

Attention Property Owner: A land use proposal has been submitted for property near where you live or near property you own elsewhere. State law requires that the county notify property owners within a certain distance from this property. The proposal and address of the property is described in the "Application" section below. The decision in this case does not directly affect the zoning or use of your property. If you object to the decision, refer to the "Appeal" section. If you have questions, contact the staff person listed at the end of this report.

**NOTICE OF DECISION  
PROPERTY LINE ADJUSTMENT CASE NO. 24-042**

**APPLICATION:** Application of Jerry Smith and Old Hill LLC for a property line adjustment to adjust the property lines on a 2.28-acre parcel and a 323.07-acre parcel to create a 1.81-acre parcel and a 321.47-acre parcel in the EFU (Exclusive Farm Use) zone located at 19101 River Road NE, St Paul (T4S; R2W; Section 30, Tax lots 600, 601 & 800).

**DECISION:** The Planning Director for Marion County has **APPROVED** the above-listed Property Line Adjustment application subject to certain conditions.

**EXPIRATION DATE:** Title transfer instruments accomplishing the property adjustments shall be recorded by the applicants with the Marion County Clerk by **December 6<sup>th</sup>, 2026** (two years). The effective period of an approved application may be extended for an additional year subject to approval of an extension (Extension form available from the Planning Division). **Additional extensions may not be granted if the regulations under which this decision was granted have changed since the original approval.**

**WARNING:** A decision approving the proposed use is for land use purposes only. Due to septic, well and drainfield replacement areas, this parcel may not be able to support the proposed activities. To be sure the subject property can accommodate the proposed use the applicant needs to check with the Building Inspection Division, (503) 588-5147.

**This decision does not include approval of a building permit.**

**CONDITIONS:** The following conditions must be met before a building permit can be obtained or the approved use established:

1. Marion County Surveyors Office commented:
  - a) Properties 10 acres or less must be surveyed per ORS 92.060 (7) and the survey submitted for review.
  - b) No survey required for properties greater than ten acres per ORS 92.060 (8).
  - c) Survey checking fee required at the time of review.
  - d) Property line adjustments shall be recorded with the Marion County Clerks Office per ORS 92.190 (4).
2. Property line adjustment deeds shall be recorded with the Marion County clerk's office prior to submitting the property line adjustment survey. Deed recording reference numbers shall be noted on the required survey.
3. Applicants shall obtain a septic system evaluation for 19101 River Road to verify setbacks as required by the Marion County Building Inspection Division.
4. The resulting parcels shall significantly conform to the site plan submitted with the proposal. Minor variations are permitted upon review and approval by the Planning Director.

**ADDITIONAL CONDITIONS:** Once the approved use is established the following conditions must be continually satisfied:

5. After the property line adjustment has been completed, no alteration of property lines shall be permitted without first obtaining approval from the Planning Director.

**OTHER PERMITS, FEES, AND RESTRICTIONS:** This approval does not remove or affect any covenants or restrictions imposed on the subject property by deed or other instrument. The proposed use may require permits and/or fees from other local, State or Federal agencies. This decision does not take the place of, or relieve the responsibility for

obtaining other permits or satisfying any restrictions or conditions thereon. It is recommended that the agencies mentioned in Finding # 6 below be contacted to identify restrictions or necessary permits.

6. Prior to recording the deed all taxes due must be paid to the Marion County Assessor Tax Section (contact them at (503) 588-5215 for verification of payments).

**APPEAL PROCEDURE:** The Marion County Zone Code provides that certain applications be considered first by the County Planning Director. If there is any doubt that the application conforms with adopted land use policies and regulations the Director must condition or deny the application. Anyone who disagrees with the Director's decision may request that the application be considered by a Marion County hearings officer after a public hearing. The applicant may also request reconsideration (one time only and a fee of \$200) on the basis of new information subject to signing an extension of the 150 day time limit for review of zoning applications.

