



EL DORADO COUNTY PLANNING & BUILDING DEPARTMENT

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Date: October 13, 2022
To: Planning Commission
From: Gina Hamilton, Planning Manager
Subject: **Appeal TM-A22-0001/Appeal of Determination of Timely Filing of TM-F22-0011 (Cameron Hills Final Subdivision Map)**

Recommendation

Based on a review of the Cameron Hills Tentative Subdivision Map (TM08-1473), and approved Substantial Conformance Cameron Hills Tentative Subdivision Map, Cameron Hills Final Subdivision Map Application (TM-F22-0011), the Subdivision Map Act (SMA), and El Dorado County Subdivision Ordinance, staff recommends the Planning Commission deny the appeal and uphold staff's determination that the Final Map for the Cameron Hills Final Subdivision Map (TM-F22-0011) was not timely filed per the SMA and the County's Subdivision Ordinance.

Alternative Actions

Approve the appeal by Cameron Hills 41-20, LLC (TM-A22-0001), make the Finding that the Cameron Hills Final Subdivision Map (TM-F22-0011) has been timely filed, and instruct staff to prepare and submit to the Board of Supervisors (Board) a request to approve the Cameron Hills Final Subdivision Map (TM-F22-0011).

Background

A Tentative Subdivision Map Time Extension application (TM-E22-0003) was submitted on May 23, 2022, for a request for a time extension, for the Cameron Hills Tentative Subdivision Map (TM08-1473), under Section 66452.6(e) of the SMA. The time extension application was submitted prior to the Tentative Map expiration dated July 21, 2022. Subsequently, a Final Map application (TM-F22-0011) for the Cameron Hills Subdivision was submitted on July 12, 2022. Due to ambiguity in the SMA, the applicant requested an extension even though the maximum number of discretionary extensions have previously been granted by the County.

On September 21, 2022 the Director of Planning & Building issued a letter to the applicant communicating that the Final Map had not been timely filed (Exhibit A). This letter confirmed that COA #3 was incomplete and identified additional Conditions of Approval that were not complete to support a timely filing determination. That letter is the basis of the applicant's appeal.

Application of all statutory and discretionary extensions have been exhausted, resulting in a final expiration date of the tentative map of July 21, 2022. No additional time extensions are available to extend the tentative map past the final expiration date of July 21, 2022. Thus, the tentative map

expired ten (10) days after the incomplete Final Map application was submitted to the Planning Department for processing.

Tentative Subdivision Map History

The Cameron Hills Tentative Subdivision Map/Development Plan (TM08-1473/PD07-0017) was approved by the Board of Supervisors on July 21, 2009 (Exhibit B), including adoption of the Mitigated Negative Declaration and adoption of the mitigation monitoring program. The Conditions of Approval included in this approval are located in Exhibit C to this memo.

On September 3, 2013, the Development Services Director approved a Substantial Conformance request (Exhibit D), which focused on internal circulation modifications to the approved Tentative Subdivision Map. As a result of the minor changes, the modified map layout conflicted with the underlying zoning established with the approved map. On July 28, 2016, the Planning Commission approved a request for six, one-year time extension for the Tentative Subdivision Map, which extended the expiration date of the map to July 21, 2022. Note that the grant deed showing the applicant/ appellant as the owner of the subject property, submitted as part of the Final Map application, was recorded in August 2021(Exhibit E).

Appeal Filed

On October 4, 2022, Appeal TM-A22-0001 to the Planning Commission was filed by Michael C. Stettner on behalf of Cameron Hills 41-20, LLC (Exhibit F). The appeal request, as described in the materials provided by the appellant, claims that the applicant/appellant had substantially complied with each of the five COAs identified as incomplete in staff's letter (dated September 21, 2022) regarding the timely filing determination for the Final Map. Materials submitted at that time by Mr. Stettner included the appeal request form, a letter of authorization for the appellant's law firm, and a standalone page with the language from Section 130.52.090, Appeals, from the County's Zoning Ordinance.

Appellant provided no explanation or documentation, at the time of submittal of the appeal request, supporting their claim that they had substantially complied with the identified COAs as part of the appeal request submittal.

Pursuant to Zoning Code 130.52.090 – Appeals, a Planning Director-Staff Level decision is appealable to the Planning Commission. If appellant disagrees with the decision of the Planning Commission, the Planning Commission's decision is appealable to the BOS.

Timely Filing of a Final Map

Under the SMA, a subdivider must submit the final map, prior to expiration of the tentative map. (Government Code Section 66456.) In order to properly submit a final map, the map must contain all the certifications and acknowledgements required by County Code. (Government Code Section 66443.) These same requirements are found in the County's Subdivision Ordinance (Exhibit G). A final map must demonstrate satisfaction of all applicable conditions of approval of the tentative map and this determination is made by the Director of Planning and Building El Dorado County Code Section 120.28.050(A)(3). A final map may not be filed with the BOS for

approval until all these certifications are complete. (Government Code Section 66457(a) and El Dorado County Code Section 120.28.050(B).)

In respect to this appeal, the applicant failed to satisfy five discrete conditions of approval prior to expiration of the 2009 tentative map as explained below.

Staff Response to Appeal

As stated above, the appellant provided no documentation supporting their assertion that they had substantially complied with the identified COAs as part of the appeal request submittal. Therefore, staff responses below are based on the information supporting the determination that the application had not been timely filed.

