

Exhibit 13

**Berlaimont Presentation to
Eagle County Board of County
Commissioners, Oct. 1, 2013**

Berlaimont Estates

Variance from Improvement Standards

October 1, 2013

1

Introduction

- Owners: Ms. Jana Sobotova and Petr Lukes
- Owner's Representative: Vaclav Vochoska, Cimex Inc.
- Planning: Dominic Mauriello, Mauriello Planning Group
- Wildland Fire Consultant: AnchorPoint Group
- Legal Representation: Tom Ragonetti, Otten Johnson
- Engineering: Alpine Engineering
- Traffic: Kimley-Horn & Assoc.
- Wildlife Consultant: Rick Thompson, Western Ecosystems, Inc.

2

About the Owners

- Jana Sobotova and Petr Lukes
- Settled in the United States in 1998
- 3 children Michael, Petra, and Emily
- Split time between Eagle County and Naples, Florida
- Involved in real estate throughout the country
- Passionate skiers, hikers, and bicyclists
- Fell in love immediately with Eagle County and its community values



3

Agenda

- Description of the Request
- Overview of the Property
- Background & History
- Exempt Subdivisions
- Road Design
- Access and Mitigation Measures
- Wildlife
- Other Mitigating Features Proposed
- Proposed Conditions of Approval

4



5

Variance Overview

- **Variance from Improvement Standards** (Road Design)
- Access to Residential Subdivision of 19 homes (Use by Right under Resource Zoning)

6

Variance From Improvements Standards

- Dual Access Standards
- Emergency Vehicle Turn-Around Areas (spacing)
- Other Minor Road Design Standards (still meet AASHTO safety standards)

7

Variance Objectives

- Provide **necessary, reasonable and safe year-round access** into the Applicant's private property.
- **Limit environmental impact** of the road through engineering design, planning and mitigation.
- Work within the general framework of **Eagle County Roadway Standards** and coordinate the access design with **Eagle River Fire Protection District (ERFPD)**.

8

Criteria for the Variance: Dual Access

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

9

Criteria for the Variance: Improvement 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.

Section 5-260.G

10

Hardship

- Legally created inholding parcel (78 years ago)
- Legally subdivided for use as allowed by State Statute for 35-acre parcels
- Legally zoned for 19 homesites (since 1974)
- Remotely located from County street network
- Steep and difficult terrain
- USFS restrictions on access
- No reasonable alternative to allow use of property per Resource zoning
- Not granting the variance would create greater environmental impact
- Without variance owner deprived of reasonable access and use of property

11

Hardship

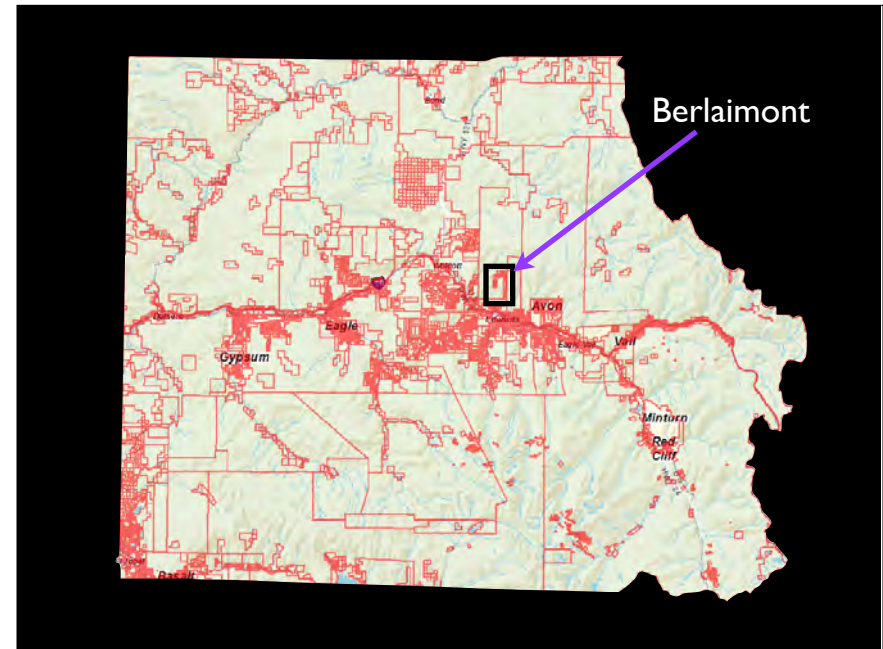
Our application materials show that there is sufficient hardship to the applicant that the variances are warranted and that the applicant has adequately addressed:

- **Roadway safety**
- **Wildland Fire protection and mitigation**
- **Adverse impacts on the environment**
- **Impacts to the general welfare of the community**

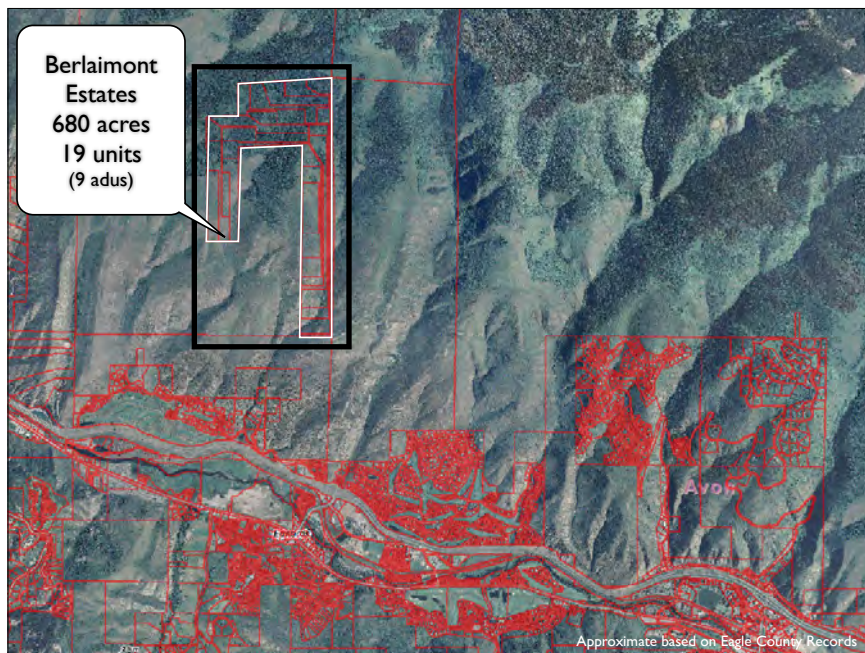
12

Overview of the Property

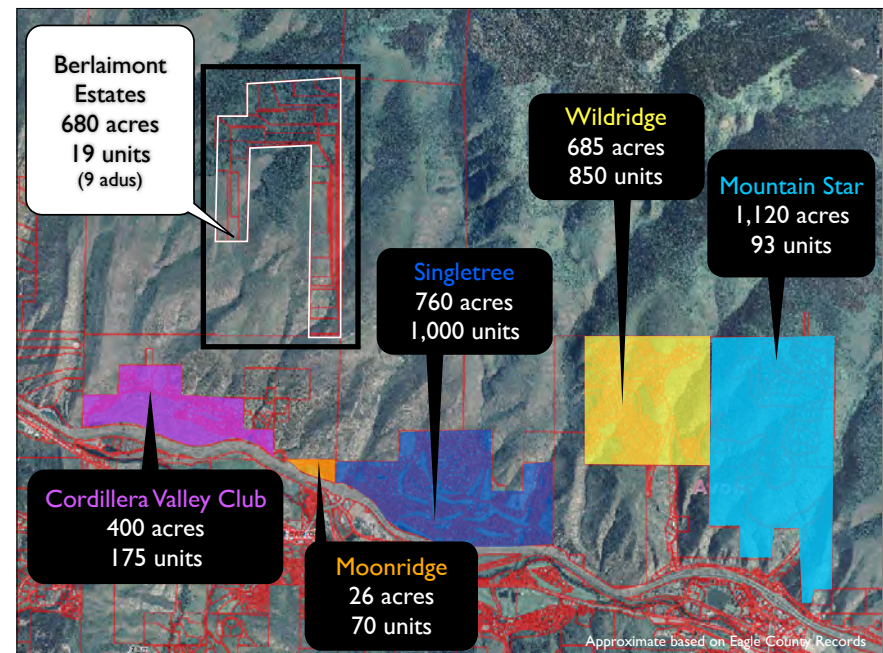
13



14



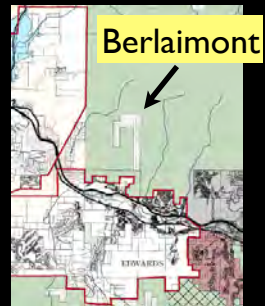
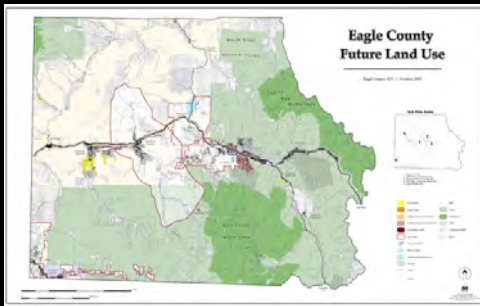
15-1



