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February 17, 2026

Via Email - MFritzie@clackamas.us

Clackamas County Planning Commission
c/o Martha Fritzie, Principal Planner
150 Beaver Creek Road
Oregon City, OR 97045

Re: County Case File No.: Z0315-25 and Z0316-25
Our File No.: PAD6.1

Dear Commissioners:

Again, the Applicants request a Goal 3 exception and rezone to FF-10. At its Jan. 26 public hearing, the Commission graciously continued the matter to give the Applicants opportunity to address points raised by staff. We take that opportunity to show that:

- notwithstanding any past farm activity on the Site, it is impracticable currently to farm it for profit;
- recent County decisions finding an ability to generate enough farm income to qualify for a dwelling on EFU land are materially distinguishable from the present case and based on flimsy evidence; and
- County policies related to **designation of "a new Rural area" do not preclude the requested rezone to FF-10.**

Staff's Jan. 26 powerpoint presentation (p. 10 of Exhibit 7) asserts that:

- the Site and "several adjacent properties have or have had farm uses – as defined in ORS 215.203;"
- "farming appears practicable;" and
- **"no explanation about what has changed to make farming now impracticable."**

As noted at hearing, the Applicants and staff seem to agree on the legal standard (OAR 660-004-0028(3)) you must apply, *viz.*, whether it is "practicable" to undertake "farm use" of the Site. The Applicants provided at hearing evidence that it is not. I find nothing in **staff's observations** to undermine that evidence.

Critical in the Commission's decision here is the definition farm use at ORS 215.203 - "current employment of land for the primary purpose of obtaining profit in



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money by raising, harvesting and selling crops or [**livestock**]” (emphases added). At most, Exhibit 7 shows that owners of the Site in the past harvested and sold crops from the land. The exhibit does not show that it is practicable for them to do so currently for profit. Furthermore, nothing in OAR 660-004-0028(3)) requires explanation of what has changed to make farming now impracticable.

As further evidence that it is not practicable to undertake farm use of the Site, the Applicants submit herewith:

- the Feb. 14 declaration of Alisha Rusher;
- the Feb. 12 letter of agronomist Andrew Brant; and
- the Feb. 17 letter of neighbor Tim Chesnut.

In so doing, I again stress that each witness has physically investigated the Site and its surroundings. Together, their testimony demonstrates that, notwithstanding any past farm activity thereon, it is impracticable currently to farm the Site for profit.

In recommending that you deny the Application, staff also noted that many applicants have recently demonstrated the ability to generate enough farm income to qualify for a dwelling on EFU land. Dr. Fry reviewed the file of the 15 referenced cases. As shown on his attached memo of this day, he found most of these approvals materially distinguishable from the present case and, even as to those related to 15-acre parcels, the evidence of income unconvincing.

At p. 11 of Exhibit 7 staff raises compliance with policies set forth in Section 4.MM.2 of the Clackamas County Comprehensive Plan. The Applicants understand these policies to apply to designation of “a new Rural area.” **The ZDO does not define the term “rural lands.” As noted at p.7 of Applicants’ Second Amended Narrative, however, DLCD describes it as “generally, land outside of an urban growth boundary.” Approval** of the Application will not place the Site within a UGB, so we do not see these policies as precluding this Application.

Again, we appreciate your consideration of the Application, and look forward to further discussing the matter with you.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'Ty K. Wyman'.

Ty K. Wyman
TKW:mlb

Enclosures

cc: Mike & Mary Paden

February 17, 2026

MEMORANDUM

TO: Ty Wyman
FROM: Peter Finley Fry
FILE: Paden Goal 3 Exception - County DTD File Nos. Z0315-25 & Z0316-25

Background

Clackamas County will approve a dwelling on an EFU-zoned lot smaller than 80 acres, if the site can meet an income test. (Note: I find the logic of this test unclear; if the owner can prove the ability to make an income from the site without a dwelling). The ZDO specifies as follows:

401.05 APPROVAL CRITERIA FOR SPECIFIC USES

C. Residential Uses

5. Dwelling in conjunction with a farm use on High Value Farm Land: A primary farm dwelling for the farm operator may be allowed subject to the following criteria:

a. The subject tract is currently employed in farm use on which the farm operator earned at least \$80,000 in gross annual income from the sale of farm products in each of the last two years or three of the last five years, or in an average of three of the last five years;

6. Dwelling in conjunction with a farm use on Low Value Farmland: A primary farm dwelling for the farm operator may be allowed on low value farmland subject to the following criteria:

a. The subject tract is currently employed in farm use on which the farm operator earned at least \$40,000 in gross annual income from the sale of farm products in each of the last two years or three of the last five years, or in an average of three of the last five years;

The Paden application presents the question of whether one can practicably farm the subject acreage. At the Jan. 26 hearing, staff observed that the County has processed since 2022 fifteen applications under the above-quoted minimum income test, thus suggesting that it is practicable for the Applicants to profitably farm the Site. Analyzing those files, I find no credible evidence of that.

