



STAFF REPORT

Planning Commission

CASE S-771-20-22

PC Date:	May 3, 2022	Case Planner:	Anita Riley
CC Date:	June 6, 2022		
Location:	Generally located between Tower Road and E-470, south of 96th Avenue, west of Himalaya Parkway, and between Cathay Court and Argonne Street, Commerce City, CO 80022		
Applicant:	Cohen Denver Airport, LLC	Owner:	Cohen Denver Airport, LLC
Address:	9875 W. La Mancha Ave. Las Vegas, NV 89149	Address:	9875 W. La Mancha Ave. Las Vegas, NV 89149

Case Summary

Request:	Final Plat to create 131 residential lots and 7 tracts
Project Description:	Cohen Denver Airport, LLC is requesting the approval of the Legato Filing No. 2 Final Plat for 131 lots and 7 tracts on approximately 32.38 acres for the property generally located between Tower Road and E-470, south of 96th Avenue, west of Himalaya Parkway, and between Cathay Court and Argonne Street.
Issues/Concerns:	<ul style="list-style-type: none">Plat meets the standards in LDC and PUD
Key Approval Criteria:	<ul style="list-style-type: none">Land Development Code (LDC) final plat criteria
Staff Recommendation:	Approval
Current Zone District:	PUD (Planned Unit Development District)
Comp Plan Designation:	Residential - Medium

Attachments for Review: *Checked if applicable to case.*

☒ Vicinity Map

☒ Proposed Final Plat

Background Information

Site Information

Site Size:	32.38 acres
Current Conditions:	The existing parcels are currently vacant. Infrastructure work is occurring in the area.
Existing Right-of-Way:	Tower Road to the west, East 88 th Avenue to the south
Neighborhood:	Prime Sites
Existing Buildings:	N/A
Buildings to Remain?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A

Site in Floodplain	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
---------------------------	---

Surrounding Properties

<u>Existing Land Use</u>		<u>Occupant</u>	<u>Zoning</u>
North	Undeveloped	Legato PUD	PUD
East	Undeveloped	Legato PUD	PUD
South	Undeveloped	Legato PUD	PUD
West	Undeveloped	Legato PUD	PUD

Case History

The City approved the Legato PUD Zone Document in 2020, which is the governing zoning and regulatory document for this area (in addition to the LDC).

<u>Case</u>	<u>Date</u>	<u>Request</u>	<u>Action</u>
Z-953-18-20	July 9, 2020	Legato PUD	Approved
S-751-19-20	May 4, 2020	Legato Infrastructure Final Plat	Approved

Applicant's Request

Cohen Denver Airport, LLC, the master developer for Legato, has submitted this application in order to plat Legato Filing No. 2. This filing includes 131 lots and 7 tracts for landscaping, parks/open space/trails, utilities, and/or drainage on approximately 32.38 acres. This property is generally located between Tower Road and E-470, south of 96th Avenue, west of Himalaya Parkway, and between Cathay Court and Argonine Street. The property is currently zoned as part of the Legato PUD. The general purpose of the proposed plat is to create additional lots for residential development.

Development Review Team Analysis

Scope of Review:

The request for consideration at this hearing is a final subdivision plat. The Land Development Code (LDC) sets out the specific criteria for review of a plat application. The default process for a subdivision case is to be reviewed and approved administratively in accordance with the City's Land Development Code (LDC). However, the LDC allows that a subdivision be required to go through the public hearing process in certain circumstances, with final approval authority given to Council. As it relates to subdivisions, the LDC sets out the specific criteria upon which a plat application can be approved or denied. Therefore, the analysis and evaluation must be limited to those criteria; no outside considerations may be the basis of a decision of approval or denial.

Public Hearing Background:

In accordance with Section 21-3241(2) of the Land Development Code (LDC), Final Plats are typically considered through an administrative approval process after review by the Development Review Team (DRT) and the Director of Community Development. As a part of the administrative approval process, the LDC requires notification to the public and Council prior to approval of an application. During the notification period, an application may be requested for review in public hearings before Planning Commission and City Council if one of the following occurs.