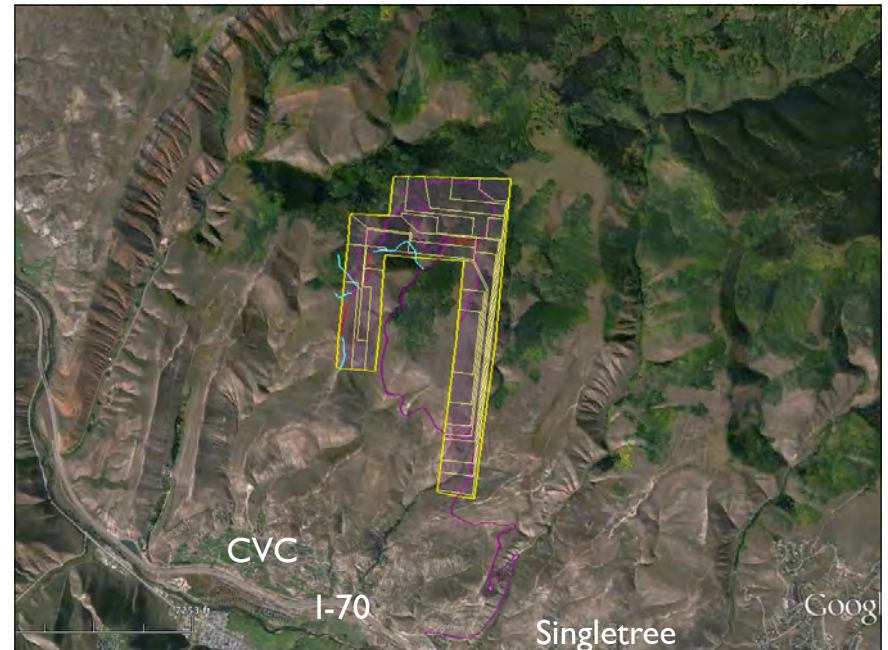
15-2

Eagle County Comprehensive Plan

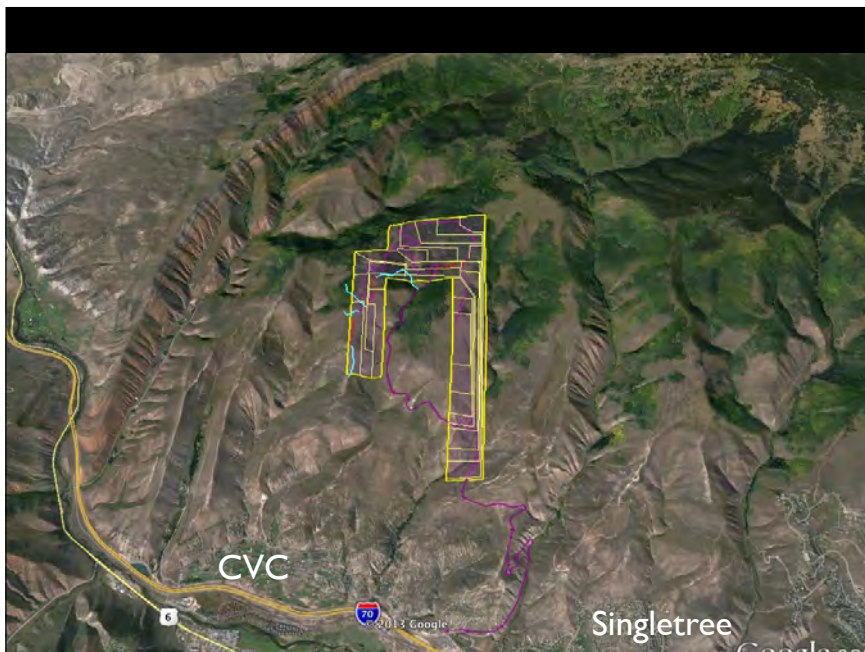
- Property designated “Rural” by the FLUM
- Rural allows for “very low density” residential development at 1 unit for 35-acres



16



17



18



19



20



21



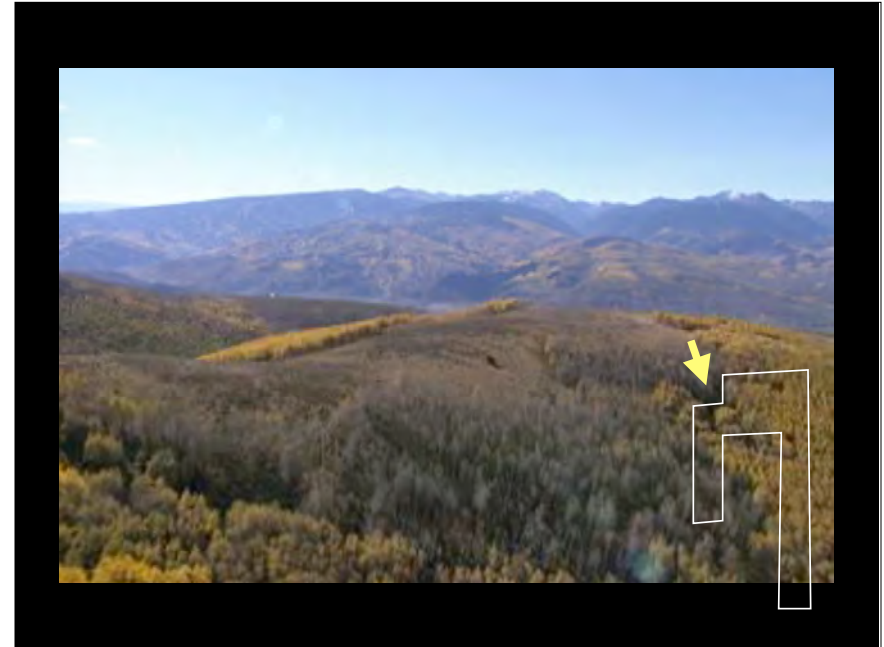
22



23



24



25

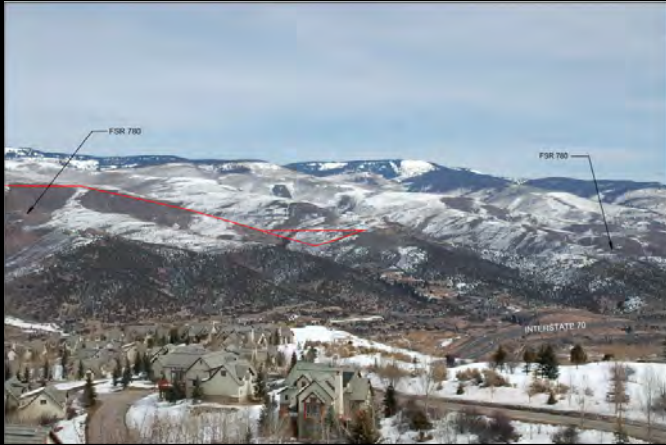


26



27

View from Cordillera



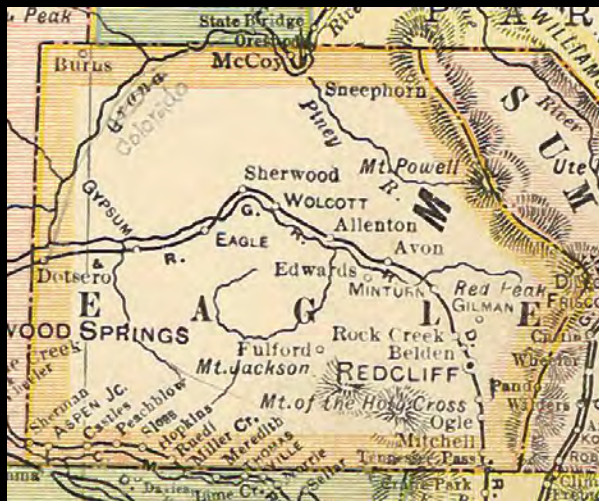
28

View from Arrowhead



29

Background & History



30

United States Forest Service

- USFS encouraged the applicant to seek County approval first
- USFS and NEPA process is extensive, expensive, and time consuming for both the applicant and the USFS
- Makes sense to pursue county approval first

31

US Forest Service

- **Not likely to allow more than one access into Berlaimont Estates across Forest Service Property per Federal Law**
- No guarantee that USFS will grant approval of the road as proposed

32

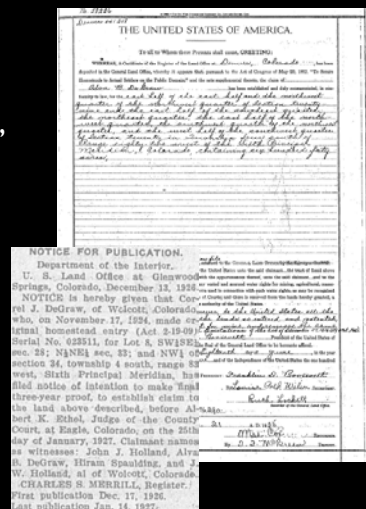
US Forest Service

- Access to inholdings across all federal lands in the U.S. is addressed in:
 - Alaska National Interest Lands Conservation Act of 1980 ("ANILCA")
 - The Act provides that access to non-federally owned land shall be allowed across federal land "to secure the owner reasonable use and enjoyment thereof..."
 - Signed into law by President Carter in 1980

33

Background

- Eagle County created in 1883
- As part of the Homestead Act, property was deeded into private ownership in 1935
- Property created as private parcel of 680 acres
- Not an assemblage of private properties
- Property held in private ownership for **78 years**



