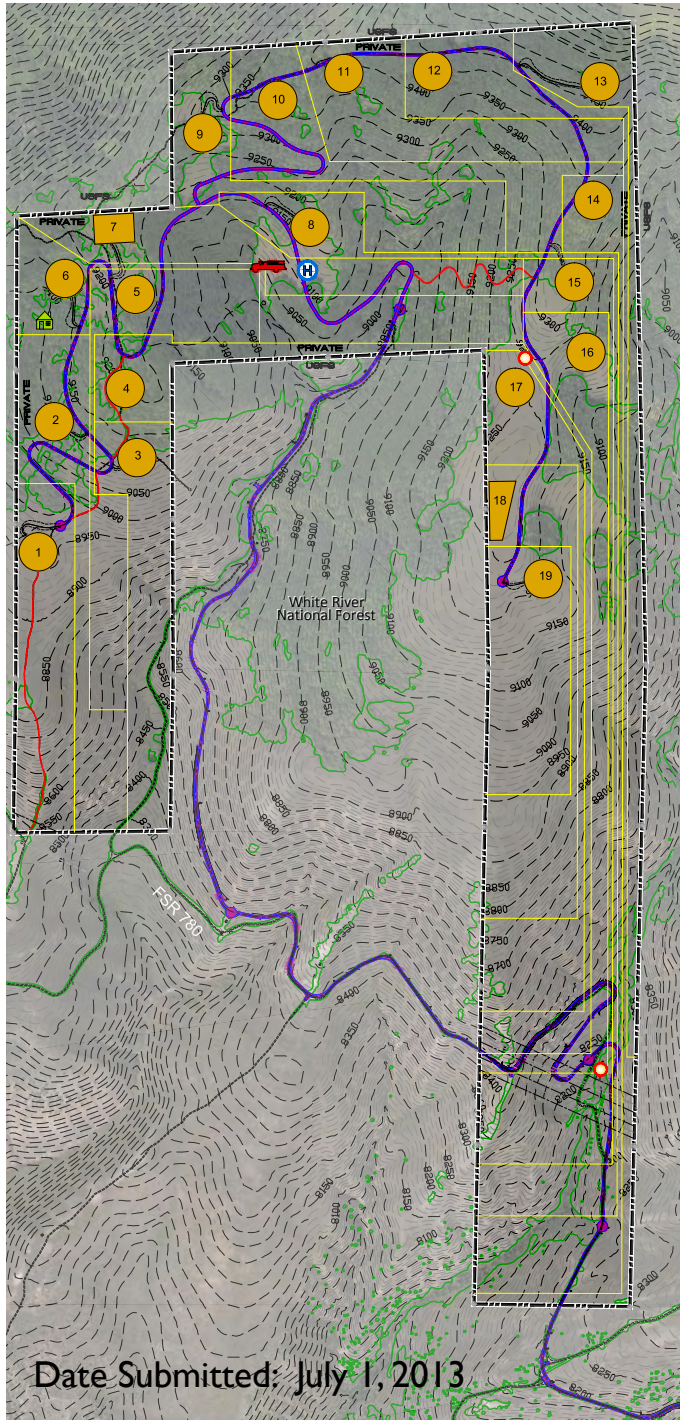


Exhibit 6

**Berlaimont Variance from Improvement
Standards, Submitted to Eagle County
July 2013**

Berlaimont Estates

Variance from Improvement Standards



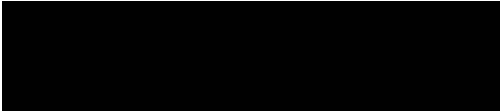
Owner: Berlaimont Estates LLC

IMPG
Mauriello Planning Group

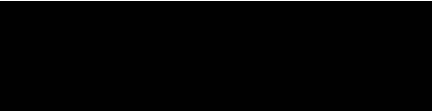
OWNER AND CONSULTANT DIRECTORY

OWNER'S REPRESENTATIVE:

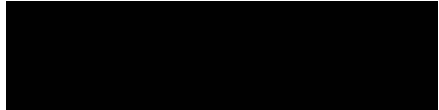
VACLAV VOCHOSKA

**PLANNING CONSULTANT:**

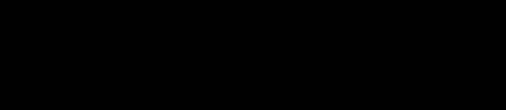
MAURIELLO PLANNING GROUP

**ENGINEERING:**

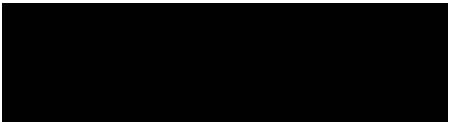
ALPINE ENGINEERING

**TRAFFIC:**

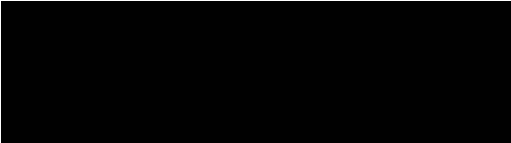
CURTIS ROWE, P.E., PTOE
KIMLEY-HORNE AND ASSOCIATES, INC.

**WILDLAND FIRE CONSULTANT:**

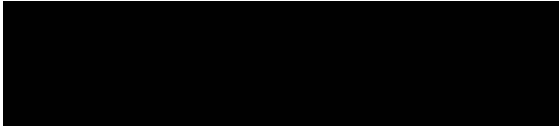
THE ANCHORPOINT GROUP

**USFS LIAISON:**

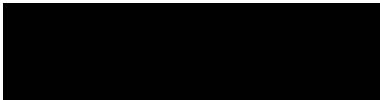
SE GROUP

**LEGAL REPRESENTATION:**

TOM RAGONETTI
OTTEN JOHNSON
ROBINSON NEFF + RAGONETTI PC

**WILDLIFE CONSULTANT:**

WESTERN ECOSYSTEMS, INC.
RICK THOMPSON

**ECONOMIC CONSULTANT:**

DOUG KENNEDY ADVISORS
DOUGLAS J. KENNEDY

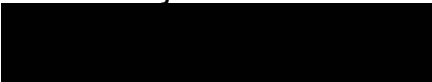


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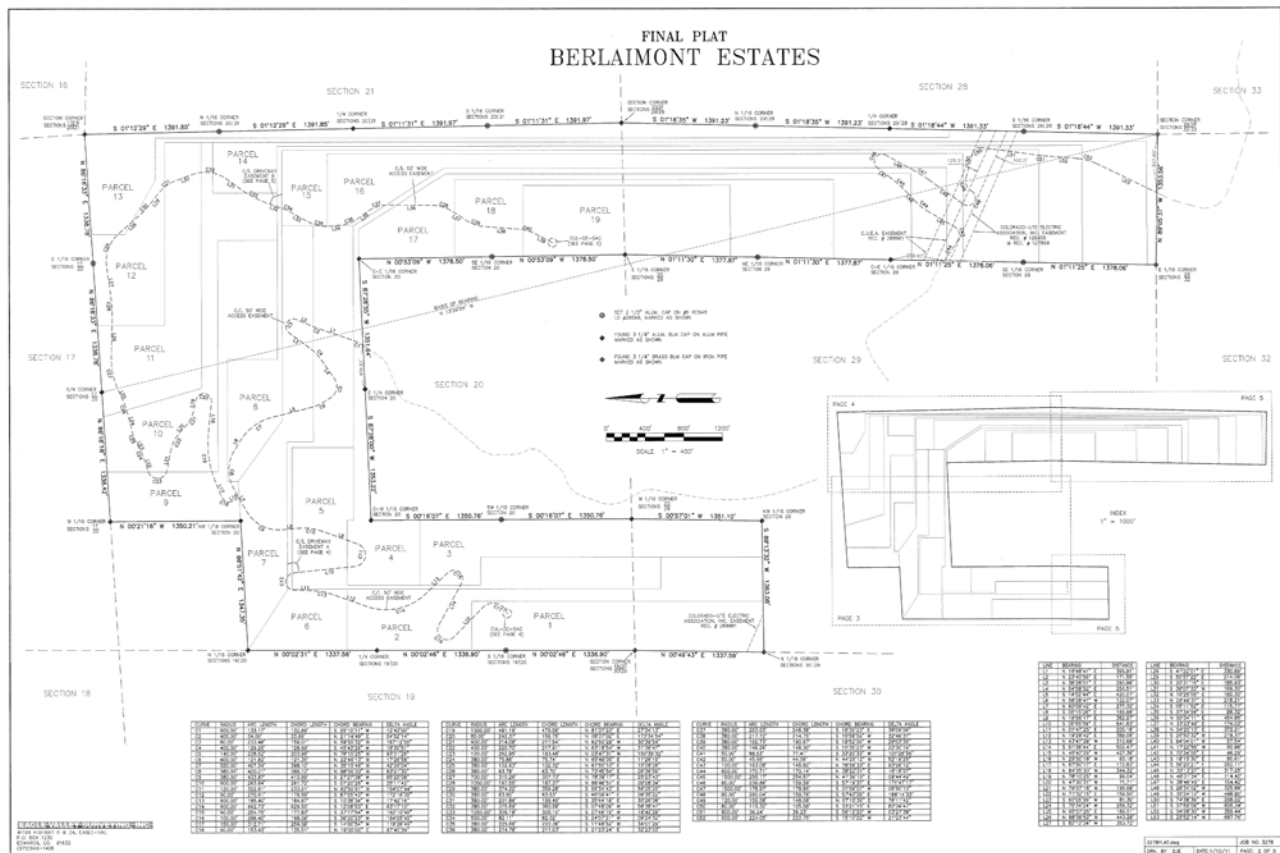
I. INTRODUCTION

