

Written material submitted for August 1st Public Comment follows this cover page

If you wish to submit written comment, please send an email to diana.jones@lanecountyor.gov by no later than noon, the day before the scheduled meeting. **In the email subject line please include: PUBLIC COMMENT FOR MEETING DATE MM/DD/YYYY.** These emails will be compiled and will be included on the Board Agenda with a “view material” link. Please note, all emails submitted will be public record.

From: [Jonah and Amber](#)
To: [JONES Diana L \(CAO\)](#)
Subject: PUBLIC COMMENT FOR MEETING DATE August 1, 2023
Date: Wednesday, July 26, 2023 1:09:57 PM

[EXTERNAL]

Hello Diana and Board Members,

I am writing in support of Amending Lane Code (LC) 16.290 to Incorporate an Allowance for Accessory Dwelling Units (ADU) in Rural Residential Zones as Allowed by Senate Bill 391 (2021) and Senate Bill 644 (2023).

I am the owner and operator of Camas Swale Farm in Lane County. Our farm employs 10-12 employees per year. Many employees struggle to find affordable housing on a farm worker's wage. We pay \$14- \$18 per hour and workers have access to as much produce as they would like. But our farm does not have on-farm housing. Offering on-farm housing is a major benefit especially to those who work on our farm for the long term. Having one dedicated adult besides ourselves on the farm also helps the sustainability of the farm. Without additional hands here all the time, the farm is much more limited in what it can produce for our community.

There are currently ways to build seasonal dwellings for farm workers but structures like yurts without kitchen and bathroom lack the comfort that we believe farm workers need to feel good and work hard. Our goal is to build one ADU on our farm that meets all building codes and gives one dedicated farm worker not just a comfortable place to sleep, but a place to live--including cooking and bathing facilities.

Family farms like ours rely on people to get the work done. All of our employees commute from town and pay town prices. Coburg is the nearest town and there is very limited housing.

Please support amending code 16.290 to incorporate an allowance for ADUs in RR zones.

Thank you so much for considering this tremendous improvement to housing for rural workers and dwellers.

Amber Lippert
Camas Swale Farm

--

Camas Swale Farm
91424 Coburg Rd.
Eugene, OR 97408
[Facebook](#) * [Instagram](#)

Join our CSA today! Shares available at www.camasswalefarm.com



From: [David Stone](#)
To: [JONES Diana L \(CAO\)](#)
Cc: [LOVEALL David B](#); [*LC Board of County Commissioners](#)
Subject: PUBLIC COMMENT FOR MEETING DATE 08/01/2023
Date: Sunday, July 30, 2023 9:17:06 AM

[EXTERNAL]

Rural land use:

The Holiday Farm Fire showed us what the new normal is for wildfires. We need to re-think how rural development is permitted.

1. For existing structures and communities, the new understanding of how those structures are made resilient in the face of fire must be contained in permits: metal roofs, brush around buildings must be removed, etc.

See here for details:

<https://www.oregon.gov/osfm/Documents/Defensible%20Space%20Checklist.pdf>

Why? The county shouldn't be spending resources to protect these buildings that owners refuse to take these sensible measures to protect their own property.

2. The land rush is well under way by outside developers. Permitting for new buildings and structures must require compliance with the provisions mentioned above. Any new property taxes generated by these new developments is unlikely to cover the cost of response to unprotected properties, much less all the other things that property taxes pay for. The rest of county residents should not have to pay for protecting the property of negligent property owners. Freedom comes with responsibility. Rules are for those who don't know how to, or refuse to behave themselves.

Dave Stone
Springfield

From: [Bruce](#)
To: [JONES Diana L \(CAO\)](#)
Subject: Public Comment for Meeting Date 08/01/2023
Date: Saturday, July 29, 2023 5:37:41 PM
Attachments: [Perkins application.docx](#)
[Perkins application.pdf](#)

[EXTERNAL]

I've enclosed my letter as a Word document and a PDF file;
I wasn't sure which format you'd prefer...

thanks,

Bruce Hadley
(541) 901-1140

29 July 2023

Re: Planning Action File No. 509-PA20-05634

To: Lane County Commissioners:

I am a member of the Lane County Planning Commission, but I am writing to you today as a member of the community; what follows are my own opinions, not those of the planning commission.

On February 21, when the planning commission considered this application for an exception to Statewide Planning Goal 3, I (obviously) failed to make my points clear; mine was the only vote in favor.

So, please allow me to try again:

- a) The Perkins' property is surrounded by residential use, at a much higher density than what they propose; they want RR10 zoning to build a single permanent home for themselves.
- b) We heard multiple testimony that their 10-acre parcel is not valued as agricultural land, and has never been used for farming. Half of the acreage is covered with mature trees.
- c) There is no easy access to the Perkins' acreage from another farm in the area, so even if someone did want their land, getting equipment in there would be costly.

The entire point of Goal 3 is to protect land for growing crops: "Non-farm uses permitted within farm use zones... should be minimized to allow for maximum agricultural productivity."

Ironically, while the Perkins' proposed home is a "non-farm use," having their home – and *only* their home -- on that acreage would in fact *maximize agricultural productivity* for their 10 acres.

You see, if the Perkins live on that acreage, they will engage in hobby farming, and try to bring the existing fruit trees back to production. No one who does not live on the property is going to do that.

In addition, granting an exception in this case will not create a domino effect for neighboring properties, because they're already zoned and occupied as Residential.

Permitting the Perkins to build a single modest home will not open the floodgates for developers of tract homes; rather, it will transform a small parcel of land from fallow to fertile.

If the Perkins are not granted an exception, then their 10 acres will remain unused and unproductive, as it has for 70 years or more. How does that serve the interests of the state and county?

Respectfully,

A handwritten signature in black ink, appearing to read 'B. Hadley', with a long, sweeping horizontal line extending to the right.

Bruce Hadley
4828 Oceana Dr.
Florence, OR 97439

bwh541@gmail.com

From: [Nadine Scott](#)
To: [JONES Diana L \(CAO\)](#)
Cc: [BUCH Heather H](#)
Subject: public comment for meeting 8-1-2023
Date: Monday, July 31, 2023 1:39:52 PM
Attachments: [July 31, 2023.docx](#)

[EXTERNAL]

Diana, please include this email letter to commissioners for their board meeting tomorrow. Please confirm you have received it. Thank you

Nadine Scott, broker FACS, ABA
~ Move to A Place That Moves You ~
Windermere Real Estate
email: nadine@windermere.com website: nadinescott.com
541-915-0807
1600 Oak Street, Eugene, Or 97401 appointment only
45632 McKenzie Hwy, Vida 97488 appointment only



Experience is a hard teacher because she gives you the tests first and the lessons afterwards.

Waldport Vacation Rental:

https://ocean-odyssey.com/vrp/unit/Xanadune_Retreat_Bayshore_Estates-1363-156011-1

https://www.oregon.gov/rea/licensing/Documents/Sample_Initial_Agency_Disclosure_Pamphlet.pdf

On site showings will be shown to serious, prequalified buyers only.

Lane County Commissioners

Public Comment for Meeting date 8/1/2023

I am a homeowner and live on Leaburg Lake and am a real estate broker for Windermere Real Estate. I was president for the McKenzie Chamber of Commerce for 12 years. I am correspondence secretary for the McKenzie ClearWater Coalition and a concerned taxpayer in Lane County.

I am writing to you today to express my concerns regarding the removal of the EWEB dam/bridge and Leaburg Lake.

I do not see any reason why the dam and bridge must be removed, and the lake drained. The dam does not produce any power and EWEB recently spent 5.3 million dollars replacing all three roll gates on the dam. EWEB owns the bridge and dam, but the county owns the road over it and maintains it. It is the only ingress/egress to our homes on this side of the bridge. We must have ingress/ egress to our homes. I talked to a road construction builder, and he said if he had to build a new bridge and road over the river/lake it would cost around 10 million dollars. There are no other options for putting in a road. EWEB talked about going from Goodpasture Bridge to Leashore Drive and connecting to Leaburg Dam Road. However. Goodpasture Bridge is a one lane bridge, Leashore Drive is a one lane road and cannot be widened because of their community water system. There is a mountain between Leashore Drive and Leaburg Dam Rd and it is private land. Leaburg Dam Rd would also have to be widened as it is a one lane road. I don't see that as an option. Neither homeowner will give their land and privacy easily. They purchased it for privacy.

I think the county should seriously consider taking over the existing Dam/bridge from EWEB and maintaining it rather than building all new roads. The cost of maintaining it would be considerably less than building a new bridge and road.

Tourism is the main economy for the McKenzie River Valley. Last September we gathered 1100 + signatures for tourists that were using Leaburg Lake for recreational purposes. If the lake goes away so does tourism. If tourism goes away businesses will be forced to close. If businesses close the housing market will be affected, not only because we no longer have Lake Frontage, which we all purchased on the lake because we wanted to live on a lake and not a river, the lake is usable water for families and tourist and the river is not, but because of how the valley will be affected if businesses are closed. If housing prices are affected so will property taxes be affected. Recently two houses on the Lake had to drop their price considerably to sell, as all of this with EWEB must be disclosed. There is another home active on the market that has already dropped the price and it is still not selling. Leaburg Lake has always been prime property for homeowners and a real tourist attraction for rafters, kayaker, paddle boarders and fisher people in the McKenzie River Valley. (Bill Bixby used to land his float plane in on the lake on opening day of fishing season) The lake has the only handicap fishing spot on the entire river. The average family cannot afford \$500.00 a day for two people to hire a guide to take them down the river. We have had several drownings on the river in the past by inexperience people.

We need to preserve what we have instead of destroying historical landmarks and recreational opportunities for our already suffering valley from the devastating fire of 2020. A lot of money would have to be spent to build a new road system. Makes no sense to me or anyone else in this area why we cannot preserve what we have and just maintain it at a fraction of the cost of removing and replacing it.

