

**BOARD OF COUNTY COMMISSIONERS**  
**March 26, 2019**

**PLANNING CASE #PLN18-11 4: CLASS 6 - General Subdivision Exemption Plat /Lot Line  
Adjustment to reconfigure the Lot line located between  
Lot 21 and Tract AR, Dercum's Dash**

**NEW BUSINESS AGENDA**

**PROJECT INFORMATION:**

Location: 0101 and 0118 W Trade Ct. (CR278)  
Project/Request: General Subdivision Exemption Plat /Lot Line Adjustment to reconfigure  
the Lot line located between Lot 21 and Tract AR, Dercum's Dash

**ISSUES:**

Scope/magnitude of the request and consistency with the intent of the original PUD designation

**SNAKE RIVER PLANNING COMMISSION RECOMMENDATION:**

None needed for this type of general subdivision exemption application.

**RESOLUTION STATUS:**

Resolution to be drafted subsequent to the BOCC meeting.

**STAFF RECOMMENDATION:**

Tabling while a minor PUD amendment is considered or Denial.

**ATTACHMENTS:**

- A. Staff report dated February 12, 2019
- B. Staff Report dated February 26, 2019
- C. Revised drawing illustrating a 21% reduction in Tract A - R lot area
- D. Drawings showing proposed revised clubhouse/employee unit



PLANNING DEPARTMENT

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**STAFF REPORT**

**TO:** Board of County Commissioners

**FROM:** Lindsay Hirsh, Senior Planner

**FOR:** Meeting of March 26, 2019 (Continued from 2/12/19 and 2/26/19 meetings)

**SUBJECT:** PLN18-114: General Subdivision Exemption Plat /Lot Line Adjustment to reconfigure the Lot line located between Lot 21 and Tract AR, Dercum's Dash

**APPLICANT:** David Bernstein, Crestwood Development LLC

**OWNER:** Andrew Grolnick Revocable Trust

**REQUEST:** General Subdivision Exemption Plat /Lot Line Adjustment to reconfigure the Lot line located between Lot 21 and Tract AR, Dercum's Dash

**PROJECT DESCRIPTION:**

**Location:** 0101 and 0118 W Trade Ct. (CR278)

**Legal Description:** Lot 21 and Tract AR, Dercum's Dash Subdivision

**Existing Zoning:** Dercum's Dash Neighborhood PUD

**Proposed Use:** Single Family Residential and Clubhouse/Caretaker Unit

**Other Uses:** Primarily as permitted in the R-1 zoning designation

**Adjacent land uses:**

- East:** Lot 23, Dercum's Dash Neighborhood, vacant residential
- West:** Lot 20, Dercum's Dash Neighborhood, vacant residential
- North:** West. Trade Ct, CR 278, County R.O.W
- South:** Tract C, Dercum's Dash Neighborhood, Private open space

**BACKGROUND:**

On February 12, 2019, the BOCC initially reviewed the subject application (Attachment A) and, after raising the issue of whether the extent of the change proposed necessitated a PUD Amendment, continued the item to the February 26, 2019 meeting to allow staff additional time to research the history of the clubhouse and employee housing unit as it pertained to the overall rezoning and PUD approvals. The BOCC expressed significant concern with the proposed elimination of the majority of the potential lot area for the community clubhouse/employee unit and whether the proposal could still be in compliance with the Dercum's Dash PUD.

At the February 26, 2019 BOCC meeting staff presented the information (Attachment B) as requested by the BOCC. Following the staff presentation, the applicant's attorney stated that he believes the application to adjust the lot line meets the criteria for decision. The BOCC indicated

to the applicant that the magnitude of the lot line adjustment as proposed necessitated an amendment to the PUD designation, as the lot proposed to be significantly reduced in size was intended for amenities belonging to the entire neighborhood, and integral to the original intent of the PUD. In response to the applicant's question regarding what magnitude of lot line adjustment would not necessitate a PUD Amendment, staff indicated that for purposes of guidance and comparison, the Land Use and Development Code §12001.03 provides some criteria for determining when a proposed change to an approved development plan is considered "minor." For site plan applications, a 10% change is the threshold of what constitutes a change that would necessitate a change to the governing zoning document. The applicant requested a continuance in order allow more time to work with staff to come up with a proposal that could potentially not have to go through a PUD amendment process. The BOCC continued the application to the March 26, 2019 meeting.

The applicant has submitted revisions to the proposed lot line adjustment (Attachment C) that results in a 21% reduction in square footage to the proposed Tract A-R and a 31% decrease in square footage of the building envelope. The applicant has also submitted drawings (Attachment D) that indicate the viability of the proposed lot to be able to accommodate a clubhouse and employee unit.

Because this lot line adjustment impacts a parcel of land that is intended to be owned by the HOA for a specific purpose as part of the approved PUD, it is appropriate to consider whether a significant adjustment in lot area of the HOA parcel is consistent with the intent of the PUD. This question is similar to past applications where a privately owned lot was to be adjusted along with an HOA-owned open space parcel. In those cases the lot line adjustment has generally only been approved if there was a one-for-one exchange between the lot and the open space - i.e. both parcels stayed the same size, with adjusted boundaries. This has been in recognition of the fact that, as a type of subdivision exemption plat subject to lesser review and notice requirements, a lot line adjustment should not be materially altering or affecting a development plan and/or common property. Although this application does not impact open space per se, it does impact a parcel of land that is intended to be common property within the PUD that is designated for a community amenity.

As such, staff believes the 10% concept is an analogous tool for considering this proposal. In the absence of specific guiding language in the Code, utilizing similar concepts and procedures in the Code for comparison purposes is entirely appropriate. Staff believes this application has similar characteristics to a site plan modification in that it impacts a community parcel that is zoned for and was promised to be a very specific clubhouse and employee housing amenity during both the original PUD approval and the last PUD amendment in 2014. Staff would note that while the applicant has provided some emails from owners within the PUD stating that they do not want a clubhouse, staff does not agree that such emails are the same as providing proper notice and an opportunity to comment as would occur with a PUD amendment.

While the applicant has reduced the scope of the request, it still is more than double, or even triple if you consider the scope of the reduction in disturbance envelope, the percentage of what staff has historically considered minor in nature for similar kinds of applications. In addition, staff has generally not supported any reduction in community property, like open space, in order to benefit a single lot owner without allowing for notice and an opportunity to comment. As such, staff believes that the request as it is currently proposed still necessitates an amendment to the Dercum's Dash PUD.

**STAFF RECOMMENDATION:**

If the applicant decides to pursue an amendment to the Dercum's Dash PUD, then staff recommends that the BOCC table the General Subdivision request while the PUD amendment is being processed.

If the applicant chooses to not pursue a PUD amendment nor to amend the application to reflect a 10% or less change in Tract A-R building area, Staff recommends that the BOCC deny PLN18-114: a General Subdivision Exemption Plat /Lot Line Adjustment to reconfigure the lot line located between Lot 21 and Tract A-R, Dercum's Dash with the following findings:

1. The application and resulting lots do not comply with the zoning regulations for the Dercum's Dash PUD. Specifically the proposal is not in compliance with the prior, approved submittals for this PUD, including the development plan, uses approved within the PUD, and the original purpose and intent of the Dercum's Dash PUD; because, without limitation, the proposed lot line adjustment would substantially modify and reduce the size of the approved community clubhouse and employee housing unit and reduce the community uses and amenities on Tract A-R.
2. The proposed changes to the Dercum's Dash PUD are more appropriately reviewed as a proposed PUD modification in accordance with the Development Code and applicable state statutes, including the public process and criteria relating therein.

**Attachments:**

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