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AUG 15 2019

Marion County
Planning

Raymond & Sarah Thies
11334 Summit Loop SE
Turner, OR 97392

August 15, 2019

Marion County Public Works
Hearings Officer
5155 Silverton Rd. NE
Salem, OR 97305

Re: Conditional Use 19-024/Jupiter Pharma, Inc.

I am writing this letter to express my strong opposition to the consideration that is being given to Jupiter Pharma's request for "conditional use" of the EFU zoned property located on Parrish Gap Rd SE in Turner, Oregon.

Jupiter Pharma, LLC, is not a farm and they are not farmers. The property zoning of Exclusive Farm Use applies to this property. This begs the question, why then, would a pharmaceutical manufacturing company be trying to purchase farm land in Marion County, Oregon, for their large processing facility? The processing facility will be the largest of its kind in all of the Willamette Valley but what could be the reason that they are choosing to buy EFU land for it? Could it be because agricultural buildings have less building code restrictions when it comes to construction and safety? Is it possible that the cost of fire suppression systems and the cost to build the same type of facility in an Industrial area will cost them more money so they are trying to skirt the industrial building codes of Oregon to save themselves a significant amount of money? Or could it be the comparative low cost of the land versus industrial zoned land? These are all very important questions that should be examined. It's obvious that it is worth the time and attorney fees for them to pursue this route, rather than build the facility in the area that it categorically falls under, INDUSTRIAL USE.

There is no shortage of available Industrial Zoned properties in Marion County, Oregon, and I am suspicious that the company is only trying to save money at the expense of the Turner farm community. The property values will drop because nobody wishes to live next to a processing facility. Do you see people clamoring to purchase homes on the same block as NORPAC?

The concerns involving the roads in the area were addressed very well in the recent hearing. The amount of traffic that will be brought to the area is being underplayed by Jupiter Pharma, LLC. I believe they stated that around 150+ large trucks will be arriving to drop off loads of hemp to be dried and processed. That means that the 150+ large trucks will also be leaving the facility during their peak processing months. How is the commercial product (cbd oil) going to leave the facility? No

transportation numbers were presented for that. What will happen with the waste products? Do they intend to ship the waste out or dispose of it onsite? Will any hemp by-products be absorbed into the ground and what will be the effect on the surrounding farm land be? The farm land on this section of Parrish Gap Rd SE often has high water on the east end of the property and it appears swampy and flooded during the winter months, I have observed this because I drive Parrish Gap every day to work and back home. This flooding will occur as it always does. Lastly, fog is also an issue during the late September into November, which includes the expected "busy" delivery time so it is something to consider in addition to the low amount of daylight hours and the dangerous road conditions.

Jupiter Pharma is a corporation. They are going to build an industrial processing facility. They will be creating a commercial product and shipping that product from their facility. They are no different from NORPAC or any other processing plant.

In closing, I ask for you to please, thoughtfully consider why EFU zoning requirements were established for this area and specifically, what it is that they protect. I urge you to stand up for our existing zoning laws that are in place.

Thank you.

Kind Regards,

Raymond and Sarah Thies

Thies111@frontier.com

(503) 743-4578

**BEFORE THE HEARINGS OFFICER
OF AND FOR MARION COUNTY, OREGON**

In the Matter of an Application for a Conditional Use	}	
submitted by Jupiter Pharma, Inc. (the "Applicant"),	}	CU 19-024
on Property located at 8710 Parrish Gap Road SE,	}	
Turner, Marion County, Oregon, and owned by	}	Supplemental
Ronald W. Bell and Rosemary G. Bell,	}	Testimony of
Trustees of the Ron and Rosemary Bell Trust	}	Ron Johnson
	}	

Supplemental Testimony

1. The following testimony supplements and is in addition to that certain testimony dated August 9, 2019, submitted in the above-entitled matter by Ron Johnson whose mailing address is Post Office Box 1205, Turner, OR 97392 and whose residence is located at 12123 Summit Loop SE, Turner, OR 97392.
2. The undersigned has established standing in this matter and has requested a copy of the matter's decision be mailed to him at the mailing address given above.

**The Decision-Maker is Urged to take Notice of the Following
Standards and Requirements for the Purpose of Determining and
Contextually Evaluating the Scale and Scope of the Proposed Use**

3. If this matter's application had been submitted for review, evaluation and decision pursuant to the standards and requirements of the County's Rural Commercial Zoning District (Marion County Code (MCC) 17.145), the application would be denied. "New permitted and conditional uses may be established up to a maximum of 3,500 square feet of floor area." MCC 17.145.050 (A). This matter's Applicant is proposing to develop and operate a facility with about

1 102,944 square feet of floor area, nearly 30 times larger than would be allowed if
2 the proposed use was to be in a Rural Commercial Zoning District.

3 4. If this matter's application had been submitted for review, evaluation and decision
4 pursuant to the standards and requirements of the County's Rural Industrial
5 Zoning District (MCC 17.165), the application would be denied. "New permitted
6 and conditional uses may be established up to a maximum of 35,000 square feet of
7 floor area." MCC 17.165.050 (A). This matter's Applicant is proposing to
8 develop and operate a facility with about 102,944 square feet of floor area, nearly
9 3 times larger than would be allowed if the proposed use was to be in a Rural
10 Industrial Zoning District.