34

Timeline

1964

Eagle County adopts
Subdivision Regs

35-1

Timeline

1964

Eagle County adopts Subdivision Regs

35-2

Timeline

1964

Eagle County adopts Subdivision Regs

1972

Colorado adopts 35-acre
subdivision exemption

36-1

Timeline

1964

1972

Eagle County adopts Subdivision Regs

Colorado adopts 35-acre subdivision
exemption

36-2

Timeline

1964

1972

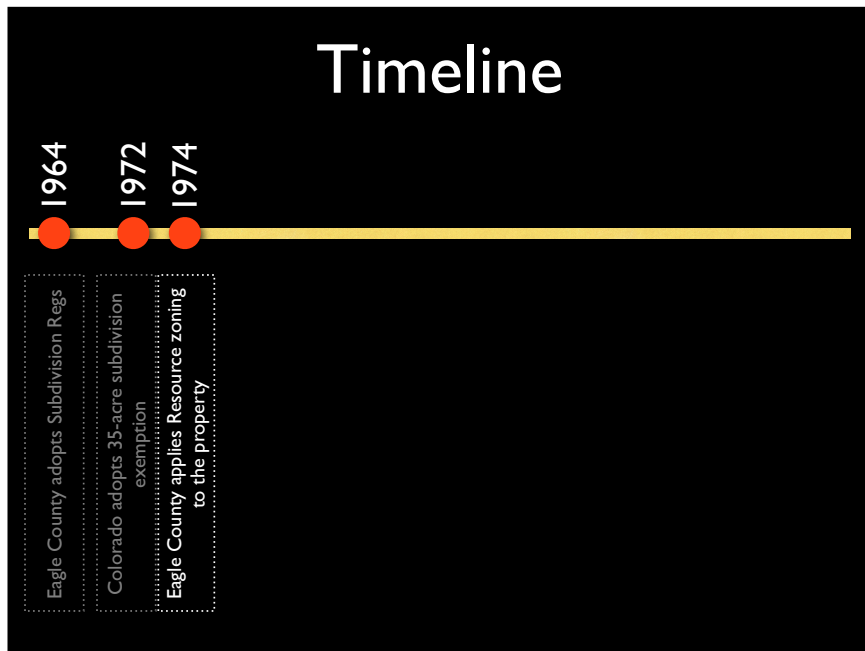
Eagle County adopts Subdivision Regs

Colorado adopts 35-acre subdivision
exemption

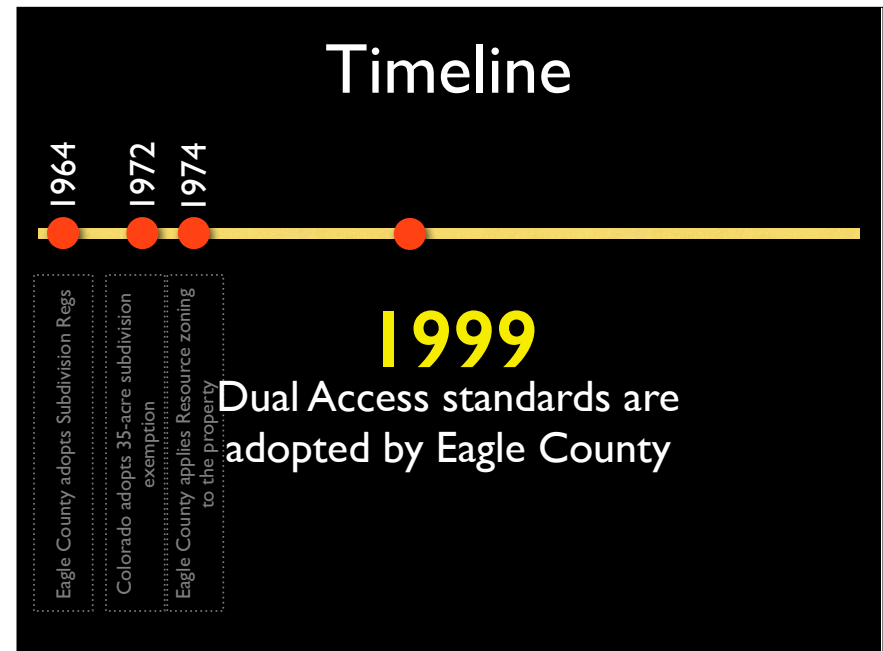
1974

Eagle County applies Resource
zoning to the property

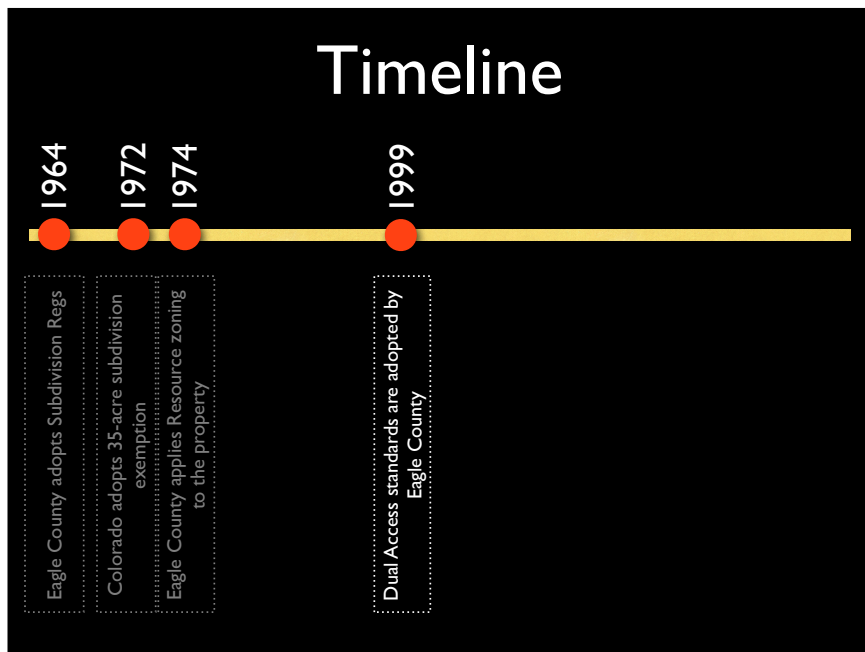
37-1



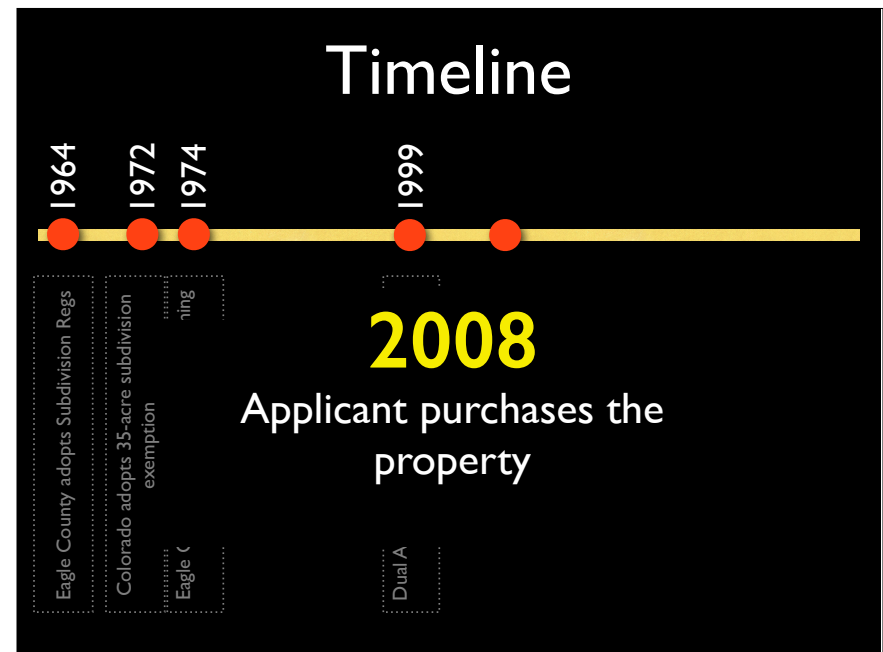
37-2



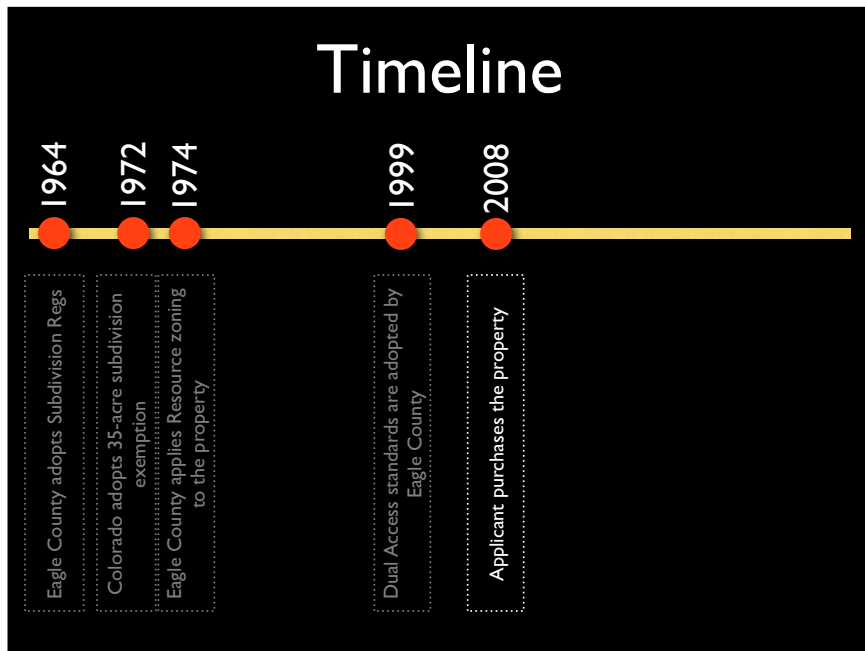