I urge you to do some real investigating and run some numbers before you allow EWEB to destroy what we already have, that you will have to replace. I also would like to see your presence as county commissioners at the EWEB meeting tomorrow night at 6:00 pm. Input and questions from the county might give them some concerns to rethink the removal of the dam/road as well. The McKenzie Valley residents do NOT have representation on the EWEB board of commissioners. They are all EUGENE commissioners we were told due to the Eugene city charter.

We need the help from our county commissioners, all of you please. Thanks for your time and thoughts.

Nadine Scott, 44877 Leaburg Dam Rd, Leaburg 97489 541-915-0807 nadine@windermere.com

From: [Louis Caton](#)
To: [JONES Diana L \(CAO\)](#)
Cc: [LUEDTKE Patrick](#); [Louis Caton](#)
Subject: public comment for meeting date August 1, 2023
Date: Monday, July 31, 2023 10:50:27 AM

[EXTERNAL]

Dear Commissioners,

As you may know, there are currently many gaps in medical care within Lane county. A big one is open blood pressure readings for the public.

I have searched Eugene's medical sites for an organization equipped to offer courtesy walk-in or by- appointment blood pressure readings. My experiences have led me to the conclusion that no clinics allow this, unless you are already a patient.

Pharmacies sometimes offer machines but, when they are operating, are usually or at least very often inaccurate.

Fire stations offer this but prefer it to be for emergencies only. I learned this first-hand. They are not equipped with manual cuffs, the gold-standard for blood pressure readings. For example, my inaccurate reading was taken on the running board of a firetruck! Nor do they have tables or furnishings appropriate for these readings.

Hence, we need to arrange this service in some fashion in one or more of our clinics. In the past, courtesy readings were available at most county clinics. We need to bring that service back.

The good news is that providing a simple service like this will not be that difficult.

I am currently working with Dr. Patrick Luedtke to help remedy this situation. We still need you, the commissioners, to give your backing and authority to make it happen. Support from the Board of County Commissioners or the Board of Health is needed to explore equitable access across all of Lane County. If possible,

I would hope to see one or two clinics offer this service. It would only be temporary in order to discover how manageable this change would be.

May we count on your authority to order this very small but crucial infrastructure improvement to our health care system? Keep in mind that this will only be for a test to gauge the on-going need.

Thank you!

Lou Caton

April 4, 2022

Steve and Lana Jurgens
2561 Grand Vista Dr
Springfield, Or. 97477

NOT ENTERED INTO THE RECORD
due to applicant withdrawal

To: Taylor Carsley

Regarding Department filing: 509-PA22-05219

Here we are again, debating an issue that should have been resolved long ago!

The facts on record are the Ekstrom's built a illegal engineered steel equestrian structure on tons of cement and fill in a designated special flood hazard area, all without the required permitting and notification to the county and surrounding community. They then requested, after the fact, for a variance for their actions. The variance was denied which should have been the end of the conversation. The only thing missing in the final decision was a detailed time line for the removal of the structure and the tons of fill. In other words, to return the land to it's original state. This instruction was given the Ekstrom's relating to the removal of illegal fill regarding 509-PA22-05220.

Then came the appeal or reconsideration request.

The appeal request should be in reference to only the evidence on record and the conclusion of the hearing officer. It should not be injecting additional nonsense into the conversation. To let the Ekstrom's, who seem to have unlimited financial resources, be able to just get a new attorney and create a new story line is unacceptable. Trying to redefine the equestrian structure as a pole barn is creative at best. If you look at the definition of a pole barn it is clear that the illegal structure is not a pole barn. A pole barn is an agricultural/farming building with/or without walls that is held up by poles. The poles are buried into the ground as a foundation for the building. This clearly is not what the Ekstrom's structure is. My question is have the county officials even done an in-person look at this structure as well as any of the other infractions? Has there been any plan review as to size, height, set backs, ect.

The appeal was withdrawn on April 5 with the original ruling standing as the final decision. This was over a month ago with no movement from the county enforcement folks. Why is this matter being slow walked and communication with the involved parties silent?

This matter has gone on far to long. It should have never been allowed in the first place. It is a threat to safety and welfare of the neighborhood and our ability enjoy and protect the value of our homes. This has been done

with no consideration of safety, health, and welfare of the surrounding neighbors, not to mention their lack of consideration for all of us. If these folks were honest in the beginning, all of this misery could have been avoided.

The appeal request for reconsideration should continue to be denied as well as any future permitting request. The structure is the structure. The variance appeal was denied, and the appeal time line expired. The decision was made, case closed. Our laws need to be followed and now it is time for accountability. The system requires this or we become a country where everyone can do what they want regardless of laws or requirements.

We request the county enforcement team oversee the removal of all the illegal structures, including the solar array and the land to its original contour.

Respectively submitted,

Steve and Lana Jurgens

Lane County Commissioners Meeting – 08/01/2023

Good Morning.

The horse facility situation created by the Ekstroms has been stewing for over two years. The history is apparent for anyone who is interested, and John Umenhofer has basically bullet pointed the process. My argument is that it does not matter what the building is called which has been an equestrian facility, an agricultural building and now a pole barn, the concern is the impact on the Special Flood Hazard Area zoned property and adjacent developed properties.

A massive foundation system including several subterranean concrete anchors and a massive concrete floor structure were placed in the SFHA with no permits and no engineering to ensure that there would be no negative impact to the SFHA. Water ways were changed during site leveling and 18 concrete trucks were unloaded. The finished product is a **massive elevated water diversion obstacle** which would commonly be called a dam. The purpose of the dam was to support a structure for horses, stalls and an apartment.

The county permitting process addresses those who would desire to do this with a flat statement that it cannot be done in an SFHA as an equestrian facility. You cannot change or raise elevations to meet the minimum base flood elevation. Hence the shift to calling it an agricultural building. This would require a variance prior to any building and a topographical study with readings before an excavation was done. This was totally ignored and then forgiven by the County. Both the County and the Ekstroms' Water Engineers agree that the results of flood studies are now indeterminable. The County had a hearing to determine if they could grant a variance after the build. The result was that the request for variance was denied. This should have ended the process with an order for removal.

The County is now allowing consideration of reviewing this building as a pole barn. Same building, same foundation, same dam. As I stated earlier, it is not what you call the building, it is the impact on the SFHA and the surrounding properties.

This process has set a very dangerous precedent for Lane County by not enforcing very clear and definite rules, forgiving lack of permitting and engineering, and unilaterally over-ruling the decision of the County Hearings Officer.

Terry Matthews
2573 Grand Vista Drive
Springfield, OR 97477

MILLER Keir C

Wed, Jul 19,
3:36 PM (4
days ago)

to Ruthie, tj@bullfrogenerprises.com, Steve, LOVEALL, steve.mokroisky@lanecountyor.gov, HURLEY, DC

Hello Mr. Umenhofer,

Taylor is available for inquiries concerning the floodplain development permit but because your questions ranged beyond that area I have provided responses, below.

In regards to your reply

As you know many in our neighborhood community put a lot of time and resources into the variance process. Several of us feel that the county cares little about the negative effects the unpermitted structure has created for the neighborhood residents. It appears to us that you are working to help them keep the unpermitted structure after they lost the variance request process.

There are three questions we would like answered for now to give us some direction.

1. Who made the decision to not enforce your land hearings official's final ruling by failing to start fines against the Ekstroms

The hearing official's findings were definitive and it appears they are being ignored.

- It is the practice of the County to place code enforcement actions on hold when a violator is making reasonable progress to bring a violation into compliance. In the past, efforts such as applying for a special use permit, a floodplain development permit or an "as built" building permit have been viewed as reasonable progress. It was ultimately my decision to hold off on enforcement - for the time being.

2. Who is the floodplain administrator that will determine that the massive concrete structure and added fill does or does not alter

the watercourse and or floodpath in the SFHA? During the 96 flood a fast moving river went directly through the area where the

massive concrete structure was placed. The house down stream from the structure was just inches from being overrun in 96.

Elevations and contours of the area have been changed. This structure will likely divert and channel future flood water.

- Taylor Carsley is the Certified Floodplain Manager that is processing the application.

3. Do the county commissioners have oversight for your decisions?

- Indirectly. I report to the Public Works Director who, in turn, reports to County Administrator Steve Mokrohisky. Mr. Mokrohisky is hired by the Board.

From: John Umenhofer <umenhofer27@gmail.com>

Date: July 21, 2023 at 4:24:35 PM PDT

To: MILLER Keir C <Keir.MILLER@lanecountyor.gov>

Cc: LOVEALL David B <David.Loveall@lanecountyor.gov>, CARSLEY Taylor H <Taylor.CARSLEY@lanecountyor.gov>, Ruthie Bando <ruthiebando@yahoo.com>, Terry Matthews <terrymatthews@bullfrogenterprises.com>, steve.clundberg@hk-law.com>, BURGESS Jane <jane.burgess@lanecountyor.gov>

Subject: enforcement

In response to your email we strongly disagree with your decision to hold off on enforcement. The primary purpose of a Special Flood Hazard Area is to protect the public and their property from flooding. That would include preventing someone from creating a flood hazard like illegally dumping 700,000 pounds of concrete obstruction in the actual 1996 flood path of the McKenzie river near existing houses. You call it reasonable progress for them to submit a new permit calling it a pole barn. How is that reasonable? A pole barn does not redirect flood water or have elevated concrete sides. As for reasonable,

It was not a reasonable act knowing it was illegal from the start but doing it anyway without permits because you wanted it.

It was not a reasonable act to intentionally deceive your neighbors and the county from the start.

It was not a reasonable act to alter water courses and the topography of the SFHA with a bulldozer and obstructions.