11 5. This matter's application can, accordingly, only be reviewed, evaluated and
12 decided as a Conditional Use in an Exclusive Farm Use (EFU) Zoning District
13 provided it proves with a preponderance of evidence that it is a "Commercial
14 activit[y] in conjunction with a farm use." MCC 17.136.060 (D). The Applicant
15 is then obliged to prove, in addition to other applicable standards and
16 requirements, that the nature, degree and extent of the adverse impacts likely to
17 result from the development and operation of its proposed non-farm use will not
18 necessitate applying more restrictive criteria to ensure adverse impacts are not
19 created. MCC 17.136.010. The Applicant's submissions and representations
20 have not proven that more restrictive criteria are not necessary to ensure no
21 adverse impacts are created by the use and operation of its proposed facility.

**The Applicant's Proposed Commercial Activity is not (A)
Proportional to or Commensurate with the Nature and Type of
Existing Development surrounding the Proposed Use or (B)
Basically Similar in any Reasonable Manner or Form to Uses
otherwise permitted in the County's EFU Zoning District**

6. The legislative authority that permits commercial activities in conjunction with farm uses is purposefully expansive. The authority's purpose allows local governments to decide specifically what any such "commercial activities" might be and to have the regulatory capability to ensure the activity's "size and capacity must be proportional or commensurate to the existing level of dedication of land in that immediate area to the crop for which the [activity] is suited." *Craven v. Jackson County*, 308 Or 281, 779 P.2d 1011, 1014 (1989).

The Applicant may argue that more restrictive criteria are not necessary because its proposed commercial activity is effectively allowed by virtue of its conjunctive link to a farm use¹. Notwithstanding the proposed use's relationship

¹ The facts and circumstances of this matter's application distinguish it from the relatively small-scale fruit processing facility for which a conditional use was permitted by Polk County and affirmed by LUBA as a "commercial activity in conjunction with a farm use." *Hiebenthal v. Polk County*, 45 Or LUBA 297 (2003). In *Hiebenthal*, the "local agricultural community" consisted of small-scale fruit growers who had a limited or non-existent market for their fruit without the proposed processing facility.

In this matter, the Applicant states that its facility's services will be offered to "farmers in the State of Oregon," rather than limiting those services to the surrounding area which is the "local agricultural community." This matter's Applicant has also not shown the "enterprises" of the hemp growers in the proposed use's local agricultural community will be "enhanced" by the proposed facility's development and operation. More and other processing facilities are available to the local community's hemp growers. Asserting that the proposed facility's development and operation would "enhance" these local hemp growers is speculative and unsupported. Finally, a condition of approval for the use affirmed in *Hiebenthal* required the facility operator to also establish its own agricultural production in order to demonstrate that "agricultural and commercial activities [are] occurring together in the local community." Ref. MCC 17.136.060 (D). This matter's Applicant has not represented that it will produce any of the farm crops that will be processed in its facility.

This matter's Application further fails to include evidence establishing the quantity of products that might be expected to be delivered by the proposed facility, or the dollar amount of sales likely to be generated

1 to a farm use, the Applicant's proposal fails to consider and examine, with any
2 reasonable depth or detail, any foreseeable, plausible effects that its processing
3 facility will have on the surrounding area's land use pattern and farming uses and
4 practices.

5 All existing and likely future land uses and practices in the surrounding
6 area are not "zoned EFU and in farm use," as represented by the Applicant. Most
7 significant, the scale and scope of the proposed facility is not proportional with or
8 commensurate to the surrounding area's existing and likely future development
9 and land use pattern.

10 In sum, this matter's application must be reviewed, evaluated and decided
11 by applying "more restrictive criteria ... to ensure adverse impacts are not
12 created." MC 17.136.010.

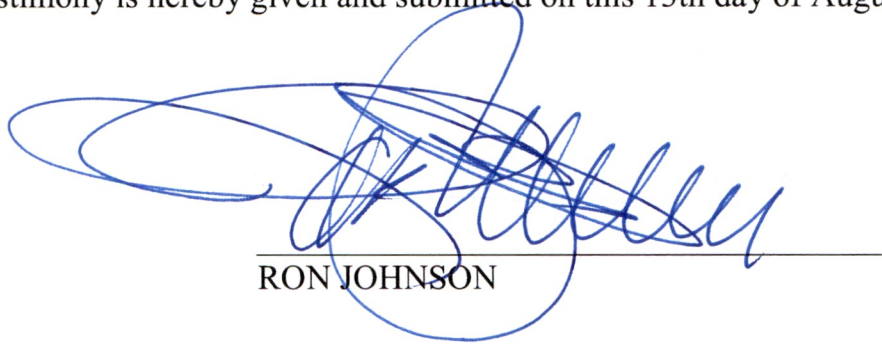
13 Summary

- 14 7. The undersigned reasserts that the Applicant has failed to prove with a
15 preponderance of credible evidence, that it can or will satisfy the requirements and
16 conditions necessary for the approval and issuance of a Conditional Use Permit that
17 would allow the industrial facility it is proposing to develop and operate. The
18 Hearings Officer is urged therefore to either CONTINUE this matter's processing

by the services to be provided by the proposed facility, to farm uses within the local agricultural community. Absent such evidence, the proposed use will not, as a matter of law, be a commercial activity in conjunction with farm use. *Chauncey v. Multnomah County*, 23 Or LUBA 599 (1992). Even if a commercial activity sells primarily to farm uses, it is not a "commercial activity * * * in conjunction with farm use" unless the products and services provided are "essential to the practice of agriculture." *City of Sandy v. Clackamas County*, 28 Or LUBA 316 (1994).

