

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

In the Matter of the Application of)
Joe Luttrell, et al., for a Zone)
Change - Major Map Amendment)
_____)

ORDINANCE NO. 92-10

The Board of County Commissioners for Columbia County, Oregon ordains as follows:

SECTION 1. AUTHORITY.

This ordinance is adopted pursuant to ORS 203.035, 215.050 and 215.223.

SECTION 2. TITLE.

This ordinance shall be known as Ordinance No. 92-10.

SECTION 3. PURPOSE.

The purpose of this ordinance is to ratify Order No. 217-92, "In the Matter of the Application of Joe Luttrell, et al., for a Zone Change - Major Map Amendment".

SECTION 4. RATIFICATION.

Order No. 217-92, "In the Matter of the Application of Joe Luttrell, et al., for a Zone Change - Major Map Amendment", a copy of which is attached hereto, labeled Attachment "1" and incorporated herein by this reference, is hereby ratified.

SECTION 5. FINDINGS.

Joe Luttrell, et al., initially applied for a quasi-judicial zone change and major map amendment. That was tabled while he pursued a legislative zone change and major map amendment. On August 6, 1992 the Board of County Commissioners adopted Order No. 217-92 approving the legislative zone change and dismissing the quasi-judicial zone change. However, because the zone change was legislative, it cannot be approved by order. It needs to be approved by ordinance. This ordinance corrects that error by legislatively ratifying the order originally adopted on August 6, 1992.

SECTION 6. SEVERABILITY.

If any portion of this ordinance, including Attachment "1" hereto, is for any reason held invalid by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent portion and such holdings shall not affect the validity of the remaining portion thereof.

SECTION 7. EMERGENCY.

This ordinance being immediately necessary to maintain the public health, safety and welfare, an emergency is declared to exist and this ordinance takes effect immediately upon its adoption.

REGULARLY PASSED AND ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS FOR COLUMBIA COUNTY, OREGON THIS 9th DAY OF September, 1992.

BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

By: Michael [Signature]
Chairman

By: not present
Commissioner

By: Jack R. [Signature]
Commissioner

Approved as to form

By: John K. [Signature]
Office of County Counsel

Attest:
By: Jan [Signature]
Recording Secretary

First Reading: 9/9/92
Second Reading: 9/9/92
Effective Date: 9/9/92

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

In the Matter of the Application of)
Joe Luttrell, et al., for a Zone) ORDER NO. 217-92
Change - Major Map Amendment)

THIS MATTER came before the Board of County Commissioners for Columbia County, Oregon (the Board) for hearing on May 6, 1992 pursuant to a request by Joe Luttrell, et al., for a Legislative Major Map Amendment under Sections 1605 and 1606 of the Columbia County Zoning Ordinance to change the zoning of 84.87 acres of land from Forest Agriculture (FA-19) to Rural Residential (RR-5), and to concurrently amend the Map of the Comprehensive Plan from Forest Resource to Rural Residential on the same 84.87 acres;

WHEREAS, the subject property is 84.87 acres, is outside the St. Helens Urban Growth Boundary, is inside the St. Helens Rural Fire Protection District, is served by McNulty Water, is north of Pittsburg Road, east of Robinette Road, and north and south of Hankey Road; all parcels have access to a County Road; and

WHEREAS, the properties are described as tax lot numbers:
5131-000-00800, 5131-000-00900, 5131-000-00901,
5131-000-01000, 5131-000-01100, 5131-000-01700,
5131-000-01800, 5131-000-01900, 5131-000-02000,
5131-000-02100, 5131-000-02200, 5131-000-02300,
5131-000-02301, 5131-000-02400, and 5131-000-02401, all in Section 31, Township 5 north, Range 1 WWM; and

WHEREAS, application was originally received September 3, 1991 for a Major Map Amendment on some of the same properties; and

WHEREAS, on December 2, 1991, a hearing was held by the Columbia County Planning Commission (the Commission) at which all proponents and opponents present were allowed to speak; and

WHEREAS, on December 2, 1991, the Commission recommended approval of the request, and adopted the Findings and Conclusions presented by applicants on January 6, 1992; and

WHEREAS, on December 2, 1991, Final Order PA 8-91 was signed by the Chairman of the Commission; and

WHEREAS, on January 29, 1992 and February 26, 1992, at 10:30 a.m., the Board held public hearings to consider the Major Map Amendment; and

WHEREAS, testimony was taken from both proponents and opponents of the proposed Major Map Amendment; and

WHEREAS, the Board then closed the public hearing; and,

WHEREAS, based on the foregoing, the Board tabled the matter indefinitely and advised the applicant to consider submitting an alternative application to change the zoning and Comprehensive Plan map of a larger area than is included in the present application, and to apply for a legislative zone change and Comprehensive Plan amendment rather than a quasi-judicial zone change; and

WHEREAS, application was received on March 4, 1992 for a legislative zone change on contiguous properties totalling 98.59 acres; and

WHEREAS, on April 6, 1992, after notice was given according to Section 1611 of the Zoning Ordinance, hearing was held by the Commission at which all proponents and opponents were permitted to speak; and