Peter Finley Fry
Ty Wyman
Dwellings approved in conjunction with farm use since 2022

Analysis

Appendix A hereto is a spreadsheet of the cases referenced by staff. Reviewing those files, I confirm that fifteen landowners have over the past four years sought County approval of a dwelling under the above-described income test. The County approved fourteen of those applications; one was withdrawn.

I found that one application (Casefile No. ZO495-23) was for a 138.71 acre lot. Lot exceeding 80 acres. Nine cases (ZO103-22, ZO135-22, ZO556-22, ZO157.23, ZO496-23, ZO027-24, ZO283-24, ZO079-25, and ZO476-25) related to lots between 25 and 57 acres in size, materially larger than the Paden site. As described in the Feb. 12 letter from agronomist Andrew Brant, farms operate on economies of scale. Larger parcels being necessarily able to operate at lower overhead per acre, I consider these approvals immaterial to the present case.

This leaves approvals for the following lots of similar size to subject lot:

- ZO166-23: 15-acre lot, showing income of \$40,000 from raising bighorn sheep;
- ZO218-23: 9.77-acre lot, showing income of \$80,000 from beekeeping;
- ZO330-23 19.7-acre lot, showing income of \$218,000 from Christmas trees and pumpkins; and
- ZO513-24: 13.1-acre lot, showing income of \$81,000 from wholesale nursery with product in containers.

I am not convinced of any of the income levels asserted to justify these approvals. The primary evidence offered is a "Schedule F," an IRS document related directly to farm income. I have filed Schedule F on property I own with my wife. Schedule 'F' constitutes relatively weak evidence, as the IRS has no incentive to question one who overstates his/her income.

Furthermore, beekeeping and a wholesale nursery with product in containers operate without regard to practicability of farming. Christmas trees are considered an agricultural product and are notoriously used to allow dwellings on lots less than 80 acres.

Lastly, each approval was issued without appeal, thus making it difficult to argue their validity. I find in these cases no credible evidence that these sites are capable of producing the required income. The criteria begs the question of why a dwelling is required if the lot can produce income without a dwelling.