Berlaimont Estates, LLC (the applicant) is seeking to provide road access to an existing nineteen (19) parcel subdivision within its 680 acres of land in Eagle County, Colorado. The 680 acres is an inholding within the White River National Forest. As a use by right pursuant to C.R.S., the lots are exempt from subdivision regulations. In order to provide access to this property, however, the applicant has identified the need for several variances from the Eagle County Land Use Regulations with regard to access and roadway standards, including the dual access standards, emergency vehicle turn around areas, and other road design standards. These are summarized in Section IV of this submittal and an overall plan has been provided in Appendix A.

Mauriello Planning Group was hired in 2012 to assist the owners of Berlaimont Estates, LLC with the variance request. The Board of County Commissioners (BOCC) has seen a similar application and approach that was processed in 2010. Since then, extensive changes have been made to address the concerns of the BOCC and the issues of safety and environmental impact have been adequately addressed.

Over last two years many conditions have changed and issues addressed. A detailed analysis of each of these changes is provided within the application materials, but the general summary is as follows:

- Final Plat: In 2011, in accordance with state statute, the property was divided into 19 parcels each with a land area over 35 acres in area. This was done via the final plat for Berlaimont Estates recorded on April 20, 2011. This plat reflects the positioning of proposed building envelopes for the 19 parcels;



- **Water Rights:** In 2010, a water right decree was approved granting water rights sufficient to serve the 19 parcels consistent with the Resource zoning on the property that was established for this property in 1974. The Hydro System will be design by Alpine Engineering to ensure sufficient and adequate water supplies for the development as well as for the construction phase;
- **Wildfire Mitigation:** A Wildland Fire Mitigation Plan, included in Appendix C, for the property was commissioned by the applicant. The Anchor Point Group, one of the leading firms in the industry and with extensive local experience, prepared the Mitigation Plan which is included in the application materials. With the mitigation measures included in this plan, it is concluded that the proposed single access road provides for safe and adequate access to and from these 19 parcels. In review of all of the videos of the hearings and review of the dual access language from the County Regulations, it became clear that fire safety and emergency response was the key issue to be addressed. This plan has been reviewed and accepted by the Chief of the Eagle River Fire Protection District and the County's Wildfire Mitigation Manager;
- **Open Space Easement:** In order to ensure conservation of the bulk of the 680 acres of land, open space easements are proposed to be recorded prior to the construction of the proposed access road or any development on the property. This easement will ensure wildlife and other scenic values of the property are protected to benefit the owners within the 680 acres but also the community at large. The easement will be controlled by the homeowners association and include oversight by Eagle County;

<<INSERT GRAPHIC>>

- **Reduced Density:** Though the property is zoned Resource and the applicant is only proposing uses that are uses allowed by that zoning, the applicant is proposing to restrict the 19 parcels to only 9 Accessory Dwelling Units (ADUs) from the 19 allowed by zoning. This reduces traffic on the proposed roadway and results in fewer structures and residents within the property;
- **Construction Standards:** As provided for in the Wild Land Fire Mitigation Plan, the applicant has agreed to extensive standards with regard to construction type and quality to ensure that the proposed structures can act as fire shelters and exceed code standards for typical residential structures. Additionally, all homes are required to have a fire suppression system and extensive defensible space.;
- **CC&R and HOA Documents:** The applicant is proposing to have in place (prior to any development or roadway construction) documents which adopt all of the standards proposed herein and including restrictions of numbers of horses, prohibition the keeping of livestock, pet restrictions, fencing restrictions, and bear-proof container regulations. These documents will also address road upkeep and maintenance, snow plowing, and water and sewer maintenance requirements. In addition, safety regulations will be included in the CC&R and HOA documents, covering emergency training, evacuation training, heliport access and fire prevention training;
- **Traffic Analysis:** The applicant engaged Kimley-Horne and Associates, Inc. to address some of the concerns regarding traffic on the proposed road as a result of the 19 lots of Berlaimont Estates. The Traffic Analysis has been included in Appendix D. The analysis indicates that

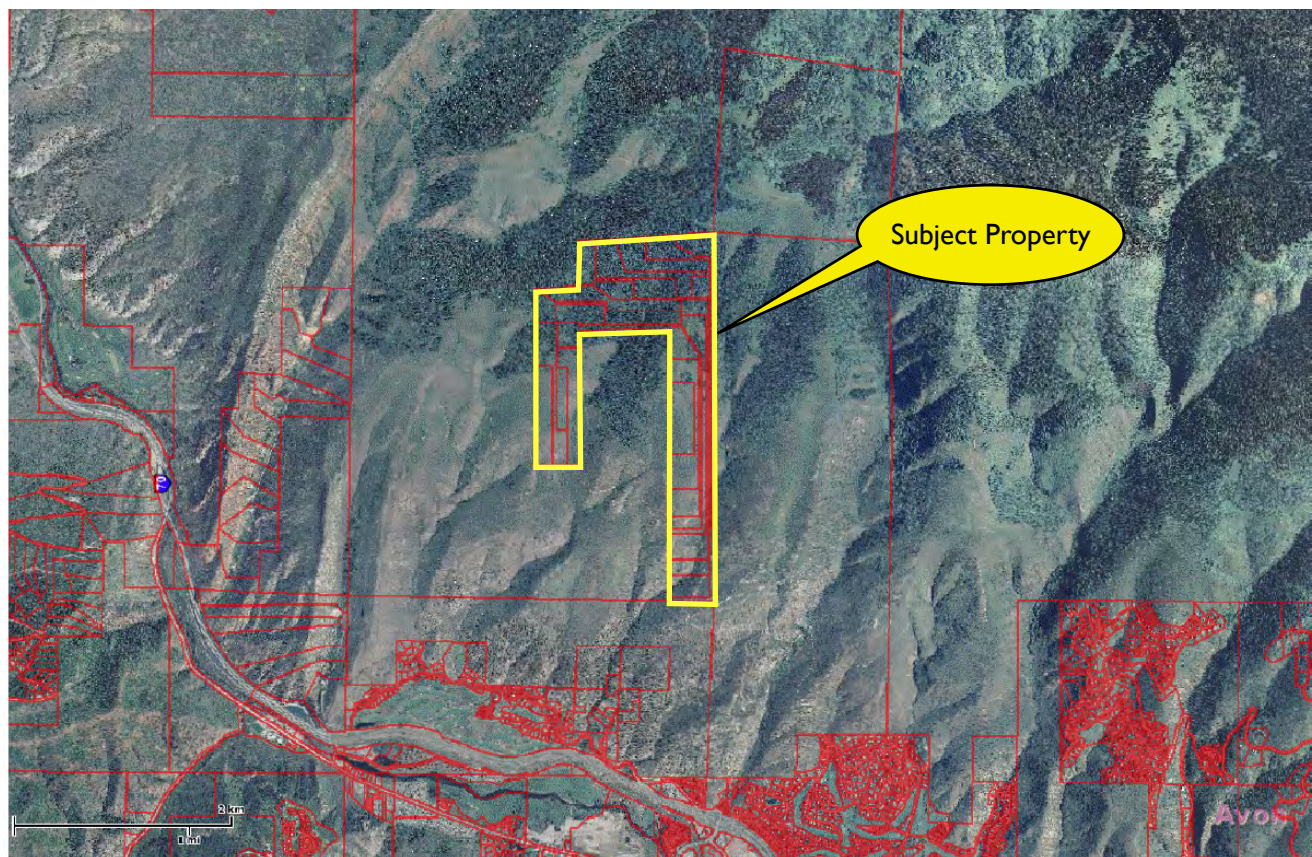
Berlaimont Estates is a relatively low traffic generator and identifies that the proposed single access road will not cause any significant traffic problems.;

- Economic Impact Assessment: The EIR includes an updated Economic Impact Assessment for Berlaimont Estates reflecting current economic trends, which indicates that the project will have a positive cumulative input to the local and regional economy, with \$203.6 million from project construction and over 1,000 Full-Time Equivalent (FTE) jobs over the 9 year construction phase-in;
- Community Outreach: A community meeting was held on April 3, 2013, to present the proposal to the residents of the Moonridge neighborhood. An overview of the proposed plan was presented and input sought to ensure that the concerns of the neighborhood were understood and could be included in the planning of the road. Based on this meeting, the applicant has included a proposed condition addressing their concerns.