It is not reasonable to call additional elevation raising fill as soil on the floor of the horse facility.

It was not reasonable to strategically set up a camera pointed at your neighbors bedroom and hot tub after they reported you.

Joe Bando passed away last month and in addition to his severe depression over the giant structure, was absolutely heartbroken that the county planning division was so dysfunctional that they could not enforce an intentional illegal act of this magnitude.

He felt that this new attempt to bypass the variance hearings officials final decision was like trying to put lipstick on a 700,000 pound pig.

The enormous 140 foot elevated concrete foundation with integrated exterior stem walls to support an apartment, will act as a dam to divert

flood water towards other nearby houses. We believe that the only way for them to have kept the hazard where it was placed was by obtaining a variance to which they were denied.

We feel that **reasonable progress** is to get this thing out of there before the next flood potentially destroys nearby property or kills someone.

**Portland Office and Mailing Address:**

2177 SW Broadway
Portland, Oregon 97201

T 503.225.0777

F 503.225.1257

www.hk-law.com

Astoria Office Location:

800 Exchange Street, #330
Astoria, Oregon 97103

Michael E. Haglund
Michael K. Kelley (In Memoriam)
Michael G. Neff
Julie A. Weis
Christopher Lundberg
Matt Malmsheimer
Joshua Stellmon (Astoria)
Eric J. Brickenstein
Christopher T. Griffith
Shay S. Scott
Kaisa Johnson

Heather Reynolds (Astoria)
Of Counsel

LeRoy W. Wilder
Retired

May 25, 2023

VIA EMAIL AND FIRST CLASS MAIL

Keir Miller, Manager
Lane County Land Management Division
3050 N Delta Highway
Eugene, OR 97408
keir.miller@lanecountyor.gov

Re: Applicants: April and Jon Ekstrom
County File No.: 509-PA22-05218

Dear Mr. Miller,

I represent John and Kathie Umenhofer, and Lee and Joe Bando, in connection with the above-referenced matter. The Umenhofers and the Bandos are neighbors of Jon and April Ekstrom (the "Ekstroms") and have consistently and strenuously objected to the Ekstroms' building and maintenance of the unpermitted equine facility. The purpose of this letter is threefold. First, we want to reaffirm my clients' staunch opposition to the Ekstroms' illegal development project and, specifically, to their May 5 filing in the above-referenced matter which seeks to make an end run around the Lane County Hearings Official's March 7 denial of the Ekstrom's request for a variance, which the Hearing Official found was "a result of and complicated by the fact that the [Ekstroms] constructed the subject equestrian facility to improper standards and without land use and building permits."

Next, we urge the County to enforce the only standing order in this case – namely that the Ekstrom's equine facility is illegal and must be removed.

And lastly, we urge the County to reject the Ekstrom's last ditch attempt to avoid applicable land use regulations by recharacterizing their illegal, unfinished structure as "pole barn." The County should not abide in this effort because it would pervert the permitting process. The Ekstrom's effort in this matter seeks not only to exploit a purported "loophole" to authorize an otherwise illegal structure, but also would set a dangerous precedent that incentivizes the construction of large, illegal structures without securing permits or even notifying the County

and, when caught, an after-the-fact effort to concoct a “loophole” rather than acting in good faith and following the rules from the outset.

I. The Ekstroms Misled their Neighbors, Knowingly Flouted the Law, and Illegally Dumped More than 700,000 Pounds of Concrete into a Special Flood Hazard Area.

On April 24, my clients filed a civil lawsuit in Lane County seeking damages and a permanent injunction requiring the removal of the Ekstroms’ massive, flagrantly illegal construction project that has devalued and endangered the surrounding residences. A copy of the complaint filed in Lane County Circuit Court Case No. 23CV16966 is enclosed with this letter. The complaint describes in detail the Ekstroms’ habitual misrepresentations and disregard for the law that led to the current situation in which an unpermitted, more than 30-foot-tall structure sits directly behind my clients’ homes atop a foundation constructed from of 18 truckloads of cement that the Ekstroms dumped illegally into a special flood hazard area. The complaint deserves to be considered by Planning Staff in full, but the key points are as follows:

- Around the beginning of 2021, April Ekstrom advised the Umenhofers and the Bandos that she intended to build an equestrian facility on the property. At that time, Ms. Ekstrom falsely reported that she had obtained approval from Lane County to build the riding arena. Ms. Ekstrom’s misrepresentation demonstrates that the Ekstroms knew County approval was required but simply chose to ignore the law.
- During fall 2021, the Ekstroms began construction of the equestrian facility including the top half of the riding structure and plumbing for a bathroom without permitting or approval.
- During November 2021, April Ekstrom continued to repeatedly mislead her neighbors by falsely claiming that the facility was legal, that she had applied for appropriate permitting before construction, and that the project was not located in a flood zone.
- The Ekstrom’s illegal riding arena stands more than 30-feet tall and is covered in an obnoxious, bright white reflective material. Also, the accumulation of large amounts of foul-smelling manure at the facility have caused an enormous surge in the local fly population.
- During construction, the Ekstroms dumped no less than 18 truckloads of concrete (more than 700,000 pounds) directly into the special flood hazard area. The massive concrete dump has altered the area’s hydrology and significantly increased flood risk at the Umenhofers’ and Bandos’ properties.



For reference, photographs of the subject property before and after construction of the illegal equine facility are reproduced below:



The County first took action in response to the Ekstrom's illegal construction project on December 9, 2021. On that date, Mr. Staniak sent a Notice of Voluntary Compliance to the Ekstroms stating:

Lane County has verified that you have failed to comply with Lane Code 11.010, Building Codes, Lane Code 11.015, Permits, Lane Code 16.244(4)(C)(i) Establishment of Development Permit, and Lane Code 16.212(3)-9.1 on property described above because multiple structures have been placed on the property without building permits or land use approvals.

The Ekstroms ignored that notice and on January 7, 2022, the County ordered them to come into compliance by January 28 under threat of civil penalties. In response to that order, the Ekstroms again deliberately flouted their legal responsibility and refused to come into compliance.

On March 7, 2023, the Lane County Hearings Official denied the Ekstroms' request for a variance and again declared the equestrian facility illegal. But, yet again, in the face of multiple adverse findings that the equestrian facility violates the zoning code, lacks required building and land use permits, and is not entitled to a variance, the Ekstroms still inexplicably refused to remove the facility. To this day, the illegally dumped 140-foot-long slab that supports the Ekstroms' riding arena continues to substantially alter the floodplain, acting as a dam that diverts water towards the Umenhofers' and the Bandos' homes.

II. The Equestrian Facility is Not a Pole Barn.

In response to the County's notices and throughout the process of their variance application, the Ekstroms never contended that the equestrian facility was anything other than a structure as that term is defined in the Lane County Code. This is not surprising. Indeed, the Ekstroms have already poured rigid exterior foundation stem walls that are integrated into the structure's substantially raised base. A cursory review of the Ekstroms' original building plans – which they have to this day never submitted to the County – would confirm that the equestrian facility was built as an agricultural building, is subject to all flood zone building requirements, and required a variance before beginning construction. In that regard, and at a minimum, the County should request a copy of those plans.

After the County denied their request for a variance, however, the Ekstroms quickly changed their tune. In a since-withdrawn request for reconsideration, the Ekstroms claimed for the first time that the unpermitted structure is a “pole barn.” That claim – repeated in the Ekstroms' May 5 permit request – not only misrepresents the facts but is contrary to the Ekstroms' direct representations to this body that their unpermitted structure is an “equine facility” that is “an ‘Agricultural Structure’ per LCC 16.244(2)(a).” Thus, the Ekstroms' pending permit request is predicated on a patently obvious and misleading attempt to re-cast the unpermitted (and unfinished) structure as a “pole barn” that is totally inconsistent with the truth.

Given the Ekstroms' well-documented track record of dishonesty, Planning Staff should reject the Ekstroms' last-ditch effort to misleadingly recast their equestrian facility as something other than what it is: an unpermitted agricultural structure that the Ekstroms built in the middle of a special hazard flood area while knowing full well that their conduct violated the law and injured their neighbors. To do otherwise would both ignore the Ekstroms' own previous characterization of their construction project and reward their gamesmanship before this Division.

III. Conclusion.

For nearly two years, the Ekstroms have improperly elevated their own selfish interests above the rights of their neighbors and their duty to follow the law. The County and this Division



have found repeatedly – in part based on the Ekstroms' own characterization of their project – that the equestrian facility is an illegal agricultural structure built to “improper standards and without land use and building permits.” Yet despite these rulings and threats of penalties, nothing has been done. The illegal structure remains in place, the law continues to be broken, and the Umenhofers and Bandos continue to experience a decrease in their property values and increased flood risk in their homes.

Enough is enough. The Ekstroms should be ordered to immediately remove their illegal equestrian facility and restore the property to the status quo ante. If the Ekstroms seek redevelopment in the future, they should be required to obtain the necessary approvals and permits before beginning construction just like every other law-abiding Lane County resident.

Lastly, and as noted above, the Division should consider the dangerous precedential implications of this matter. Approving the Ekstroms' May 5 permit application – which is nothing more than a bad faith attempted end run around the Hearing Official's March 7 final order – would send the wrong message that when it comes to building large structures in Lane County's flood hazard areas: namely, that it is better to ask forgiveness than permission and that an applicant will not be held to its official representations to this Division.

On behalf of the Umenhofers and the Bandos, thank you for your consideration.

Sincerely,



Christopher Lundberg

CGL/at
Enclosure
Cc: Clients



1
2
3
4 IN THE CIRCUIT COURT OF THE STATE OF OREGON
5 FOR THE COUNTY OF LANE

6 JOHN UMENHOFER, an individual,
7 KATHIE UMENHOFER, an individual,
8 LEE BANDO, an individual, and JOSEPH
9 BANDO, an individual.