A public hearing is held on appeals subject to the appellant paying a \$250.00 fee. Requests for reconsideration, or consideration by a hearings officer, must be in writing (form available from the Planning Division) and received in the Marion County Planning Division, 5155 Silverton Road NE, Salem, by 5:00 p.m. on **December 6<sup>th</sup>, 2024**. If you have questions about this decision, contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **December 9<sup>th</sup>, 2024**, unless further consideration is requested.

**FINDINGS AND CONCLUSIONS:** Findings and conclusions on which decision was based are noted below.

1. The subject properties are designated Primary Agriculture in the Marion County Comprehensive Plan and correspondingly zoned EFU (Exclusive Farm Use). The primary intent of both this designation and zone is to promote and protect commercial agricultural operations.
2. The properties are located at 19101 and 19111 River Road NE in St Paul, west of River Road and approximately 800 feet southwest of its intersection with Davidson Road. The larger parcel identified as Tax Lot 600 is a predominantly flat field in agricultural use with a slightly wooded area and two small streams running from south to north in the middle. The smaller parcel, identified as Tax Lot 800, contains a dwelling built in 1969 prior to land use planning regulations. Tax Lot 601 contains a farm dwelling that was established in a farm dwelling case in 1996 (FD96-007) by Marion County Planning. Tax lot 600 and tax lot 601 comprised one legal parcel as described by the farm dwelling case FD96-007. As such, they will be treated as one parcel for purposes of this property line adjustment. Both subject parcels are therefore considered legal for land use purposes.
3. Adjacent properties to the west of the parcels are on the other side of the Willamette River, therefore out of Marion County zoning jurisdictions. To the north, east, and south of the subject parcels are EFU (Exclusive Farm Use) zoned properties in agricultural use.
4. Soil Survey for Marion County, Oregon, indicates approximately 98.0% of the soils on the subject Tax Lots 600, 601 and 800 are classified as high value.
5. The applicants are proposing to adjust the property lines on a 2.28-acre parcel and a 323.07-acre parcel to create a 1.81-acre parcel and a 323.54-acre parcel. The adjusted property lines will make Tax Lot 800 primarily a residential property and Tax Lot 600/601 primarily farmland.
6. Various agencies were contacted about the proposal and given an opportunity to comment.

Marion County Building Inspection commented:

No Building Inspection concerns with proposed property line adjustments. If planned, permit(s) would be required to be obtained prior to development of structures and/or utilities installation on private property.

Marion County Septic commented:

We have reviewed the proposal for PLA24-042 and our comments are as follows: An existing system evaluation is required for 19101 River Rd NE to verify setbacks from the septic system to proposed property lines. A site

evaluation is required to establish a repair area on the proposed 1.18-acre parcel. The proposed 321-acre parcel is OK.

Marion County Surveyors Office commented:

- Properties 10 acres or less must be surveyed per ORS 92.060 (7) and the survey submitted for review.
- No survey required for properties greater than ten acres per ORS 92.060 (8).
- Survey checking fee required at the time of review.
- Property line adjustments shall be recorded with the Marion County Clerks Office per ORS 92.190 (4).

Marion County Assessor's Office provided information regarding taxes on the subject properties.

All contacted agencies either failed to comment or stated no objection to the proposal.

7. The criteria for reviewing lot line adjustments within an EFU zone are listed in Chapter 17.136.090(C) MCC. These criteria are as follows:

1. *When one or more lots or parcels subject to a proposed property line adjustment are larger than the minimum parcel size pursuant to subsection (A)(1) of this section, the same number of lots or parcels shall be as large or larger than the minimum parcel size after the adjustment. When all lots or parcels subject to the proposed adjustment are as large or larger than the minimum parcel size, no lot or parcel shall be reduced below the applicable minimum parcel size. If all lots or parcels are smaller than the minimum parcel size before the property line adjustment, the minimum parcel size pursuant to this section does not apply to those lots or parcels.*

One of the subject parcels is larger than the minimum parcel size, and one of the resulting parcels will be larger still. The criterion is met.

