

**Department of Natural Resources
Staff Recommendation
Hayden Subdivision at Drake**

Dear Larimer County Citizens and Parks Advisory Board Members:

The following report represents the staff recommendation for the disposition of the County owned properties located in and near the Hayden Subdivision on the Big Thompson River near Drake.

We want to thank the citizens of Larimer County for their participation in this project over the past several months and the Parks Advisory Board for their efforts with this project. The Parks Advisory Board has approved specific Evaluation Criteria for the disposition of the Big Thompson River flood parcels and these criteria were utilized to support this staff recommendation.

Staff Recommendation

***Larimer County retains ownership of flood parcels from the Highway 34 right-of-way through the Big Thompson River corridor to a boundary fence on the east side of the river. A wildlife friendly boundary fence will be placed at the top of the river bank. Other lands east of the boundary fence will be sold to adjacent, neighboring, or previous landowners or at public auction.**

***There will be no other County owned parcels retained with the exception of two parcels (parcels #1 and #2) that are located at the farthest northeast end of the Hayden Subdivision nearest the bridge which have a deed restriction retaining the parcels in public ownership until 2018. Therefore there would be no public access to the river within the Hayden subdivision.**

Evaluation Criteria

Big Thompson Canyon Properties:

Approved by the Parks Advisory Board, June 10, 2008

In order to assist the Larimer County Natural Resources Department and the Parks Advisory Board (PAB) in evaluating the Big Thompson properties for the purpose of making recommendations to the Larimer County Commissioners as to their disposition, the PAB recommends adoption of the following criteria for this evaluation. These criteria are merely guidelines meant to assist in the decision-making process, and are not binding upon Larimer County or the Parks Advisory Board.

Applied to the Hayden Subdivision County owned parcels in Drake-April, 2009

- 1) *Public Use:*
 - a) Does this property provide a significant public use opportunity, such as:
 - river access for fishing and other recreational purposes,
 - access to other adjacent public properties?
 - b) Does it have other value that merits its retention?
 - c) What public input has been received to date?

The parcels at Hayden do offer a public use opportunity for fishing access to the river, but the terrain generally favors entering the river from the highway side rather than from the Hayden side. There is no immediate access to other adjacent public properties. The Forks Park is the nearest public access property approximately .3 of a mile downstream from the Hayden properties. Portions of these parcels do merit retention such as open space located in a riparian zone which supports wildlife. The public has had several opportunities to give input through public comment time at Parks Advisory Board meetings, email, letters, and at least three public meetings on this subject.

2) *Public parking/access:*

- a) Is there safe parking on, or in general proximity to, the property?
- b) Would the parking access distract from the property?
- c) Would public access to the property result in conflicts with neighboring properties?

There is a pull-off along Highway 34 immediately across from the river at the Hayden parcels that has provided parking for the public to access the river. Private landowners in this area have testified to conflicts with the public coming from the river on the west and also from the public driving in and parking on the public right of way accessing the interior of the subdivision on the east side of the river.

3) *Status of Neighboring Properties:*

- a) Does the property adjoin other public lands?
- b) Is it immediately adjacent to private properties?
- c) Is there a significant buffer area between the public lands and private property?
- d) What is the potential for conflict between adjoining and neighboring property owners and the public on this property?

The recommended retained parcels are immediately adjacent to private properties to the east and adjacent to the Highway 34 right of way on the west. There is currently a public right of way in the interior of the Hayden subdivision east of the river. The potential for conflict does exist between the Hayden property owners and the public in this area not only from the river to the east but also from the interior right of way, if parcels within the private subdivision were allowed to remain public.

4) *Other significant features:*

- a) Does the property have significant non-recreational, access or other value that merits its retention, such as unusual or special:
 - historical/archeological features,
 - wildlife habitat,
 - riparian habitat,
 - ecological, or other significant value?

The principal value in these properties is recreation and maintaining public access to the river for fishing. The areas beyond the banks have very limited value from the perspective of public ownership and use.

5) *Budgetary Considerations:*

What are the potential budgetary impacts of public use of this property?

a) Revenue

- Does the property have potential to generate revenues sufficient to offset operating costs?
- What revenue source is available to fund long-term operations?

The parcels that will be kept for public use in this area have minimal potential to generate revenues to offset operating costs mainly due to the relatively high cost to administer a fee. General fund dollars will have to be used to pay for operating costs for weed control, wildlife management, visitor management, signing, etc. The implementation of the option to allow a pedestrian access from within the subdivision would result in the highest cost to the department to manage operationally. The Department would utilize all available resources including volunteers to minimize the total overall operational costs to accommodate public use of lands in this area.

b). What are the potential costs associated with maintaining this property for public use, including but not limited to:

- signage,
- maintenance,
- enforcement,
- forest management,
- noxious weed control, and etc.?