10 Plaintiffs,

11 v.

12 APRIL EKSTROM, an individual,

13 Defendant.

Case No.:

COMPLAINT

Fee Authority ORS 21.135

Prayer: \$700,000; Injunctive Relief

Claim Not Subject to Mandatory
Arbitration

14 **INTRODUCTION**

15 1.

16 This private nuisance case arises from defendant April Ekstrom's ("Ekstrom")
17 wanton construction of an enormous, blatantly illegal equestrian facility in a designated
18 flood zone. The facility, which has been determined by the Lane County Land
19 Management Division (the "LMD") to violate local building and land use codes, has
20 substantially and unreasonably interfered with plaintiffs Kathie and John Umenhofer's
21 (collectively, the "Umenhofers") and plaintiffs Lee Bando and Joseph Bando's
(collectively, the "Bandos") use and enjoyment of their adjacent residential properties.

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2.

Through this lawsuit, plaintiffs seek recovery of damages for the decrease in value to their properties, loss of use and enjoyment, and emotional distress caused by Ekstrom's foul smelling and unsightly equestrian facility. Plaintiffs also seek an order of abatement and injunctive relief requiring Ekstrom to remove the facility, which she has inexplicably failed to do despite notice of land use violations and denial of her request for a variance by the LMD.

JURISDICTION AND VENUE

3.

Jurisdiction and venue are proper in this Court because plaintiffs' claims arise under Oregon law, defendant Ekstrom resides in Lane County, and the events giving rise to this case occurred in Lane County.

PARTIES

4.

Defendant April Ekstrom is an individual and citizen of the State of Oregon, with her primary residence located at 2587 Grand Vista Drive Springfield. The legal description of Ekstrom's property that is the subject of this lawsuit is Tax Lot 703, Assessor's Map 17-03-24-31 (the "Subject Property"). The Subject Property is owned by Ekstrom and her husband and is zoned Exclusive Farm Use (E-40). It is about 7.10 acres in size and is located immediately north of the Springfield Urban Growth Boundary, adjacent to the McKenzie River.

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5.

Plaintiff John Umenhofer is an individual and citizen of the State of Oregon, with his primary residence located at 2591 GrandVista Drive, Springfield. Mr. Umenhofer is lawfully married to plaintiff Kathie Umenhofer.

6.

Plaintiff Kathie Umenhofer is an individual and citizen of the State of Oregon, with her primary residence located at 2591 Grand Vista Drive, Springfield. Mrs. Umenhofer is lawfully married to plaintiff John Umenhofer.

7.

Plaintiff Lee Bando is an individual and citizen of the State of Oregon, with her primary residence located at 2586Grand Vista Drive, Springfield. Mrs. Bando is lawfully married to plaintiff Joseph Bando.

8.

Plaintiff Joseph Bando is an individual and citizen of the State of Oregon, with his primary residence located at 2586 Grand Vista Drive, Springfield. Mr. Bando is lawfully married to plaintiff Lee Bando.

FACTS

9.

The Umenhofers, Bandos and Ekstrom reside in the community of Grand View Estates, where they have been neighbors for several years. The Umenhofers' residence sits between the Bandos' and Ekstrom's property, with Ekstrom's residence immediately to the east and the Bandos' residence immediately to the west. The Subject Property sits immediately adjacent to and behind the parties' residences.

10.

Around the beginning of 2021, Ekstrom advised the Umenhofers and the Bandos that she intended to build an equestrian facility including a horse-riding arena on the Subject Property. At that time, John Umenhofer advised Ekstrom that he did not believe that her proposed construction project would conform to relevant permitting requirements because the building site was located within a designated special flood hazard area. In response, Ekstrom falsely told the Umenhofers that she had obtained approval from the county to build the riding arena. Ekstrom advised John Umenhofer that she was going to include an apartment in the structure and place the structure directly behind his and the Bandos residences instead of behind her own residence. Ekstrom told Mr. Umenhofer at that time she did not want the structure to obstruct the view from her residence.

11.

During the summer of 2021 Ekstrom constructed an approximately 140-foot long, 12-inch thick concrete slab foundation, that Ekstrom advised John Umenhofer was plumbed for a bathroom. On or around October 2021, Ekstrom began construction of the top half of the equestrian facility. Ekstrom's husband, Jon Ekstrom, would later confirm in writing that the Ekstroms did not apply for or receive approval or permitting from Lane County for the development project.

12.

During November 2021, Ekstrom repeatedly misrepresented to the Umenhofers that her construction of the equestrian facility was lawful, that she had applied for permits prior to building, and that the project was not located in a flood zone. After John Umenhofer confronted Ekstrom regarding the falsity of her statements, Ekstrom retreated

1 from her claim that she had previously filed permits prior to building and instead told Mr.
2 Umenhofer that she and her builder had just recently filed the required permit
3 applications. Lane County officials later confirmed that no such applications were
4 submitted at that time and that the County had not approved construction of any structure,
5 including the riding arena.
6

7 13.

8 The Bandos likewise complained to Ekstrom regarding the illegality and
9 interference with the enjoyment of their property caused by the foul smelling and
10 unsightly horse facility. Ekstrom responded callously and selfishly that "[t]his property is
11 fulfilling my soul in a way that nothing else can," and therefore refused to abate the
12 nuisance by removing the illegal structure and restoring the Subject Property to a
13 condition and use consistent with its zoning.

14 14.

15 Today, the equestrian facility at the Subject Property includes a massive,
16 unpermitted structure that is more than 30-feet tall and is covered in reflective white
17 material. Ekstrom keeps as many as seven horses at the facility, causing the accumulation
18 of large amounts of foul-smelling manure and a massive surge in the local fly population.

19 15.

20 Below is a photograph of the Subject Property before construction of the illegal
21 equestrian facility:
22
23



16.

Below is a photo of photograph of the Subject Property after construction of the
illegal equestrian facility:



17.

Ekstrom's facility is constructed entirely within a designated flood hazard area in blatant violation of Lane County zoning requirements. Construction of the facility involved pouring 18 truckloads of concrete (about 729,000 pounds) directly into the flood hazard area. This has significantly altered the area's hydrology and increased flood risk at the Umenhofers' and Bandos' properties.

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18.

On December 9, 2021, Aaron Staniak of the Lane County Land Management Division sent a Notice of Voluntary Compliance to Ekstrom regarding the facility, which states in relevant part:

Lane County has verified that you have failed to comply with Lane Code 11.010, Building Codes, Lane Code 11.015, Permits, Lane Code 16.244(4)(C)(i) Establishment of Development Permit, and Lane Code 16.212(3)-9.1 on property described above because multiple structures have been placed on the property without building permits or land use approvals.

19.

Ekstrom ignored the Notice of Voluntary Compliance, and on January 7, 2022, Lane County ordered the Ekstroms to come into compliance by January 28 under threat of civil penalties. Ekstrom failed and refused to come into compliance.

20.

On March 7, 2023, the Lane County Hearings Official denied Ekstrom's request for a variance, concluding among other things that Ekstrom's request "is a result of and complicated by the fact that the property owners constructed the subject equestrian facility to improper standards and without land use and building permits," and that this "self-created" hardship militated against a variance.

21.

Despite multiple adverse findings that the illegal equestrian facility violates the zoning code, lacks required building and land use permits, and is not entitled to a variance, Ekstrom still inexplicably refuses to remove facility and continues to keep more than a half-dozen horses at the Subject Property.

22.

Simply put, the Subject Property, which was previously an oxygen and food producing filbert orchard is now a methane greenhouse gas producing, manure smelling mud hole.

23.

Ekstrom's construction of the illegal equestrian facility has significantly and unreasonably interfered with plaintiffs' use and enjoyment of their property in at least the following particulars:

a. The facility's structure is built on top of a massive amount of elevated concrete and gravel, which has increased flood risk at plaintiffs' properties.

b. The facility creates an intense foul odor due to the accumulation of horse manure.

c. The facility's main structure, which is nearly 40 feet tall, has substantially obstructed and negatively affected plaintiffs' scenic view from the front and back of their residences.

d. The facility has caused a massive increase in the fly population at plaintiffs' residences, causing disturbance and sanitary problems.

e. Machinery at the facility runs multiple times every day, creating significant and unreasonable noise pollution.

f. The white roof material on the main structure is extraordinarily bright and reflective, causing plaintiffs eye pain and discomfort.

1 g. During dry weather the facility causes high dust levels that coats plaintiffs'
2 residence on an almost daily basis, increasing maintenance requirements and potentially
3 exposing them to a health hazard.
4

5 **FIRST CLAIM FOR RELIEF**
6 **(Violation of ORS 30.831 –Private Nuisance)**

7 24.

8 Plaintiffs incorporate the allegations contained in paragraphs 1 through 23 as
9 though fully set forth herein.

10 25.

11 ORS 105.505 provides that “[a]ny person whose property or personal enjoyment
12 thereof is affected by a private nuisance, may maintain an action for damages therefor.”
13 The statute further establishes abatement of the nuisance and injunctive relief as
14 appropriate remedies, for parties aggrieved by a private nuisance.

15 26.

16 As alleged herein, the Umenhofers and Bandos’ respective properties and their
17 enjoyment thereof have been substantially and unreasonably affected and interfered with
18 by Ekstrom’s development, construction, and maintenance of an illegal equestrian facility
19 at the Subject Property.

20 27.

21 Ekstrom’s construction and maintenance of the illegal equestrian facility is a
22 nuisance that is subject to abatement and injunction.

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28.

As a direct and foreseeable result of the nuisance created by Ekstrom at the Subject Property, the values of the Umenhofers and Bandos' properties have been reduced in amounts to be proved at trial, but currently estimated to be not less than \$100,000 per residence.