Z0218-23	Ag - Dwelling in conjunction with Farm Use	Approved	9.77	EFU - EXCLUSIVE FARM USE	DWELLING IN CONJUNCTION WITH A FARM USE - APPLICANT IS APPLYING FOR A SINGLE-FAMILY DWELLING IN CONJUNCTION TO THE EXISTING HONEYBEE FARM OPERATION ON THE SUBJECT PROPERTY	13E34C 00500W1
Z0513-24	Farm Dwelling	Approved	13.10	EFU - EXCLUSIVE FARM USE DISTRICT	New single family dwelling in conjunction with farm use in the EFU zone.	41E27 01600
Z0166-23	Ag - Dwelling in conjunction with Farm Use	Approved	15.00	EFU - EXCLUSIVE FARM USE	DWELLING IN CONJUNCTION WITH A FARM USE (LOW VALUE FARM LAND). The applicant proposes a new dwelling on tax lot 00302, based on two consecutive years of gross annual income from livestock raised on site.	31E18 00202 & 302
Z0415-25	Farm Dwelling	Pending (current status is withdrawn)	15.00	EFU- EXCLUSIVE FARM USE DISTRICT	The application is for a dwelling in conjunction with a farm use. The property is actively farmed and is zoned Exclusive Farm Use.	31E21 02500
Z0330-23	Ag - Dwelling in conjunction with Farm Use	Approved	19.70	EFU- EXCLUSIVE FARM USE DISTRICT	The applicant has proposed a dwelling in conjunction with a farm use.	31E08 02003
Z0283-24	Farm Dwelling	Approved	25.06	EFU- EXCLUSIVE FARM USE DISTRICT	Applicant is proposing to build a New Single Family Residence, through the Dwelling in Conjunction with Farm Use, associated with the Campbell Family Farm, which sells Christmas trees, tree boughs, flowers, and vegetables.	31E06 00203
Z0157-23	Ag - Dwelling in conjunction with Farm Use	Approved	33.28	EFU - EXCLUSIVE FARM USE	DWELLING IN CONJUNCTION WITH A FARM USE	41E26 00400
Z0079-25	Farm Dwelling	Approved	35.38	EFU - EXCLUSIVE FARM USE DISTRICT	The applicant submitted an application for a Dwelling in Conjunction with a Farm Use. The property is currently being farmed and is zoned EFU.	51E14 01000
Z0135-22	Ag - Dwelling in conjunction with Farm Use	Approved	35.86	EFU- EXCLUSIVE FARM USE	DWELLING IN CONJUNCTION WITH FARM USE	52E05 01200
Z0103-22	Ag - Dwelling in conjunction with Farm Use	Approved	37.12	EFU- EXCLUSIVE FARM USE	DWELLING IN CONJUNCTION WITH A FARM USE (HIGH VALUE FARM LAND). The applicant proposes a new dwelling on tax lot 1100, based on two years of gross annual income from onsite farm uses (honey bees).	34E07 01100
Z0476-25	Farm Dwelling	Approved	37.99	EFU - EXCLUSIVE FARM USE DISTRICT	Dwelling in Conjunction with Farm Use on high-value farm land. Applicant is proposing placing a manufactured home for the farm operators of the equine facility, Pirouette Enterprises, on an approximately 39 acre tract of EFU land.	31E07A 00500
Z0496-23	Farm Dwelling	Approved	39.40	EFU- EXCLUSIVE FARM USE DISTRICT	The applicant is requesting authorization to develop one single-family home due to them having earned income from farming. This application is called a "dwelling in conjunction with farm use" which can authorize a farm operator earning income from farming to establish a dwelling on the property.	23E34 01100
Z0027-24	Farm Dwelling	Approved	43.56	EFU- EXCLUSIVE FARM USE	The applicant is proposing a dwelling in conjunction with a farm use. The property is zoned Exclusive Farm Use and currently does not contain a dwelling.	41E29 00500
Z0556-22	Ag - Dwelling in conjunction with Farm Use	Approved	57.35	EFU - EXCLUSIVE FARM USE	DWELLING IN CONJUNCTION WITH A FARM USE- CURRENT FARM USE CONSIST OF CHRISTMAS TREES AND HAZELNUTS	52E03D 01600
Z0485-23	Farm Dwelling	Approved	138.17	EFU- EXCLUSIVE FARM USE DISTRICT	DWELLING IN CONJUNCTION WITH A FARM USE	61E11 00100

CLACKAMAS COUNTY
APPLICATION for LAND USE REVIEW
County Case File Nos. Z0315-25 & Z0316-25
DECLARATION OF ALISHA RUSHER

I, Alisha Rusher, do hereby declare:

1. I am fully competent and duly authorized to make this declaration.
2. The facts in this declaration are based on my personal knowledge and are true and correct.
3. I make this declaration in support of Mike and Mary Paden's applications for a Comprehensive Plan map amendment and exception to Statewide Planning Goal 3.
4. I am the daughter of Mike and Mary Paden.
5. I have resided in Clackamas County for 35 years.
6. On January 27th, 2026 I took the photos attached to this declaration as Exhibit A. These photos show the property to the **south** of my parent's parcel on Allgeier Rd. In the staff report and during the first hearing the county stated this property was operating as a tree nursery. However, that is no longer true. As can be seen in these photos the property there are trees planted in rows, but not for the purposes of a nursery to sell.
7. On February 5th, 2026 I took the photos attached to this declaration as Exhibit B. These photos show the properties to the **west** of my parent's parcel on Allgeier Rd. One property grows hay that is cut once a year for fire mitigation. The hay is low quality and not sold for a profit. The other property to the west has a dwelling and five retired racehorses, and do not make a profit from the racehorses or other farm-use activity.

8. On February 5th, 2026 I took the photos attached to this declaration as Exhibit C. These photos show the property to the **east** of my parent's parcel on Allgeier Rd. As observed in the photos, the property has a shop and barn. The owners also have 3 retired racehorses, and are not making a profit from the racehorses or other farm-use activity.
9. On February 5th, 2026 I took the photos attached to this declaration as Exhibit D. These photos show the properties to the **north** of my parent's parcel on Allgeier Rd. One of the parcels has a dwelling and does not have any obvious farm operations. The other parcel has a dwelling and a small number of chickens and ducks can be seen. Neither site has apparent profitable farm-use operations.

I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence on the record and is subject to penalty for perjury.

Signed this 14th day of February 2026.