As requested by Eagle County, an Environmental Impact Report (EIR) has been prepared according to Section 4-460 of the Eagle County Land Use Regulations, and is provided in Appendix E. The EIR accompanies this Variance from Improvement Standards application, and details the potential direct, indirect and cumulative impacts of the proposed road. The conclusion of the EIR is that there are minor impacts to the environment due to the roadway and lack of dual access. Providing a secondary improved access to this property would only increase potential impacts to the environment, therefore making a single access the least impactful method to access the property. In addition, a Biotic Assessment, authored by Western Ecosystems, Inc., is included in the EIR and concludes that a single access will have less impact on wildlife than two accesses.

II. BACKGROUND

This 680-acre tract is an in-holding within the White River National Forest. Because of this, any permanent motorized access to the property requires permanent easement from the Forest Service to cross National Forest System (NFS) lands.



The property has a distinctive horseshoe shape with an eastern and western leg. The terrain in and around the subject property is very steep. The existing terrain between the subject property and adjacent private lands downhill has significant gradients that complicate access. Large areas of terrain have slopes in excess of 25% with some areas exceeding 50%. Such severe slope gradients necessitate roadway design involving switchbacks to maintain reasonable road gradients. The eastern leg of the property has some of the steepest terrain. The upper portion of the property between the two legs is the area of highest development potential because of the relatively gentle terrain.

There are two existing, unpaved Forest Service Roads (FSR) that wind up the hill from the Moonridge Subdivision. FSR 774 (Berry Creek Road) intersects with the County Roadway near Moonridge Subdivision and traverses the hillside towards the eastern leg of the property. FSR 744 is currently gated as it enters the National Forest and provides only seasonal vehicular access. A second road (FSR 780) intersects with FSR 774 at a point higher along the hillside.

The lands within and surrounding the subject property are characterized by rocky hills scattered with aspen, pinyon pine, juniper, and sage, and crossed by OHV, motor bike, and hiking trails. The upper portions of the property are located in areas with extensive aspen groves, with low to moderate potential for wildfire.

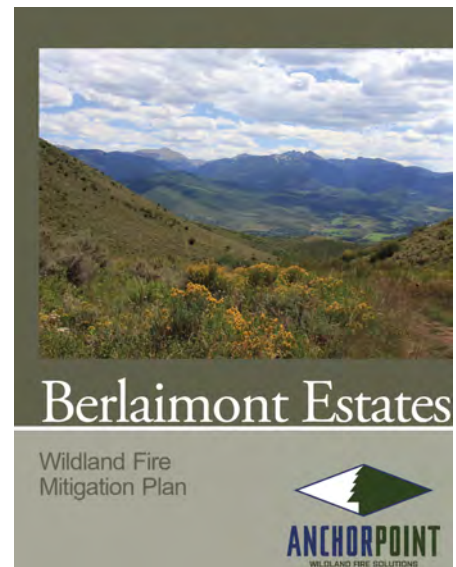
Accessing the property across the Forest Service lands will require analysis and approval under the National Environmental Policy Act (NEPA), which mandates that alternative modes of access be considered and evaluated based on potential impacts to the physical, biological and social environment. The applicant has been coordinating with the White River National Forest, and has been directed to seek approval for access from the County before a NEPA analysis will be commenced. Upon approval of the present application, an application will be made to the USFS for access. The USFS is a lengthy and expensive process.



Photo from the upper portion of the property towards Beaver Creek.

III. WILDFIRE MITIGATION

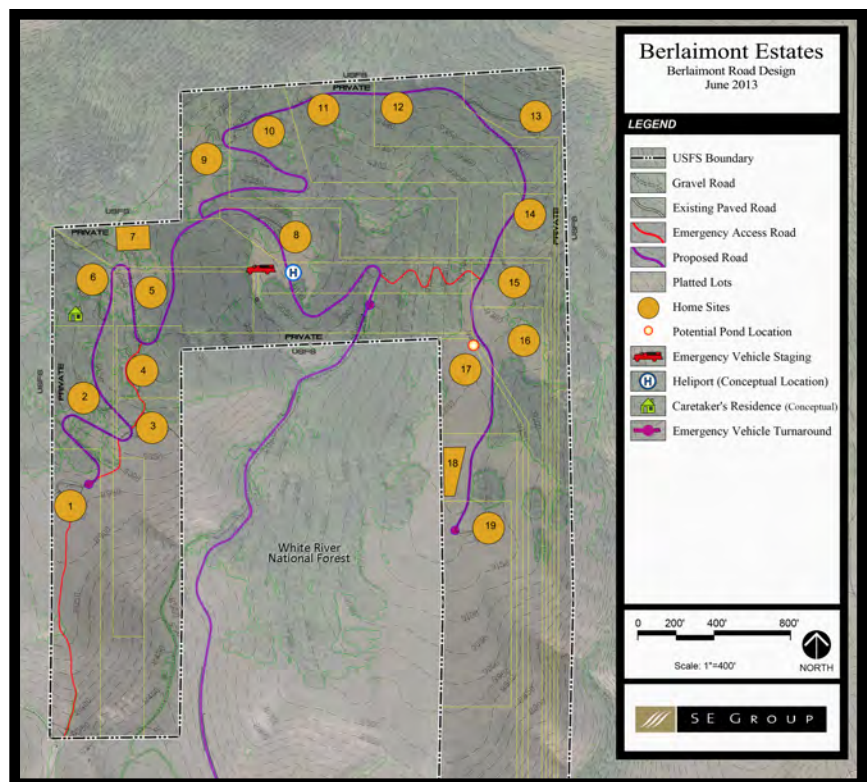
Understanding that when reviewed previously by the Board of County Commissioners in 2010, the issues with the risk of wildfire was the Board's primary concern. The applicant understands and shares this concern and hired the Anchor Point Group to consult on the project and provide a Wildland Fire Mitigation Plan for Berlaimont Estates. Anchor Point Group is an innovator in applying state-of-the-art fire science to wildfire mitigation, planning, municipal codes and insurance issues. The Anchor Point Group has prepared more than 1,000 wildfire protection plans covering communities from Alaska to Hawaii. Anchor Point helped guide the creation of the Community Wildfire Protection Plan, incorporated into the 2003 Healthy Forests Restoration Act and was most recently contracted by FEMA to develop the Guide to Construction in Wildfire Zones. The applicant, recognizing the concerns of the Board, worked closely with the Anchor Point Group, to ensure the project will be designed to be safe and minimize wildfire risk to both the public and private lands in and around Berlaimont. The Wildland Fire Mitigation Plan for Berlaimont Estates is provided in its entirety in Appendix C.



The Mitigation Plan identifies areas of wildfire concern along the road along areas where the road abuts pockets of pinyon/juniper fuel and provides a recommendation for a fuels reduction project approximately 100 ft. below the road.

This requires coordination with the USFS as this area is within their property. In addition, the Mitigation Plan recommends that FS Road 780 should be improved to a maintained fire road within the property and to the edge of property, thus providing emergency responders with a second option of travel through the development. This recommendation is indicated in red on the following map:

The Anchor Point Group also provided specific recommendations for individual properties. All driveways in Berlaimont Estates will be constructed to International Wildland Urban Interface Code



(IWUIC). This includes emergency vehicle turnarounds on driveways longer than 150 ft., and paved driveway widths of a minimum of 12 ft.

Based on the Anchor Point Group's recommendations, all homes in Berlaimont Estates will be constructed to an IR-2 standard as outlined in the IWUIC, allowing each home to be an effective "shelter-in-place" structure. The IR-2 standards include (a more complete list is provided in the Mitigation Plan):

- Class A Roof assembly
- Protection of roof eaves
- Under floor protection
- Exterior wall materials of 1-hour fire resistance rating

This means that during a wildland fire event, residents can remain in their homes as a safe alternative to evacuation. In addition, all homes will be constructed with an engineer-designed 13-D residential sprinkler system. This will help to prevent structure loss during a fire event, along with minimizing the risk for a small structure ignition to become a larger fire.