2. *If the minimum parcel size in subsection (A)(1) of this section is larger than 80 acres, and a lot or parcel subject to property line adjustment is smaller than the minimum parcel size but larger than 80 acres, the lot or parcel shall not be reduced in size through property line adjustment to less than 80 acres.*

The minimum parcel size has been determined to be 130 acres. No parcel is between 80 and 130 acres or is being reduced to below 80 acres. The criterion does not apply.

3. *Any property line adjustment shall result in a configuration of lots or parcels that are at least as suitable for commercial agriculture as were the parcels prior to the adjustment.*

The proposed property line adjustment will create a slightly larger parcel in agricultural use, and it will therefore be slightly more suitable for commercial agricultural practices. The PLA is being done to better orient tax lot 800 with its landscaping and eliminate farm lands that are on that parcel. The criterion is met.

4. *A property line adjustment may not be used to:*
  - a. *Decrease the size of a lot or parcel that, before the relocation or elimination of the common property line, is smaller than the minimum lot or parcel size for the applicable zone and contains an existing dwelling or is approved for the construction of a dwelling, if the abutting vacant tract would be increased to a size as large as or larger than the minimum tract size required to qualify the vacant tract for a dwelling;*
  - b. *Decrease the size of a lot or parcel that contains an existing dwelling or is approved for construction of a dwelling to a size smaller than the minimum lot or parcel size, if the abutting vacant tract would be increased to a size as large as or larger than the minimum tract size required to qualify the vacant tract for a dwelling;*

- c. *Allow an area of land used to qualify a tract for a dwelling based on an acreage standard to be used to qualify another tract for a dwelling if the land use approval would be based on an acreage standard; or*
- d. *Adjust a property line that resulted from a subdivision or partition authorized by a Measure 49 waiver so that any lawfully established unit of land affected by the property line adjustment is larger than the size granted by the waiver.*

Both parcels contain dwellings and neither dwelling is being located on a different parcel. Additionally, no parcels are being increased to a size that would qualify them for an additional dwelling. This criterion does not apply.

- 5. *Any property line adjustment that results in an existing dwelling being located on a different parcel shall not be subject to the standards in MCC 17.136.030(A) so long as the adjustment:*
  - a. *Does not increase any adverse impacts on the continued practice of commercial agriculture on the resulting parcels;*
  - b. *Does not increase the potential number of dwellings on the resulting parcels.*

No dwellings will be located on different parcels as a result of the proposed property line adjustment. This criterion does not apply.