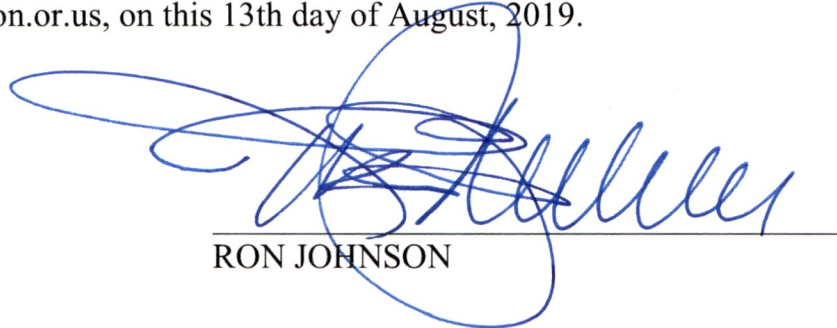
1 until a date certain on or before which the Applicant must have submitted any and
2 all information and evidence required to evaluate the Applicant's request or, in the
3 alternative, DENY the Applicant's Conditional Use Application identified as Marion
4 County Case File CU 19-024.

5 This Supplemental Testimony is hereby given and submitted on this 13th day of August,
6 2019.

7 
8 _____
RON JOHNSON

9 **CERTIFICATE OF MAILING**

10 I hereby certify that I submitted the foregoing to SETH THOMPSON of and for the
11 MARION COUNTY PLANNING DIVISION, 5155 Silverton Road NE, Salem,
12 Oregon 97305 by first class mail, postage prepaid, and by electronic mail to
13 slthompson@co.marion.or.us, on this 13th day of August, 2019.

14 
15 _____
RON JOHNSON

AUG 15 2019

Marion County
Planning

Seth Thompson - hemp processing facility

From: Joe Van Den Haak <outlook_9FFA808F5684ADDA@outlook.com>
To: "slthompson@co.marion.or.us" <slthompson@co.marion.or.us>
Date: 8/14/2019 3:00 PM
Subject: hemp processing facility

Sent from Mail for Windows 10

I am opposed to the proposed hemp processing facility.

Joe Van Den Haak

This message has been scanned for virus content by Symantec Anti-Virus, and is believed to be clean.
Viruses are often contained in attachments - Email with specific attachment types are automatically deleted.
If you need to receive one of these attachments contact Marion County IT for assistance.

AUG 15 2019

Marion County
Planning

Seth Thompson - Hemp processing facility.

From: Cyndi Thrapp <cyndithrapp@gmail.com>
To: <slthompson@co.marion.or.us>
Date: 8/15/2019 10:43 AM
Subject: Hemp processing facility.

If this company is bringing jobs for citizens of the area then I fully support the facility!

Cynthia Thrapp
5730 Delaney Rd SE
Turner

This message has been scanned for virus content by Symantec Anti-Virus, and is believed to be clean.
Viruses are often contained in attachments - Email with specific attachment types are automatically deleted.
If you need to receive one of these attachments contact Marion County IT for assistance.

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AUG 15 2019

Marion County
Planning



August 14, 2019

Via hand delivery

Hearings Officer
Marion County Planning Division
5155 Silverton Rd NE
Salem, OR 97305

Re: Hearing Testimony for Conditional Use Application 19-024

Please accept the following testimony on behalf of 1000 Friends of Oregon for the Conditional Use Application 19-024, an application by Jupiter Pharma for an industrial hemp processing facility on a 37-acre tract of land owned by the Rosemary Bell Trust, located at 8710 Parrish Gap Rd. SE, Turner, Oregon 97392 (TRS 8S 2W 31).

1000 Friends of Oregon is a non-profit organization founded by Governor Tom McCall shortly after the Legislature passed Senate Bill 100, which created the land use planning rules that shape Oregon's communities. Since its founding in 1975, 1000 Friends has served Oregon by defending Oregon's land use system—a system of rules that creates livable communities, protects family farms and forestlands, and conserves the natural resources and scenic areas that make Oregon such an extraordinary place to live. 1000 Friends accomplishes this mission by monitoring local and statewide land use issues, like the current application, enforcing state land use laws, and working with state agencies and the Legislature to uphold the integrity of the land use system.

Jupiter Pharma's processing facility is an industrial use that is best sited in an industrial zone

Based on the size of the proposed structures, the applicant proposes an industrial use. The applicant seeks approval for an industrial hemp processing facility with 87,000 square feet of building space and what appears to be a similar amount of space for employee parking, truck parking, and loading and unloading. The applicant's proposed industrial use will cause many conflicts with nearby resource and residential lands. Approval of such a large-scale industrial processing facility on agricultural land, when alternative sites zoned for industrial use are available nearby, conflicts with the state and county policy of preserving farmland for agriculture.

Given the large scale of the proposed processing, and the extent of the geographic area from which Jupiter expects to obtain hemp, the proposal is not the type of processing facility that can or should be sited on farm land in the EFU zone. The proposal is best sited on available industrial land within the County where it would benefit from transportation and utility services designed to meet the needs of an industrial business. For those reasons, and as explained in greater detail below, Jupiter Pharma's proposal is not consistent with the state and local law.