Other key aspects of the Mitigation Plan for Berlaimont Estates include the following (a more complete list is provided in the Mitigation Plan):

- Two ponds with a 32 million gallon capacity, allowing for helicopter dip sites;
- Helipad location for increased fire and medical response;
- Commitment to work with the USFS for fuels reduction along areas of the access road;
- Looping of roads within Berlaimont Estates to create alternative access routes when possible;
- Half acre fire staging area on property with cistern of 10,000 gallons (or other water source)
- Two times the recommended defensible space around each home in shrub fuels, and one and a half times the recommended defensible space area each home in aspen fuels; and
- Rally point for area residents and emergency responder staff in event of a fire.

Recognizing that these recommendations require on-going education and implementation with Berlaimont Estates homeowners, the Mitigation Plan includes provisions for the following:

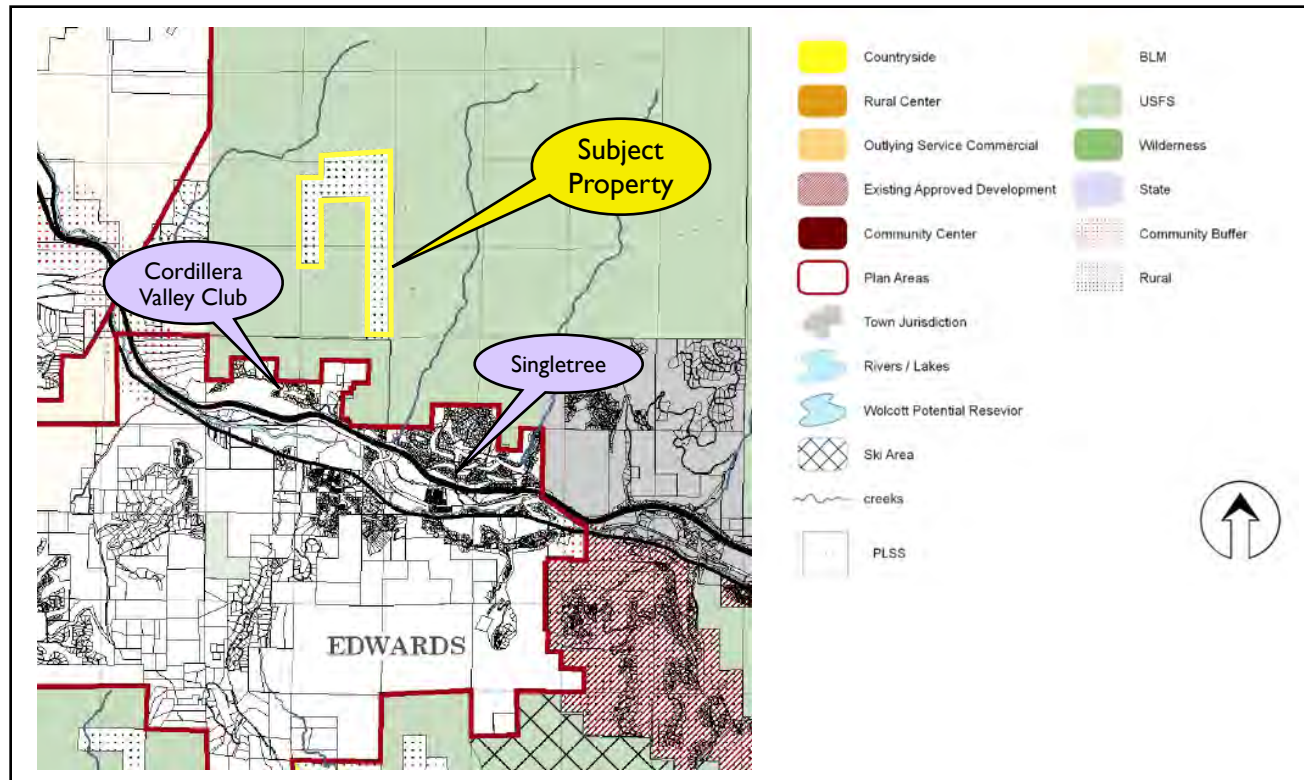
- Shelter-in-place training for residents;
- Information and education for residents on construction, defensible space, necessary supplies, expectations, insurance limitations, etc.; and
- Defensible space design and continuing maintenance enforcement.

The applicant is proposing that the recommendations of the Anchor Point Group be included as conditions of approval of the requested variance, and further included into all Homeowners Association documentation for the development.

IV. COMPREHENSIVE PLAN AND ZONING ANALYSIS

Berlaimont Estates is 680 acres of privately owned land surrounded by Forest Service property. To provide some scale for comparison of 680 acres, the nearby Cordillera Valley Club neighborhood on the north side of I-70 is approximately 354 acres, while the Singletree neighborhood is approximately 755 acres.

The Eagle County Comprehensive Plan identifies the property as “Rural” as identified on the Future Land Use Map provided below:



The Eagle County Comprehensive Plan provides the following description of Rural Lands:

Rural Lands: The Rural Lands designation includes private properties in unincorporated Eagle County which can be categorized as ranch, open range or forested lands. Rural lands are prevalent north of Eagle, north and south of Wolcott, in the Burns and Derby Junction area along the Colorado River Road and north of El Jebel in the Cottonwood Pass area. A large tract of Rural designation encompasses the historic Eagle Mine and Battle Mountain Pass south of the Town of Minturn.

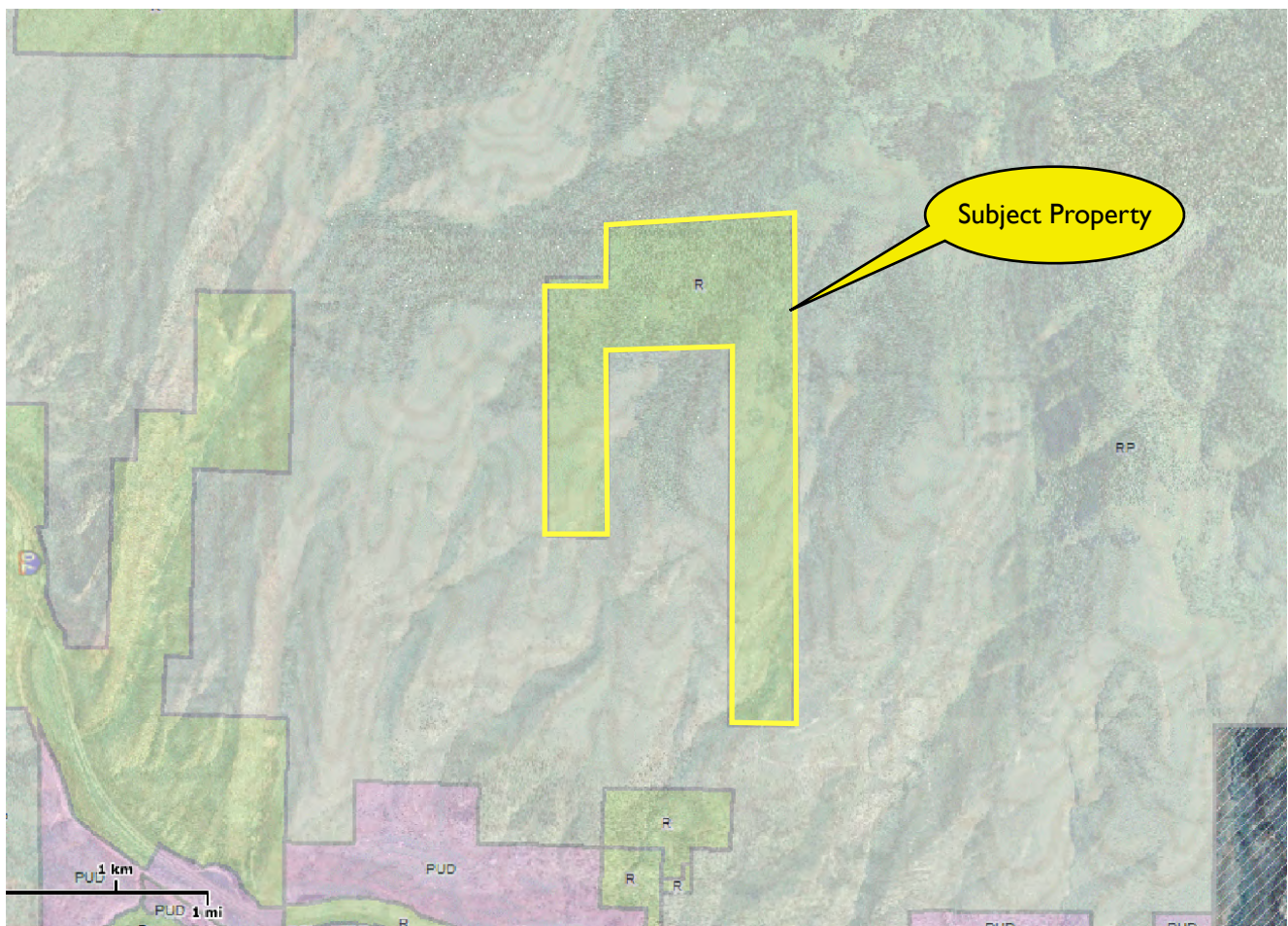
Residential densities on rural lands are limited to one primary residence and one accessory dwelling unit per 35 acres, although some smaller non-conforming residential lots exist. Small clustered subdivisions may also be approved on lands designated “Rural” per applicable Eagle County Land Use Regulations. Clustered developments should result in the preservation of lands of environmental or cultural value, and should otherwise conform to the intents and purposes of the written policies of this Comprehensive Plan.

