



P.O. Box 1517
Bellingham, WA 98227

January 6, 2009

Michael Bobbink
Whatcom County Hearing Examiner
311 Grand Avenue
Bellingham, WA 98225

Dear Mr. Bobbink,

Subject: Zoning Determination For proposed Rock Creek Farms chicken hatchery, 5785 Everson-Goshen Road

Futurewise Whatcom is the local chapter of statewide land-use advocacy organization, Futurewise, whose mission is to promote healthy communities and cities while protecting farmland, forests and shorelines today and for future generations.

We appreciate the opportunity to comment on the proposed Rock Creek Farms chicken hatchery, and support the project applicant's position that the chicken hatchery is a permitted use in the Rural 5-Acre zoning designation. Further, it should not require a Conditional Use permitting process or variance.

Whatcom County has mischaracterized the hatchery as a processing facility, and, as a result, misapplied the zoning code with regard to this proposal. According to Whatcom County Code (WCC) 20.35.052, agriculture is a permitted use in lands zoned as Rural. Specifically, animal husbandry is permitted because it is identified as an agricultural use appropriate to Rural lands. Whatcom County has not disputed that the hatching and rearing of chickens for commercial purposes is animal husbandry, nor that animal husbandry is an outright permitted agricultural use. Nevertheless, the County has rejected the project as a permitted use on the grounds that the hatchery is a "processing facility" and therefore subject to conditional use permitting under WCC 20.36.136.

Critical to the proper application of Whatcom County Code in this case is the question of the nature of the operation – whether a chicken hatchery is a "processing facility" or "animal husbandry." Although expertise is clearly lacking to form an opinion regarding the nature of a chicken hatchery, Whatcom County Planning & Development Services staff have determined that the hatching and rearing of chicks is "processing." Futurewise Whatcom strongly disagrees with the County's assertion that the natural process of live chickens laying eggs and hatching chicks is "processing." If that were the case, every farmer whose cows have calves or who

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grows plants would be operating a "processing facility" and therefore subject to the Conditional Use permitting process. The mischaracterization of this agricultural enterprise by Whatcom County staff is in conflict with the County's own Code, which refers to "processing of agricultural products that originate from the permitted uses in WCC 20.40.050..." (WCC 20.36.136). In these two sections, Whatcom County Code identifies agricultural processing as an activity that is *in addition to* and *subsequent to* agricultural production. The feeding, watering, housing, rearing, cleaning, and shipping operations of a chicken hatchery constitute necessary and included components of animal husbandry; indeed, these same activities are included in *any* type of animal husbandry.

Because the proposed hatchery is properly defined as an agricultural activity pursuant to WCC 20.36.052, and not as a processing facility as indicated in WCC 20.36.136, the proposed facility is a permitted use and should be allowed without a Conditional Use review.

Additionally, Whatcom County Planning & Development Services staff have taken the position that the use of this property for a chicken hatchery is outside the "intensity" parameters for the Rural zone. In taking such a position, County staff have not only taken the intensity language out of context, they have mischaracterized it to such a degree that they are damaging the enterprises that intensity language was designed to protect.

Planning & Development Services has also taken the position that, while animal husbandry is permitted, the "size and scope" of the Rock Creek Farms proposal is not consistent with Rural zoning. The County has based its assertion on the "Purpose" section of the Rural chapter of Whatcom County Code, which allows for a "variety of low intensity uses" (WCC 20.36.010). However, staff have taken this language out of context: the Code explicitly speaks to a concern about "high intensity" uses that are incompatible with agriculture and related land uses. Incompatible uses can include residential, commercial industrial, and some types of retail, but it seems unlikely that an agricultural activity such as a chicken hatchery would in any way conflict with other types of agriculture.

The square footage of the proposed hatchery may also come into play in County staffs' assertion regarding the size and scope issue. However, since this is not a "processing facility," but rather a hatchery, the Conditional Use review related to the size and scope of a processing facility is irrelevant. Futurewise Whatcom believes it would be difficult to demonstrate that 11,000 square feet is outside the range of what Whatcom County has deemed to be acceptable impervious coverage in any of the Rural zones.

It establishes a bad precedent to raise administrative hurdles to agricultural uses of rural lands, particularly when those hurdles are derived from faulty interpretation of Whatcom County Code. Such a precedent runs counter to the Growth Management Act's intention to protect rural lands and activities. The County's position that *this* agricultural use on *this* property is not "compatible and complementary with the conservation of agriculture, forestry and related uses" (WCC 20.36.010), is in error

and should be reversed. Permitting agricultural uses in Rural lands supports and enhances agricultural activities, stabilizing the land base and keeping it in production, as well as improving the economy of Whatcom County.

Futurewise Whatcom urges the Hearing Examiner to consider favorably the applicant's appeal and uphold animal husbandry and agriculture as permitted uses in the Rural zoning designations.

Thank you for considering our views, and please contact us if you have any questions or comments.

Sincerely,

Cathy Lehman
Chapter Director

Allison Aurand
Rural Land Sub-Committee Chair

Michael Lilliquist
Rural Land Sub-Committee