29.

As a direct and foreseeable result of the nuisance created by Ekstrom at the Subject Property, the Umenhofers' and Bandos' have suffered loss of enjoyment of their properties in amounts to be proved at trial, but currently estimated to be not less than \$100,000 per residence.

30.

As a direct and foreseeable result of the nuisance created by Ekstrom at the Subject Property, the Umenhofers' and Bandos' have suffered emotional distress in amounts to be proved at trial, but currently estimated to be not less than \$50,000 each for John and Kathie Umenhofer, and not less than \$100,000 each for Lee and Joseph Bando.

PRAYER

WHEREFORE, Plaintiffs John Umenhofer, Kathie Umenhofer, Lee Bando and Joseph Bando pray for relief as follows:

1. For damages in the amount of \$700,000;
2. For an appropriate order of abatement and injunctive relief requiring Ekstrom to immediately remove the illegal equestrian facility from the Subject Property, including all animals and structures appurtenant thereto;
3. For plaintiffs' costs and disbursements incurred herein; and

1
2 4. For such other relief as the Court deems just and proper.

3 DATED this ____th day of March, 2023.

4 HAGLUND KELLEY LLP

5 By: /s/ Christopher Lundberg

6 Christopher Lundberg, OSB No. 941084

7 Eric J. Brickenstein, OSB No. 142852

8 2177 SW Broadway

9 Portland OR 97201

10 (503) 225-0777

11 Email: clundberg@hk-law.com

12 Email: ebrikenstein@hk-law.com

13 Attorneys for Plaintiffs

To the Hearings official

Response to the open records material
(28 pages of information submitted by the Ekstroms.)

This is the information I sent to the county from November of 2021 to February 2022 I am sending you what I sent to the county in the order it was sent. It provides a real time account of our concerns regarding the issues of our health safety and welfare as well as flood concerns. In fact you will see in November of 2021 we were asking the county for help to protect our health and well being. These issues were brought up in the new material sent by the Ekstroms.

It also includes responses to us and the Bandos by the Ekstroms in written format.

John Umenhofer

response to your request for information

John Umenhofer <umenhofer27@gmail.com>
to aaron.staniak Nov 23, 2021

1. The special flood hazard area elevation is 449.9 feet
2. The building site was in the SFHA
3. There was a river of moving water going across the site it was built on during the 1996 flood, confirming the SFHA hazard designation was real.
3. A large bulldozer was used to change the level of the SFHA area prior to building
4. dozens of dump truck and concrete truck loads of fill material were brought in. They used fill to build up the concrete slab area and build a roadway. The slab is massive and took a very large amount of concrete to build. The concrete and gravel businesses used could provide figures. It is unknown if more than one company was used because of the large size of the project.
5. The increase in elevation to the site of prior moving flood water puts area residences at a possible increased risk to flood damage
- 6 There was a power station put in a structure built next to the arena that houses high voltage batteries powered by an commercial solar panel system. It is a high amperage system and it is unknown what the floor elevation is or what safety GFI systems are employed for flood.



John Umenhofer <umenhofer27@gmail.com>

to aaron.staniak Tue, Nov 23, 2021, 3:57 PM





John Umenhofer <umenhofer27@gmail.com>

Mon, Nov 29,
2021, 8:22 AM

to aaron.staniak

April and John have been our neighbors and friends for years as is the Bando family. It is a very sad situation we have been placed in. The information below is to help you understand what has occurred in the building of this structure. We are the middle house at the end of the street. The Bandos are the neighbors to the west of us. April and John are our neighbors to the East and own the orchard converted to a horse ranch behind us.

April's statements to me and the project.

1. I had told April prior to the structure being built that I did not believe she could build it there because it was in a flood hazard zone. I also told her that there had been moving water through that area during the last flood. She told me that the county had told her she could build it there because it was a horse structure. I took her word for it at the time that the county had approved it. She also told me at that time that she was going to include a bathroom in the structure.

2. I then watched as a bulldozer moved tons of dirt around the structure area and tons of fill material was brought in by dump and cement trucks. They also built a road out of road fabric and crushed rock to get from the river to the structure.

2. After pouring a massive slab for the structure she told me that she had applied for the septic permit but that the county was taking a long time to approve it. I believe she had plumbed the concrete slab for a bathroom.

3. I was then advised by the county that no permits had ever been filed.

Complaint from my neighbor

I was contacted by the Bandos who are my neighbors to the west. They were distraught over the project and told me that it had a major negative impact on their quality of life. They are elderly and have serious health problems. Lee Bando was in tears. The structure dominates the view of their backyard. Because it is four stories high and covered in reflective bright white canvas they said it physically hurts their eyes to look at it when the sun hits it. Joe Bando told me that he had his attorney write them a letter to try to get them to remove it and was given a written response from April. Here is the response text they provided sent by April to Joe Bando,

Joe, I received a letter from your attorney. I am sorry that you are spending money on an attorney. I won't respond to your attorney as that will only cost you more money. If you google equine facility building permit requirements for lane county you will see that equine facilities are exempt and do not require a building permit. It seems the only way that I can help you now is to try to save you money on lawyer bills. As we were making the decision to pull out our dying orchard we met with the county water group, SUB, the FDA, FEMA and the agriculture department as well as a few more agencies that are skipping my mind right now. We met with all of the agencies that we had farming certification through. As you know our land is in the county and is zoned E40. As an exclusive farming acreage the only use for our land is for farming. The land itself dictates where our equine facility had to be placed. The surveyors placed it at the highest point on our property. We could have come closer to your house, but not further away. My attorneys would likely tell me not to respond to you and I know they would tell me not to respond to your lawyer. If you strongly feel that our communications should all go through attorneys, I can accept that. I do feel however that the kindest thing I can do for you is to try to save you legal expenses that cannot go anywhere for you other than waste your money. My plan continues to be to act in a loving and caring manner. I will do the best I can to make my property a beautiful respite for myself, my neighbors and my horses. This property is fulfilling my soul in a way that nothing else can. It is truly my dream come true.

There are many issues that are relevant to the construction of the building from April's response.

1. In April's response to the Bandos she told them to refer to Lane county equine building permit requirements to see that equine facilities are exempt and do not require a permit. If you go to that Lane Count document it does in fact state in the first paragraph that Equine facilities do not need a building permit but in the very next sentence it clearly states that, "However a land use placement permit is required". It then tells you how to get the self certification permit and advises floodplain restrictions must be met and reviewed by the on duty planner before you can build. Then the equine self certification permit form she was required to fill out clearly states that you cannot build an equine facility in a SFHA (The FEMA map clearly designates the area as zone AE which is a SFHA and is below the 100 year flood elevation) She would not have been able to fill out the permit because it clearly states she cannot build it.

2. Also in her text response to the Bandos she said that she had contacted multiple agencies including FEMA prior to building. It is very unlikely that any of the agencies she listed would have told her it was permissible to build her structure in a SFHA, especially FEMA. April's land may be zoned E40 but every foot of it is also SFHA Zone AE.

3. April states in her text response that her land dictates where she had to put the structure and claims her surveyors placed it at the highest point on the property. This is admitting to a flood risk. If she used surveyors who were worried about flood elevation they would have discovered that the entire area was in the SFHA. Who are the surveyors and what did they determine the

elevation and zone classification was. Not only can you not be in a SFHA you can not be 75 feet from it.

4. April advises she wants a beautiful respite for herself, her neighbors and her horses. The building is massive being four stories high. It is covered in a bright reflective white material that when the sun shines it becomes extremely bright. It affects your eyes to look directly at it. The structure is definitely negatively affecting livability for the neighbors and has a major impact on the scenic character of the area. What used to be a view of mountains and river area farm land is now an unsightly reflective approximately 40 foot high metal framed bright white tent. This has had a major impact on the value of our homes. When you look at my house from the street it is now defined by the giant tent. A multitude of area residents have also expressed negative comments about the structure.



In addition to the structure we now have an occasional overwhelming smell of horse manure when the wind turns south. In the last two weeks on two occasions we have had to retreat indoors and close our house up to avoid getting sick. We also had the most flies this year than ever before and the dust coming from the area during the dry weather was the worst ever coating our house multiple times.

I also reviewed Lane codes 10.112-20 (2) a b c d e and feel it may also be relevant to not allowing the structure based on the negative effect on our property, pollution, and changes to the scenery among other issues.

They brought in tons of fill material into the SFHA substantially raising site elevation exposing the neighborhood to a possible increased risk of flooding. They placed a high amperage power station next to the structure potentially creating a serious electrical hazard during a flood. This exposes our neighborhood and its residents to an unacceptable risk of future property damage and potential personal injury.

We are requesting immediate assistance from the county to protect our health and well being. We are requesting that the county issue a removal order for the illegally placed structure as soon as possible and the SFHA restored to its original grade.

**John Umenhofer <umenhofer27@gmail.com>
to aaron.staniak**

Fri, Dec 3, 2021, 11:39 AM

Sent from my iPhone This was the truck load left behind my gate. The mud is bad at this time. You are welcome to come on my property to take a look yourself.