Other resource-oriented uses such as mining and forestry are allowed, and can be found scattered on lands of this designation throughout the county.

Public facilities are not associated with the development of lands with a Rural designation in Eagle County. Rural lands rely on nearby Community Centers or Rural Centers to serve their daily needs, with commercial activities being limited to isolated uses which are only permitted by special review as provided by Eagle County Land Use Regulations. Development in these areas is served exclusively by private wells and individual sewage disposal systems.

There are a number of existing small recreation areas scattered throughout the County's Rural Lands designation, some of which pre-date County land use and zoning regulations. These include the State Bridge, Anderson Camp, Rancho Del Rio and Piney Lake recreation areas. These small recreation areas are enjoyed by both residents of and visitors to Eagle County and are consistent with, and in many ways define, the County's recreational and rural character. The County's policy towards these areas is that they are viable uses and should be permitted and encouraged to continue. Expansion of these areas and the establishment of new small recreation areas of this type should be considered on a case-by-case basis, considering the suitability of the land, whether necessary services can be provided and whether the expansion or new development is in character with the surrounding rural lands.

Berlaimont Estates is zoned Resource, which was established on the property in 1974 when the initial zoning in Eagle County was established, as shown on the map below:



SECTION 3-210. RESIDENTIAL AND AGRICULTURAL ZONE DISTRICTS, provides the purpose statement for the Resource (R) zone district:

The purpose of the Resource (R) zone district is to maintain the open rural character of Eagle County and to protect and enhance the appropriate use of natural resources and agricultural uses in the County including water, minerals, fiber and open land. This is accomplished by limiting residential development to very low density single-family uses on lots of thirty-five (35) acres or larger, or by encouraging clustered development on smaller lots within those portions of a property that do not contain environmental resources or natural hazard areas and by maintaining the remainder of the property as common open space or ranch land, and by limiting new commercial development to uses that have a resource orientation and to small recreation areas that comply with Master Plan policies for such uses.

As evidenced in the purpose statement above, the Resource zone district allows for very low density residential development of one unit per 35 acres. As provided below in Table 3-340, Schedule of Dimensional Limitations, there is no limitation on lot coverage or maximum floor area.

Zone District	Minimum Lot Area Per Use ¹	Maximum Lot Coverage (Developable land) ^{2,12}	Maximum Floor Area Ratio ^{2,12}	Minimum Front Yard Setback	Minimum Rear Yard Setback	Minimum Side Yard Setback	Min. Stream Setback ³	Max. Height ⁴
RL	20 acres ^{8,9}	No limitation	No limitation	Arterial Street: 50' Collector Street: 50' Local Street: 25'	The greater of 12.5' or half the height of the tallest building on the lot	The greater of 12.5' or half the height of the tallest building on the lot	75'	35'
R	35 acres ^{9,10}	No limitation	No limitation	Arterial Street: 50' Collector Street: 50' Local Street: 25'	The greater of 12.5' or half the height of the tallest building on the lot	The greater of 12.5' or half the height of the tallest building on the lot	75'	Resid.: 35' All Other Uses: 40'
RP	80 acres ^{8,11}	No limitation	No limitation	50'	50'	50'	75'	28'
BC	35 acres ^{8,11}	No limitation	No limitation	50'	50'	50'	75'	28'

As a 35-acre subdivision, Berlaimont Estates complies with all standards of the Zoning Regulations. However, due to the topographical issues and terrain, we are requesting variances from the County's road improvement standards. Each variance request is described below:

A. Dual Access

The Dual Access standard was re-adopted by Eagle County in 2002. Section 4-620J.1.h states:

With the exception of properties proposed to be served from the public roadway system by driveways or by urban cul-de-sacs, two (2) points of ingress/egress to the public roadway system shall be provided, such that in the event a road within the subdivision becomes impassable, all properties will continue to have access to a public roadway system. Both points of access should be open and available for daily use. In the event that this is not possible, and at a minimum, there shall be provided a secondary emergency point of ingress/egress equipped with emergency breakaway barriers capable of accommodating emergency response vehicles commonly operated by the Local Fire Authority Having Jurisdiction for all new development or redevelopment. Secondary emergency access points must be kept free of obstruction, and must be maintained to assure year round use. Depending upon the length of the road, the wildfire hazard rating, the number of units proposed, the topography and the recommendation of the Local Fire Authority Having Jurisdiction, the Board of County Commissioners may, at their discretion, grant a variance from this required improvement standard.

In the case of Berlaimont Estates, this property has two major issues affecting the ability to provide **dual access**:

1. Land Ownership - though private property, Berlaimont Estates is surround by USFS property and has no direct access to the public roadway system. In addition, there is no adjacent private land available for through access. Any access will need to be through the USFS property and it is the USFS that will determine how this access is to occur. The USFS has indicated that they will only approve one access to the property. Accessing the property across the Forest Service lands will require analysis and approval under the National Environmental Policy Act (NEPA), which mandates that alternative modes of access be considered and evaluated based on potential impacts to the physical, biological and social environment. The Applicant has been coordinating with the White River National Forest, and has been directed to seek approval for access from the County before a NEPA analysis will be commenced. Upon approval of the present application, an application will be made to the USFS for access.
2. Topography - If dual access were required, steep slopes and varied terrain would require enormous retaining walls, significant site disturbance, and have much greater impact on Forest Service land, and as a result, would likely not be approved by the Forest Service. The road has been designed to minimize impact to the environment, while significant measures have been taken to ensure the safety and welfare of the future residents of Berlaimont Estates.
3. Visual and Environmental Factors - dual access would only increase visual disturbance. The proposed roadway has been been designed to limit visual disturbance. When possible, it copies the existing FSR roadbed, limiting visual impacts both from the I-70 corridor as well as from the south slopes.
4. Wildlife - by following the existing roadbed when possible, the design prevents additional excessive disturbance of the existing wildlife habitat. Wildlife expert Rick Thompson has been part of the development team and provided expertise with strict focus on limiting the disturbance on wildlife.

B. Emergency Vehicle Turnaround Areas

The second requested variance is from Section 4-620.D.10.d, which states:

Emergency vehicle turnaround areas shall be required on rural cul-de-sacs at the initial 1,000 foot mark and at 1,000 foot intervals for the remaining length of the road. The Local Fire Authority Having Jurisdiction may recommend an alternative spacing plan for turnaround areas. The turnaround shall be constructed in accordance with Section 4-620.D.11, Vehicle Turnarounds.

As depicted in detail on the design set, the proposed road design incorporates emergency vehicle turnarounds at the following locations along the road:

SUMMARY OF EMERGENCY TURNAROUNDS PROVIDED			
NO.	TURNAROUND TYPE	MILEAGE	LINEAL FEET
1	Bubble	0.16	830
2	Bubble	0.40	2,100

SUMMARY OF EMERGENCY TURNAROUNDS PROVIDED			
NO.	TURNAROUND TYPE	MILEAGE	LINEAL FEET
3	Hammerhead	1.04	5,475
4	Bubble	1.51	7,982
5	Bubble	1.73	9,147
6	Hammerhead	1.91	10,092
7	Hammerhead	2.45	12,922
8	Bubble	2.69	14,229
9	Bubble	2.99	15,809
10	Hammerhead	3.49	18,419
11	Hammerhead	3.92	20,704
12	Bubble	4.16	21,995
13	Hammerhead	4.93	26,045
14	Cul-de-sac	5.32	28,095

These turnarounds are to be constructed in accordance with 4-620.D.11. The topographic gradients along the roadway do not allow the regular 1000-foot spacing prescribed by Section 4-620.D.10.d. However, as provided by that Section, the Local Fire Authority Having Jurisdiction, the Eagle County Fire Protection District, supports this alternative spacing plan.