38-1



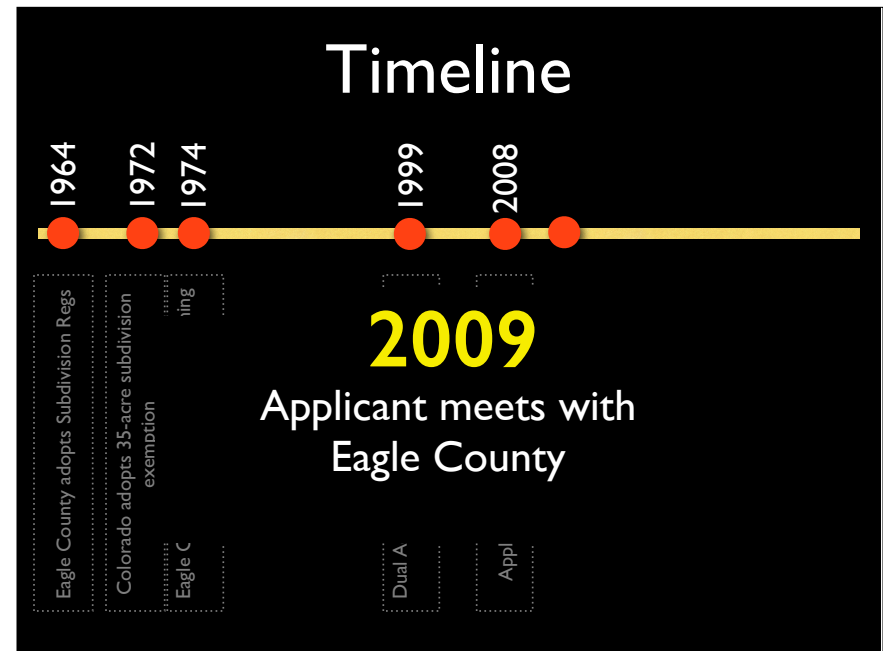
38-2



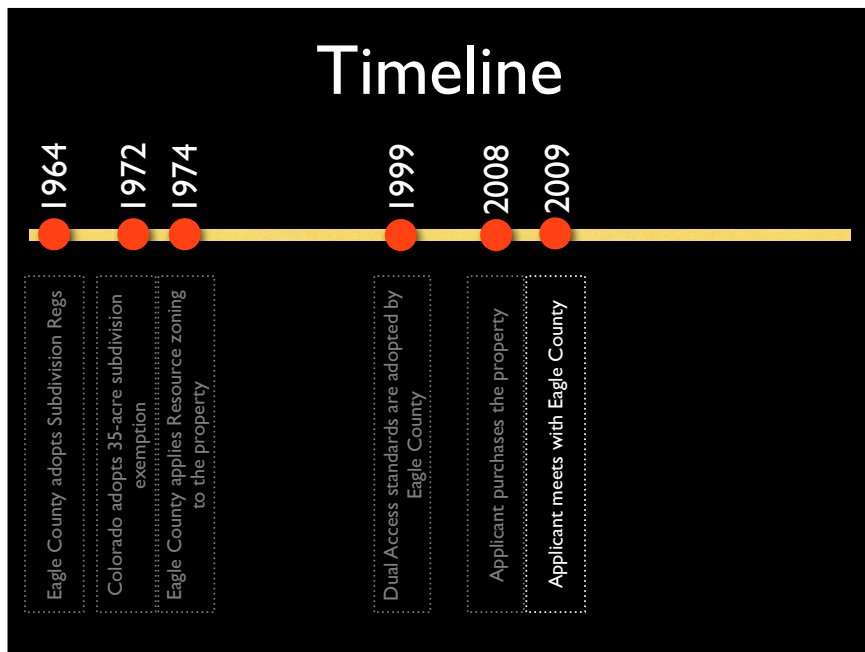
39-1



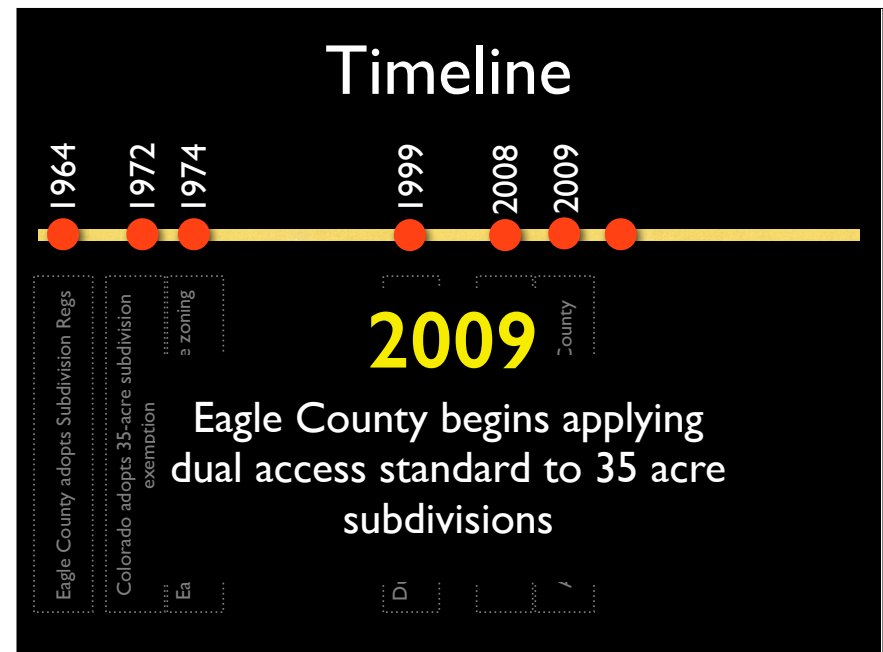
39-2



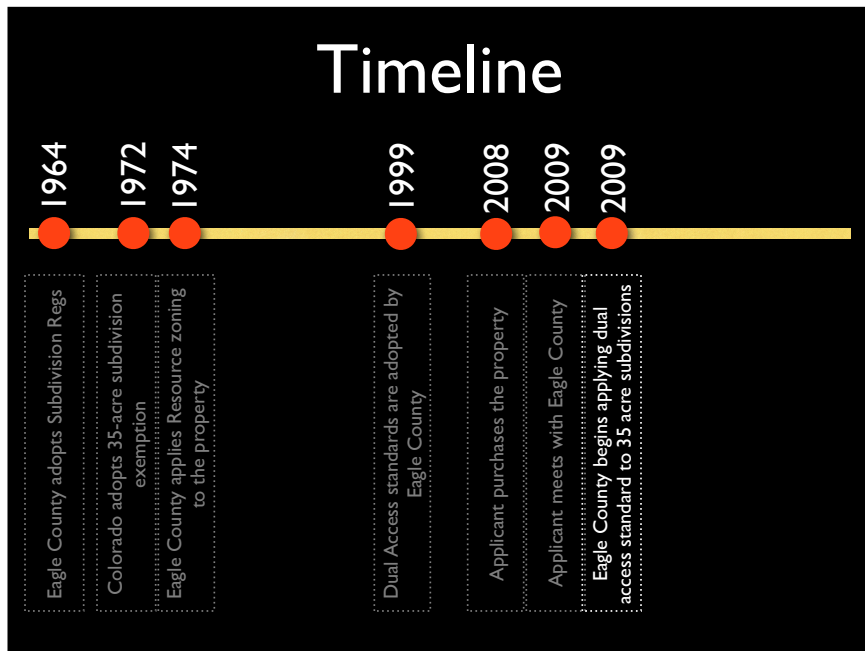
40-1



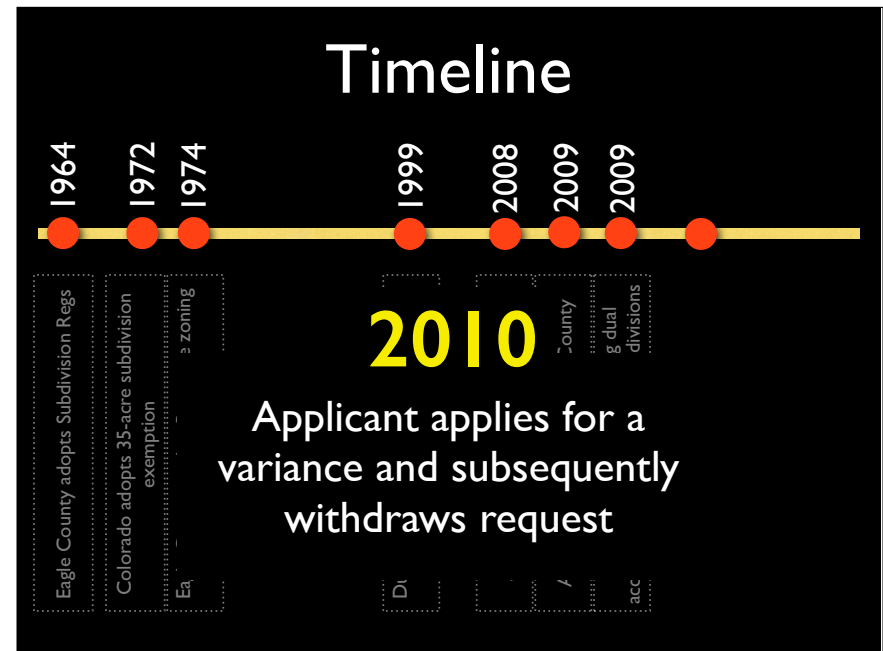
40-2



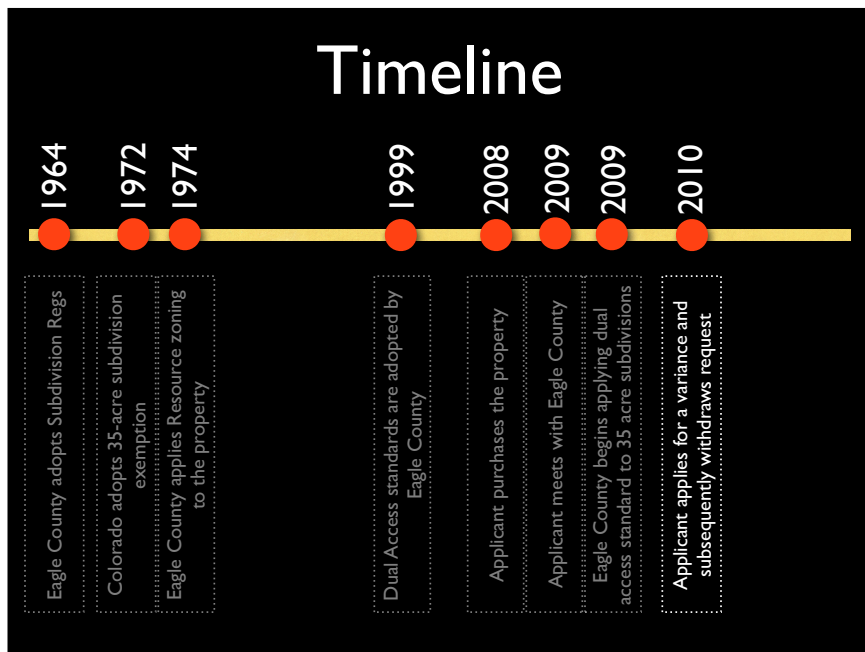
41-1



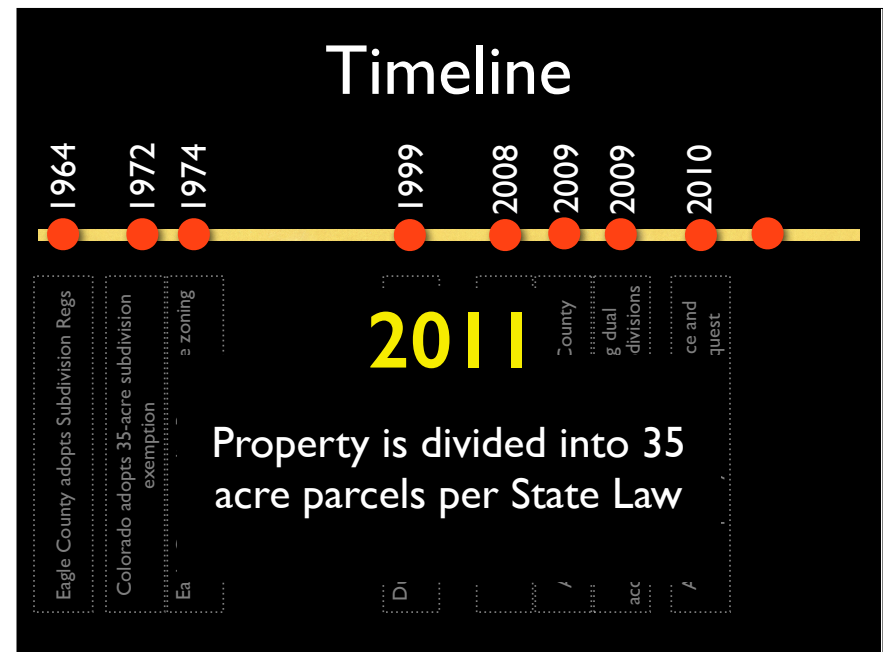
41-2



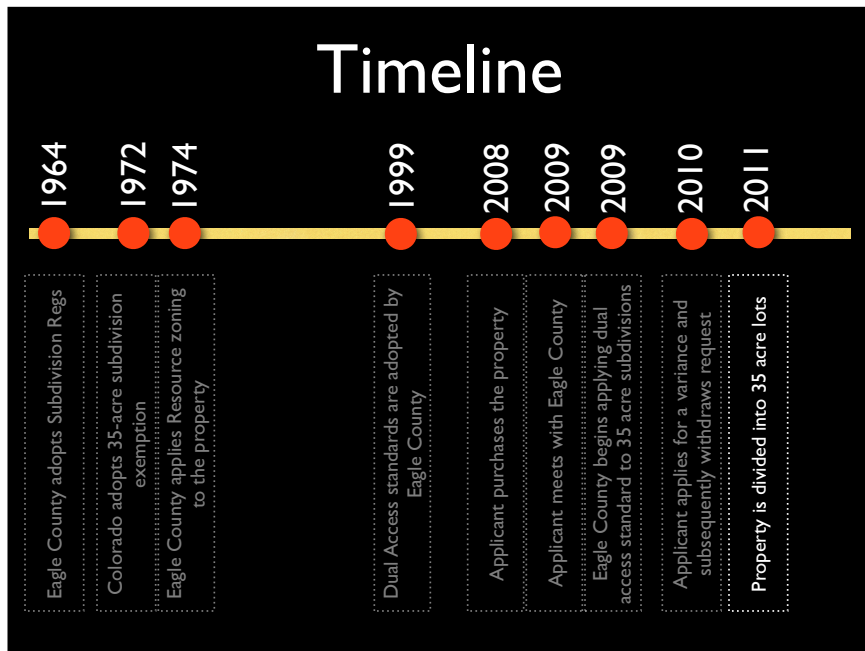
42-1



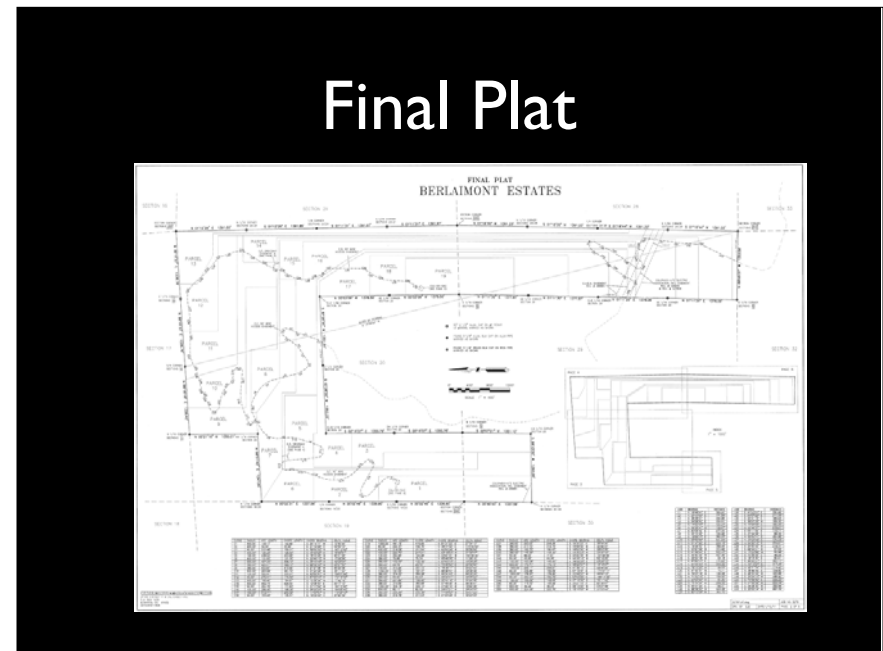
42-2



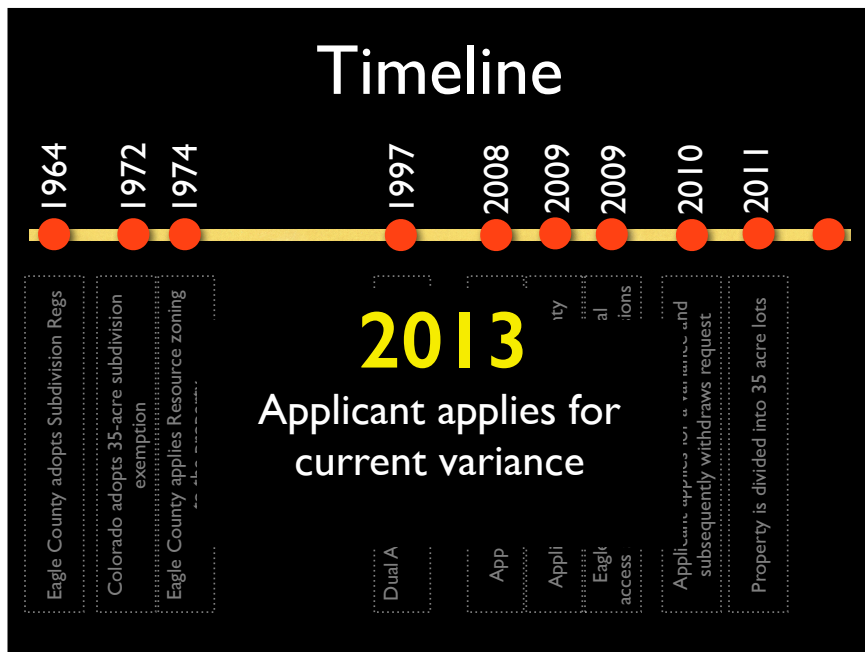
43-1



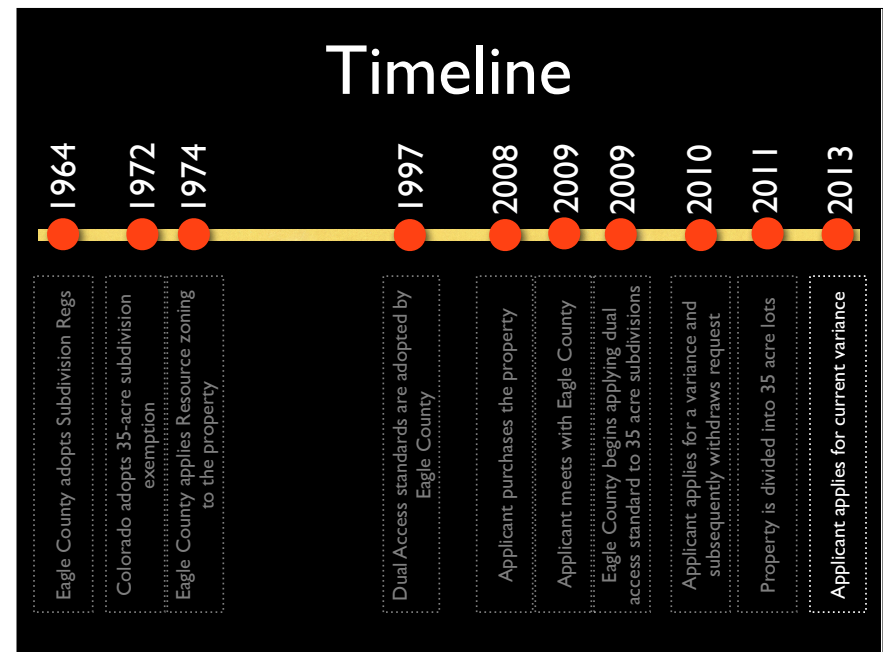
43-2



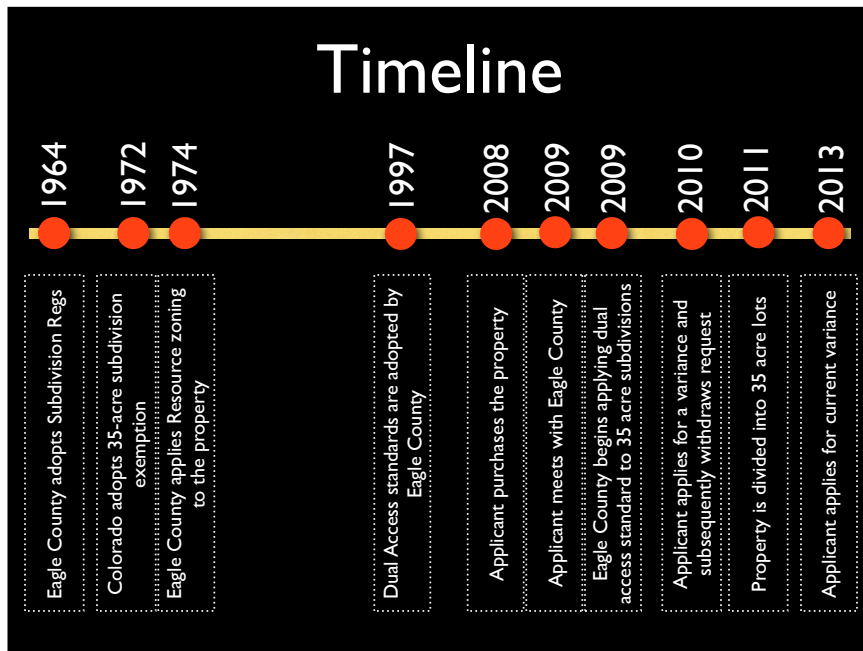
44



45-1



45-2



46

Resolution No. 2009-115

- Until November of 2009, Eagle County did not apply access standards to 35 acre subdivisions
- First mention of the regulation to access to Exempt Subdivisions

EAGLE COUNTY ROADWAY STANDARDS

The Eagle County Land Use Regulations, in Section 4-620, set out comprehensive Roadway Standards for Eagle County. These Regulations are available on the County Website or from the Eagle County Planning Department. They apply to all roads in the County, both public and private. Different site development standards apply to particular roadways, depending on a variety of factors. Appendix C to the Land Use Regulations contains the existing classification of County roadways.

Knowledge of and compliance with these standards is the responsibility of property owners, their architects and builders.