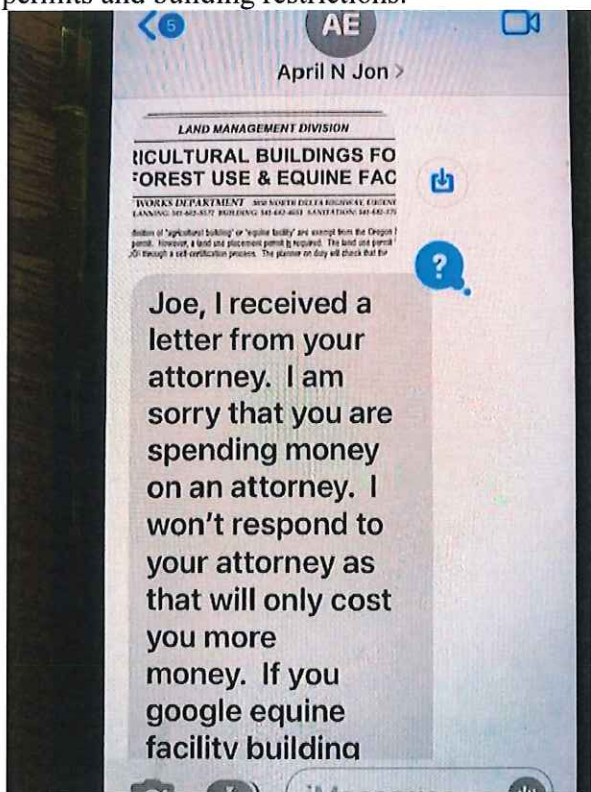
additional information on the Ekstrom equine development

John Umenhofer <umenhofer27@gmail.com>

to jane.burgess

Mon, Jan 3, 2:10 PM

1. While reviewing the text sent by April to the Bandos on Joe Bandos' phone, I observed that April had attached a copy of the county document that showed that she did not need a building permit for her Equine facility. I brought up the document she sent them and found that the document had been cut off after the third line. The fourth and fifth line of the county document states that you have to follow floodplain restrictions and refers you to page three for additional floodplain restriction information. This appears to be a deliberate attempt to deceive them and stop them from pursuing their complaints. This also shows her likely knowledge of the required permits and building restrictions.



LAND MANAGEMENT DIVISION



**AGRICULTURAL BUILDINGS FOR FARM
OR FOREST USE & EQUINE FACILITIES**

PUBLIC WORKS DEPARTMENT 4000 NORTH DELTA HIGHWAY, EUGENE, OR 97408
PLANNING: 541-482-3577 BUILDING: 541-482-4411 SANITATION: 541-482-4754

Structures that meet the definition of "agricultural building" or "equine facility" are exempt from the Oregon Structural Specialty Code and do not need a building permit. However, a land use placement permit is required. The land use permit is issued over the counter by the Planner on Duty (POD) through a self-certification process. The planner on duty will check that the owner has certified that the

LAND MANAGEMENT DIVISION



AGRICULTURAL BUILDINGS FOR FARM OR FOREST USE & EQUINE FACILITIES

PUBLIC WORKS DEPARTMENT 3050 NORTH DELTA HIGHWAY, EUGENE OR 97405
PLANNING: 541-682-3577 BUILDING: 541-682-4651 SANITATION: 541-682-3754

Structures that meet the definition of "agricultural building" or "equine facility" are exempt from the Oregon Structural Specialty Code and do not need a building permit. However, a land use placement permit is required. The land use permit is issued over the counter by the Planner on Duty (POD) through a self-certification process. The planner on duty will check that the owner has certified that the land use requirements have been met. Such requirements include, but are not limited to, road and property line setbacks, floodplain restrictions (see page 3), riparian setbacks, and appropriate sanitation setbacks.

Complete the land use application entitled "Agricultural Building or Equine Facility Self Certification" and other necessary forms as listed below. Meet with the Planner on Duty. If your proposal does not meet the standards for an "agricultural building" or "equine facility", you will not be granted a placement permit.

The following definitions are relevant to the Agricultural Building and Equine Facility Exemption Certifications:

FARM or FARM USE means the current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting, and selling of crops; feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees; dairying and the sale of dairy products; animal husbandry; the preparation and storage of the produce raised on the farm for human use and animal use and disposal by marketing or otherwise; or any other agricultural or horticultural use or animal husbandry or any combination thereof.

FOREST USES Are (1) the production of trees and the processing of forest products; (2) open space, buffers from noise and visual separation of conflicting uses; (3) watershed protection and wildlife and fisheries habitat; (4) soil protection from wind and water; (5) maintenance of clean air and water; (6) outdoor recreational activities and related support services and wilderness values compatible with these uses; and (7) grazing land for livestock. Or any activity defined in ORS 527.620(6).

AGRICULTURAL BUILDING is a structure located on a farm or forest operation and used for all the uses listed in this handout and for the storage, maintenance or repair of farm or forestry machinery and equipment. **DOES NOT INCLUDE:** a dwelling, a garage, a shop, a structure in which 10 or more people are present at any one time (except for structures used for growing plants), a structure regulated by the State Fire Marshal pursuant to ORS Chapter 476, a structure used by the public, or a structure in a floodplain.

EQUINE FACILITY is a building located on a farm and used by the farm owner or the public for stabling or training equines, for riding lessons and training clinics. **DOES NOT INCLUDE:** a dwelling, a garage, a shop, a structure in which 10 or more people are present at any one time, a structure regulated by the State Fire Marshal pursuant to ORS Chapter 476, or a structure in a floodplain.

FOR PROPERTIES ZONED RURAL RESIDENTIAL: Please refer to Lane Code 16.290(2)(i) and 16.290(4)(a) for the limits on the number of animals and bees allowed on property in Rural Residential Zone.

BRING THE FOLLOWING ITEMS TO THE PLANNER ON DUTY:

- ☐ Completed "Agricultural Building or Equine Facility Self-Certification" application form.
- ☐ Site plan. Refer to handout entitled "How to Prepare Your Site Plan". THE SITE PLAN MUST BE ON 8 1/2" x 11" OR 11" x 17" PAPER.
- ☐ Dimensioned Floor Plan. Label rooms and spaces with their proposed use.
- ☐ Legal Description. A copy of the legal description of your property can be obtained from Assessment and Taxation for a nominal fee or at www.rtid.org/custom/lc/at/.
- ☐ Existing Septic System Certification. Certification form can be obtained from the planner-on-duty.
- ☐ Use Covenant. Agricultural Building/Equine Facility Use Covenant is to be signed and notarized by the owner of the property.
- ☐ Application Fee. Payment of application fee is required prior to approval of agricultural building/equine facility.

2. On the 29th of November I had a discussion with Jon and April Ekstrom in front of my residence. I spoke with Jon first and we were later joined by April. I told Jon that April had lied to me and told him the structure was built in the AE zone and was not legal. He told me that a site elevation was done by them within the last two weeks and that the site was two feet below the BFE. He told me the building could be dismantled. April then joined us and told me that the building was not in the AE flood zone. I confronted April with her deception to me regarding the county giving her approval for the structure and her telling me she had applied for the bathroom septic permit. She did not deny the deception but advised that she and her contractor were working to get the correct permits and had just applied for the permits last week.

April's statements to me during that conversation.

1. The county has no problem with her building but she has to address the road she built.
2. She said she is making modifications to the building.
3. She said that she had shown her neighbors and I, a site plan and pictures of the proposed structure before she built it. I told her that was false and told her she never showed me a site plan or photo of the proposed structure. April had told me prior to building the structure that she did not want to put it behind her house, so she could see her horses from her balcony.
4. She said that she is working to reclassify the stream on her property as not a stream and said there was no water in it. There is water in it almost every winter and on several occasions, around two feet deep.
5. She said the building is staying and she will not take it down. I told her that if the building stays up we will move but will take a substantial loss on our house value because of the structure.

I have not spoken to them personally since that conversation.

I received a letter from them around mid December. It was dated 12/07 and signed, Jon. It talks about horses and our friendship among other things. Relevant to the structure the letter states that "we began contacting Lane County in May of 2021 and they did not respond to our inquiries. We gathered as much information as we could on line and proceeded as best we could considering we did not want to lose an entire season of construction - worthy weather." There is more about the construction and power station in the letter. Refer to the letter for further detail.

12/7/202

Dear John,

I have been disressed to learn that you and Kathie are upset about our plans to build an equestrian facility. The last thing that April or I would want to do is put our friendship at risk.

Since I moved in to this neighborhood in 2008, we have never had better neighbors. Our friendship and our relationship with your children are things that I deeply cherish. I am hopeful that our friendship can continue.

The equestrian facility is a dream that April has had for many years. She has spent the last 5 years or so studing, reading, taking classes and workshops and establishing relationships with her horses that are deeply personal to her. Her love of horses has spilled over to our daughters, Jordan and Taylor who are hoping to stay active in horsemanship. The daughters have even began a non profit entitiy for the rescue of the 2 extra horses we currently have on site. I feel that I need to support my family in these interests. Although I am not super passionate about horses, I do look forward to spending more time and training with my horse, Whiskey as he is probably the most intelligent horse out there with quite a bit of potential, especially considering his abusive early years in Tennessee.

I am especially distressed to learn that you believe that April has been deceptive in her communications with you. April is passionate and intelligent and probalby has her heart ahead of her brain on the fine details of the requirements for the facility but we do not believe we have violated any statues thus far. We began contacting Lane County in May of 2021 and they did not respond to our inquiries. We gathered as much information as we could on line and proceeded as best we could considering we did not want to lose an entire season of construction - worthy weather. As of now, the facility is nothing more than a cover for an arena. It is completely flow-through flood proof without walls. The height is 34 feet - three stories (not 4) and well under the 45 foot limit. That height is necessary to provide the sufficient span to cover the arena and stalls without putting posts that would obstruct the work space of the arena.

I think you also have some concerns about the solar electrical support of the proposed facility. Just to be clear, the 26 panels are on 3 separate circuits, 9, 9 and 8 panels each. There are

separate circuit breakers for each division (total 1 volt per panel = max 9 volts per circuit). Each circuit comes into the power house to a separate charge controller (each with a circuit breaker). The three panels then feed into the 2 inverters (each with a breaker) which then feed into a conventional panel (with conventional breakers) for the well and for the proposed facility (lights and plugs). The amperage is in the battery which is elevated off of the concrete slab and is about 18 inches below the Base Flood Elevation. If the battery gets flooded, it turns into a chemical goo of lithium, Iron and Phosphate and is non functional.

