” Street.]

**Conclusion:** South Prospect Street homeowners have shown they are willing to appeal UVM permit applications when Planning & Zoning and the DRB under-appreciate neighborhood concerns. Appeals lead to project delays and city legal expenses.



The city regulation regarding vehicle weight limits on streets that are not designated truck routes is sign posted throughout entrances to the city.



Example of a student's car exiting from Davis Road onto South Prospect Street.  
May 2017