Section 21-3241(4) states:

Public Hearings Required. Public hearings before the Planning Commission and the City Council shall be required if:

- a) The applicant or any property owner within 300 feet of the property submits a written request to the director by the date scheduled for department approval. This written objection request must be directly related to the proposed subdivision. General objections regarding existing land use, zoning, or issues unrelated to the subdivision will not be considered valid objections for purposes of this provision;
- b) If any public entity or utility affected by the proposed subdivision claims it is negatively impacted by the proposed subdivision and submits written request to the director by the date scheduled for department approval;
- c) The director determines that the final plat should be reviewed through a public hearing process; or
- d) **The city council requests that the final plat be reviewed through a public hearing process if such request is made before the date scheduled for department approval.**

Once staff completed the technical review and determined the application was ready for the notification period, staff proceeded with the standard process for notifying the public. The City Council requested that the final plat be reviewed through a public hearing process at a special meeting held March 28, 2022.

Site Overview:

The requested subdivision plat (Legato Filing No. 2) is 32.38 acres generally located between Tower Road and E-470, south of 96th Avenue, west of Himalaya Parkway, and between Cathay Court and Argonine Street (Image A). The property is zoned Planned Unit Development and is currently vacant and undeveloped.

Image A: Simple Vicinity Map of Legato Filing No. 2



The Comprehensive Plan identifies the future land use of this area as Residential – Medium. This land use category is characterized by single-family detached residences, single-family attached, and some townhomes and patio homes at 4 to 8 dwelling units per acre. It is important to note that the Comprehensive Plan is a guiding policy document that establishes long-range goals for the City. The Comprehensive Plan is not a regulatory document, as it does not dictate specific zoning and development standards, which is the role of the LDC and the PUD.

The applicant intends to use this development for single-family detached housing. The homes are all single-family and detached in their construction. At this time, no builder has been identified for this submission.

DRT Analysis of Residential Considerations:

The DRT examined this request through the traditional cycles of development review. The following chart is a general summary of the comparison between the subdivision proposal's design attributes and the City's standards, requirements of the Land Development Code, and the Legato PUD Zone Document. During this review, staff determined that the proposed plat meets all of the City's relevant requirements.

Proposed Plat Requirements – Residential			
Issue	Proposed	City Standard	Meets City Standard?
Comprehensive Plan	Single Family Detached (4-8 dwelling units/acre)	Residential – Medium (4-8 dwelling units/acre)	Yes
Density	Tract C 4-6 dwelling units/acre Tract D2 4-8 dwelling units/acre	4-8 dwelling units/acre	Yes
Lot Frontage - Minimum	Tract C SFD: 45 feet; Tract D2 SFD: 35 feet;	SFD: 35 feet; (PUD Standard)	Yes
Lot Size - Minimum	Tract C SFD: 4,500; Tract D2 SFD: 3,500;	SFD: 3,500 SF; (PUD Standard)	Yes
Park Fee Dedication/Fee-in-Lieu	There is a park fee in the amount of \$135,480 due when a building permit is obtained. Legato has dedicated a public park across the street.	Dedication of land or fee-in-lieu	Yes
Private Park	Applicant has dedicated seven tracts for open space, which will take the form of greenbelt spaces that include	3% minimum	Yes

	sod grass area, landscaping, and trails that constitute 3.34 acres. = 10.3%		
Right-of-Way Dedications	ROW Dedications provided as required and meet minimum ROW width for City standards and PUD	Collector and Local Streets Surrounding streets (ROW for E. 96th Avenue and E. 88th Avenue have already obtained needed ROW widths at infrastructure plat approval)	Yes
School Land Dedication / Fee-in-Lieu	School land dedication requirements have been met with dedication of a school site across the street.	Dedication of land or fee-in-lieu	Yes
Total Lots/Tracts	131 lots; 7 tracts	Regulated by PUD Zone Document	Yes