C. Road Design Standards

The third set of variances relates to specific dimensional requirements within the Road Design Standards of the Eagle County Land Use Regulations. These standards largely conform to recommendations of the American Association of State Highway and Transportation Officials and the Institute of Transportation Engineers.

Based on the proposed road design, the following table summarizes the variances from the roadway standards required. Most of the requested variances relate to the minimum centerline radius of the road. As the terrain is challenging, the road engineers sought to minimize disturbance while providing safe movement through areas of switchback. The summary of the variances requested is provided below:

SUMMARY OF VARIANCES FROM ROADWAY STANDARDS						
Item	Road	Road Classification	Variance	Location (s)	Design and Justification for Variance	Demonstration of Potential Hardship
1	Lower Berlaimont Road	Rural Minor Collector ADT 100 to <250	Intersection with other Roadways (LUR 4-620 Roadway Standards 4-84[9])	Station 0+00 Sheet RD01	Increasing the tangent length to 100' at the entry would put the first curve in the roadway in more than 40' of cut.	A 40' high retaining wall would be required at this location or a very large excavation with a very large visible cut slope.
2	Lower Berlaimont Road	Rural Minor Collector ADT 100 to <250	Sag Vertical Curve K value (LUR Table 4-620-J)	PVI Station 0+50 K=11.25 Sheet RD01	Vertical Tangent lengths will not allow for a larger K value and a vehicle will be stopped or traveling under 10 MPH at the intersection	Moving the physical location of the access point would impact adjacent properties.
	Lower Berlaimont Road	Rural Minor Collector ADT 100 to <250	Minimum Centerline Radius (LUR Table 4-620J)	Station 18+00 R=150' Sheet RD02 Station 20+00 R=150' Sheet RD02	Radius adjusted to closely follow terrain and existing road platform to minimize impact to existing terrain. All curves are tangent to spiral, spiral to curve, curve to spiral and spiral to tangent to	Greater disturbance to the land including increased cut / fill slopes and larger visual impacts.

SUMMARY OF VARIANCES FROM ROADWAY STANDARDS						
Item	Road	Road Classification	Variance	Location (s)	Design and Justification for Variance	Demonstration of Potential Hardship
3				Station 57+30 R=150' Sheet RD04 Station 59+20 R=200' Sheet RD04 Station 61+00 R=225' Sheet RD05 Station 64+00 R=160' Sheet RD05 Station 68+00 R=160' Sheet RD05 Station 71+00 R=130' Sheet RD05 Station 78+50 R=200' Sheet RD06	minimize the effect of a reduced radius.	
4	Middle Berlaimont Road	Rural Minor Collector ADT100to<250	Minimum Centerline Radius (LUR Table 4-620J)	Station 16+00 R=158' Sheet RD07	Radius adjusted to closely follow terrain and existing road platform to minimize impact to existing terrain. All curves are tangent to spiral, spiral to curve, curve to spiral and spiral to tangent to minimize the effect of a reduced radius	Greater disturbance to the land including increased cut / fill slopes and larger visual impacts.
5	Upper Berlaimont Road / east leg Private Property	Rural Minor Collector ADT100to<250	Minimum Centerline Radius (LUR Table 4-620J)	Station 22+50 R=178' Sheet RD11	Radius adjusted to closely follow terrain and existing road platform to minimize impact to existing terrain. All curves are tangent to spiral, spiral to curve, curve to spiral and spiral to tangent to minimize the effect of a reduced radius. This curve is a large radius switchback.	Greater disturbance to the land including increased cut / fill slopes and larger visual impacts.
6	Upper Berlaimont Road / within USFS	Rural Minor Collector ADT100to<250	Minimum Centerline Radius (LUR Table 4-620J)	Station 2+00 R=200' Sheet RD13 Station 3+50 R=200' Sheet RD13	Radius adjusted to closely follow terrain and existing road platform to minimize impact to existing terrain. All curves are tangent to spiral, spiral to curve, curve to spiral and spiral to tangent to minimize the effect of a reduced radius	Greater disturbance to the land including increased cut / fill slopes and larger visual impacts.
7	Upper Berlaimont Road / within USFS	Rural Minor Collector ADT100to<250	Minimum Centerline Radius (LUR Table 4-620J)	Station 12+00 R=118.50' Sheet RD14 Station 19+00 R=140' Sheet RD14	Radius adjusted to closely follow terrain and existing road platform to minimize impact to existing terrain. All curves are tangent to spiral, spiral to curve, curve to spiral and spiral to tangent to minimize the effect of a reduced radius. This curve has an approximate 90 degree bend in the roadway.	Greater disturbance to the land including increased cut / fill slopes and larger visual impacts.
8	Upper Berlaimont Road / within USFS	Rural Minor Collector ADT100to<250	Minimum Centerline Radius (LUR Table 4-620J)	Station 22+00 R=148.50' Sheet RD15	Radius adjusted to closely follow terrain and existing road platform to minimize impact to existing terrain. All curves are tangent to spiral, spiral to curve, curve to spiral and spiral to tangent to minimize the effect of a reduced radius	Greater disturbance to the land including increased cut / fill slopes and larger visual impacts.

SUMMARY OF VARIANCES FROM ROADWAY STANDARDS						
Item	Road	Road Classification	Variance	Location (s)	Design and Justification for Variance	Demonstration of Potential Hardship
9	Upper Berlaimont Road / within USFS	Rural Minor Collector ADT 100 to <250	Minimum Centerline Radius (LUR Table 4-620J)	Station 27+00 R=98' Sheet RD15	Radius adjusted to closely follow terrain and existing road platform to minimize impact to existing terrain. All curves are tangent to spiral, spiral to curve, curve to spiral and spiral to tangent to minimize the effect of a reduced radius. This curve has an approximate 90 degree bend in the roadway.	Greater disturbance to the land including increased cut / fill slopes and larger visual impacts.
10	Upper Berlaimont Road / within USFS	Rural Minor Collector ADT 100 to <250	Minimum Centerline Radius (LUR Table 4-620J)	Station 33+00 R=149' Sheet RD15 Station 63+00 R=140' Sheet RD17	Radius adjusted to closely follow terrain and existing road platform to minimize impact to existing terrain. All curves are tangent to spiral, spiral to curve, curve to spiral and spiral to tangent to minimize the effect of a reduced radius	Greater disturbance to the land including increased cut / fill slopes and larger visual impacts.
11	Upper Berlaimont Road / within USFS	Rural Minor Collector ADT 100 to <250	Minimum Centerline Radius (LUR Table 4-620J)	Station 66+50 R=119' Sheet RD17	Radius adjusted to closely follow terrain and existing road platform to minimize impact to existing terrain. All curves are tangent to spiral, spiral to curve, curve to spiral and spiral to tangent to minimize the effect of a reduced radius. The radius is necessary to accommodate a culvert.	Greater disturbance to the land including increased cut / fill slopes and larger visual impacts.
12	Upper Berlaimont Road / within USFS	Rural Minor Collector ADT 100 to <250	Minimum Centerline Radius (LUR Table 4-620J)	Station 68+00 R=250' Sheet RD18 Station 82+00 R=150' Sheet RD18 Station 86+50 R=250' Sheet RD19	Radius adjusted to closely follow terrain and existing road platform to minimize impact to existing terrain. All curves are tangent to spiral, spiral to curve, curve to spiral and spiral to tangent to minimize the effect of a reduced radius	Greater disturbance to the land including increased cut / fill slopes and larger visual impacts.

D. Variance Applicability

The Eagle County Land Use Regulations recognizes that the Improvement Standards are not inflexible and that alternatives may be considered for approval by Eagle County. Section 4-610 APPLICABILITY, states:

- A. General Improvements and their appurtenances within unincorporated Eagle County shall be planned and designed in compliance with this Division. These standards shall apply to all development that occurs within unincorporated Eagle County.
1. Minimum Requirements. The designer should be aware that whenever unusual or complex circumstances are anticipated in conjunction with a proposed development, additional information or analysis beyond the minimums set forth herein may be required by the County Engineer.
 2. Standards Are Not Inflexible. These design criteria and standards provide a certain level of performance, however, they are not inflexible. If an alternate design, procedure, or material can be shown to provide performance and/or environmental sensitivity which reflects community values equal to or better than that established by these standards, said alternative may be recommended for approval by the County Engineer. In evaluating the proposed alternate the County Engineer shall follow the procedures in Section

5-260.G., Variance From Improvement Standards. The County Engineer's evaluation shall consider whether the alternative will provide for an equivalent level of public safety and whether the alternative will be equally durable so that normally anticipated user and maintenance costs will not be increased.

