

14. REVISED PRELIMINARY PLAT NO. 2008-15 - DAYBREAK RIDGE - Vicinity of the southeast corner of 151<sup>st</sup> Street and Quivira Road

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1. APPLICANT: Phelps Engineering, Inc., is the applicant for this request.
2. REQUESTED ACTION: The applicant is requesting approval of a revised preliminary plat for a revision to an approved stipulation.
3. LOCATION: The 151-acre property is located in the vicinity of the southeast corner of 151<sup>st</sup> Street and Quivira Road.
4. EXISTING ZONING: This property is currently zoned RP-OE, Planned Open Space Estate Residential District.
5. ANALYSIS: The applicant is requesting approval for a revised preliminary plat to allow a change to an approved stipulation, which is discussed in the Environmental Impacts Section. No changes are proposed for the open space, lot layout, or number of lots. Most of the residential street system has already been constructed or is under construction. A total of 151 lots were approved on these 151 acres with several large open space tracts.

ENVIRONMENTAL IMPACTS: This preliminary plat is being revised to request the modification of a stipulation related to reconstruction of a dam on the property. Typically, the city requires private lakes and associated dams built in conjunction with subdivision improvements to be constructed and operational prior to releasing the subdivision for building permits. Therefore, the rezoning, preliminary, and final plat for Daybreak Ridge included a stipulation that required the dam reconstruction to be completed prior to any building permits being issued in the subdivision.

This dam falls under state jurisdiction and requires a state permit due to the height, storage volume, and drainage area. In accordance with the Division of Water Resources (DWR), Kansas Department of Agriculture requirements, the dam must be upgraded to a Class C dam. Improvements include upgrades to the primary and emergency spillway capacity.

Because of changes to the state's dam requirements made in 2007, and delays in the subsequent approval process by the state, the dam reconstruction has been significantly delayed and is now holding up releases for building permits in the subdivision. The timing of when a State Dam Permit will be released is unknown, but from conversations with the applicant and state officials, it appears that a permit will not be issued until early summer 2008. Construction of the dam cannot

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commence until a state permit is received, and then will likely take three to four months to complete. Typically, all public and private site improvements are constructed prior to release of any building permits on a site. Public improvements are covered by a Performance and Maintenance Bond; however, private improvements typically are not. Because of the scale of the private improvements required to bring the dam up to current state and city standards, staff believes that a Performance Bond is warranted if building construction is commenced prior to finishing the dam to protect the builders/homeowners and city in the unlikely event that the dam reconstruction is not completed.

Staff is comfortable with modifying the previous Preliminary Plat No. 2006-36 stipulation L to allow partial release of building permits as follows:

1. Releasing a maximum of four model home permits after these revised stipulations have been approved by the Planning Commission and City Council, and a Performance Bond for the private dam/spillway work has been provided.
  2. Releasing up to 50 percent of the building sites for permits once a state permit for the dam reconstruction has been obtained, an acceptable construction timetable has been provided by the applicant, and when reconstruction of the dam is proceeding at an acceptable rate.
  3. No Certificates of Occupancy would be issued until the dam reconstruction is completed and certified.
6. STAFF RECOMMENDATION: The staff recommends approval of Revised Preliminary Plat No. 2008-15, Daybreak Ridge, subject to the following stipulations:
- a. All additions and corrections outlined in the Engineering Services memorandum, shall be completed prior to the plat being recorded.
  - b. Prior to recording of the plat, the city's required Excise Tax shall be paid.
  - c. Development of the tract shall be limited to 151 lots.

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- d. A conservation easement shall be recorded for all open space lands. The conservation easement document shall be subject to the approval of staff.
- e. Preliminary Plat No. 2006-36 stipulation L is replaced with the following stipulations “f” through “j” shown below. All other stipulations of Preliminary Plat No. 2006-36 remain in force.
- f. Prior to release of any building permits on the site, provide a Performance Bond for 100 percent of the value of the dam/spillway reconstruction work.
- g. Prior to the release of more than four “model home only” permits, the applicant shall obtain a permit from the Kansas Division of Water Resources for reconstruction of the on-site dam, and dam reconstruction activities shall be proceeding at an acceptable pace as determined by the Administrator, Engineering Services.
- h. Prior to issuance of building permits for more than 50 percent of building lots in the subdivision, the dam reconstruction shall be completed and certified by the designer.
- i. Prior to issuance of Certificates of Occupancy for any buildings in the subdivision, the dam reconstruction shall be completed and certified by the designer.
- j. If the applicant is unable to obtain a state permit for the dam reconstruction, a revised preliminary plan shall be required.