Image B: Excerpt of Overview Map of Legato Development

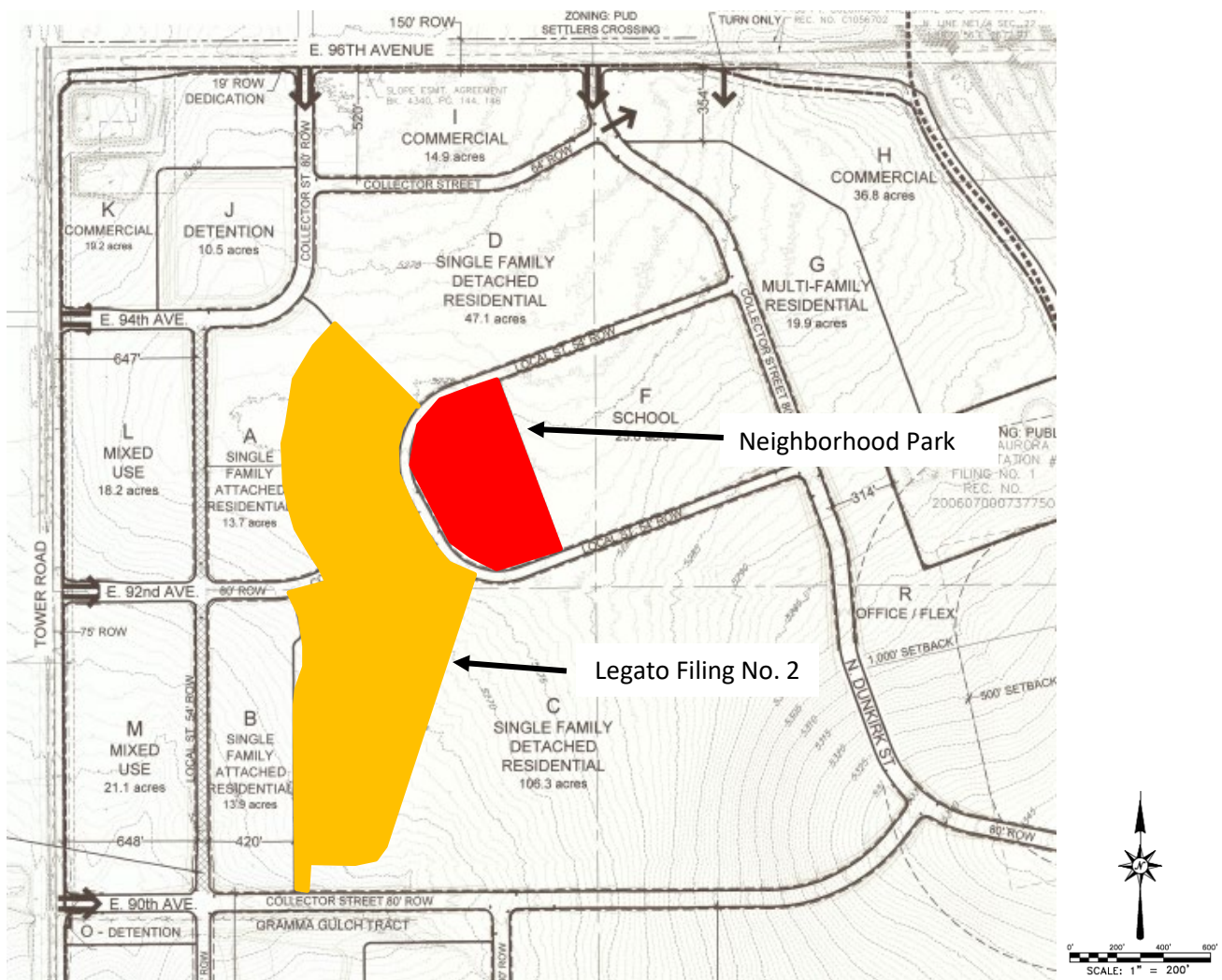
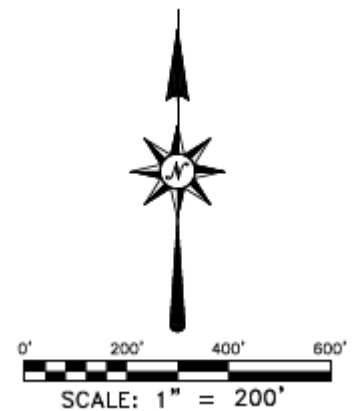
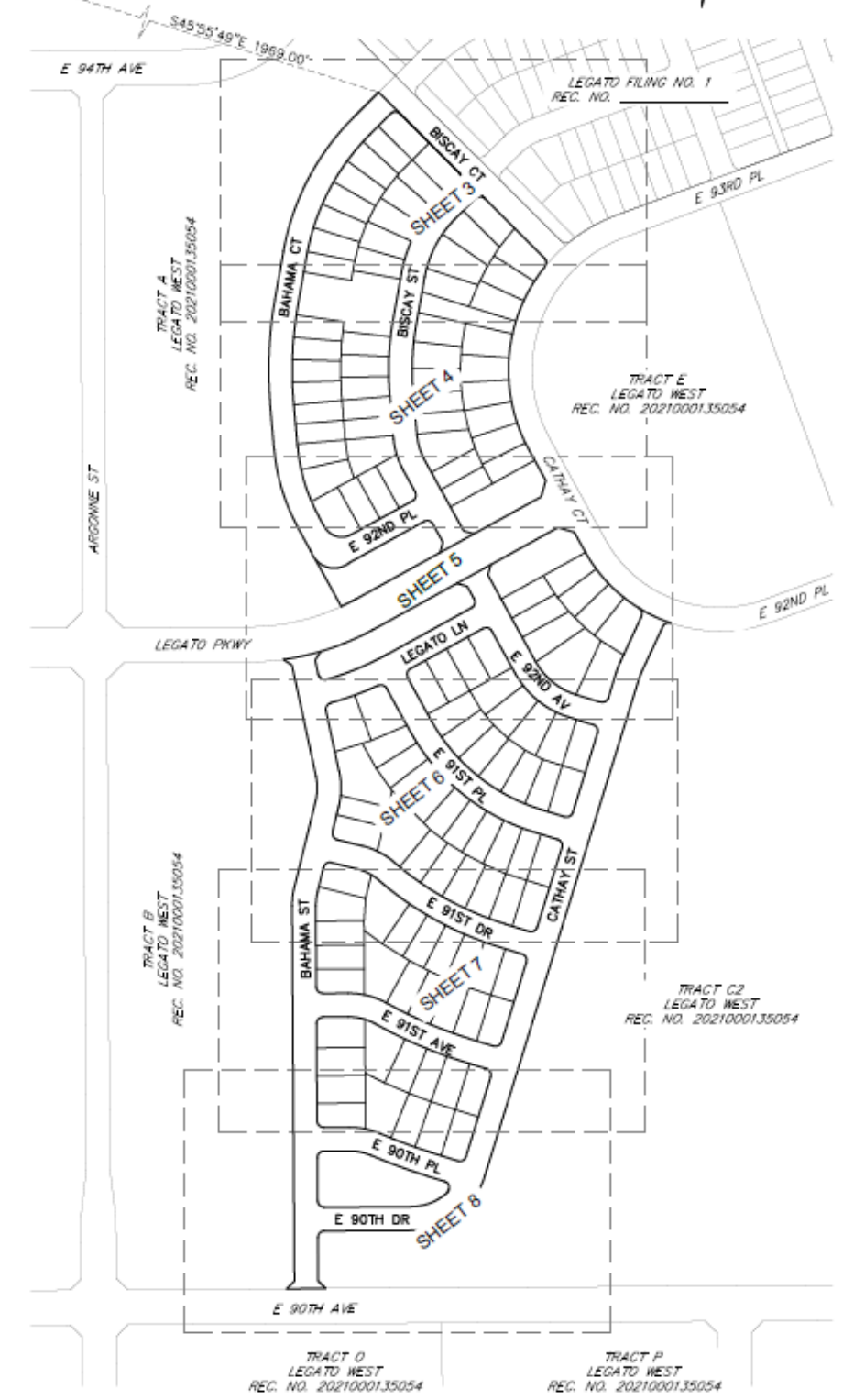