WHEREAS, on April 6, 1992, the Commission voted to recommend to the Board that the proposed legislative zone change and Comprehensive Plan amendment be denied; and

WHEREAS, on May 6, 1992 at 10:30 a.m. a hearing was held by the Board at which all proponents and opponents were permitted to speak; and

WHEREAS, on May 6, 1992, the Board tabled the matter to June 3, 1992, to permit viewing of the properties and consultation with representatives of the Oregon Department of Land Conservation and Development (DLCD); and

WHEREAS, the properties were viewed on the morning of May 26, 1992 by Michael Sykes, County Commissioner; John K. Knight, County Counsel; Ron Eber and John Marra of DLCD; Joe and Bud Luttrell, the applicants; and Peter Watson, of the Columbia County Department of Land Development Services; and

WHEREAS, the representatives of DLCD expressed their opinion that, although the proposed RR-5 zoning would allow the partitioning of parcels into sizes as small as 2 acres since the subject property was served by McNulty Water, the creation of numerous new 2 acre parcels would appear to violate Goal 14, Urbanization; and

WHEREAS, on June 3, 1992, the Board tabled the matter to June 24, 1992 to permit the preparation of an Exception Statement to Statewide Planning Goal 3, Agricultural Lands; and

WHEREAS, on June 24, 1992, the Board tabled the matter to July 29, 1992 to give more time to prepare the Goal 3 Exception Statement; and

WHEREAS, on July 29, 1992, the Board tabled the matter to August 5, 1992, and then to August 6, 1992 because of the lack of a quorum on August 5, 1992; and

WHEREAS, the Department of Land Development Services prepared an Exception Statement which found that the subject property was irrevocably committed to non-resource use, but found that partitioning of the properties into parcels as small as 2 acres would violate Goal 14, Urbanization; and

WHEREAS, on August 6, 1992, the Board reviewed the Exception Statement to Statewide Planning Goal 3 dated August 5, 1992; and

NOW, THEREFORE, IT IS HEREBY ORDERED as follows:

1. The Board of County Commissioners for Columbia County, Oregon accepts and approves the Exception Statement to Goal 3, Agricultural Lands, prepared by the Columbia County Department of Land Services dated August 5, 1992, a copy of which is attached hereto, labeled Exhibit A and incorporated herein by this reference.

2. The Board of County Commissioners for Columbia County, Oregon, hereby approves the application of Joe Luttrell, et al., for a legislative Major Map Amendment to change the zoning of 84.87 acres from Forest Agriculture (FA-19) to Rural Residential (RR-5) and to amend the Comprehensive Plan on the same 84.87 acres from Forest Resource to Rural Residential.

3. The previous application of Joe Luttrell, et al., for a quasi-judicial Major Map Amendment is denied.

4. Partitioning of the subject property subsequent to this Major Map Amendment pursuant to the Exception granted above into parcels as small as 2 acres would violate Goal 14, Urbanization, and is not allowed. Unless a minor variance can be justified, 5 acres shall be the minimum lot size for parcels partitioned pursuant to the exception granted by this order.

DATED this 26th day of August, 1992.

Approved as to form

By: John K. Lykes
Office of County Counsel

BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

By: Michael J. Lykes
Chairman

By: not present
Commissioner

By: John R. Peterson
Commissioner

ADDENDUM to
ZONE CHANGE APPLICATION ZC 8-91

EXCEPTION TO STATEWIDE GOAL 3

June 26, 1992

Revised August 5, 1992

FILE NUMBER: PA 8-91

APPLICANT: Joe Luttrell et al
2828 S.W. Corbett
Portland, OR 97201

PROPERTY LOCATION: North of Pittsburg Road, east of
Robinette Road, and north and south
of Hankey Road.

REQUEST: To change the zoning on 84.87 acres of
land from FA-19 to RR-5, and to amend
the Comprehensive Plan from Forest
Resource to Rural Residential.

TAX LOTS: 5131-000-00800, 00900, 00901, 01000,
01100, 01700, 01800, 01900, 02000,
02100, 02200, 02300, 02301, 02400,
02401

PRESENT ZONING: Forest Agriculture (FA-19)

BACKGROUND:

Applicants wish to change the zoning on 84.87 acres, under
11 ownerships, from Forest Agriculture (FA-19) to Rural
Residential (RR-5). Concurrently, the Columbia County
Comprehensive Plan map must also be amended, from Forest
Resource to Rural Residential, so that the zoning and the
Comprehensive Plan will continue to be in agreement.
The properties are north of Pittsburg Road, east of
Robinette Road, and north and south of Hankey Road. The
parcels have McNulty Water available to them; sewage
treatment would be by individual septic systems. The area
is all within the St. Helens Rural Fire Protection District.

Soils on the properties are as follows:

	Approx. % of total	Agric. Capab. Class	Forest Site Index
Cascade silt loam 15-30%	3	IVe	153
Cornelius silt loam 8-15%	32	IIIe	165
Cornelius silt loam 15-30%	62	IVe	165
McBee silt loam 0-1%	3	IIw	-

From the above, an estimated 65% of the soils are

Agricultural Capability Class IVe, 32% are Class IIIe, and 3% are Class IIw. About 94% of the land has a mean forest site index (Douglas fir, 100-year) of 165 (site class II) and 3% is in site class III.