ALISHA RUSHER





























































EXHIBIT 10
Z0315-25 & Z0316-25
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Dear Alisha,

You asked me to evaluate the likelihood that your land on Allgeier Road near Sandy could practicably be employed for obtaining a profit by raising, harvesting and selling crops or livestock. Having visited the site in January 2026 and reviewed Gary Kitzrow's March 3, 2025 Soils Assessment Submittal Form, I consider such productivity impracticable. Several considerations lead me to that conclusion as I have listed below.

The area around the site is, not with standing the predominant EFU zoning. I understand that they are used for boarding a couple horses and as such, these constitute hobby farms, none is farmed for profit. Farming for profit is a full time endeavor of which neither of you are prepared for.

Your specific 15-acre site has inadequate organic matter, poorly drained apparent material, and lacks nutrient vigor as well as diminished soil pH values of which would need expensive inputs to correct over time. Over half of the soil composition contains "low class" (C rated) soils. As such, they require extensive work to mitigate nutrient needs to successfully farm.

Producing crops or livestock is not a simple matter of letting nature take its course, then harvesting and selling the fruits of the land. Rather, a farmer must invest in nourishing the land, planting the seed, and nurturing its growth. Then, even assuming he or she gets a decent harvest, they must find a market for the resulting crop which in of itself is a full time job. Obviously, if those investments cost more than the expected return (such that no profit can reasonably be expected), then he or she will let the land lie fallow or leases out to a existing producer. Even so, land leases to farmers range between \$100-200/acre/year.

I understand that it was asserted that one could simply hay this land for profit. I disagree. Like most industries, farming operates on economies of scale. A low-value crop, like hay, can be profitable only if cultivated on a very large scale and intensely managed through irrigation and timely sprays. Indeed, this is why farms in the central Willamette Valley and Central Oregon grow more productive and profitable crops.

As such, one could profitably farm this site only with a high value crop, such as blueberries, grapes, or flowers. None of these are practicable here. First, they are subject to markets that have been depressed for the last 8 years. Second, each of those crops would require a minimum investment of \$7-10,000/acre for initial plantings, not including yearly management costs with no returns for over 5 years, which are not guaranteed. With the

rising costs of herbicides, insecticides and fertilizers, it's impracticable to achieve success on your soil type based on market trends, costs and overall amendments needed to bring your soil to a "grower standard" value. Something to note is also the overall location of your land. You are in the shadow of the Mt Hood national forest, and as such, have a relatively lower amount of heat units and growing degree days (that is, lack of good growing climate and temperatures). This negative aspect of your location strictly limits your ability to succeed.

The last few points related to the soil of this land is that you sit are a "fragipan" which is essentially a hard pan 20-40" deep that was part of the Missoula floods thousands of years ago. This "pan" of soil acts as concrete strongly discouraging crop growth and limiting root development, especially for deep roots plants such as Fescue and other grasses that you could consider "hay". Lastly, there is concern that moisture (as we get over 40" of rain a year) could impact your ability to grow successful plants. Most (not all) plants we have access to growing DO NOT like to have wet feet (roots). The mitigation of water is achieved by installing soil tile and drainage of which can exceed \$2500/acre and needs yearly maintenance of which I do not know the costs.

I understand that it also was asserted that others in the county are profitably farming sites of comparable size. Reviewing these approvals, I find the asserted incomes dubious because they potentially sit on better soils.

In short, I highly discourage you from trying to farm this land because I know that your success will be limited. The soil types on your land are not suitable for high value crops and the cropping systems that will work are hay and pasture of which don't generate enough revenue per acre to justify the segregation from the other land. If you want to farm, buy farmland.

If anyone would like to visit with me further, feel free to contact me on my direct line or email. I am happy to give more examples of why your proposal will be a failure from the start. I might add that this letter serves as a professional opinion and an opinion based on a decade of research and sales in the agronomic field. No other person or entity is to rely upon this letter without my prior written consent.

Thank you,



Andrew Brant

ANDREW P. BRANT

503-413-9481
andrewbrant34@gmail

4504 Somerset Drive NE
Albany OR 97322
United States

WHO I AM:

High caliber sales and operational strategist with over a decade of comprehensive experience optimizing agricultural sales channels. Expert in revenue stream management, cross-functional leadership and logistics orchestration. Proven ability to catalyze exponential sales increases through technical expertise and meticulous S&OP. A dedicated leader fostering a culture of teamwork and operational excellence.

EXPERIENCE:

CEO/Owner: Willamette Valley Ag Consulting- Albany OR-2022-Present*

- Managed fundraising events to generate growth, calculated decisions for maximum outcomes during initial growth phase
- Created alliances with other organizations to promote internal and external growth.
- Established and maintained professional relationships with customers both private and public while giving back to the community.
- Grew market shares by organizing and approving promotional campaigns.