Jupiter Pharma provided incomplete information about its proposed industrial processing facility

The application is woefully incomplete and fails to provide some of the most basic details about the proposed operation. Without key information that describes the scope and scale of the proposed storage, drying, and processing of hemp, the County has no basis to evaluate, much less approve, the applicant's proposed industrial hemp processing facility.

The applicant leaves unanswered one of the most fundamental and basic questions about its proposed processing facility: "What will the facility produce?" The applicant fails to describe how it proposes to process hemp or what product will result from that process. Hemp can be processed to extract a variety of products, from hemp oil, to hemp seed, to hemp fiber. Each of these different end products requires different mechanical and chemical treatments. Without an explicit statement about how much hemp the applicant intends to process, what it intends to produce, and how much end product will result, the County cannot adequately evaluate the impacts of the industrial process on surrounding uses or the environment. Without knowing the end product or amount of material to be processed, the County also has no way of determining what conditions of approval will be required to comply with statute or local code.

In its application, the applicant appears to go out of its way to describe the proposed industrial use in generic terms. The applicant states that it will "process and store industrial hemp," that "the processed material will be filtered, collected, and bagged," and that it will "ensure the highest quality of hemp products." The application also alludes to the "extraction of hemp biomass." These descriptions indicate that multiple products may be produced and that hemp will be processed, extracted, filtered, collected, and bagged. The applicant completely fails to provide a common sense narrative description of how the hemp will be processed, what inputs, machinery, or processes are involved, and what product or products, by-products, or waste products that process will produce. Without that information, the County is unable to appropriately apply provisions of state law or local code. For that reason, the applicant has failed to meet its burden.

Although the staff report appears to assume that the applicant proposes to extract hemp oil and only hemp oil, the application does not support that conclusion. Notably, the word oil does not appear in the application. Based on the descriptions provided by the applicant, it is not clear whether the applicant intends to produce hemp fiber, paper, seeds, hemp oil, or all of the above. The conditional use approval process does not allow the County to approve the generic “processing” of a farm crop and allow the applicant to work out the details later.

Depending on the product, the mechanical and chemical methods of processing hemp result in different impacts. The applicant has the burden of describing the process, its inputs and outputs, and the scale of the proposed operation. Any of those details may trigger legal requirements that result in additional conditions of approval. The applicant cannot leave the County and the public in the dark, guessing at what additional legal requirements may apply to the applicant’s industrial processing facility.

For example, a recent decision in Jackson County described the process for a much smaller “ethanol processing of industrial hemp” under ORS 215.283(1)(r). In that case, the initial application included “only a sparse description of the actual ethanol process that would be used,” to produce CBD oil. After the staff requested additional information, the applicant submitted a more thorough description of the ethanol process, described how the solvent evaporation would be used to extract CBD oil, and provided specifications of the equipment they would use. Those details yielded information about the size and scale of the operation—including the size of holding tanks, reactor vessels, and storage tanks—and its potential impacts. The process used “highly volatile ethanol,” and the county required the applicant to provide sufficiently detailed information about the processing method and information about “how the hazardous materials on site would be managed.” Those details informed the application of the county’s code provisions related to water, the fire and building code, and the code’s application of the farm impacts test from ORS 215.296. In contrast, Jupiter Pharma has provided no information about what processes will occur at its proposed industrial facility.

Jupiter’s analysis of the impacts of the industrial processing facility is inadequate

In the Jackson County application, one issue that came up was that hemp processing could not use irrigation water or water from an exempt well intended for residential use. The applicant in that case needed to demonstrate that it had a valid source of water for the proposed use, which included water tanks to charge the sprinkler system. Any water used for the processing, whether for the process itself, cleaning of equipment, or safety had could not come

from irrigation water or an exempt well for residential use. The same criteria apply in this case. Jupiter Pharma has failed to explain where it will obtain its water, or whether adequate water is available. The property is located in the Sensitive Groundwater Overlay zone, and the County must ensure that Jupiter's proposed industrial use meets the applicable requirements of the zone.

Although Jupiter Pharma makes a number of assertions about the potential impacts of the proposed industrial hemp processing on the surrounding uses (MCC 17.136.060(A)), the applicant fails to provide any evidence to support those claims. For example, the applicant asserts that "water use will be limited to employee use of restrooms and cleaning of machinery and equipment," and that "the Processing Facility will not store any 'Hazardous Materials.'" Without explaining how the hemp will be processed the applicant fails to provide evidence to support those assertions. In addition to explaining the inputs and outputs of the facility, the applicant must explain what chemicals will be stored on site, and how they will be used.

The application fails to provide key evidence about the potential scale of the industrial operation, which should inform the County's analysis of impacts and conditions of approval. The applicant does not explain how much hemp that facility will be able to process or how many employees or shifts the facility can accommodate. The applicant must provide this information so that the County can evaluate the impacts of on-site operations of the industrial facility, trucking and other traffic to and from the facility, water use, and any by-products or waste products of the process.

