



Board Summary Report

File #: 26-204

Agenda Date: 4/14/2026

Agenda #: 7.a.

To: Board of County Commissioners

Through: Ceila Rethamel, Acting Director, Public Works and Development

Prepared By:
Molly Orkild-Larson, Principal Planner, Public Works and Development

Presenter: Molly Orkild-Larson, Principal Planner, Public Works and Development

Subject:
SDPZ23-001, Dayton Point - Specific Development Plan with Zoning - Request to Amend a Condition of Approval

Purpose and Request:

The Board of County Commissioners is asked to adopt a resolution amending a condition of approval included in Resolution 25-250, for case number SDPZ23-001. Following approval of the underlying Specific Development Plan/Zoning, the applicant raised concerns about the timing of a cash-in-lieu payment required therein.

The condition requires payment of schools, parks, and other public purpose fees in lieu of land dedication. The proposed alternate condition from Staff will assure the payment is made at a later date.

This project is located at 9500 E. Mississippi Avenue, on the southwest corner of E. Mississippi Avenue and S. Dayton Street.

Alignment with Strategic Plan: Good Governance - Understand and respond to community needs, interests, and values.

Background and Discussion: On October 28, 2025, the Board of County Commissioners approved the Dayton Point Specific Development Plan with Zoning, case number SDPZ23-001, via Resolution 25-250, inclusive of two conditions. The Owner now seeks to have Condition #2 removed.

Condition #2 states, "Before the signature of the Specific Development Plan with Zoning, the applicant shall pay the total cash-in-lieu fee of \$70,800.99. This cash-in-lieu fee shall be distributed as follows: Cherry Creek School District: \$54,520.99; Public Parks: \$15,628.80; and Other Public Purposes: \$651.20."

Throughout the pendency of the Planning Commission and Board of County Commissioners hearings on this matter, the above condition appeared in the published public record, including the associated BSR, staff report, proposed motions, and proposed resolution. It was not until after approval, inclusive of the condition, that the Owner objected to the condition. The objection was not as to the substance,

but rather, as to the timing of the required payment.

The condition came about as a result of the deferred payment requirement from 2015 when the underlying property was platted by the previous property owner. At the time, County records made clear that because the ultimate configuration of the property was not known, the required cash-in-lieu payment for schools, parks, and public purposes, could not be accurately determined. As such, it was intended that the cash-in-lieu payment would be deferred until approval of a Final Development Plan.

Pursuant to the Land Development Code section 4-2.5, the obligation to make the cash-in-lieu payment is triggered by the subdivision of land for residential purposes. With this in mind, staff is supportive of modifying Condition #2 to require the payment at either (1) the time of replat, or (2) if not replatted, then at the time of the future approval of an Administrative Site Plan (ASP). The ASP review and approval process typically occurs in conjunction with platting. If the County does not collect the cash-in-lieu fees, the impacts of the development cannot otherwise be accounted for and appropriately offset.

Specifically, Staff requests that the Owner's concern be addressed through a revised condition stating, "Applicant shall make all required cash-in-lieu payments as set forth in LDC section 4-2.5 at the time of replat, or if no replat is necessary, then upon subsequent approval of an associated Administrative Site Plan."

Alternatives: The BOCC has several alternatives to address this matter.

1. Deny the request. While this is an acceptable solution, it does not consider the timeliness of the financial burden which is the primary concern of the Owner.
2. Continue the request to a later date. The BOCC could resolve the issue by deferring the request temporarily and during the interim period, revoke the 2015 Final Plat approval. As a result, the replatting of the property would be a necessity for further development and the County would be assured of receiving the cash-in-lieu payment at that time.

Fiscal Impact: While there is no direct fiscal impact attributable to this direct request, if the cash-in-lieu payment is not received, the impacts of development on schools and public infrastructure are not appropriately accounted for and offset.

Alignment with Strategic Implementation Strategies: N/A

Staff Recommendation: Staff recommends removing Condition No. 2 and replacing it with the updated condition presented herein, deferring the collection of cash-in-lieu to subsequent approval of a revised Final Plat or Administrative Site Plan.