Because of the numerous and substantial public safety concerns that such Roadway Standards are designed to address, the County is strictly enforcing them for all future construction. **The County will not issue building permits for construction of residences or other structures that are not sited in such a way that they meet all applicable standards, unless an appropriate variance has been approved by the Board.**

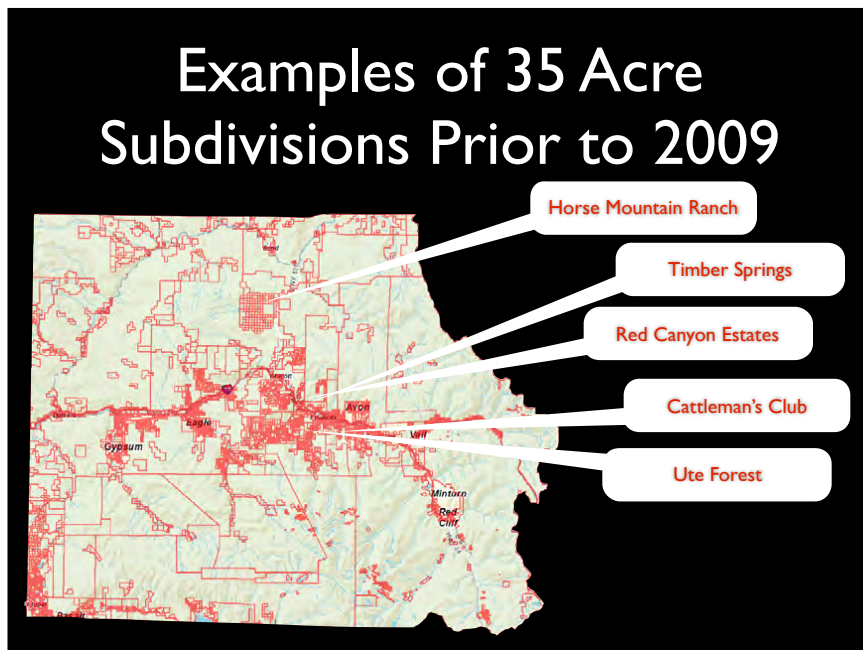
The County Land Use Regulations provide for the Board of County Commissioners to approve variances from strict application of the Roadway Standards in appropriate cases. See Land Use Regulations Section 4-200(4). An applicant may apply to the County Engineer for such a variance, and after review by the County Engineer, who may or may not recommend approval of the variance, the application for a variance will be scheduled for a hearing before the full Board of County Commissioners. **Builders, property owners, their architects and builders all should be aware of the Roadway Standards, the strict enforcement policy, and the variance process.**

The Eagle County Roadway Standards apply to roads serving all development in Eagle County, whether subdivisions or PUDs. **They also apply to roadways that access residences (both primary residences and accessory dwelling units) on 35 acres or larger. However, rural parcels, or other otherwise zoned parcels that may be buildable even though they are smaller than 35 acres because they are legally non-conforming as defined in the Land Use Regulations.**

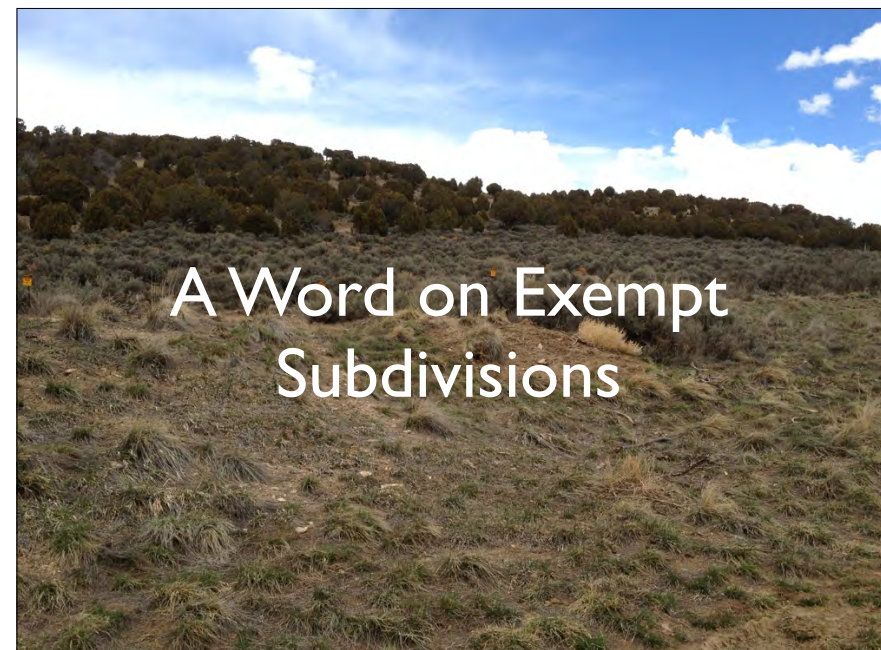
If you have questions about standards applicable to particular roadways, or whether such roads comply with these standards, or the variance process, please contact the Eagle County Engineering Department.

Dated: November 17, 2009

47



48



49

35 Acre Subdivision Exemption

- State of Colorado exempts the creation of parcels 35 acres or larger from subdivision regulations
- Property is zoned Resource and use proposed (19 homesites on 35 acres) is a use by right

50

35 Acre Subdivision Exemption

- The Legislature has 40+ years allowed 35-acre+ subdivisions to be created without county subdivision review
- The Legislature has maintained this position in the face of many attempts to change the State law in this regard
- Clearly, the State wouldn't want counties to do indirectly – through regulation of access or otherwise – what they have prohibited counties from doing directly
- Suggests that any county regulation of access to exempt subdivisions should be reasonable

51

35 Acre Subdivision Exemption

- These subdivisions by their nature – i.e. > 35 acre lots – will often be located in areas that are more rural and lightly settled or unsettled, and in Colorado, often mountainous, than in urban or more settled areas
- Conventional street standards for urban or more settled areas may make little or no sense in reasonably regulating access to these subdivisions
- Eagle County's regulations in 1972 recognized the settling of mountainous areas with a road classification of "Mountain Roads"
- The unwavering application of the dual access requirement in every case may be unreasonable and unnecessary in a particular case, such as this one, and stand unfairly in the way of a landowner exercising their State statutory rights to create such a subdivision

52

35 Acre Subdivision Exemption

- The consulting team here has gone to extraordinary lengths to address the technical requirements of making the proposed access work correctly and safely, especially – and with good reason - from the fire safety perspective
- If you agree to the variance requested, you will be agreeing to an access condition which exists in many places in Eagle County
- Which were developed prior to the access requirements you adopted in 2009 but without the careful planning and mitigation measures – especially for fire safety – which are proposed here

53



54

Design of the Road

- Length of the road is 5.3 miles with a travel time of 16-20 minutes from Moonridge Road
- Paved road surface
 - Safe, year-round access
 - Guard rails, emergency turn-arounds
- **Gated in the winter**
 - USFS and resident access only

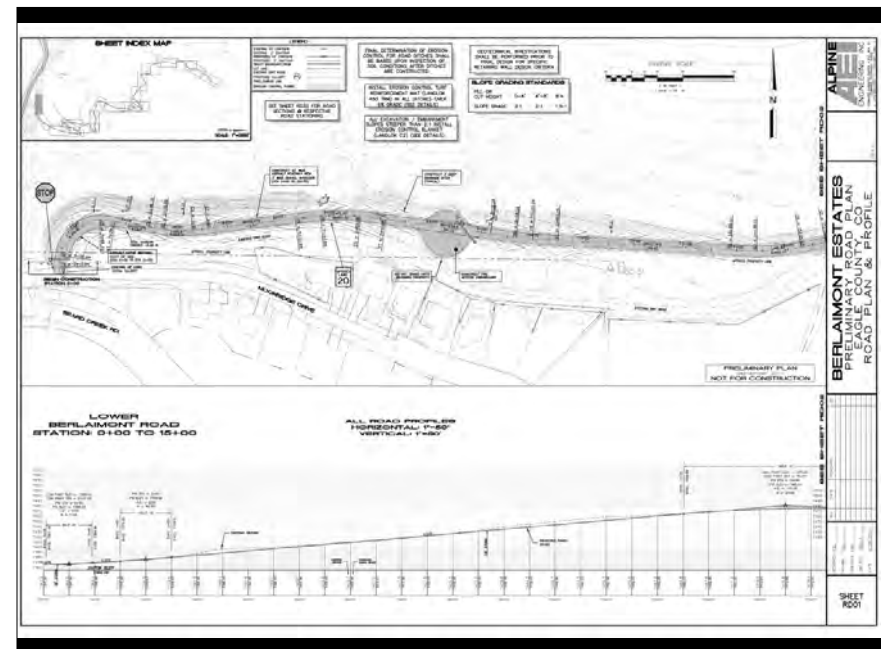
55

Use of Road

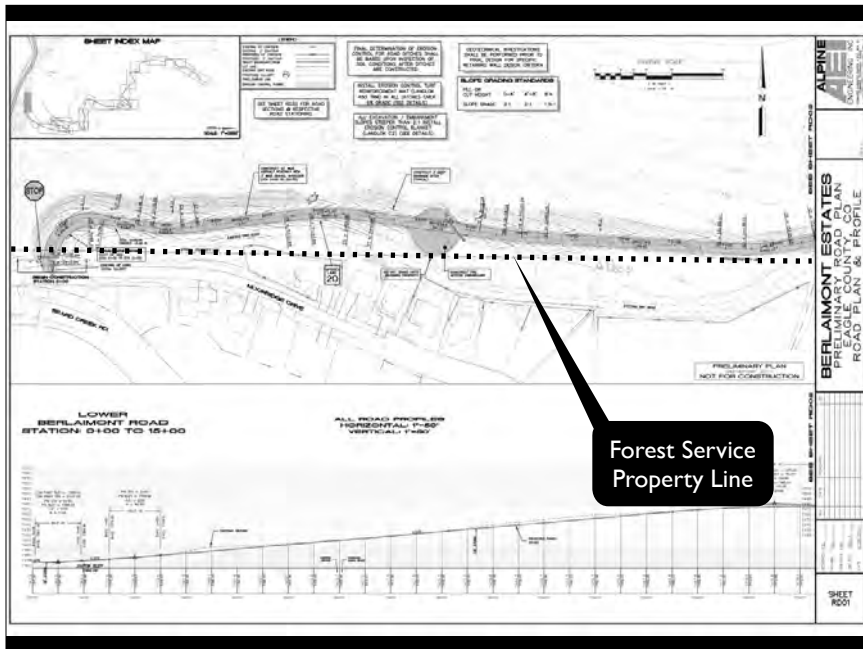
- Current USFS and public access
- Owners of 19 single-family homesites
- Proposing restriction to only allow 9 accessory dwelling units, to decrease density, traffic, and increase conservation efforts