Even considering the limited information provided by Jupiter, the conditions of approval are inadequate

Where the applicant does provide information about the process, the staff report fails to ensure adequate conditions of approval to ensure impacts are mitigated. For example, the applicant states that "an air filter will block anything larger than a 10 micron particle from entering the air, and that the Processing Facility will not emit pollen." The staff report fails to ensure that the applicant will actually implement this mitigation measure, because the report does not include the appropriate condition of approval.

Even if the report required the applicant to adhere to its proposed mitigation, the applicant's statements about the potential to emit pollen appear inaccurate. The applicant overlooks the fact that it proposes a number of outside drying areas, where hemp is left out in the open and will presumably emit pollen and particles. The facility also requires hemp to be trucked to and from the site and involves loading and unloading trucks, all of which will expose hemp to

the air and could cross pollinate other nearby farms and farms along the trucking routes. The impacts from the handling of hemp must be considered and addressed.

Jupiter's proposal for an industrial processing facility on EFU land does not comply with the Comprehensive Plan

The processing facility includes the 12,000 square foot processing building and a number of other buildings necessary for the hemp processing operation, including the 6,000 square foot administrative building, the 50,000 square foot storage building, the 4,800 square foot motorpool building, and the 15,000 square foot building for drying hemp. The proposed hemp processing facility and the proposed operations are industrial in scale.

Certain provisions of the Comprehensive Plan apply directly to the applicant's proposed industrial facility. First, when reviewing conditional use applications, "[t]he director shall decide whether to approve or deny the conditional use based on the Marion County Comprehensive Plan...." MCC 17.119.110. Next, the Comprehensive Plan itself states that its "[g]oals, policies, objectives, standards and guidelines are implemented with the County reviews individual land use actions," and "[t]o determine whether a specific land use proposal is appropriate, a decision must be made of the applicability of each goal, policy, standard or guideline." Comp Plan, Introduction, Using the Plan. The applicant's proposal to site an industrial hemp processing facility is inconsistent with a number of the goals and policies of the Comprehensive Plan. See *Von Lubken v. Hood River County*, 104 Or App 683, 803 P2d 750, 753 (1990); *Von Lubken v. Hood River County*, ___ Or LUBA ___ (LUBA No 90-031, Opinion, June 27, 1990).

The applicant's proposed industrial hemp processing facility fits within the County's description of industrial development. "This development ranges from farm- and forest-related operations such as farm products processing and lumber mills to non-resource-related businesses...." Comp Plan, Goals and Policies, Rural Development, Rural Industrial. The same provisions recognize that "[i]ndustrial uses operated in conjunction with farm use... are recognized as a legitimate need." *Id.* However, the Plan's rural industrial policies require that "[i]ndustrial uses in conjunction with farm or forest uses shall be evaluated to determine if they need to be located on resource lands or whether an equally suitable location is available in an urban area or non-resource lands in a rural area." Rural Industrial Policies 1.

The plan directs rural industrial facilities near Salem to the State Street area east of Salem or the Brooks area north of Salem. "Other locations near Salem should be allowed only if it can be shown that sites are not available at the Brooks or State Street Rural Industrial areas. Both of

these sites are located closer to Gervais, Woodburn, and St. Paul than then subject property. Allowing the applicant to site an industrial hemp processing facility on EFU land without first determining that there is no equally suitable location on non-resource lands is inconsistent with the Comprehensive Plan and violates Rural Industrial Policy 1.

The Plan states that “[r]ural industrial [and] commercial ... uses should be limited primarily to those activities that are best suited to a rural location and are compatible with existing rural developments and agricultural goals and policies.” Comp Plan, Rural Development, Introduction Policy 3. The County’s Rural Industrial Policy 2 states that rural industrial uses “should be compatible with existing development and farm or forest uses in the vicinity, should not involve a large number of employees, should not require heavy truck traffic through residential areas or on unimproved roads, and should not have the potential to exceed the environmental capacity of the site or require urban services.” The applicant’s failure to provide a complete description of the proposed industrial facility makes it impossible to determine whether the proposal complies with all of the criteria in Rural Industrial Policy 2. The proposal does not appear compatible surrounding farm uses and would direct truck traffic through residential areas.

Jupiter fails to demonstrate that the industrial hemp facility is “in conjunction farm use,” which must serve the local agricultural community

To qualify as “commercial activity in conjunction with farm use,” the applicant must demonstrate that the processing facility is “in conjunction with farm use.” ORS 215.283(2)(a). To be “in conjunction with farm use” the applicant must demonstrate that commercial activity “enhance[s] the farming enterprises of the local agricultural community to which the EFU land hosting that commercial activity relates.” *Craven v. Jackson County*, 308 Or 281, 770 P2d 1011, 1015 (1989). “The agricultural and commercial activities must occur together in the local community to satisfy the statute.” *Id.* In this case, the applicant has failed to meet its evidentiary burden, and the staff report attempts to define the local agricultural community too broadly.

The applicant’s failure to adequately describe its proposal limits its ability demonstrate compliance with the “in conjunction with” requirement. Jupiter Pharma does not describe its relationship to the 476 acres of “Crop Site,” the farmers who grow on that acreage, where that site or sites are located, or whether that acreage is currently in hemp production. The applicant does not describe its relationship to farmers in “Gervais, Woodburn, and St. Paul,” and whether farms near those towns constitute the Crop Site. In its description of whether the industrial facility will “occur together [with the farm use] in the local community,” the applicant simply states that “the hemp will be grown in Marion County, Oregon.” The staff report implies that

hemp will be brought in from a much larger area, including the entire state. The applicant fails to adequately describe the agricultural community that the processing facility will serve.