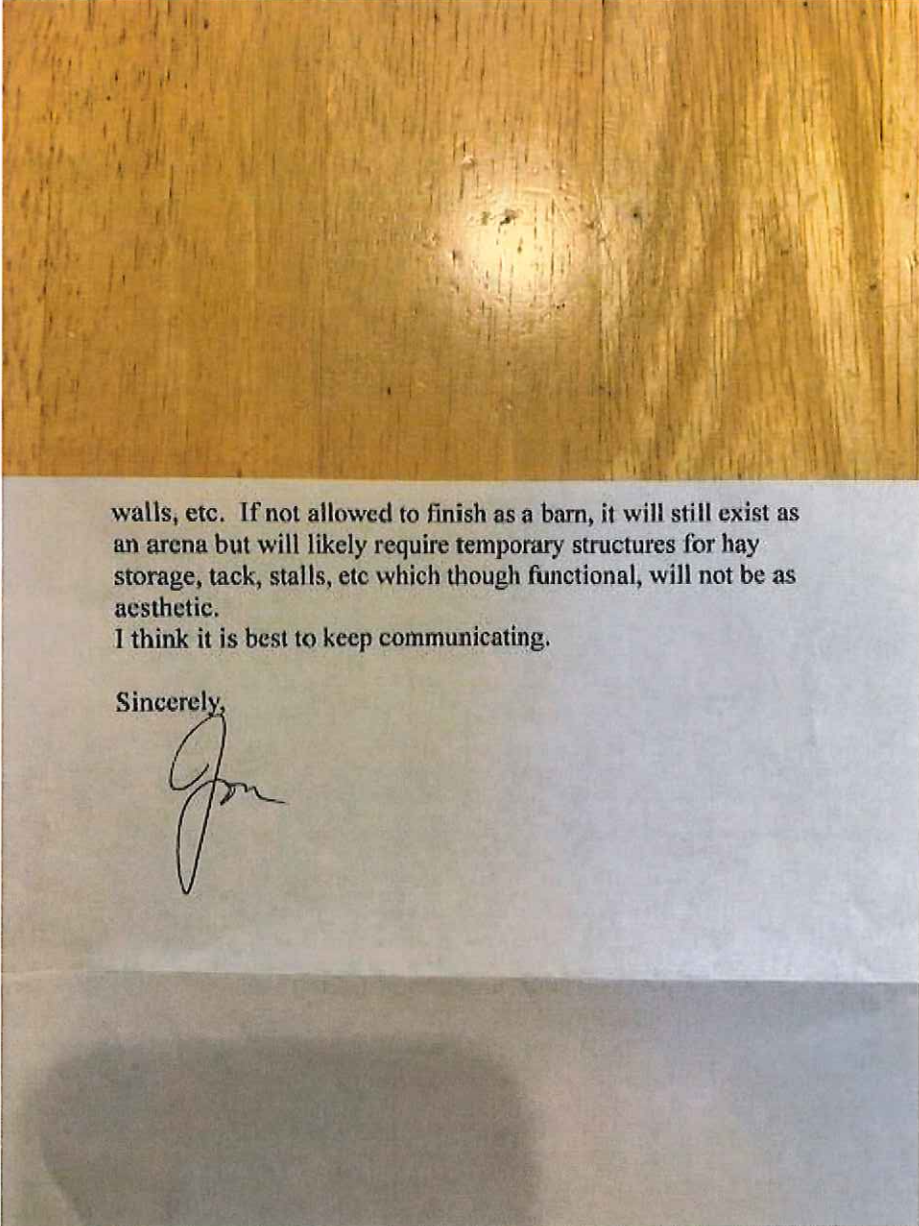
I want you to know that I do not take your distress lightly. I have had difficulty concentrating at work because of it. I traveled to Palm Springs yesterday by myself to try to get a handle on it. I do believe that a neighborhood is like a community. I have relatives who do not get the Covid vaccination for personal reasons yet they do not understand that being unvaccinated is not the best for communal health. It is putting personal interest above communal interests.

April and I would not intentionally do anything to harm our neighborhood community yet we have clearly offended you and the Bandos. It has never been our intent to upset the harmony of our neighborhood community yet I believe that from your perspective, we have put our personal interest above the communal interest of the neighborhood.

I would like you to know that we have other friends and neighbors who are very supportive. We also talk regularly with people who frequent the boat landing and many of them are happy to report that they feel safer there than in years past and that the recent development of our property has helped keep out some of the more nefarious activities which used to be more frequent at the boat landing. In particular, Lane County Sherrif Department and Sanipac have been openly appreciative to us as well as many regular neighbors who include the boat landing in their regular walking activities.

I am hoping that we can work through this. Your friendship is very important to me. I will be supportive of April and my children who dearly desire the equestrian project to come to completion. We want to be responsive to your concerns. We are open to specific landscaping solutions, for example. We have also contracted with a company to regularly remove manure.

Once the project is complete, our horses will have the full 7 acres for pasture and wil not be putting so much pressure on the little space they currently have. We also ask your patience. The project is ambitious and will require time to complete. I think it will be attractive if allowed to finish with appropriately vented



walls, etc. If not allowed to finish as a barn, it will still exist as an arena but will likely require temporary structures for hay storage, tack, stalls, etc which though functional, will not be as aesthetic.

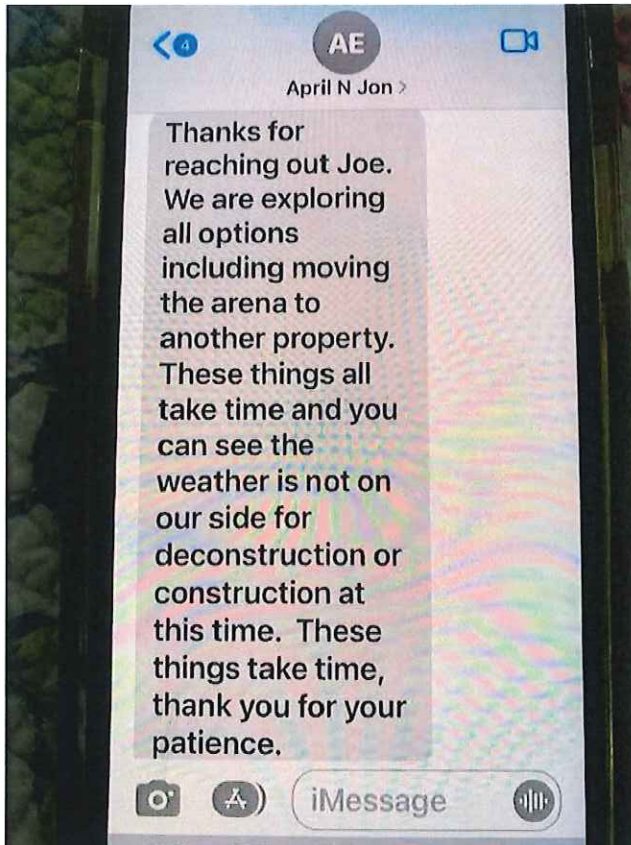
I think it is best to keep communicating.

Sincerely,

Jon

In mid December the Bandos showed me a letter from the county they had obtained that was sent to the Ekstroms. It said the Ekstroms had till January 6th to provide permits and advised they could be exposed to fines for non compliance.

Around mid December Joe Bando showed me a text he had sent to April and a response from her. April advises in the response that they are looking at their options including moving the structure to another property. She asked him to be patient.



On 01/02/22 Joe Bando showed me a letter written by an attorney representing the Ekstroms. It appears to address a letter sent by an attorney for the Bandos back in November. This was before they found out she did not obtain permits and had addressed the negative impacts of the project. The letter by the Ekstrom attorney asserts that the structure is consistent with the property's zoning. There is no reference in the letter to the AE zoning of the property.

Here are photos taken today of the stream. It is moving water and now go's over the recently constructed road. The photos are taken from the boat landing.





From: John Umenhofer <umenhofer27@gmail.com>
Sent: Monday, February 7, 2022 9:57 AM
To: BURGESS Jane <jane.burgess@lanecountyor.gov>
Subject: update on unpermitted prodject

First of all I appreciate the work the county has done addressing this situation. Safety and quality of life is why it is so important that we have land use laws, codes, permitting, and an enforcement system. I would like to give you some updated information.

There is still an unknown risk of electrical shock. I was told the system has enough amperage to run a welder. If that is true it is potentially lethal. In the letter they sent to me, it said that the amperage was in the battery and was located 18 inches below the base flood level. That would make it very vulnerable to flooding. It said that if the battery is flooded it will turn into a chemical goo of lithium, iron, and phosphate. That doesn't sound good for the McKenzie River and doesn't answer the question of where the high electrical Amperage charge goes.

Just after building the structure April had me read a text message sent to them from my neighbor Joe Bando who was upset with the structure. She told me at that time that she had to place the structure where it was because it was the only place on the property where she could get the 451 elevation. I knew that was false because I had a LOMA done at my residence around 12 years ago. The lowest adjacent grade at my house was 450.7 and I checked the elevation of the orchard where the structure was built. I did so because I had observed moving water over the area during the 96 flood and wanted to know the elevation difference. The orchard floor was approximately 3 to 5 feet below my lowest adjacent grade at that time. The SFHA BFE elevation level is 149.9. It appears that April wanted me to think the elevation of her structure floor was 451 and out of the SFHA.

She had told me prior to building that she was placing the structure behind ours and the Bandos house so she could see her horses from her balcony.

April had told me before the structure was built that the horse people she was working with told her that the land would not support her horses during the winter. She told me at that time she was planning to stable the horses elsewhere during the winter and travel. She has now kept the horses there all winter causing large areas of mud that will become dust producing in the summer.

