

Access and Easements Questions

If a foreclosed home had "open" violations (i.e. building permit for basement) or zoning violation-do those pass through to the new owner? Does that hold true for a home that is not foreclosed? **Yes, regardless if it is a foreclosure, when a property is purchased, the new owner "inherits" all of the outstanding issues, concerns, and violations.**

(Clear Creek) I have a client that wanted to add a 2-car detached garage and were told they must increase the size of their septic- why if no rooms/bedrooms are being added? **In Jefferson County, the septic system is based on the number of bedrooms.**

Is there an issue when a property has access from one road when the address is on another road? **There is not necessarily an issue; however, you may want to consider changing the address so that emergency crews will have a better chance at finding the house in case of emergency. If the property is vacant, it is possible that at the time of building permit application or future development of the property the address will be changed to correspond to accessing road.**

We bring buyers in to check on access and to ensure lots are legally divided can they get a building Jpermit? Can this be handled by email or other more efficient manner in the future? **There are four main aspects for a site to be a buildable site; 1) Legal parcel, 2) Legal Access, 3) Water/Well, 4) Sewer/Septic. If these four aspects meet our requirements and the proposed improvement can meet all of the underlying zoning requirements (height, setback, etc), then the site would be considered a buildable site. As far as the best way to handle this in the future, due to the complexity and individualistic nature of each site, it is best to visit with us in person. Please bring as much information as possible (site plans, surveys, deeds, access easements, etc.) so that we can provide the best information back to you.**

How wide does a county road have be in order to be paved? If the road is not wide enough, what does it take to have it paved? **The County Road and Bridge Shops will complete the appropriate amount of maintenance to each and every road under their control. Please contact the appropriate Road and Bridge Shop to discuss any exact issues/concerns.**

What is a county co-op program? Will it come back? **The County Co-Op program is a program to upgrade and pave County maintained gravel streets or roads, with a funding commitment from a non-County source(s), to control dust and aid residents served by gravel streets or roads. Please contact the County Road and Bridge Shop in your area for more details and limitations associated with this program.**

What is the mediation process? Who do we talk to? **Mediation is professional dispute resolution assistance, at no cost, for persons referred by Jefferson County agencies. Please see their web site at: http://co.jefferson.co.us/js/js_T117_R7.htm for more information.**

How do we know an easement an easement/access issue exists? Will title allude to that? **Unless the property is accessed directly off of a County Maintained road, there is potential for there to be issues or concerns. These can be anything from a non-maintained County road, private easement, private road with no easement, road-of-record, etc. Title may have information regarding the access in portions of the title agreement.**

Do you recommend a survey on every property? **Surveys are very valuable documents that provide necessary information regarding access, property boundaries, and other legal concerns. Depending on the property and proposed improvements, a survey can be very helpful. There are also different levels of surveys that accomplish different things. You should contact a surveyor for more information on the**

different types of surveys and the costs associated with them. As a note, a survey is required as part of the building permit process for metes and bounds properties.

What are the problem areas in Evergreen/Conifer/Pine regarding access? Known areas Jubilee trail, Alabraska, Segers-What other areas should we know about? Unfortunately, we do not have a list of all of the problem areas as there are many different issues depending on the area and type of access. Again, if the property is not directly off of a County maintained road, there is a potential for issues. One example is; we have existing platted private roads that required access easements to be granted with the original sale, yet it was never completed.

When you have a legal easement driveway, what are your maintenance rights? Can you grade the driveway? Can you put an electric gate in? Can you pave or blacktop the driveway? Unfortunately, these are questions that are best answered by an attorney. Access easements can be only for the use or they may include maintenance rights. It will all depend on the language and how they are interpreted by the parties involved.

Do you have to go down to planning and zoning to do your homework or is there somewhere online to go with our buyers? We have many tools to assist you with your research online. Our main page is: <http://jeffco.us/> You will also find helpful information on the different Division pages including:

Planning and Zoning - <http://jeffco.us/planning/index.htm>

Assessor - <http://jeffco.us/assessor/index.htm>

Clerk and Recorder - <http://jeffco.us/cr/index.htm>

Building - <http://jeffco.us/building/index.htm>

We also have many online services, including the JMap mapping program: <http://jeffco.us/intsvcs.htm>

How long does the process to gain access take if we come to see Bev, and our buyer doesn't have access? Can they buy the house within the contract dates? The County provides a service called access verification. With this process, we will review information provided by the applicant and available resources to determine if a parcel has access adequate to obtain a building permit. This process can take up to several weeks depending on workload and complexity of the case. If we cannot verify access to the site, it becomes a civil issue between the parties involved to create the necessary easements and have them recorded. As far as purchasing the property, it would be up to all of the parties involved if they would like to move forward with the sale, knowing about the access concerns.

In the case of Bear Creek or similar areas, would you have a legal right to build your own bridge? All bridge questions should start with our engineering section of Planning and Zoning. In most cases, there are flood plain concerns and necessary permitting that must be completed. Depending on the exact location of the bridge, other entities may be required to get involved (CDOT, Corps of Engineers, etc.). The engineering section can be reached by contacting our main line at 303-271-8700.