Image C: Simple Overview Map of Legato Filing No. 2

NW COR. SEC. 22
FOUND 2-1/2" ALUMINUM CAP IN
RANGE BOX "ISI 2018 PLS 29425"

BASIS OF BEARINGS
N. LINE NW1/4 SEC. 22
N89°38'58"E 2674.80'

N1/
FOU
CAP
INC.



Impacts to the Overall Road Network:

Access to the subject property will be provided from the adjacent collector and residential roads. Access from the east will be provided at the intersection of East 93rd Place and Himalaya Parkway. The site is bordered on the south by East 93rd Place/Cathay Court and there are homes in this development will have direct access to East 93rd Place/Cathay Court. There are also multiple points of access from Legato Parkway that will provide access from the west.

The DRT review found that this Final Plat will have an impact on overall traffic in the area, but the impacts to the perimeter roadways will be mitigated with traffic signals and turn lanes. The roads in the Northern Range are designed and constructed to adequately accommodate future development, and future improvements are planned. Right of way will be dedicated with recordation of the final plat. As a part of this subdivision, the City's Engineering staff reviewed the application and all issues or concerns were addressed by the applicant. New traffic signals were accommodated with the Legato Spine Road construction plans and development agreement. Filings 1 and 2 do not include traffic signals. The DRT has no concerns related to the overall road network. Drainage, access, and the technical requirements of the plat were reviewed and approved by the City's engineering division.