The applicant does not describe the acreage currently under industrial hemp production within the County, the extent to which other hemp processing facilities already serve those acres, or the market for hemp processing in the local area, the County, or the state. That context is necessary to define the local agricultural community in this case. The evidence shows that Marion County already has a number of hemp processing facilities. It is not clear what effect that the applicant's proposed facility will have on those existing processors or the existing hemp farming and processing enterprises. Without that information, the County cannot determine whether the industrial processing facility will "enhance" farming enterprises, much less enhance those of the *local* community.

For its part, the staff report fails to define the "local community." MCC 17.136.060(D). The report fails to propose a condition of approval that limits the scope of the facility to serving the local community as opposed to a broader area of the county, state, or region. Instead, the report states that the applicant proposes to process "hemp ... grown in Marion County and the state of Oregon." Such a broad interpretation of the phrase "local community" in the code does not comply with the statute.

Jupiter failed to apply the farm impacts test required by ORS 215.296(1)

In addition to the Comprehensive Plan requirements, the applicant has an affirmative duty to demonstrate that the proposed industrial processing facility will not "force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use," or "significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use." ORS 215.296(1); *Stop the Dump Coalition v. Yamhill County*, 364 Or 432, 435 P3d 698 (2019). Jupiter Pharma's failure to provide a complete description of its proposed industrial operations prevents its compliance with the farm impacts test. ORS 215.296(1).

The farm impacts test requires the applicant "to prove that the proposed nonfarm use (1) will not force a significant change in the accepted farm practice *and* (2) will not significantly increase the cost of that practice." *Stop the Dump Coalition*, 435 P3d 698, 712. "A 'significant' change or increase in cost is one that will have an important influence or effect on the farm." *Id.* The statute requires the applicant to apply the test, "practice by practice and farm by farm" on the surrounding lands and "then to changes or cost increases considered in the aggregate." *Id.*;

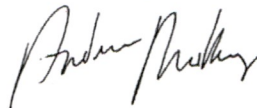
See also, Currie v. Douglas County, ___ Or LUBA ___ (LUBA No 2019-033, Opinion, June 25, 2019). The applicant has not even attempted to evaluate the impacts on a “practice by practice” or “farm by farm” basis, and the parcel specific information does not appear in the record.

At minimum the applicant must provide a complete description of its proposed operations and describe the nearby farm uses. *Currie*, (LUBA No 2019-033, Opinion, June 25, 2019) (slip op at 36-37). Notably, “a lack of objection from neighboring farm and forest uses” or the “the acquiescence of neighbors is not a relevant standard.” *Id.* at 38. And, the County “may not limit its consideration to accepted farm practices on commercial farms.” *Turner Community Association v. Marion County*, ___ Or LUBA ___ (LUBA No 99-024, Opinion, Dec 16, 1999) (Slip op at 17-18).

Jupiter has failed to meet its burden or comply with state and local law

The applicant cannot obtain approval now and figure out the details of its industrial hemp processing facility later. The application is incomplete, and the applicant has failed to address a number of important legal criteria that are intended to protect and preserve productive farmland in Marion County. For that reason, 1000 Friends of Oregon requests that the Hearings Official deny Jupiter Pharma’s request for a conditional use permit.

Respectfully,



Andrew Mulkey
1000 Friends of Oregon
Rural Lands Staff Attorney
(503) 497-1000x138
andrew@friends.org

cc via email:
SLThompson@co.marion.or.us

Ed & Shelly Jackson 12565 Parrish Gap Rd. Turner, OR 97392
[ph # 5] 503-881-6132 (ED) & 503-881-6133 (Shelly)

Jupiter Pharma Inc Hemp Farm Processing plant

My family has had property on Parrish Gap for over 45 years, in general traffic flows about 60 to 70 MPH on most of Parrish Gap Rd. I would identify it as a very hazardous Road to travel, two major accidents in front of our house alone in the past 7 years. A resident less than 1 mile from proposed site has had vehicles tear thru the road side fencing three times within a two year period.

The 3 mile stretch of Parrish Gap Rd in which Jupiter Pharma Inc plans to develop has a few unique characteristic;

1st of which is a sharp turn from Delaney turning 120* back on itself to Parrish Gap Rd on a 15* downgrade turn. The roadway on Delaney is approximately a 60 foot usable easement from side to side, the usable easement on Parrish Gap Rd is approximately 40 feet at that entry point. This could cause traffic problems and back up of traffic, it is my opinion that a 40 to 60 foot Tractor trailer could NOT negotiate this turn. I would like to see the data to support that this would not cause a problem.

2nd of which is a sharp turn on Parrish Gap Rd heading northwesterly at a 90* turn, while the usable easement is approximately 35 to 40 foot from side to side. Again causing potential traffic problems. More data would need to be seen.

3rd the road from the proposed site to Delaney has a useable easement of approximately 35 to 40 feet from side to side, the shoulder of the roadway is 12 to 14 inches then a drop-off of 20 to 30 inches. This is a potential hazard to the environment, due to the possible rollover of a truck spilling diesel fuel into an agriculture area.

