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More than 2,400 petition signatures oppose Berlaimont plan north of Edwards

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Opponents of the Berlaimont Estates proposal note Colorado Parks and Wildlife have classified the land, shown above, as critical wildlife habitat. Access to the site will require road construction through U.S. Forest Service property.

Chris Dillmann | Daily file photo

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The full version of the Wilderness Workshop Berlaimont opposition petition is available at <https://wildernessworkshop.org/stop-the-berlaimont-access-road/> [↗](#).

EAGLE COUNTY — According to White River National Forest Supervisor Scott Fitzwilliams, there’s a very visual reminder about public sentiment regarding the Berlaimont proposal sitting smack dab on the middle of his desk — a petition opposing the project that includes more than 2,400 signatures.

“I get it. The thing is, I am not surprised by this petition at all. I have understood since Day One that this is a project that is of major concern to the residents of the Vail Valley and Eagle County,” Fitzwilliams said. “It’s a reflection of where the community is at with this project.”

For the past six months, residents have crowded public hearings and submitted individual written comments regarding the Berlaimont plan. Earlier this month, Colorado State Sen. Kerry Donovan and other local residents presented the opposition petition with its numerous signatures to both the U.S. Forest Service and the Eagle County commissioners.

Berlaimont Estates is a 680-acre parcel of private property surrounded by U.S. Forest Service lands, located north of Edwards and west of the Berry Creek drainage. Owners Petr Lukes and Jana Sobotova have proposed 19 units and nine accessory units on 35-acre or larger parcels in the area.

This proposed land use is a critical component of the Berlaimont plan. Under Colorado law, residential lots that equal or exceed 35 acres in size are exempt from subdivision regulation and such deemed a use by right. Because the developers have the right to proceed with the plan they have presented, no public hearings about the land use part of the proposal were required.

But the location of the property has launched a public process. Because Berlaimont is an in-holding located within the White River National Forest, the developers must build an access road through U.S. Forest Service land. That road proposal has resulted in the presentation of three route options for a two-lane, paved drive from the valley floor through the Berlaimont property. The road development requires an environmental impact statement from the Forest Service.

In response to the access alternatives presented, opponents of the Berlaimont plan have argued the proposal’s negative impacts on wildlife and the environment warrant outright denial of the plan. Forest Service officials have a different opinion.

1980 LAW

In the draft environmental impact statement for the Berlaimont project, local Forest Service officials have pointed to the provisions contained in the Alaska National Interest Lands Conservation Act, a federal law that dates back to 1980, that mandates “adequate and feasible” access be provided to private property through federal lands.

At the root of his access ruling, Fitzwilliams determined that adequate access — to provide for reasonable use and enjoyment of the in-holding property as required by the 1980 law — needed to be year-round access. That decision spawned the two-lane paved road design.

“Our decision did not say that adequate access was paved road. The paving part, we believe, is a better ecological decision that will result in less sediment and less erosion,” Fitzwilliams said.

“This is such a nuanced, challenging law to interpret,” Fitzwilliams continued. “But I don’t have the option of whether I am going to provide adequate access. That’s not negotiable.”

Various environmental groups disagree with that assertion.

ADAMANT OPPOSITION

In a press release last week, the Wilderness Workshop, an Aspen-based nonprofit organization devoted to the protection of White River National Forest and nearby U.S. Bureau of Land Management properties, announced the delivery of the 2,400 petition signatures. The organization stated “Eagle County residents continue to voice adamant opposition to what they consider to be a developer’s ill-conceived pet project that will negatively impact fragile wildlife populations at taxpayer expense.”

The release noted more than 700 public comments were filed regarding the plan, which is also been the subject of numerous letters to the editor and guest commentary pieces.

According to the petition, the signatories oppose the project because:

The developers bought the land fully aware of the existence of seasonal dirt road access.

The proposed location is in the heart of critical deer and elk winter range.

Forest Service regulations require “reasonable” access that must “minimize” impacts to wildlife.

Paving roads and implementing other heavy road improvements is not “reasonable.”

The Forest Service is not required to allow pavement or year-round access, and saving this winter range is pivotal to the survival of area wildlife.

Berlaimont should be allowed to use existing roads with only minor upgrades.

“In collecting signatures against Berlaimont, two things became obvious,” said Andy Wiessner, Wilderness Workshop board member and wildlife advocate. “First, no one likes Berlaimont’s proposed subdivision in prime elk and deer winter range, and second, people absolutely hate the idea of paving the Berry Creek Road.”

“I’ve lived in the valley for decades and watched our wildlife herds being decimated,” said Ellen Eaton, a volunteer who personally gathered more than 300 petition signatures. “It’s time for the Forest Service to just say ‘no’ to Berlaimont’s pavement. We need affordable housing, not Berlaimont’s mansions.”

WHAT’S NEXT?

The next official Forest Service action regarding Berlaimont is slated for 2019. A draft final Environmental Impact Statement will be issued, followed by a 45-day objection period.

“We are in the final throws of completing the final environmental analysis and that part of it could be done in the next month or so,” Fitzwilliams said. “Overall we are looking at a late winter/early spring completion if everything goes right.”

The 725 people who filed comments during this year’s Berlaimont comment period will have standing to file objections to the final draft document. Then the document and the objections will be presented to the regional Forest Service office in Denver for review.

“They will work through the objections and make a determination of whether they are valid,” Fitzwilliams said.

As he looks through the official comments that are part of the EIS document, as well as the petitions submitted outside of the official process, Fitzwilliams asserted that the Forest Service didn’t “Pollyanna” the potential impacts of the Berlaimont plan, particularly regarding wildlife issues.

“We have noted, from the get-go, that this is important winter range and migration corridor land,” he said.

However, Fitzwilliams noted that Berlaimont is just one factor that is negatively affecting wildlife numbers in Eagle County. “Certainly, this is not the straw that breaks the camel’s back,” Fitzwilliams said, pointing to residential development, recreational trails and even Interstate 70 as other factors in the local wildlife decline.

Additionally, Fitzwilliams said the EIS process doesn’t state that proposals have to avoid any wildlife impact.

“The law says you should disclose the impacts and mitigate them where possible,” Fitzwilliams said. “I think we have done a more than adequate job and we continue to work toward mitigation measures.”

Fitzwilliams said that while Berlaimont opponents may also object to the nature of the project — which because of the remote nature of the site and the costs associated with bringing infrastructure to it means Berlaimont will likely feature large homes on the 35-acre parcels — the type of housing isn’t a consideration of the EIS process.

“In a lot of ways, I have to rid those value judgments from my decision making process. Those are things that are not part of the factors that go into a decision like this,” Fitzwilliams said.

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