Condition of Approval #20 as presented in the original Final Conditions of Approval:

20. A meter award letter or similar document shall be provided by the water purveyor prior to filing the final map

Status of compliance with COA #20: At the time of determination of the application not being timely filed, the applicant/appellant did not provide a meter award letter from the El Dorado Irrigation District (EID). EID is the water purveyor for the project site and requires approved plans and completion of all construction or bonding requirements, and payment of all applicable water, wastewater, recycled water and other connection fees prior to the issuance of a meter award letter. EID Administrative Regulation (AR) 9028.6. The meter award letter (or similar document) is an express condition of approval required by the Board of Supervisors for all tentative maps “guaranteeing water service upon demand to each of the parcels created by the subdivision....” Board of Supervisors Resolution No. 118-92 (Exhibit G). In order to comply with this requirement, the water infrastructure must be in place or fully financed. A “will serve” letter does not substantially comply with this express condition of approval and to staff’s knowledge has never been accepted as compliance for final map approval.

Condition of Approval #25 as presented in the original Final Conditions of Approval:

25. Prior to filing of the final map, the applicant shall record an Avigation and Noise easement on all lots located within the Safety Area 3 (Overflight Zone) and/or those lots located within the 55 dB CNEL noise contour as identified by the Cameron Park Airport Comprehensive Land Use Plan.

Status of compliance with COA #25: During processing of the Final Map application, staff worked on behalf of the applicant to finalize the Avigation and Noise easement with County Counsel and the County Recorder’s office. At the time of determination of the application not being timely filed, staff had not received a final version of the easement from the applicant addressing staff’s final comments.

Condition of Approval #46 as presented in the original Final Conditions of Approval:

46. The developer shall enter into an Improvement Agreement with the County and provide security to guarantee performance of the Improvement Agreement as set forth within the County of El Dorado Major Land Division Ordinance, prior to filing the final map.

Status of compliance with COA #46: At the time of determination of the application not being timely filed, El Dorado County Department of Transportation (DOT) had not received the signed Subdivision Improvement Agreement (SIA) with developer-signed bonds (security) attached from the applicant/appellant.

Condition of Approval #62 as presented in the original Final Conditions of Approval:

62. All survey monuments must be set prior to the presentation of the final map to the Board of Supervisors for approval, or the developer shall have surety of work to be done by bond or cash deposit. Verification of set survey monuments, or amount of bond or deposit to be coordinated with the County Surveyors Office

Status of compliance with COA #62: At the time of determination of the application not being timely filed, survey monuments have not been set and no bond or cash deposit has been posted with the County Surveyor's Office.

Condition of Approval #3 as presented in the original Final Conditions of Approval:

3. The project shall comply with the Ecological Preserve Mitigation program set forth in Chapter 17.71 of the El Dorado County Zoning Ordinance, based on one of the following options:

A. The applicant shall pay the required in-lieu fee in effect at the time the County has completed its intended review and update of the fee under Subsection 17.71.220.A of the ordinance;

OR

B. If the applicant elects to record a final map for the project prior to the completion of the update of the in-lieu fee, the applicant shall be required to demonstrate compliance with the Rare Plant Offsite Mitigation Program in accordance with Subsection 17.71.220.B, providing offsite mitigation at a 1.5:1 ratio for land area graded within the project area, in accordance with the Ordinance. (MM BIO-2)

Status of compliance with COA #3: COA #3/MM BIO-2 is identified as required mitigation for the purpose of mitigating impacts to rare plant species (Pine Hill endemics) identified in the CEQA document (IS/MND) prepared for the project. At that time, the County's in-lieu fee program did not include fees to mitigate for CEQA impacts. The in-lieu fee program was, and is, intended to mitigate for impacts associated with the provision of water within the El Dorado Irrigation District Sphere of Influence. The language in COA #3/ MM BIO-2 reflects the intent of the County to update the Ecological Preserve In-Lieu Fee Program to adequately cover CEQA impacts. That update has not yet occurred. Therefore, because the applicant elected to apply for approval of a

final map, the applicant is required to demonstrate compliance with the Rare Plant Offsite Mitigation Program.

The Cameron Hills Project identified the Jayhawk Drive Mitigation Site (Jayhawk Site) (APN 102-120-003) as a suitable property for mitigation. It was determined that the Jayhawk Site complies with the County's Offsite Mitigation Program, MM BIO-2 of the MND requiring a 1.5:1 ratio for acreage to be developed.

At the time of determination of the application not being timely filed, the Jayhawk Site was still under private ownership – the appellant being the current owner. Note that the grant deed submitted as part of the Final Map application, showing the applicant/appellant as the owner of both the subject property and the Jayhawk Site, was recorded in August 2021. For COA #3 to be considered complete and the mitigation measure to be considered satisfied, transfer of the property into Bureau of Land Management ownership would need to be complete.

Staff Conclusion

Based on the above staff analysis of the appeal request, staff recommends the Planning Commission deny the appeal and uphold staff's determination that the Cameron Hills Final Subdivision Map was not timely filed per the SMA and the County's Subdivision Ordinance.

Attachments

- Exhibit A..... Director Timely Filing Determination 09-21-2022
- Exhibit B..... Approved Cameron Hills Tentative Subdivision Map
- Exhibit C..... Cameron Hills Tentative Subdivision Map Conditions of Approval
- Exhibit D..... Approved Modified Cameron Hills Tentative Subdivision Map
- Exhibit E..... Grant Deed Cameron Hills 41-20, LLC August 2021
- Exhibit F..... Appeal Submittal (TM-A22-0001)
- Exhibit G..... Section 120.28.050 EDC Subdivision Ordinance
- Exhibit H..... Board of Supervisors Resolution No. 118-92