The impact on the roadway itself is outrageous; consider the recent suit of the Gervis Farm contract said to be 950 acres and yielding some 2 million tons of product. Just this farm alone would impact the road integrity as follows;

*using a 40 foot semi tractor trailer to move that product it would take 133,333 trips to complete the contract.

*using a 30 foot Box truck it would take 400,000 trips to complete the contract.

How many other contracts do they have, and to what size are the fields? Jupiter Pharma Inc also indicated the availability to provide drying service to other farmers to what volume of product? And the traffic added to the already proposed high load.

The permit identifies that Jupiter Pharma Inc would be responsible to preserve and protect the current Pavement Condition Index during transport of materials and construction activities, my concern would be the additional increase of traffic on the roadway after construction during the general use of the facility.

Several alternative sites are available for this project;

1. 8935 Marion Rd a 65 acre site south of Turner asking price of 800,000 and may not require any additional requirements of right of ways.
2. Coates Dr SE a 42 acre site southeast of Salem asking price of 850,000.

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Marion County Public Works: Restrictions on Oversize/ Overweight Vehicles and Combinations



12/6/2018
Prepared by: C. Olson
Project: U:\GIS\Projects\PublicWorks\Engineering\Transportation\Restrictions\RestrictionsMap\RestrictionsMap_2018.mxd

Refer to ORS for general restrictions on size and weight

Overwidth/Overheight: Any vehicle or combination of vehicles over 8 feet 6 inches wide or 14 feet high shall obtain a permit to travel on any Marion County Road.

MARION COUNTY SPECIALIZED
HAULING VEHICLES
(SHV) Bridge Postings

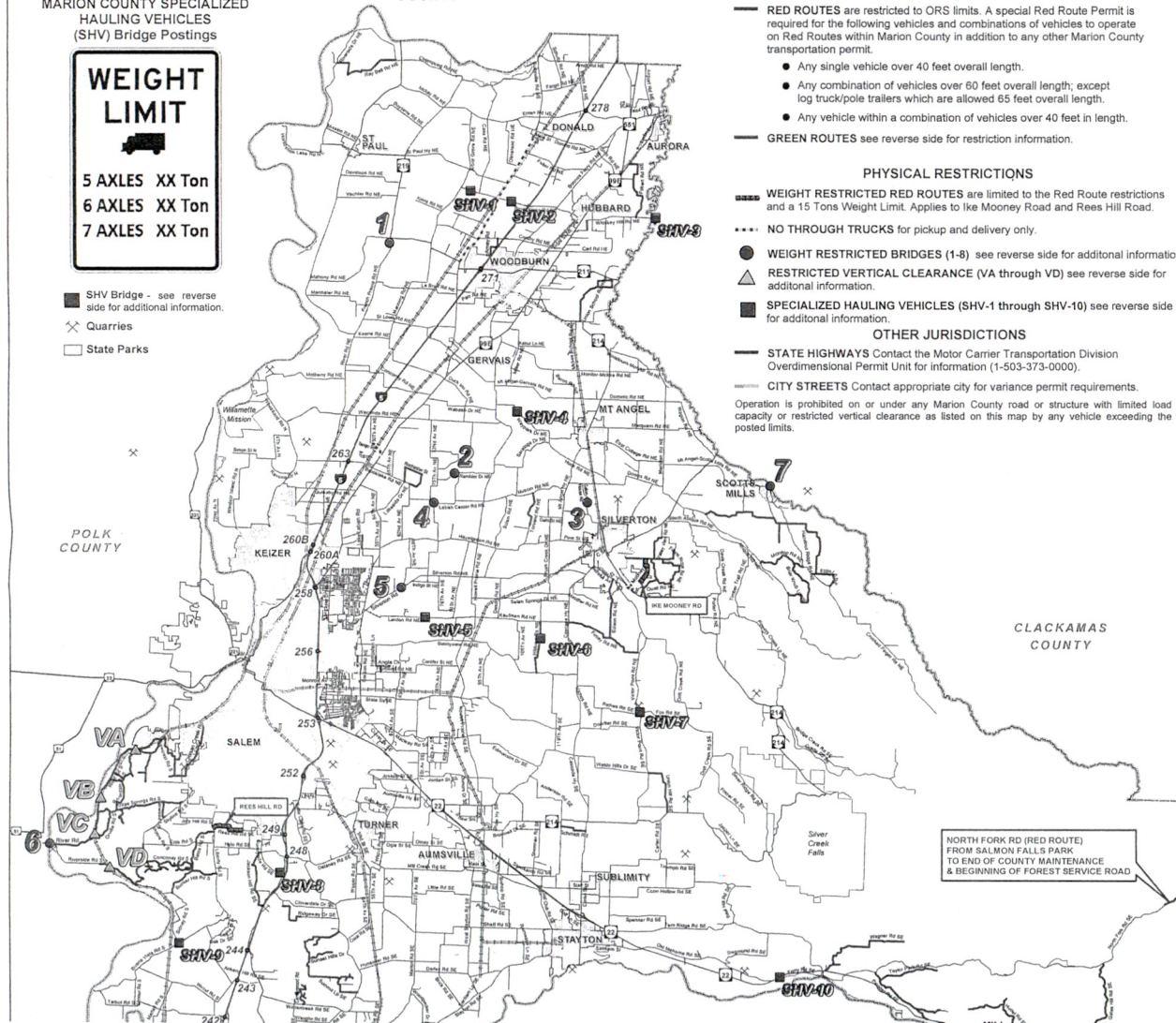
**WEIGHT
LIMIT**



5 AXLES XX Ton
6 AXLES XX Ton
7 AXLES XX Ton

- SHV Bridge - see reverse side for additional information.
- ✕ Quarries
- State Parks

YAMHILL
COUNTY



WEIGHT AND LENGTH RESTRICTIONS

RED ROUTES are restricted to ORS limits. A special Red Route Permit is required for the following vehicles and combinations of vehicles to operate on Red Routes within Marion County in addition to any other Marion County transportation permit.