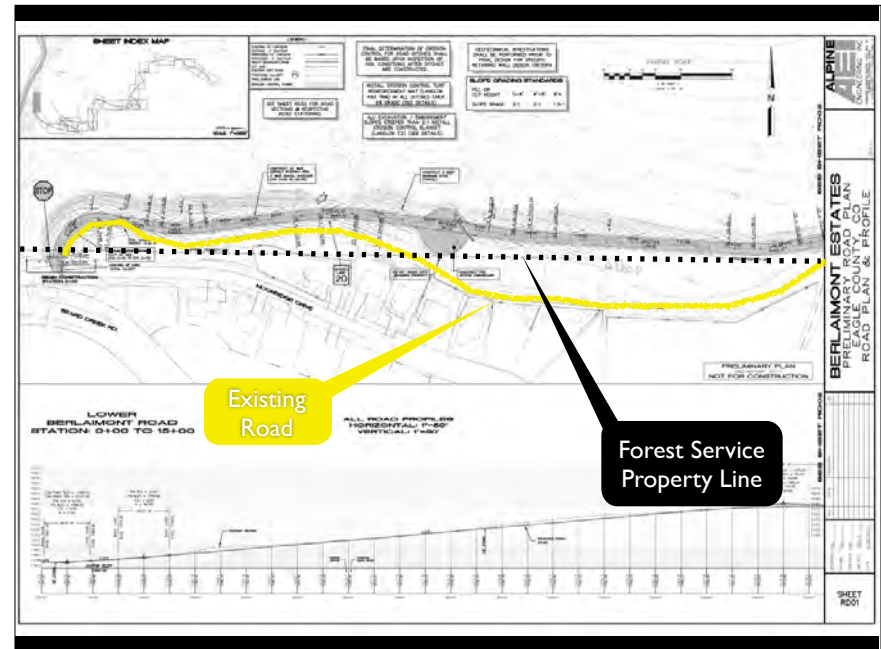
56



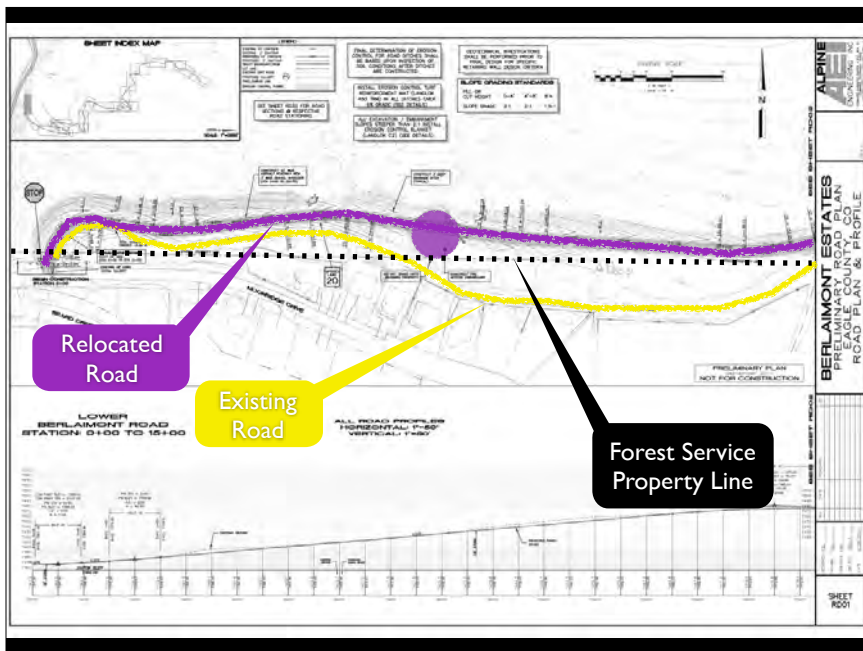
57-1



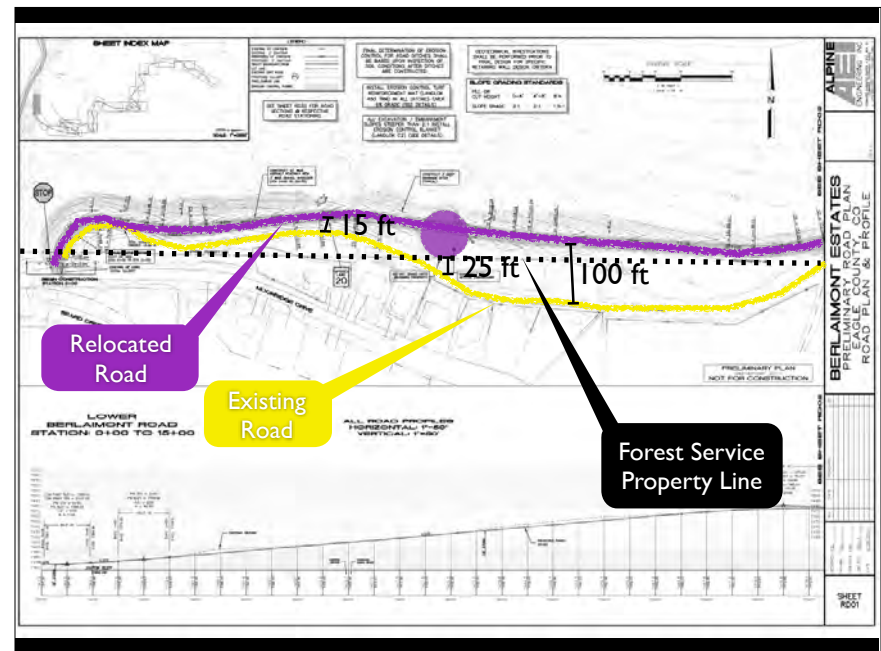
57-2



57-3

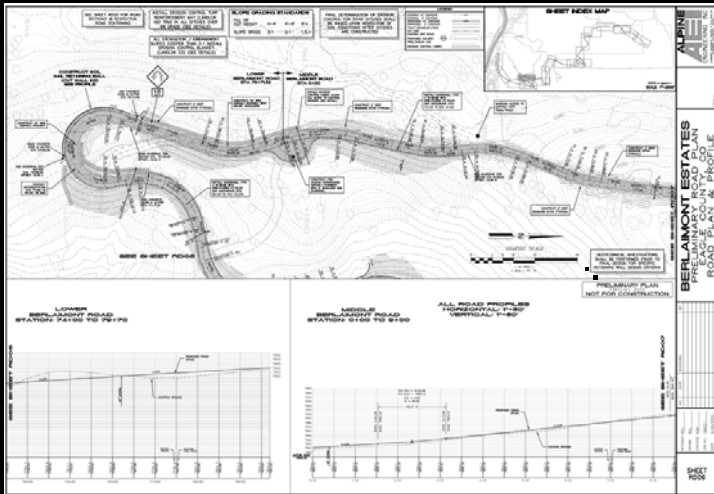


57-4



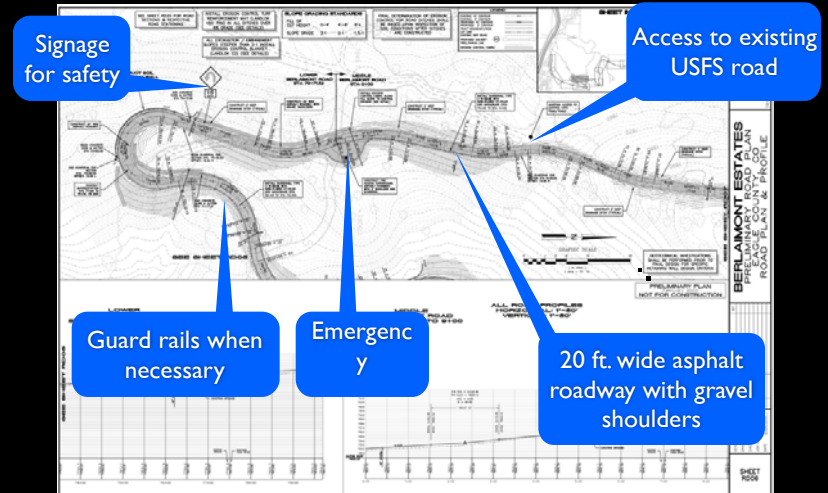
57-5

Example of Design



58-1

Example of Design

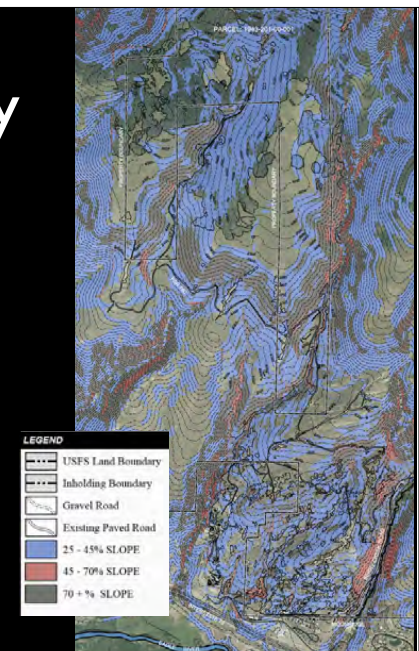


58-2

Google Road Video

Topography

- Steep slopes and varied terrain would require **larger retaining walls, significant site disturbance, and greater impact** to environment
- Design **minimizes impact to environment** while maintaining appropriate safety measures



59

60

Environmental Factors

- Dual access would only increase disturbance and impacts
- The proposed roadway has been **designed to limit disturbance**
- When possible, the road **matches the existing FSR roadbed**, limiting visual impacts both from the I-70 corridor as well as from the south slopes

61

Traffic

- Kimley-Horn and Associates, Inc. has prepared a traffic analysis for the roadway
- Berlaimont Estates is a low traffic generator
- Anticipate 164 daily trips at buildout
- 13 morning peak hour trips (4 in - 9 out)
- 16 evening peak hour trips (10 in - 6 out)
- Equates to one entering vehicle every 6 minutes during the peak hour
- One exiting vehicle every 10 minutes

62

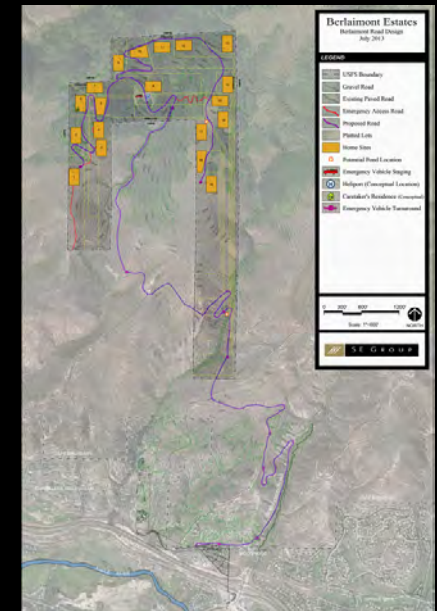
Design of the Road

- County engineering staff has indicated to us that the roadway is safe as designed - meets or exceeds AASHTO standards
- ERFPD has agreed that the road is safe with the wildfire mitigation measures proposed
- County Wildfire Specialist has agreed the access is safe with mitigation plan proposed subject to a condition

63

Road Design

- Single paved road access
- Follows existing roadbed as much as possible to reduce visual, environmental, and wildlife impacts
- Connects to several USFS roads along the way and will allow for public use and enjoyment of adjacent hiking trails
- Provides fire truck turnarounds and parking in logical locations
- Will allow for general public to access hiking trails, along with improvements in infrastructure and increase safety (maps, signage, emergency phone)



64



65

Response to Key Issues

- We reviewed all of the BOCC videos of the hearings from 2010
- It is clear from the hearings that safety, and in particular, wildfire safety were the chief concerns
- Dual access is intended to be one method to address wildfire safety
- We've addressed the safety issues with:
 - Wildland Fire Mitigation Plan
 - Restrictions on site development

66

Response to Key Issues

- Reduced Density (from 19 ADU to 9 ADU)
- Proposed HOA Covenants & Guidelines
- Evacuation Plan requirement
- Strict Maintenance Requirements
- Caretaker onsite
- Safety infrastructure (Fire Roads, Fire Equipment Staging area, Heliport)