Impacts to the School District:

The 27J School District is a referral participant to the City's DRT review process. The City's LDC establishes provisions for residential development to satisfy the required impact on school facilities as a part of the development review process. Review of this proposal by School District 27J projects 102 students to be generated by this development. Per 27J, *"the land dedication requirement has been satisfied with the dedication of the middle school site."* Further, the schools that students from this development will attend, Southlawn Elementary School, Stuart Middle School, and Prairie View High School, have adequate capacity to accommodate the students.

Impacts to Parks and Recreation:

This proposed development includes 3.34 acres of open space. This filing will have a 0.6-acre park on the north half of the site and a 0.7-acre neighborhood park on the southern portion of the site. The site will have an enhanced landscape buffer along Legato Parkway to meet the standards in the project design guidelines. Additionally, the project will be adjacent to the 10-acre community park located across Cathay Court.

Project Benefits:

As part of the analysis for this application, the DRT found that this development would help provide additional housing options in the Northern Range. Single-family detached homes are increasingly desirable, especially while maintaining the feel and amenities of a traditional neighborhood. In addition, the proposed subdivision plat does not request to change current zoning or allowed land uses. The proposed subdivision plat meets current zoning and LDC requirements.

Comprehensive Plan Analysis

In reviewing the requested final plat, the DRT reviewed the request's compatibility with the City's Comprehensive Plan. That analysis is provided in the following table.

The DRT recommendation for this case is supported by the following Comprehensive Plan Goals:

Section	Goal	Description
Land Use and Growth Strategies	LU 2	Phase Growth in an Orderly and Compact Manner
Analysis:	The proposed plat is located in Legato PUD which will be a phased development with both residential and commercial uses.	

Section	Goal	Description
Land Use and Growth Strategies	LU 3	Strengthen City Neighborhoods as Attractive, Livable Places
Analysis:	This proposed plat will provide an additional desirable neighborhood within the City. It will provide easy access to major roadways and will include amenities for residents including a neighborhood park space and trail connection.	

Section	Goal	Description
Fiscal Stability	FS 2	Retain/Increase Employment Base
Analysis:	The proposed plat will create 131 new lots for residential development. These homes will provide opportunities for both employees and employers in the area, providing additional customers for prospective retailers.	

LDC Final Plat Approval Criteria Analysis

The DRT recommendation for this case is based on the following LDC criteria, from Sec. 21-3241(3):

Approval Criteria. A final plat may be approved if the decision maker finds that:

Criteria (a): The subdivision is consistent with any approved rezoning, concept plan or PUD Zone Document;

Analysis: The Legato PUD Zone Document is the approved zoning for this location. This plat application is consistent with the allowable uses and lot standards in the PUD Zone Document. Single family detached residential is the identified residential use allowed in this particular area. All standards of the PUD are met with this proposal.

*Staff finds this application **meets this criterion.***

Criteria (b): The subdivision is consistent with and implements the intent of the specific zoning district in which it is located;

Analysis: This subdivision is consistent with the intent of the Legato PUD Zone Document. The PUD allows this area to develop with any of the following: single family detached residential, paired homes, auto court, and green court homes. The allowable density range is 4 to 6 dwelling units per acre for Tract C and 4 to 8 dwelling units per acre for Tract D2. This proposal is consistent with and implement the intent of the Legato Planned Unit Development.

*Staff finds this application **meets this criterion.***

Criteria (c): There is no evidence to suggest that the subdivision violates any state, federal, or local laws, regulations, or requirements;

Analysis: The proposed plat has been reviewed and approved by all agencies that have jurisdiction over the subject property, including Commerce City Engineering, South Adams County Fire District, and Adams County. There is no indication that the proposed subdivision violates any laws, regulations, or requirements.

Staff finds this application meets this criterion.

Criteria (d): The general layout of lots, roads, driveways, utilities, drainage facilities, and other services within the proposed subdivision is designed in a way that minimizes the amount of land disturbance, maximizes the amount of open space in the development, preserves existing trees/vegetation and riparian areas, and otherwise accomplishes the purposes and intent of this land development code;

Analysis: The overall layout of the proposed plat is orderly and conforms to the Land Development Code. The alignments of Legato Parkway and Cathay Court match those shown on the approved PUD Zone Document. The internal circulation as established by the street network and the lot configuration of the plat are designed in a way that will minimize land disturbance and maximize open space. The access point at Tower Road will create minimal disruption to regional traffic flows, and will provide orderly egress/ingress to the development.