Estimated costs to maintain this public use area for the above services would be approximately \$1000 annually with the current recommendation. Volunteers and grants could lower these costs.

c). What capital improvements are required, and how will acquisition and replacement costs be funded, including but not limited to:

- Public restrooms
- Picnic facilities, etc.?

The staff recommendation does not call for any capital improvements for this area. Staff is recommending a one time cost for boundary fencing and signing of the area. It is recommended that the deeded owner take the responsibility of maintaining the boundary fence on their newly acquired property. This area would be designated as a day use fishing access area.

d). Are there volunteer organizations available, or which could be developed, which could fund and/or provide assistance toward maintenance of the property?

Yes, the department has a very active and successful volunteer program that could provide some maintenance assistance to these properties.

6) *Potential Liabilities:*

a) What potential liabilities and associated costs would Larimer County retain or assume in managing this property for public use, including but not limited to:

- Compliance with public health, environmental, and other legal requirements
- Liability for personal injury or property damage to the public or to adjoining property and/or owners
- Resolution of trespass issues from or onto County property

The County would assume all of these liabilities as they do with all of their properties that provide public access. The likelihood of trespass by the public exists as it does with all the public administered properties in the Canyon and elsewhere in the County that the department manages.

7) *Appropriate stewardship:*

- a) If it is determined that the property should remain in the public domain:
- Is Larimer County Parks the best steward for this property, or
 - Would the interests of all concerned be better served if management and/or ownership of the property were transferred to another public entity (or conservation group?)

The Department of Natural Resources seems to be the logical managing agency since we currently own the property. The department has had discussions with the Division of Wildlife (DOW) who currently manages 2 Canyon Parks in partnership with the County. The DOW was hesitant to take over the sole management of these parcels. The DOW has however been very supportive with "Fishing Is Fun" grants. Other agencies such as the U.S. Forest Service and the City of Loveland have not been officially contacted as to their interest, however during these austere times, most agencies are looking at downsizing there properties instead of taking on additional lands that they would have to find funds to manage.

Staff Recommendation Narrative:

The staff recommendation recognizes the perpetual value of the public ownership of the Big Thompson River and the potential future habitat improvement of the river in this location. It also recognizes the rights of private landowners and a need to feel safe in their subdivision to the extent possible.

The public will be able to access the river by locating an historic safe parking area along Highway 34 or within the Forks Park and then would be able to access the river from the west bank. The river bank below the west side of the boundary fence is adequate to accommodate public access above the high water mark even during high water times. There are numerous locations on the east bank, where anglers can seek refuge to tie a fly or rest on dry ground. Most of the vegetation that could tangle a fishing line is located on the west side of the boundary fence. The public will need to request permission with the appropriate landowner to access areas for any purpose on the eastside of the boundary fence.

The staff recommendation recognizes the request by existing private landowners to prohibit access by the public to the river from the east bank inside of the private subdivision without the permission of the landowner.

It is recommended that parcels that are designated for sale to adjacent, neighboring, or previous landowners or through public auction will be sold using a 2003 evaluation method calculated by the County Land Agent. The County Land Agent will negotiate with Priority #1 people first which can be adjacent, neighboring, or previous landowners. A public auction will only be held when the Land Agent cannot successfully negotiate with Priority #1 people. Efforts will be made during negotiations to obtain the entire river in this area for public use.

The wildlife friendly boundary fence will consist of steel T posts and two strands of smooth wire placed at appropriate levels. The County will initially be responsible for the costs of the materials and installation of the fence. Property owners will be responsible for the long term maintenance and replacement of the boundary fence.

The staff recommendation rejects the “no action” option which would return us to the past 30 years when conditions existed such as neighbor disputes over property boundaries, encroachments on County property, public recreation trespassing, no habitat management, no designated public use areas, etc. In closing, the staff hopes that the above recommendation will address most of the high priority concerns identified by both the public recreation fishing community and the private landowners in this area.

Through this public process, many citizens have had the opportunity to passionately voice their opinions, renew neighborhood friendships, gather together and meet elected officials and county staff, witness the other side of a story, and participate in the decision making process. These indirect intrinsic benefits are in itself a benefit to this community who will be able move forward with a better understanding of people that live and recreate in the Big Thompson Canyon.

Sincerely,
Larimer County Department of Natural Resources Staff