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Public Comment re Appeal TM-A22-0001/Appeal of Determination of Timely Filing of
TM-F22-0011 (Cameron Hills Final Subdivision Map)

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 1 attachments (97 KB)

Public Comment re TM F22 0011.pdf;

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Dear El Dorado County Planning Commission:

Please see attached public comment regarding Appeal TM-A22-0001/Appeal of Determination of Timely Filing of TM-F22-0011 (Cameron Hills Final Subdivision Map), which is Item 3 on tomorrow's Planning Commission Agenda.

Thank you for considering and reviewing this comment.

Best,
Taylor Wetzel & Nick Howell

El Dorado Planning Commission
October 26, 2022

October 26, 2022

VIA E-MAIL ONLY

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RE: Appeal TM-A22-0001/Appeal of Determination of Timely Filing of TM-F22-0011
(Cameron Hills Final Subdivision Map)

Commissioners of the El Dorado Planning Commission:

We submit these comments regarding the Appeal TM-A22-0001/Appeal of Determination of Timely Filing of TM-F22-0011 (Cameron Hills Final Subdivision Map). We are residents of Cameron Park and own a home across from the property identified with Assessor's Parcel Number 116-010-004. I am writing to urge the Commission to deny the appeal and uphold staff's determination that the Final Map for the Cameron Hills Final Subdivision Map (TMF22-0011) was not timely filed per the Subdivision Map Act and the County's Subdivision Ordinance.

As Gina Hamilton, Planning Manager, explained in her memorandum ("Staff Memorandum"), after a tentative map is approved and "*prior* to the expiration of such map," a project applicant can submit a "final map thereof prepared *in accordance* with the approved or conditionally approved tentative map." (Cal. Government Code § 66456 [emphasis added]). "In addition to the certificate, statements, and acknowledgements required herein for final maps, the maps shall contain other certificates and acknowledgments as are required by local ordinance." (*Id.* § 66443.) A final map can only be filed with a legislative body (here, the El Dorado County Board of Supervisors) for approval if it (1) "conform[s] to the approved or conditionally approved tentative map," and (2) "all required certificates or statements on the map have been signed and,

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where necessary, acknowledged.” As the Staff Memorandum makes clear, the project applicant here did not, and has not, met those requirements. Accordingly, staff’s determination that the applicant did not timely file the Final Map for the Cameron Hills Final Subdivision Map (TMF22-0011) is proper, and the Commission should deny the appeal. Contrary action would be in violation of the Subdivision Map Act.

Moreover, it is important to note that Condition of Approval #3, which the applicant has not complied with, is a mitigation measure that the County imposed under the California Environmental Quality Act (“CEQA”). Here, to comply with Condition of Approval #3, the applicant “*shall* be required to demonstrate compliance with the Rare Plant Offsite Mitigation Program.” (Cameron Hills Tentative Subdivision Map Conditions of Approval, Ex. C [emphasis added].) El Dorado County Ordinance makes clear that compliance with the Rare Plant Off-Site Mitigation Program means the applicant “*must dedicate to a specified resource protection agency* such as the Bureau of Land Management, DFG or a designee of the agency” land or development rights purchased. (El Dorado County Ordinance § 17.71.010(M) [emphasis added].) The Staff Memorandum explains that the applicant has not dedicated the purchased land to a resource protection agency and, therefore, has not complied with Condition of Approval #3.

The applicant’s failure to complete a mitigation measure imposed under CEQA further prevents the Commission from approving the applicant’s appeal. The County imposed Condition of Approval #3 under CEQA because it determined that the mitigation measure was necessary to reduce the significant environmental effects of the project to a level of insignificance. (Cameron Hills Tentative Subdivision Map Conditions of Approval, Ex. C.) Under CEQA, mitigation measures “must be fully enforceable through permit conditions, agreements, or other legally binding instruments.” (CEQA Guideline § 15126.4.) To ensure the Condition of Approval #3 was enforceable, the County imposed a timing requirement for the completion of the mitigation measure, namely, prior to the recording of the final map. (Cameron Hills Tentative Subdivision Map Conditions of Approval, Ex. C.) As the Staff Memorandum explains, the applicant has not done that, even though the mitigation measure is an enforceable covenant under CEQA to be fulfilled before the final map may be recorded. (*See Lincoln Place Tenants Assn. v. City of Los Angeles* (2007) 155 Cal.App.4th 425, 449-50.) And there is no evidence in the record that the applicant has sought to delete or modify the mitigation provisions, or that the mitigation measure is impractical or infeasible. Moreover, even if the applicant were to present evidence about the mitigation measure’s feasibility, the Commission would still not have authority to approve the appeal. Rather, the County would have to determine that the mitigation measure was no longer feasible and circulate an Environmental Impact Report to support that determination *before* the expiration of the Tentative Map. (*See Lincoln Place Tenants Assn. v. City of Los Angeles* (2007) 155 Cal.App.4th 425, 449 [explaining that later determination that a mitigation measure is infeasible should be included in a supplemental EIR and supported by substantial evidence].) As that has not been done here, and the time to do so has now passed, the Commission must deny the appeal.

For those reasons, I respectfully urge you to deny the appeal and uphold staff’s determination that the Final Map for the Cameron Hills Final Subdivision Map (TMF22-0011) was not timely filed per the Subdivision Map Act and the County’s Subdivision Ordinance. If the Commission

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were to take any other action, it will be in violation of at least two state laws: (1) the Subdivision Map Act and (2) CEQA.

Sincerely,

/s/ Taylor Wetzel

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