



Department of Planning & Community & Economic Development

Economic Development Division

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To: **Plan Commission and Common Council**

From: **Tom Otto**

Date: **October 1, 2020**

Subject: **Termination of the Declaration of Covenants, Conditions and Restrictions (DCCR) for the Fourth Addition to World Dairy Center**

Memo on Termination of the Declaration of Covenants, Conditions and Restrictions (DCCR) for Fourth Addition to World Dairy Center

The purpose of the Declaration of Covenants, Conditions and Restrictions (DCCR) for the Fourth Addition to the World Dairy Center (see Map 1 below) (2002) and the First Amendment to the DCCR (2011) is to promote and maintain a campus setting and that buildings constructed be architecturally designed and built with standards and specifications in harmony with each other and neighboring sites.

The DCCR establish an Architectural Review Committee (The Committee) to enforce Architectural Restrictions and Use Restrictions utilizing the established Standards of Approval and Procedures.

The problem with the DCCR and the rationale for its termination is that The Committee has not been active nor functional since at least 2014. No one is on The Committee, potential purchasers/developers of property do not know who to contact, there are no good records of previous Committee actions, and if issues or disputes arise there is no entity to resolve the issue(s).

This has already led to confusion in the case of one property within the campus that has been for sale. The DCCR prohibits certain uses, including gymnasiums and taverns. We believe the property at 5018 Blazing Star Drive obtained approval of building plans and use as an indoor soccer facility, including lunch counter with beer sales, from the Committee in 2004; however, we have yet to find evidence documenting this approval. This is an issue as some prospective buyers of the property desire to continue this use, but are concerned about the prohibition in the DCCR. In the absence of an active Committee, the current DCCR creates a level of uncertainty.

One remedy would be to resurrect the Architectural Review Committee; however, there doesn't appear to be interest in doing so. Another remedy is to terminate the DCCR. The DCCR may be terminated by a written recorded instrument by the owners of two-thirds ($2/3^{\text{rd}}$) of the square footage of the platted lots within the Fourth Addition to the World Dairy Center. The City of Madison is a major property owner (owning 31% of the square footage) and is considering joining other property owners in a desire to terminate the Declaration. With City of Madison approval, 67% of property owners will have executed the Termination of Declaration of Covenants, Conditions and Restrictions for the Fourth Addition to World Dairy Center, which will be memorialized for the public record.

The resolution before the Plan Commission and Common Council (Legistar #61868) would grant the City permission to execute the Termination of Declaration of Covenants, Conditions and Restrictions for the Fourth Addition to the World Dairy Center.

Map 1: Fourth Addition World Dairy Center Map
This is the area the DCCR is being terminated