April told me that she was building a ten foot fence topped with barbed wire along the river. I told her that it was unnecessary to build anything that high or have barbed wire on top of it. I told her if someone wanted to come on the property they would simply walk around it. She told me she wanted to make a statement and built it. It is something you would find in a military installation or prison and has harmed the scenic area along the McKenzie river. April told me she wanted to develop a parking lot there for visitors

that brought horse trailers. The rock and plastic placed without a permit may be in violation of 164.775 under the definition of debris and would be a misdemeanor offence.



They advised in the letter sent to me that the structure will stay as a horse arena with other temporary supporting structures.

1. The structure is built on top of a massive amount of elevated concrete and gravel, increasing flood risk.
2. It is creating a manure smell problem
3. It has greatly negatively affected the scenic view from the front and back of our residence.
4. It has negatively impacted the value of our properties
5. The flies were at record levels for our residence
6. Machinery is now running multiple times every day.
7. The bright white roof material is hard on your eyes when the sun reflects off it.
8. In the dry weather we had dust coating our house almost every day and that will return.

Not all of these things may be actionable but they all affect our quality of life and some of them are health and safety issues.

When I purchased my property to build my house, I was told by the prior owner of the orchard property that structures could not be built there because of the flood hazard zone. He was a land developer and had been a partner in the development of this neighborhood. He told me that our view was protected. I also knew the flood designation for the orchard because of my LOMA. That's why I told April she could not build there when she first told me she wanted to build. The only reason I did not try to legally stop the project on the front end was because she lied to me and said the county had approved it. I believed and trusted her at that time so I failed to check into it.

Several times during the last week the smell of horse manure has again been strong at my residence. My neighbors to the south have also smelled the manure at their residences. The Ekstroms advised in their letter that they had employed someone to regularly remove the manure from the site. On November 23rd I had been advised by a text that they were working on a manure composting facility behind the solar panels. I don't know what they are doing with it but the smell is still occurring. It may be because six horses are producing a large amount of manure daily.

On top of the illegality, deception, and lies, it is an ecological disaster.

A once oxygen and food producing orchard is now a methane greenhouse gas producing, manure smelling mud hole.



This is what it used to be.

This is one of the reasons it is so important for landowners to go through the permitting process

Their deception and tactics are getting old. April had written the Bandos saying they may move the structure to another property and for them to be patient. The Bandos were very relieved feeling the structure would be removed. Then later the Ekstorns had an attorney write the Bandos saying they have little to no standing regarding their complaints. This letter really upset them. The Bandos are elderly and this move of giving them hope then tearing it away is negatively affecting their health.



This is what it is now.

My understanding is that they did not respond to the 30 day period to provide permit applications. Then just prior to compliance fines going into effect they had someone contact the county to try and work out a way for the structure to stay. They altered the elevation prior to building, raised the area substantially with unpermitted fill and concrete affecting the river's flood path. They then placed the structure on top of the concrete. The only way to remove the added flood risk is to remove all of it.

They have been very deceptive from the start and violated the system's safeguards with intent. It is my hope that the fines will go forward and that they will not be able to delay facing the consequences of their actions.

John Umenhofer <umenhofer27@gmail.com>

Wed, Feb
9, 2:53 PM

to BURGESS

There is a full size tractor pulling what appears to be some kind of grader around the property. If you zoom in it appears to be a blade with rippers in front of it. They have been doing that over the last few days including this morning. The pile of fill that I sent you a picture of the day they had it brought in by a dump truck appears to be about a third to a half used. I do not know where they used the fill on the property. I hear metal sounds coming from under the structure but I do not know what they are doing. They have moved fencing from the area behind them to under the structure. As for the waterway, when the stream was full with moving water weeks ago it went over their built road.



Thu, Feb 10, 2:02
PM

BURGE
SS Jane

Hi, John – I sent an email to the owners and their agent telling them to stop all work in the floodplain and floodway until the required permits are obtained. C

retaliation

John Umenhofer <umenhofer27@gmail.com>

Mon, Feb 14,
11:16 AM

to BURGESS, Mitchel

On February 8th I allowed a federal law enforcement officer to go through my back gate in order to contact April Ekstrom. A short time after he left their property she appeared to film us standing together. At that point she knew that I was assisting law enforcement with an investigation and had let him use my gate. So four days later they retaliated. Apparently to prevent me from allowing another official to contact her via my gate, Jon and April built a fence directly behind it.





This has blocked access to the river for us that we have had and used for 20 years.

They need to be responsible for what they have done and not penalize me for assisting law enforcement or reporting their actions.

Mar 1, 2022,
1:39 PM

John Umenhofer <umenhofer27@gmail.com>

to BURGESS,

The first picture shows a horse standing on the poured concrete slab.

My neighbor Terry Mathews said Jon Ekstrom told him they had brought in 18 concrete trucks to pour the slab. If that is true the Ekstroms may have poured around 729,000 pounds of concrete at 4050 pounds per cubic yard.

This can be confirmed through the vendor. There is now a new road, filled with gravel, compaction to the area, changes in the

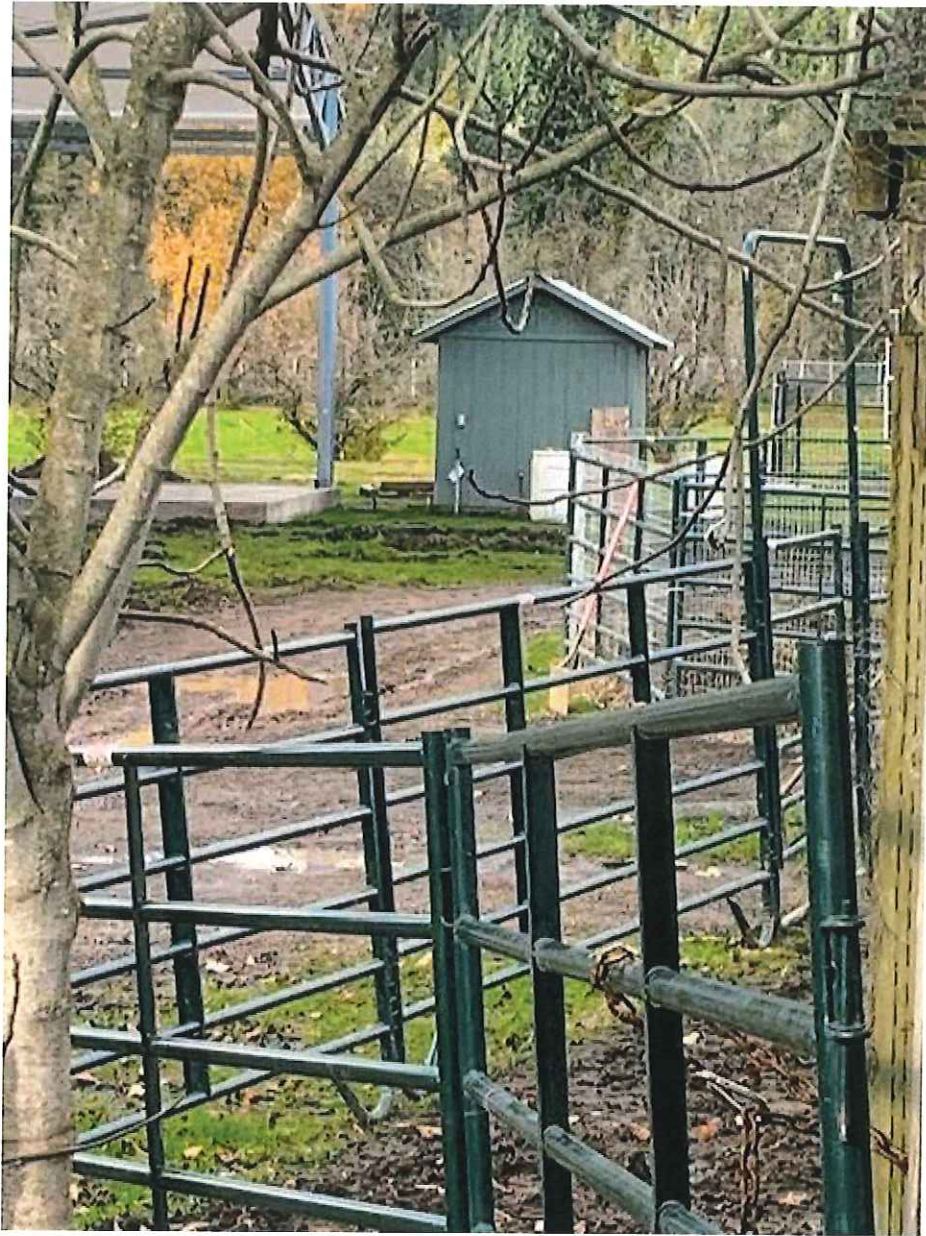
contours, and massive concrete slab. A few weeks ago the Bandos back yard was flooded.



The slab was poured the entire length of the structure and April said it was plumbed for a bathroom.



The powerhouse is on the upstream side of the concrete slab



Three structures for the horses



John Umenhofer <umenhofer27@gmail.com>

to aaron.staniak

Mar 23,
2022, 12:57
PM

additional information

There was never a road in the orchard. I watched April Ekstroms Brother make the road with the rented Bulldozer at the same time he changed the grade for the structure.

Then April rolled out the road tarping material as dump trucks arrived one after another and dumped gravel.

The Tiny house has been an Air B and B for years and we met multiple people renting it. She originally claimed she was putting it in for her mother to live in but that never happened.

The contractor is trying to claim he attempted contact with the county and built the structure when they did not contact him back. I would like any record you have of any

attempted contacts by their contractor and his contractor license information if you have it. I would also like to know if the county was able to identify the agency that she claimed told her it was ok to build a road through the low areas on the property as long as she provided flow through for high water.

Thank you for your time.