What protection does a homeowner have against future changes by Jeffco is what constitutes "adequate access for a building permit?" If their driveway today meets the standard and then the standard changes tomorrow, what if any protection or recourse do they have? There are a multitude of solutions that could address this issue. The first would be to correct the drive or access to meet the current standards. The second might be to do research to determine that we have a legal non-conforming situation that may be allowed to continue. The third might be to request some sort of variance or alternate approval.

Unfortunately, the errors of our predecessors do not make the situation right. We are always willing to look at the best ways to help correct any deficiencies.

Do you require new issued easements to meet current county requirements? How is an easement removed from a property? In most cases we do require that the easement meet the current County standards. Again, if there is a difficulty meeting a requirement it may be possible to request a variance or some other alternate course of action. This will differ depending on the specific issue or deficiency. As far as removing an easement from a property, an attorney well versed in access law should be consulted.

Does the title company automatically search together with (because of the way the contract is written) or do we need to request it? Is it possible to get a legal insured together with if it hasn't been done in the past? **???? (Title company question maybe?)**

What happened in Genesee where Jefferson County required Genesee to prove legal access before Jeffco would issue building permits? Why the sudden change? In this development, there was either a plat note restriction that required, "with the sale of each lot an access easement over the private platted roads would be granted" or the roads were simply platted as private roads but no easements were granted. Unfortunately, there was no evidence that this access was granted and all of the people in the subdivision were traveling over the roads without having a legal right. As far as a sudden change, the plat note was already in place and previous permits were issued without the appropriate review or evidence submitted to demonstrate this plat note had been met. We have updated our processes so that these easements are granted at the time of platting now rather than waiting and hoping it gets done. In many cases, this situation ends up being an easy fix as the HOA has ownership of the private roads and either has granted access in the covenants or can easily rectify the situation by granting an easement now.

I am doing a chain of title search for well information. You used to be able to go to the assessor Website to do that. Now you cannot. How would you suggest you do a chain of title search? Chain of title searches are still completed through the Assessor's office. You may want to contact them to see if there is an easy way to do this online or if you need to visit their office. Here is their phone number for real estate information: 303-271-8666, and their website: <http://jeffco.us/assessor/index.htm>

When mineral and surface estates are severed, does the mineral owner have an easement over surface to exploit minerals? What does the mineral rights endorsement insure? This appears to be a question for an attorney.

What are the most powerful opposing arguments you consider when a neighborhood is strongly opposed to a neighbor subdividing his 15 acre property into 3 parcels? Two of the biggest hurdles for this type of plat would be the water available for the new lots and the access to the sites. Each individual site will have specific characteristics that may provide concerns to the adjacent property owners. The Planning Commission and Board of County Commissioners will take into account all testimony given during the public hearings before making a decision.

Zoning is SR2-Do the neighbors have any options? What can a neighborhood do to preserve their current type of neighborhood from becoming another "subdivision?" The only true way to prevent further development is to obtain ownership of the property. At that point, you can just maintain ownership, create conservation easements, see if Jeffco Open Space would be interested in owning the property, etc. You may even be able to have covenants that restrict further development.

(Clear Creek) Explain the new administrative procedure being put through to streamline the legalization of illegal parcels. In Jefferson County we have the Residential Structure Exclusion (RSE) and other Exemption from platting processes depending on the specific situation.

Is there anything a property owner can do to get a neighboring property to remove dead wood, weeds, etc. in Clear Creek County? In Jefferson County we do not allow for the accumulation of junk, trash, and debris or weeds. Depending on the situation, this could be a zoning violation. You can call in Zoning Violations to 303-271-8725 or report the violation on-line.

What do we tell buyers and sellers regarding buying property that the legal description contains a part of a lot (i.e. W1/2 of lot 36) in a platted subdivision? If there are any portions of lots associated with a legal description it is important to know how/when the specific portions of lots were created. Senate Bill 35 requires any subdivision of land, less than 35 acres, to either have been created prior to May 5th, 1972 or go through a County process. If the portion of the lot was created after 1972 and did not go through some sort of County process then the parcel might be an improper division of land.

If any easement exists without specific details can an agreement be written and recorded and effectively have the easement updated? If the granting parties are willing to update or grant another easement with further details to the grantee, the parties should work with an attorney well versed in access law.

Do you have to create an easement agreement if it does not show up on legal? Easement agreements can be separate documents or included on the deed. They are sometimes listed separately or included in the overall language of the parcel. If an agreement does not exist then a new easement agreement would be necessary to convey the access rights.

Deed includes title exceptions-does that mean title will be searched. Does it protect the seller? This is another question that is best answered by an attorney as the County cannot and does not enforce specific covenants or deed restrictions.

People to grant an easement, Will it reduce the amount of land? An easement does not specifically reduce the amount of land. The person granting the easement still owns the property. However, if the access easement serves or has the potential to serve 4 or more lots, building sites, and/or dwelling units, the area of the access easement is excluded from the minimum lot area calculation (for zoning lot size compliance).