- Any single vehicle over 40 feet overall length.
- Any combination of vehicles over 60 feet overall length; except log truck/pole trailers which are allowed 65 feet overall length.
- Any vehicle within a combination of vehicles over 40 feet in length.

GREEN ROUTES see reverse side for restriction information.

PHYSICAL RESTRICTIONS

WEIGHT RESTRICTED RED ROUTES are limited to the Red Route restrictions and a 15 Tons Weight Limit. Applies to like Mooney Road and Rees Hill Road.

NO THROUGH TRUCKS for pickup and delivery only.

WEIGHT RESTRICTED BRIDGES (1-8) see reverse side for additional information.

RESTRICTED VERTICAL CLEARANCE (VA through VD) see reverse side for additional information.

SPECIALIZED HAULING VEHICLES (SHV-1 through SHV-10) see reverse side for additional information.

OTHER JURISDICTIONS

STATE HIGHWAYS Contact the Motor Carrier Transportation Division Overdimensional Permit Unit for information (1-503-373-0000).

CITY STREETS Contact appropriate city for variance permit requirements.

Operation is prohibited on or under any Marion County road or structure with limited load capacity or restricted vertical clearance as listed on this map by any vehicle exceeding the posted limits.

NORTH FORK RD (RED ROUTE)
FROM SALMON FALLS PARK
TO END OF COUNTY MAINTENANCE
& BEGINNING OF FOREST SERVICE ROAD

Seth,

My wife and I chose to live in this area because of the small local schools and a quiet farming community. We live on Maranatha Ct which overlooks this proposed Processing Facility. So, yes, our property value will decrease if this conditional use is passed. We live by the Church on the Hill, which has added a High School, so we will have to deal with a bigger traffic issue. We will have many more vehicles to deal with on Enchanted Way and Delaney Rd with the increase in cars coming and going from the Church along with adding Semi-trucks and trailers to the mix. Delaney is a very narrow and winding road with no passing so the trips to Turner, and/or Cascade High School, and/or Cloverdale School to pick up children, and to attend events at the schools could take much based on the increased traffic. When Delaney gets wet in the spring and fall the road tends to be more hazardous. In addition to the increase in cars from the school, Turner is also increasing in population. The new homes that are being built will also cause more traffic on Delaney Rd.

Therefore, we are objecting to Conditional use permit #19-024

Multiple heavy semi tractor-trailer traffic on narrow curving roads could cause more accidents.

The odor that comes from the hemp before process and after processing is intense. I manage some commercial property that we rented out for the storing of hemp. The very pungent odor could be detected outside of the building for some distance. We rented it out in the late summer/fall of 2018, after it was removed and aired out you can still smell lingering odor inside the building today. The conditional use permit says " No open storage of hemp is proposed outside of the Processing Facility". To me that means outside of the 37 acres. So, they will be able to store the unprocessed and processed hemp outside within the 37 acres. So odor will not be contained.

"Adequate fire protection and other rural services are, or will be available when use is established."

Since this processing facility is in prime farm crop area, field fires are very common and spread very fast.

Turner Fire District is manned by volunteers. I grew up in a rural community similar to Turner. At the age of 15 I was recruited to help fight a large field fire because there were not enough volunteers to fight the fire. The acquiring of volunteers would be difficult in an emergency situation and traveling to this remote location will not be quick. Not sure what is meant by "other rural services" but if they are rural that will also take some time. Any fire fighting equipment at the Processing Facility will be stationary therefore unable to fight a field fire. So, all the homes nearby and the school are at risk. Since the extraction processing of hemp involves the use of highly flammable chemicals this could be a real issue.

"The use will not have a significant adverse impact....."

Meaning there will be an adverse impact, but we do not know how much of an impact until after the fact, then the damage will be done. The soil, watershed and groundwater will be affected and so will the homes and farm land nearby. "All operations and storage of materials will be within the structures or in the direct vicinity". Does this mean that they will be able to store materials outside the 37 acres? which is contrary to the statement " No open storage of hemp is proposed outside of the Processing Facility"

"The commercial activity must enhance the farming enterprises of the local agricultural community....."

Gervais, Woodburn and St. Paul are not local communities. From a business point of view it does not make sense to haul 400 plus acres of hemp all the way

from Gervais, Woodburn, and St. Paul on narrow winding roads that will have school buses , other vehicles(including farm vehicles) with semi-blind turns.

"The proximity of these uses will result in lower transportation costs for many nearby farmers." Not sure this could be true. Not sure how they arrived at lower costs. I am sure that there are Processing Facilities being built and/or are currently in use that are much closer that this remote location. I know for a fact that there this is a Processing Facility that is much closer for the Gervais, St. Paul, Woodburn farming communities.

Thanks

Dale and Dora Abraham