Senior Agronomist/ Manager, Valley Ag- Harrisburg OR — 2016-Present*

- Spearheaded a high performing sales and operations team of 15 consistently maintaining GP every quarter.
- Designed a strategic sales offensive that resulted in 10-15% YoY growth leveraging data driven market analysis.
- Championed the adoption of an advanced CRM platform to enhance client retention and maximize LTV and ROI.
- Managed inventory turnover ratios by implementing rigorous analysis ensuring high demand inputs maintained peak availability at all times.

S and L Manager, Kraemer Nursery- Mt. Angel OR — 2014-2016

- Orchestrated complex logistical frameworks for high volume nursery distribution significantly maximizing ROI via freight mitigation.
- Synchronized department workflows to streamline order to cash cycles reducing lead times and elevating customer satisfaction
- Worked closely with all departments to ensure timely delivery of all inputs across all channels, while working with large Spanish speaking groups

Assistant Farm Manager, Willamette Turf-Brooks OR — 2011-2014

- Worked on large scale agriculture operations focusing on precision cultivation techniques and the art of different seed varieties to ensure premium quality
- Helped overcome yield loss by advanced nutrient analysis and technical oversight
- Collaborated with senior staff to align field production schedules with anticipated market demand through demand planning.

EDUCATION

- Oregon State University — Bachelors of Science, 2015 (Deans Honors)
- Clackamas High School- Diploma (honors)

SKILLS

- Expert level proficiency in SLA, ERP and VMI softwares
- Expert proficiency in all Microsoft Suites, Drone Imaging, Artificial Intelligence
- Inventory and Supply Chain Logistics
- Professional disposition and communication excellence across all avenues of people.
- Technical Report Writing
- Self Motivated for the past 10+ years
- Time Management (12+ hour work days, 5-6 days a week)
- Excellent written and verbal communication skills

AWARDS AND CERTIFICATIONS:

- Top-Gun Elite Sales Award (2024)
- Master Sales Award (2023)
- Top Gun Sales Award (2022)
- Rookie of the Year Sales Award (2021)
- Certified Pesticide Consultant and Private Applicator Licensure
- SAIF workplace certified and trained
- CPR 1 Certified and Trained
- Multiple Challenge Coin Recipient YoY at Valley Ag
- Active ORGS member and student of the year 2013
- Civil Workplace Training Award — Eli Service Award
- HOA President for Somerset Neighborhood (2022-2024)

February 17, 2026

Clackamas County Planning Commission
c/o Clackamas County Planning
150 Beaver Creek Road
Oregon City, OR 97045

Re: Letter of Support – Comprehensive Plan Map Amendment from EFU to
FF-10 and Goal Exception – Paden Property

Dear Commissioners:

I am writing in support of the application for a Comprehensive Plan Map amendment from Exclusive Farm Use (EFU) to Farm/Forest 10-acre (FF-10) and the associated Goal Exception for the property owned by the Padens in Clackamas County.

I currently own the property immediately west of the Paden parcel, which I inherited from my family. There is no dwelling on my parcel, and it does not currently have any active farm use that is generating income.

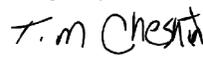
My family has a long-standing relationship with the Allgeiers (the family whom the road is named after and who owned most of the surrounding land), so I am familiar with the historical use of the Paden parcel.

Historically, the brick house located across the street from the Paden property (still owned by a member of the Allgeier family) served as the main residence supporting the surrounding farmland, including what is now the Paden parcel. The Allgeier family farmed the Paden's parcel in conjunction with other surrounding parcels as their livelihood. Specifically, they grew (decades ago) raspberries on the back half and hay on the front half. Later (until about 2008-2010) it was all berries. The family then turned it into a pasture for cattle grazing, during which time it was hayed, mostly for personal use; I do not know that they realized any income from it.

Based on my familiarity with the property and its history, I support the requested Comprehensive Plan amendment and Goal Exception. Though the property has experienced varied agricultural uses over time, circumstances change with time. Increased operating costs, decreased wholesale prices, and current land use pattern precludes profitable farming, as reflected in the fact that neither I nor any of the neighbors farm for profit. And, I do not believe that changing the zone to Farm/Forest will negatively impact the ability to undertake farm use on my property or the surrounding area.

Thank you for your consideration of this matter.

Sincerely,

Signed by:

9219F3C994E8496...

Tim Chesnut