Staff finds this application meets this criterion.

Criteria (e): The subdivision complies with all applicable city standards and does not unnecessarily create lots or patterns of lots that make compliance with such standards difficult or infeasible;

Analysis: The subdivision plat complies with the requirements and standards for lot design from the LDC and the PUD Zone Document, as applicable. The subdivision is designed in such a way as to ensure compliance with the relevant development standards.

Staff finds this application meets this criterion.

Criteria (f): The subdivision:

- (i) Will not result in a substantial or undue adverse effect on adjacent properties, traffic conditions, parking, public improvements, either as they presently exist or as they may in the future exist as a result of the implementation of provisions and policies of the comprehensive plan, this land development code, or any other plan, program or ordinance adopted by the city; or
- (ii) Any adverse effect has been or will be mitigated to the maximum extent feasible;

Analysis: This plat will not result in a substantial or undue adverse effect on adjacent properties, traffic conditions, parking, or public improvements. This plat has been reviewed by various agencies and departments of the DRT, which have concluded that the proposed plat adequately addresses access and future traffic conditions. Drainage, and other infrastructure impacts will not have undue adverse effect on adjacent properties.

Staff finds this application meets this criterion (i).

Criteria (g): Adequate and sufficient public safety, transportation, utility facilities and services, recreation facilities, parks, and schools are available to serve the subject property, while maintaining sufficient levels of service to existing development;

Analysis: All referral agencies that reviewed this proposal, including utility providers, City Parks Department, Brighton 27J School District, South Adams County Water and Sanitation District, and South Adams County Fire Department have indicated an ability to serve the proposed lot, and have not raised objections to the proposed plat/development.

Staff finds this application meets this criterion.

Criteria (h): A development agreement between the city and the applicant has been executed and addresses the construction of all required public improvements; and

Analysis: A development agreement between the City and the applicant has been executed and is attached to this communication. The development agreement includes all public improvements such as roadways, drainage, and landscaping, in accordance with the plat's associated construction documents and PUD Development Permit.

*Staff finds this application **meets this criterion**.*

Criteria (i): As applicable, the proposed phasing plan for development of the subdivision is rational in terms of available infrastructure capacity.

Analysis: Improvements for the proposed plat will be constructed in one phase as identified in the development agreement. This is reasonable in terms of development construction.

*Staff finds this application **meets this criterion**.*

Development Review Team Recommendation

The DRT discussed this case, Legato Filing No. 2, in October 22, 2020. Planning staff presented a summary of the case and highlighted site specifics. The DRT made a recommendation of approval for this case.

Recommended Motion

To recommend approval:

I move that the Planning Commission enter a finding that the requested Final Plat for **Legato Filing No. 2** generally located between Tower Rd and E-470, south of 96th Avenue, west of Himalaya Parkway, and between Cathay Court and Argonine Street, known as case **S-771-20-22** meets the criteria of the Land Development Code and based upon such finding, recommend that the City Council approve the Final Plat.

Alternative Motions

To recommend approval with conditions:

I move that the Planning Commission enter a finding that the requested Final Plat for **Legato Filing No. 2** generally located between Tower Road and E-470, south of 96th Avenue, west of Himalaya Parkway, and between Cathay Court and Argonine Street, known as case **S-771-20-22**, meets the criteria of the Land Development Code and, based upon such finding, recommend that the City Council approve the Final Plat, subject to the following conditions:

Insert Conditions

To recommend denial:

I move that the Planning Commission enter a finding that the requested Final Plat for **Legato Filing No. 2**, generally located between Tower Road and E-470, south of 96th Avenue, west of Himalaya Parkway, and between Cathay Court and Argonine Street, known as case **S-771-20-22** fails to meet the following criteria of the Land Development Code:

Insert Criteria Not Met

I further move that based upon this finding, that the Planning Commission recommend that the City Council deny the Final Plat.

To continue the case:

I move that the Planning Commission continue the requested Final Plat for **Legato Filing No. 2**, generally located between Tower Road and E-470, south of 96th Avenue, west of Himalaya Parkway, and between Cathay Court and Argonine Street, known as case **S-771-20-22**, to a future Planning Commission agenda.