In reviewing alternatives to the Improvement Standards to the Eagle County Land Use Regulations, the County Engineer must follow the procedures provided in Section 5-260.G, which states:

G. Variance from Improvement Standards

- 1. General. The Board of County Commissioners shall have the authority to approve, approve with conditions, or disapprove variances from Article 4, Division 6, Improvement Standards. Any person seeking a variance from the improvement standards shall file an application with the Planning Director, or shall consolidate said application with any other application the applicant is submitting. The application shall be determined sufficient, and a staff report prepared pursuant to Section 5-210.D, Common Procedure for Review of Applications.*
- 2. Standards. In determining whether to approve, approve with conditions, or disapprove the application for Variance to Improvement Standards, the Board of County Commissioners shall balance the hardships to the applicant of not granting the Variance against the adverse impact on the health, safety, and welfare of persons affected, and the adverse impact on the lands affected. In approving or approving with conditions said Variance, the Board of County Commissioners may impose such conditions that are necessary to ensure compliance with the terms of this Subsection, these Regulations, and the Comprehensive Plan.*

The following section will address the variance criteria for the requested variances.

V. CRITERIA FOR REVIEW

Section 5-260.G, Variance from Improvement Standards (provided above) includes the criteria from which the County Engineer must evaluate the variance request, followed by the Board of County Commissioners' review of the Variance from Improvement Standards. Finally, Section 4-620J.1.h provides additional criteria which is applicable only to the Dual Access Variance request. This section will provide a summary of how Berlaimont Estates meets all of these criteria:

A. If an alternate design, procedure, or material can be shown to provide performance and/or environmental sensitivity which reflects community values equal to or better than that established by these standards, said alternative may be recommended for approval by the County Engineer. In evaluating the proposed alternate the County Engineer shall follow the procedures in Section 5-260.G., Variance From Improvement Standards. The County Engineer's evaluation shall consider whether the alternative will provide for an equivalent level of public safety and whether the alternative will be equally durable so that normally anticipated user and maintenance costs will not be increased. (Section 4-610.A.2)

Applicant Response: The applicant has been working with Alpine Engineering on the design of the access road. In close cooperation with County staff, Alpine Engineering has designed a road that provides for adequate public safety, while minimizing environmental impacts to the Forest Service land. The proposed road has been designed with the following three goals:

1. Protecting public safety by providing a safe, functional road design which meets the needs of emergency service providers. In close consultation with the Eagle River Fire Protection District, the spacing of the emergency turnarounds were designed to provide adequate and sufficient access for fire trucks. Strict adherence to the road standards would create a major disturbance, while the proposed spacing is adequate;
2. Minimizing environmental impacts by using the existing road and currently disturbed areas whenever possible. When possible, the existing road bed is intentionally used in the design of the Berlaimont road to minimize visual impacts as well as other environmental impacts, with focus on mitigation of wildlife disturbance; and
3. Working cooperatively with adjacent property owners, emergency service providers, Forest Service representatives, and Eagle County staff, to design a road which reflects the values and concern of all of the community. Kimley Horn & Associates were brought on as specialized consultants in the area of traffic engineering to review the design and overall parameters of the road. No excessive hazards or risk associated with the proposed use of the road were identified.

Due to our continuing work with the County Engineering staff, the proposed road design provides for an equivalent level of public safety. Furthermore, because the road surface is paved, it will be equally durable to a road which meets all road standards. The Berlaimont Estates HOA will ensure year-round maintenance of the road as well as adherence to safety standards.

Finally, because the property cannot meet the dual access standard (the USFS will not allow two roads), to ensure safety of the residents of Berlaimont Estates, the applicant has worked with the

Anchor Point Group, one of the premier wildfire consulting firms in the United States. Their objectives in working with us were to:

1. Assess the wildfire hazards and risk to the proposed development of these 19 parcels;
2. Provide mitigation recommendations to alleviate wildfire vulnerabilities;
3. Develop a FireWise community that meets both the regulatory and practical needs of the Eagle River Fire Protection District and Eagle County;
4. Provide a reference tool for the property management and future residents of Berlaimont Estates that promotes understanding of wildfire issues and fosters sustainability of the recommendations of this report; and
5. Provide a Management Plan that allows for a single access to the property that is appropriate and safe for residents and emergency service responders.

Their report includes specific recommendations for Berlaimont Estates to ensure a FireWise community. Their recommendations are included as conditions of approval for the variance, and will be included in the declarations and covenants for the subdivision. Anchor Point provides the following recommendations (complete details provided in their report provided in Appendix C):

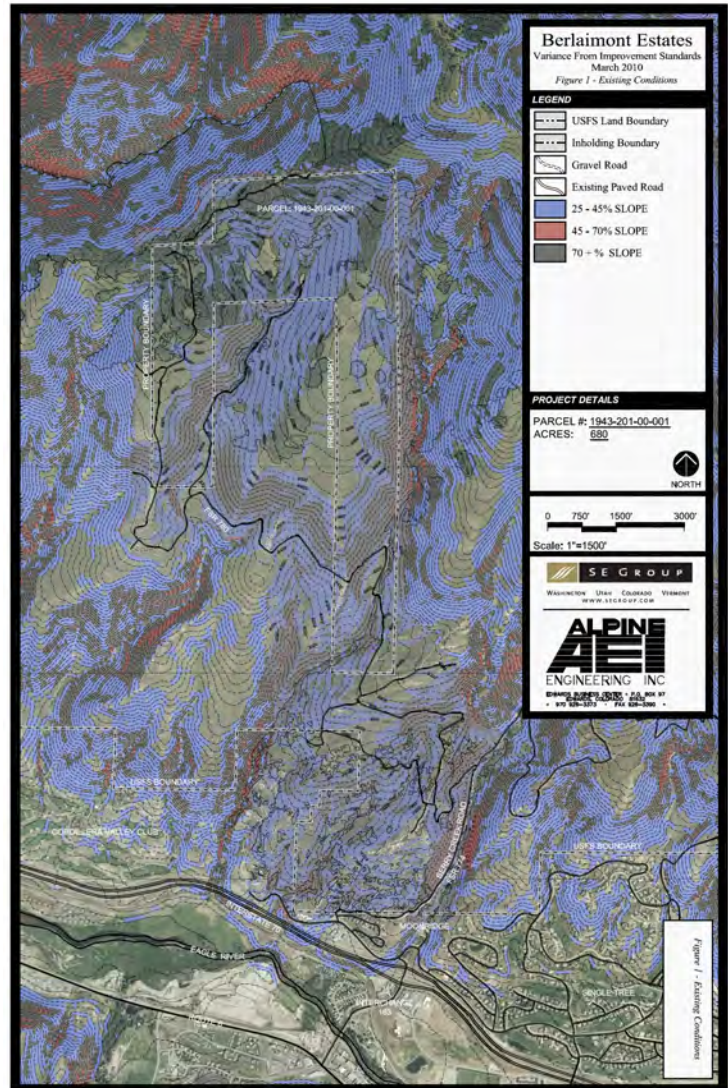
1. Fuel reduction along portions of the proposed road where the road abuts pockets of pinyon/juniper fuels. This requires working with the Forest Service as these areas are on Forest Service property;
2. Design of individual driveways to meet IWUIC requirements, including emergency turnarounds on driveways greater than 150 ft. long, minimum driveway widths of 12 ft. and a vertical clearance of 13.5 ft.;
3. Construction of homes to an Ignition Resistant Level 2 standard, along with a 13-D residential sprinkler system (designed by an engineer) in each home, allowing homes to be “shelter-in-place” in case of a wild land fire;
4. Training and education for homeowners; and
5. Defensible space design as part of a landscape plan reviewed and approved by Eagle County, along with continuous defensible space maintenance enforcement.
6. Training and education for the full time caretaker that will supervise and enforce maintenance & cleaning of residences (instructed by ERFPD) in order to maintain year round fire safety both from wildfire as well as structure fire.
7. Caretaker will be trained by ERFPD and will cooperate with Fire Authorities closely in the event of increased wildfire danger or in the event of any emergency involving rescue personnel engagement.

As a result of the combination of the well-designed, engineered road and the recommendations of Anchor Point's Wildland Fire Mitigation Plan, the proposed alternative design provides for an equivalent level of public safety and will be equally durable as current road standards.

B. The Board of County Commissioners shall balance the hardships to the applicant of not granting the Variance against the adverse impact on the health, safety, and welfare of persons affected, and the adverse impact on the lands affected. (Section 5-260.G.2)

Applicant Response: Due to excessive physical hardship, the applicant is seeking this variance so that it can effectively mitigate and lessen the adverse impact on health, safety, as well as mitigate other environmental impacts.