67

Response to Key Issues

- To address the key concern of Wildfire
- Applicant hired the Anchor Point Group
- Nationally recognized experts in Fire Management
- Have developed Community Wildfire Protection Plans throughout Eagle County, Colorado, and the US - covering more than 2,400 communities
- Located in Boulder, Colorado

68



Anchor Point Group

- Chris White
- Rod Moraga

69

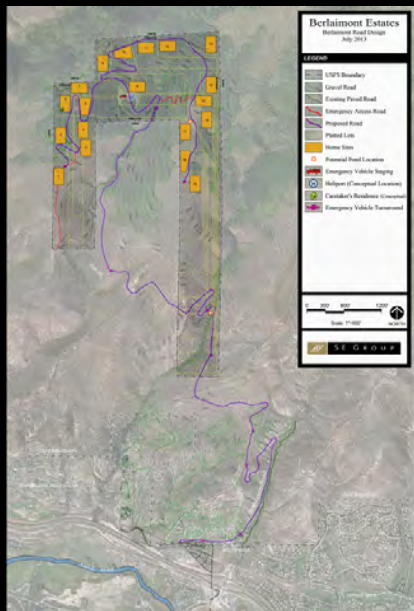
Project Objectives

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.
6. Use as a reference tool anchored in the HOA and CC&R

70

Site Assessment

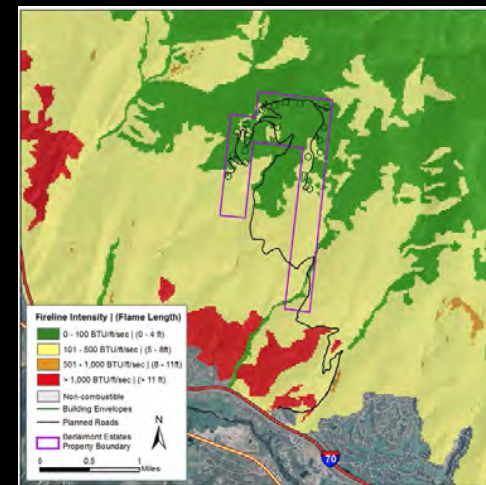
- Site visits
- Review of all mapping and terrain
- Review proposed road
- Review of homesites
- Review of vegetative cover and fuels
- Review environmental factors



71

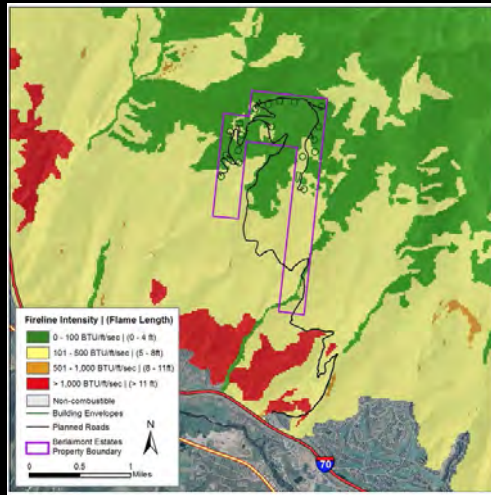
Wildfire Hazard Rating

- Most of the private property and the proposed road is located in **low to moderate wildfire risk**
- In areas of higher risk, applicant is proposing to work with USFS owner to reduce fuels (Pinyon)



72

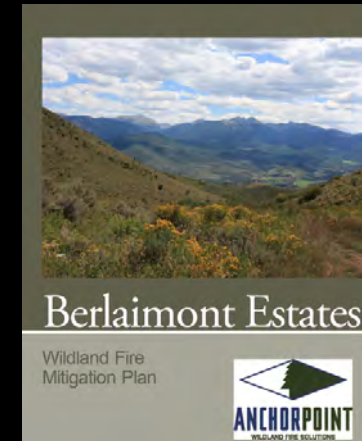
Fire Behavior



73

Wildland Fire Mitigation Plan

- Based on proposed roadway and plan for 19 homesites
- Developed specific strategies to mitigate risks without need for secondary access road
- Detailed Mitigation Plan developed



74

Goals of the Wildland Fire Mitigation Plan

- Reduce the risk of wildland fire
- Creation of fire resistant homes and other structures
- Homes constructed to allow for shelter-in-place to minimize evacuation risks
- Strong defensible space around buildings
- Reduce resident conflicts with first responders
- Increase first responder's safety by improving infrastructure
- Mitigate the risk of egress and access routes becoming compromised by wildfire
- Residents informed/proactive in reducing hazard
- **Plan mitigates the risks to the safety of residents and first responders via a single access road**

75

Implementation of Mitigation Plan

- **All driveways will be constructed to International Wildland Urban Interface Code:**
 - Emergency vehicle turnarounds on driveways longer than 150 ft.,
 - Paved driveway widths of a minimum of 12 ft.
- **All homes will be constructed to an IR-2 standard:**
 - Class A Roof assembly
 - Protection of roof eaves
 - Under floor protection
 - Exterior wall materials of 1-hour fire resistance rating
 - Selected IR-1 standards will be incorporated to further eliminate risks of structure fires

76

Implementation of Mitigation Plan

- 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

77

Implementation of 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

78

Implementation of Mitigation Plan

- 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
- **One and a half times** the recommended defensible space area each home in aspen fuels
- Rally point for area residents and emergency responder staff in event of a fire

79

Education

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

80

Agency Review

- We've worked with the ERFPD and Eagle County's Wildfire Mitigation Specialist to mitigate risks with the road
- All recommendations were accepted in Wildfire Mitigation Plan
 - Fire Staging area created as operational lot for first responders and rally-point for residents in case of an emergency
 - Modifications of the inner Berlaimont roadway network, providing additional looping, additional fire road design, and existing Forest Service Road maintenance
 - Helipad provided as additional safety feature
- **ERFPD and Wildfire Mitigation Specialist have given approval to the Wildfire Mitigation Plan**

81



82

Wildlife Impact

- Rick Thompson was hired to evaluate the impacts of the road design and variance requests on wildlife
- Has performed wildlife assessments for hundreds of properties in the State and Eagle County

83

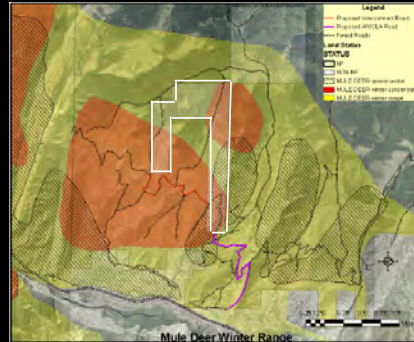
Wildlife Impact

- Lands contain habitat for:
 - Mule Deer
 - Elk

84

Wildlife: Mule Deer

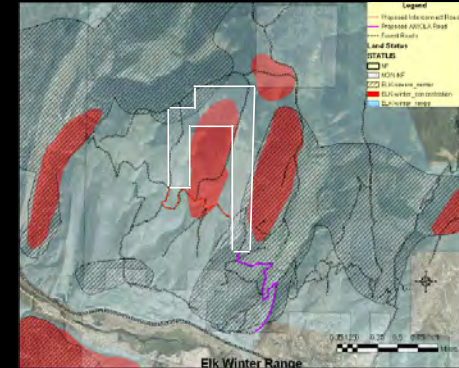
- Includes areas of winter range, severe winter range, and winter concentration area



85

Wildlife: Elk

- Includes areas of winter range, severe winter range, & winter concentration area



86

Wildlife Impacts

- Direct Effects - Habitat losses due to road upgrading
- Indirect Effects - These are the majority of the project's effects
 - Displacement from the road corridor
 - Reduced habitat effectiveness
 - Impaired habitat connectivity
 - Road mortality
- **The proposed variances would minimize all of these negative effects on wildlife compared to strict adherence to Land Use Regulations**

87

Wildlife Mitigation

- The direct and indirect effects would occur regardless of what road alignment is used
- Use of the existing road alignment would minimize habitat negative effects
- The road was carefully designed to minimize barriers and restrictions to movements, to the degree possible, while still making the road safe

88

Benefits of Variances to Wildlife

- Single road access vs. dual access would have less ($\frac{1}{2}$, $\approx \pm 31$ ac.) direct habitat loss and indirect effects (100s ac.)
- 14 proposed emergency turnarounds would affect $\sim \frac{1}{2}$ of the winter range than the 28 regularly-spaced turnarounds
- 12 tighter curve radii would allow the road to conform better with the natural contours:
 - Minimize cut/fill slopes & lower/shorter retaining walls
 - Less impact on wildlife movements
 - Less impact on habitat effectiveness
 - Less habitat losses

89

Other Mitigating Features Proposed

90

Wildfire Mitigation

- Anchor Point already reviewed many of the wildfire mitigation provisions proposed as part of the variance request
- Proposal adopts their mitigation plan making it applicable to the variance approval and applicable to the use of the property

91

Open Space Easement

- Open space easements are proposed to be recorded prior to the construction of the proposed access road or any development on the property
- Easements will ensure wildlife and other scenic values of the property are protected
- Easement restricts development of structures
- Easements will be controlled by the homeowners association and include oversight by Eagle County



92

Reduced Density

- Proposing to restrict the **19 parcels to only 9 Accessory Dwelling Units** (ADUs) from the 19 allowed by zoning
- This reduces traffic impacts on the proposed roadway and results in fewer structures and residents within the property

93

Construction Standards

- 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
- All homes are required to have a fire suppression system and extensive defensible space

94

CC&R and HOA Documents

- Proposing documents which adopt all of the standards proposed and including restrictions of numbers of horses, prohibition the keeping of livestock, pet restrictions, fencing restrictions, and bear-proof container regulations
- Will also address road upkeep and maintenance, snow plowing, and water and sewer maintenance requirements
- Safety regulations will be included in the CC&R and HOA documents, covering emergency training, evacuation training, heliport access and fire prevention training

95

Variance is Warranted

- Use of the land is consistent with zoning and state statutes for 35 acre exempt subdivision
- Single access can accommodate allowable development with appropriate mitigation measures
- There is a reduction in impacts to the environment with one road versus two roads and with other variations
- Applicant has proposed extraordinary measures to mitigate safety hazards
- There are hardships which warrant the granting of the variance:
 - Steep Slopes
 - Remote location
 - No direct access to the County's road system
 - Inholding surrounded by Forest Service Land
- Forest Service will only allow one access
- Not allowing the variance would deprive the owner of use of property consistent with Resource zoning and State Statutes
- Not economically viable to limit development to three homes given the infrastructure required for roadway and other costs associated with the property

96