

Mendoza, Scott P.

From: Mendoza, Scott P.
Sent: Tuesday, January 24, 2012 11:34 AM
To: 'Jodi Hoffman'
Cc: Allred, Christopher F.; 'jason@nelsenlawoffices.com'; Scott, Robert
Subject: RE: Jones BOA appeal--Request for confirmation of appeal period.

Ms. Hoffman,

I looked at the Joneses' appeal project on the County's Miradi system and saw, on the "Notes" tab page, where it shows a "1-3 of 3" on the left side of the page. I took a look because of your comment related to not being able to access pages 2 and 3 of the Miradi system. The "1-3 of 3" means "1 through 3 of 3 total comments" and refers to the number of comments or correspondences made and not the number of pages submitted by the applicant. I assume that this is where you may have gotten off track.

Please follow this link <https://miradi.co.weber.ut.us/projects/view/154> and click on the "Files" tab at about mid-page. This will take you to all the materials submitted by the Joneses. The Exhibits, when uploaded, did not sequence correctly but all of the information is there beginning with "00 Index for Exhibits" and continuing through "Exhibit 13".

Also, I want to inform you that there has only been two requests for this appeal information and it was quickly, and in a very professional manner, provided to both residents. Sandi Tuck requested a copy one month ago and pick up her complete copy the next day which was December 29th. Clay Poulter called me yesterday at 5pm and asked how to get to the information because he was having trouble finding it. We (Clay and I) determined that he was looking at the wrong project; therefore, I guided him to this new application that was submitted by the Joneses. I welcomed him to call me first thing this morning if he was unable to view the information so that I could prepare him a hard copy of the appeal packet. I have not heard from him so I believe that he was able to find the information.

We have checked every one of the Exhibits and all appear to be working very well. Please send me a message or call if you have any trouble with the directions above.

If you prefer a hard copy of the appeal packet, please let me know and I will have a copy waiting for you at any time that is convenient for you.

Scott Mendoza, Planner
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From: Jodi Hoffman [mailto:jhoffman@xmission.com]
Sent: Tuesday, January 24, 2012 10:56 AM
To: Allred, Christopher F.
Cc: Mendoza, Scott P.
Subject: RE: Jones BOA appeal--Request for confirmation of appeal period.

We need the complete appeal file. When can I send a runner for the documents?

Jodi Hoffman

Jodi Hoffman

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From: Allred, Christopher F. [mailto:callred@co.weber.ut.us]
Sent: Tuesday, January 24, 2012 10:30 AM
To: Jodi Hoffman
Cc: Mendoza, Scott P.
Subject: RE: Jones BOA appeal--Request for confirmation of appeal period.

I've asked Scott Mendoza to provide you with the records you feel you need.

From: Jodi Hoffman [mailto:jhoffman@xmission.com]
Sent: Tuesday, January 24, 2012 12:37 AM
To: Mendoza, Scott P.; Allred, Christopher F.
Subject: Jones BOA appeal--Request for confirmation of appeal period.

Scott and Chris,

As you are aware, I represent Bret Barry, a party who was acutely harmed by Weber County staff's original decision to issue Permit No. LUP64-2011 to the Jones family. Mr. Barry incurred considerable time, expense and effort to prove that Permit No. LUP64-2011 was invalidly issued. It now appears that under a cloak of secrecy, misdirection and bias, staff intends to reinstate its invalid decision.

Mr. Barry will be acutely harmed by a Board of Adjustment decision to reinstate Permit NO. LUP64-2011. To prevent such harm, Weber County must allow Mr. Barry an opportunity to present a well organized response to the Jones family appeal. He cannot do so in the few days that the County has afforded him to prepare.

It is clear from the staff report issued on Friday that staff favors the Jones appeal and that staff does not intend to present to the Board of Adjustment with a complete record, or a full picture of the law or the facts. Without Mr. Barry's thoughtful participation, the Board of Adjustment may easily be misled by a one-sided version of the facts, the law and the events.

As I relayed to Mr. Allred last week, Mr. Barry is out of the country and is unable to be present on Thursday, to analyze the Jones appeal pleadings or to assist in a well-organized response to the Jones appeal. Mr. Barry could have adjusted his travel schedule if the county had provided him notice before he left town. Mr. Barry is an *essential party* to the Jones' Board of Adjustment appeal. His presence *must be accommodated* to pass the minimum dictates of due process.

Today, at my request, friends and neighbors of Mr. Barry came to your office to obtain a copy of the complete appeal file for me to review in preparation for the January 26th hearing. To their dismay, they were refused copies of the appeal documents and were referred to the County's Miradi system. Late this evening, I attempted to access what appears to be valuable information on pages 2 and 3 of your Miradi system. I was not allowed access. Just two days before the hearing, I still have no access to what appears to be 66% of the information that is available to the Board of Adjustment. Please let me know how to obtain *immediate* access to this information.

Based on the information I have (which excludes everything on pages 2-3 of the Miradi system), the Board of Adjustment has received none of the correspondence that Mr. Barry and his neighbors have forwarded to county staff, county elected officials and the Ombudsman with respect to Permit No. LUP64-2011 over the past seven months. How do you propose to correct this error and to fully inform the Board of Adjustment of essential facts with respect to this dispute?

If the Board of Adjustment has been advised of the legal consequences of an Ombudsman's opinion, please forward to me a copy of such advice. Adverse parties are entitled to access all information that the Board of Adjustment has received or will receive. Failure to provide such documents will constitute illegal *ex parte* communication to the Board of Adjustment.

In reviewing the first (and only accessible page) of the three pages of information under your Miradi system, it appears that your staff has had notice of Mr. Nelsen's appeal since December 5th, 2011 (!). Mr. Nelsen sent documents to you in .pdf format well over 45 days ago! Why weren't they forwarded to me in a timely fashion? Based on my limited review, it appears that there are many essential documents that have not been provided to the Board of Adjustment prior to the hearing. With the limited time available we will attempt to fill that chasm before the hearing. However, we reserve the right to supplement the record as needed.

As soon as I have access to the full file, I will forward to you electronic copies of the documents that I believe are essential for Board of Adjustment review. However, from a logistics standpoint: how quickly will you post our documents for the Board of Adjustment to review? Do you intend to allow Mr. Nelsen time to respond to our documents? If so, how can that feat be accomplished in this truncated time frame?

This process began with Mr. Barry's allegation that Weber County staff ignored his rights by issuing Permit No. LUP64-2011 in contravention of the County Code. With a significant investment, and the intervention of the Ombudsman as a neutral third party review, Mr. Barry succeeded in compelling the County Council to follow its own Code. Given this context, it is beyond my comprehension how staff believes that it can both respect the constitutional rights of Mr. Barry and *hide the Jones appeal from them for over 45 days*. It is beyond my comprehension how staff, today, thought it could turn away neighbors who simply wanted access to the Jones appeal documents. It is beyond my comprehension how staff can prevent essential responsive information from reaching the Board of Adjustment in any semblance of an organized fashion. Nevertheless, it appears that this is staff's modus operandi.

Please give me immediate access to all of the documents in the Jones appeal file. Additionally, because these issues are too important to gloss over, please allow Mr. Barry time to be present for the Board of Adjustment hearing and adequate time to prepare a thorough response.

Jodi Hoffman