1. The topography of the property constitutes a significant hardship for the construction and design of the road. Without the variance, steep slopes and varied terrain would require enormous retaining walls, significant site disturbance, and have much greater impact on surrounding environment.
2. To connect to a public roadway system, the access must cross Forest Service property. In continuing to work with the Forest Service, the applicant understands that the Forest Service is required to provide "reasonable access" to private property in-holdings. As a result, the road has been designed to be limited to one access and has been designed to primarily follow the existing unimproved road system.
3. The map on this page shows the existing conditions of the site. As indicated on the map, the existing slopes are very steep. The road has been designed to minimize impact to the environment, while significant measures have been taken to ensure the safety and welfare of the future residents of Berlaimont Estates. Clearly, designing dual access into the site, along with the other road standards would have adverse impact on the affected land and wildlife and absolutely not be approved by the Forest Service.



D. Depending upon the length of the road, the wildfire hazard rating, the number of units proposed, the topography and the recommendation of the Local Fire Authority Having Jurisdiction, the Board of County Commissioners may, at their discretion, grant a variance from this required improvement standard. (Section 4-620J.1.h)

Applicant Response:

1. Length of the road - The total length of the road is approximately 5.3 miles, which allows for a travel time of approximately 25 minutes from the access from Moonridge Road to the entrance into the Berlaimont Estates subdivision. The road surface will be paved, allowing for safe, year-round access which will be easy to maintain. The length of the road is due to the number of switchbacks and access to public roads not considered as excessive, the road design supports the ADT generation in relation to the overall length and time traveled. Professional services of Kimley Horne & Associates were requested and traffic consultants were contracted in order to identify the risks associated with the design of the road. The road, due to its precise design, does not create any unusual traffic hazard for its users.
2. Wildfire Hazard Rating - As identified in the Anchor Point Report, the wildfire hazard is low to moderate (see map below) without imminent risk of wildfires. The applicant has worked diligently with ERFPD, the County's Wildfire Specialist and Anchor Point to further identify and reduce the risk of wildfires as well as structure fires. ERFPD as well as County staff actively participated in the creation of the Wildfire Mitigation Plan and provisions that the applicant agrees to include in the CC&R and HOA guidelines as conditions of approval. Provided the above, the wildfire hazard and its impact on the project is effectively mitigated.
3. Density - The proposed and further reduced density represents an extremely low density when considered from development point of view. The residences will be mostly used as second homes and utilized for recreational purposes (not occupied at all times) which further reduces the traffic that will travel on the Berlaimont road. An Open Space Easement will be included in order to further restrict density or intensity of development. The topography of the site and the ownership by the USFS present a physical impediment to the construction of two access roads to and from the site.
4. Topography - All possible and alternative ways of road alignment were explored and considered by the applicant along with the professional expertise of Alpine Engineering. All alternative proposals include an adverse and

Wildfire map from Anchorpoint needs to be revised - ROAD IS INCORRECT

VI. CONDITIONS OF APPROVAL

The following are proposed conditions of approval for the variance from road standards providing access to Berlaimont Estates. These proposed conditions assume future approval of the proposed access by the USFS across lands controlled by the USFS. These conditions shall be required to be fulfilled prior to obtaining a grading permit to construct the proposed roadway serving Berlaimont Estates and prior to obtaining any building permit for construction within Berlaimont Estates. Should a grading permit not be obtained or should the USFS not grant approval of the proposed roadway, these conditions shall have no force and affect. The proposed conditions are as follows:

- **Fire Safety.** In order to reduce exposure caused by fire, the development of lots within the Berlaimont Estates Subdivision, including all structures, driveways, vegetation, shall be developed or constructed in accordance with the conditions and recommendations contained in the Wildland Fire Mitigation Report prepared by Anchor Point. The recommendations and conditions included in this report address the following summary of issues: Construction type, defensible space, fire suppression and sprinkler systems, vegetation management, and refuge area development.
- **Density Reduction.** In order to reduce traffic volumes on the proposed roadway thus improving safety and reducing potential conflicts with wildlife, residential density shall be reduced to 19 single-family residential structures and 9 accessory dwelling units located within Berlaimont Estates subdivision. This represents a reduction of 13 accessory dwelling units otherwise allowed as a use by right in the Resource zone district. After 9 accessory dwelling units have been constructed in Berlaimont Estates, no further permits for accessory dwelling units shall be issued by Eagle County.
- **Open Space Easement.** In order to reduce future development and visual related potential impacts to the land and further reduce potential impacts to wildlife, the applicant shall record a open space easement as generally depicted in the following graphic:

<<INSERT OS GRAPHIC>>

This easement shall prevent the development of structures within the easement but allow trail access and vegetation management in some areas. The easement shall be in form and substance acceptable to the County Attorney's office and recorded prior to obtaining a grading permit to construct the proposed roadway.

- **Public Access.** The proposed roadway shall be publicly accessible until such point that the roadway completely departs from land controlled by the USFS (where the roadway crosses Parcel 4, of Berlaimont Estates), unless otherwise dictated by the USFS.
- **Roadway and Landscape Improvements adjacent to Moonridge Subdivision.** If permitted by the USFS and in order to lessen the impact of public and private traffic on the residents in the Moonridge Subdivision, the applicant shall improve the drainage in accordance with the proposed roadway plans. Additionally, the applicant agrees to provide a earthen berm with landscape materials adjacent to the proposed roadway to help screen the road and traffic from adjacent homes in the Moonridge Subdivision. This landscape berm shall be appropriately irrigated and by maintained by the applicant or a homeowners association established for

Berlaimont Estates. Additionally, if approved by the Eagle River Fire Protection District and the USFS the first fire truck turnaround shall be eliminated or relocated further to the east in order to reduce impacts to neighboring homes. The first parking area proposed shall either be eliminated or relocated to the other side of the roadway in order to reduce visual impacts to adjacent residential uses. Should the USFS not allow these improvements, this condition have no affect.

- **Homeowners Association.** The applicant shall establish a Homeowners Association for the Berlaimont Estates Subdivision which shall provide for the maintenance of the entirety of the roadway and related safety and drainage improvements, maintenance of required landscape areas, wildfire and vegetation management, water improvements, and open space easement restrictions. These requirements shall be included in a Covenants, Conditions, and Restrictions (CC&R) document and recorded against all properties within the Berlaimont Estates final plat in a form and substance acceptable to the County Attorney's office.
- **Horses and Livestock.** In order to reduce traffic and reduce potential conflicts with wildlife, only one equestrian facility accommodating 3 or more horses shall be allowed within Berlaimont Estates. Each parcel shall be limited to the keeping or boarding of a maximum of 2 horses. No other livestock shall be allowed within Berlaimont Estates. These provisions shall be included in the CC&Rs.
- **Pets and Wildlife.** In order to reduce potential conflicts with wildlife, the CC&Rs shall require pets to be kept indoors or when outside, within a fenced area or under the direct control of the owner either by leash or other device. The feeding of pets or storage of food shall not be allowed outside of homes. All trash shall be stored within structures and within bear proof containers. These provisions shall be included in the CC&Rs.
- **Fencing.** Fencing shall not be allowed within the open space easement. All other site fencing shall be wildlife friendly to allow for the movement of wildlife. These provisions shall be included in the CC&Rs

VI. ADJACENT PROPERTY OWNERS

STATE OF COLORADO
STATE BOARD OF LAND COMMISSIONERS

UNITED STATES OF AMERICA

BERRY CREEK METRO DIST

TLC CLUB

STAMPP, RICHARD L. & CATHERINE A.

ENGLISH CONGREGATION OF JEHOVAH'S
WITNESSES EDWARDS COLORADO INC

ANDERSON, WILLIAM ROBERT

KUNTZ, KERRY B. & BETH L.

STEPHENS, MARK R. - WORTHY-STEPHENS, MARGIE

CARADONNA, ANTHONY & LAUREN

SILVERSTEIN, LAURA

MORIARTY, KEVIN M.

DEBIE, GERLINDE

EDMONSON, MICHAEL & JEANETTE

WILLIAMS, TODD S.

MILLER, RICHARD ERIC - LAVENS, JENNIFER P.

NORTHSTAR CONDOMINIUM ASSOC

CORDILLERA VALLEY CLUB METROPOLITAN
DISTRICT

CORDILLERA VALLEY CLUB PROPERTY OWNERS
ASSOCIATION INC

BRENNER, JAMES R. & MARKA A.

BERNARD, MICHAEL & PAMELA

UPPER EAGLE REGIONAL WATER AUTHORITY

NEWMAN, GAIL E.

FINCH, ROBERT P.
In Care Of R. CRUTZER, BLADESTONE

Appendix A: Overall Site Plan

Appendix B: Berlaimont Estates Final Plat

Appendix C: Wildland Fire Mitigation Plan

Appendix D: Kimley-Horn and Associates Traffic Analysis

Appendix E: Environmental Impact Report