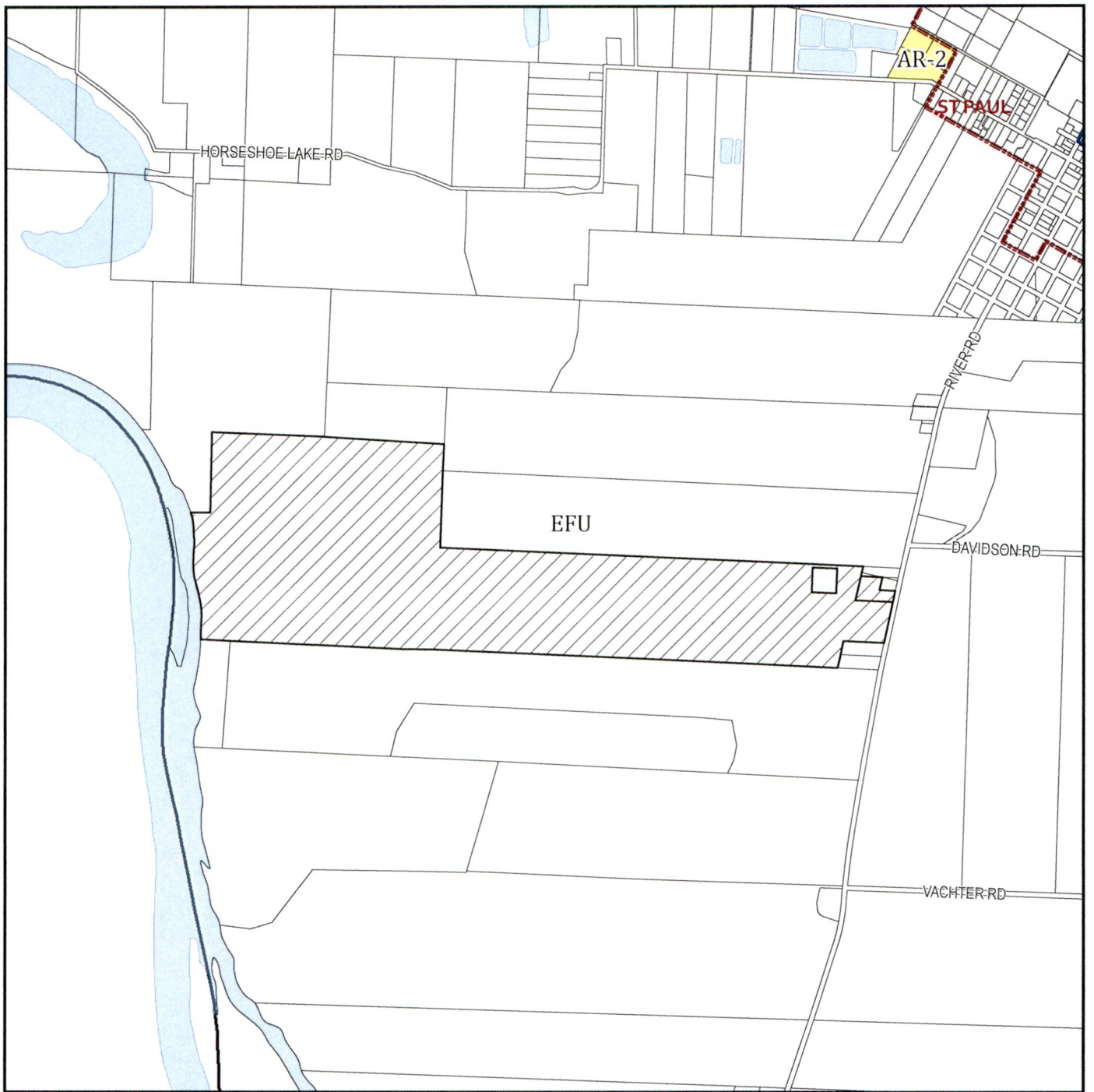
- 8. Under MCC 17.172.120(E) Property line adjustment deeds shall be recorded with the Marion County clerk's office prior to submitting the property line adjustment survey, if a survey is required. Deed recording reference numbers shall be noted on the required survey.
- 9. The resulting lots shall significantly conform to the site plan submitted with the proposal. Minor variations are permitted upon review and approval of the Planning Director.
- 10. Based on the above findings, the applicants' proposal meets the criteria for a property line adjustment in an EFU zone. The property line adjustment request is, therefore, **APPROVED**.

Brandon Reich  
Planning Director/Zoning Administrator

Date: November 21<sup>st</sup>, 2024

If you have any questions regarding this decision contact Gillian Peden at (503) 566-4165

Notice to Mortgagee, Lienholder, Vendor or Seller: ORS Chapter 215 requires that if you receive this Notice, it must promptly be forwarded to the purchaser.



## ZONING MAP


**Input Taxlot(s):** 042W300000600, 042W300000800

**Owner Name:** ANNETTE SMITH RESIDUARY TR  
 JEROME J SMITH SURVIVORS TR C/O  
 JERRY SMITH

**Situs Address:** 19101 RIVER RD NE  
**City/State/Zip:** SAINT PAUL, OR, 97137

**Land Use Zone:** EFU  
**School District:** ST PAUL  
**Fire District:** ST PAUL

### Legend

-  Input Taxlots
-  Lakes & Rivers
-  Highways
-  Cities



scale: 1 in = 1,757 ft

**DISCLAIMER:** This map was produced from Marion County Assessor's geographic database. This database is maintained for assessment purposes only. The data provided hereon may be inaccurate or out of date and any person or entity who relies on this information for any purpose whatsoever does so solely at his or her own risk. In no way does Marion County warrant the accuracy, reliability, scale or timeliness of any data provided on this map.