Ownerships are as follows:

	Tax Lot Numbers	Tax Lot Acres	Total Acres
Joe Luttrell	5131-000-01700	19.10	19.10
A. and G. Gregg	5131-000-01800	7.85	13.67
	1900	5.82	
Wm. Pitts	5131-000-02100	2.32	2.32
E. and E. Pinson	5131-000-02200	9.85	17.27
	2300	3.42	
	2301	4.00	
W. and C. Stevens	5131-000-02400	19.99	22.74
	2401	2.75	
D. and K. Graven	5131-000-00800	1.36	1.36
B. and M. Pontius	5131-000-00900	1.88	1.88
F. and D. Smith	5131-000-00901	1.42	1.42
G. and B. Laughlin	5131-000-01000	1.87	1.87
J. and K. Whitney	5131-000-01100	1.09	1.09
G. Nunales	5131-000-02000	2.15	2.15
TOTAL ACRES		84.87	84.87

EXCEPTION STATEMENT:

Changing the zoning from Forest Agricultural (FA-19) to Rural Residential (RR-5), and amending the Comprehensive Plan from Forest Resource to Rural Residential, requires that an exception be taken to Oregon Statewide Planning Goal 3, Agricultural Land. An exception may be based on a finding that the subject properties are either already built upon, or are committed to non-farm or non-forest uses.

There are 13 contiguous undivided parcels in the subject area, and 11 dwellings. Parcel sizes range from 1.09 to 22.74 acres, with an average of 6.53 acres (84.87/13).

The following exception statement assumes that future development on the 84.87 acres will be limited to 5 acre parcels, which would be a continuation of the prevailing average parcel size (6.53 acres). Two acre parcels would appear to violate Statewide Goals 11 (Public Facilities and

Services) and 14 (Urbanization). This exception will be based on the premise that the area is effectively "built and committed" to smaller lots than the 19 acre minimum of the present FA-19 zone.

OREGON ADMINISTRATIVE RULES 660-04-018:

OAR 660-04-018(1) reads, in part: "Physically developed and irrevocably committed exceptions under OAR 660-04-025 and 660-04-028 are intended to recognize and allow continuation of existing types of development in the exception area."

There are a total of 15 tax lots in the subject area, but only 11 ownerships, 13 contiguous undivided parcels, and 11 dwellings. Parcel sizes range from 1.09 to 22.74 acres, with an average of 6.53 acres (84.87/13). Included are 2 parcels of 19.10 and 22.74 acres, 4 parcels of 5.82 to 9.85, and 7 of 1.09 to 2.32 acres. All 7 of the small parcels are occupied by residences, as are 4 of the 6 larger ownerships; the Luttrell 19.1 acre parcel (1700) and the Gregg 7.85 acre parcel (1800) are the only vacant parcels.

If we deduct the two largest parcels (19.1 and 22.74 acres) from the total 84.87 acres, we have 43.03 acres in 11 parcels. These 11 parcels are all less than 10 acres and average 3.9 acres in size (43.03/11).

Rezoning the whole area to RR-5 would permit a continuation of development on the remaining 41.84 acres in parcels of 5 acres, which is only slightly less than the 6.53 acre average of the present parcels. Because of the configuration of ownerships, strict 5-acre zoning would permit only 7 more dwelling units, although the approval of minor variances would increase this to a maximum of 10 dwellings, as follows:

POSSIBLE NEW RESIDENCES:

Tax Lot	If Minor Variances Approved	With Strict Zoning
1700	4	3
1800	1	1
2200	1	0
2400/2401	4	3
	---	---
Totals	10	7

It could be argued that the two large parcels should be excluded from the area to be rezoned. However, the 19.1 acre parcel has 5 very small lots to the north, a 7.24 acre parcel to the east and 3 parcels of 2.15, 5.82 and 7.85 acres to the south. Only to the west are there large blocks of true farmland. In addition, excluding this parcel would isolate the 5 small parcels to the north and cut them out of the zone change area.

The other large parcel (22.74 acres) is at the south end of the subject area; removing this parcel would break the continuity between the area to be rezoned and the existing RR-5 zoning.

OAR 660-04-018(2) reads, in part: "Physically Developed" and "Irrevocably Committed" Exceptions to goals other than Goals 11 and 14. Plan and zone designations shall limit uses to:

- (a) Uses which are the same as the existing types of land use on the exception site; or
- (b) Rural uses which meet the following requirements:
 - (A) The rural uses are consistent with all other applicable Goal requirements; and
 - (B) The rural uses will not commit adjacent or nearby resource land to nonresource use...; and
 - (C) The rural uses are compatible with adjacent or nearby resource uses...."

Existing types of land use in the exception area are farming, woodlots, and small and medium size residential parcels. Changing the zoning to 5-acre Rural Residential would permit a continuation of the same uses on the same parcel sizes as there are in the area at present. The major difference would be that the Luttrell's 19.1 acre farm field could be broken up into three or four 5 acre parcels for sale as residential lots. This is the only piece of land now being farmed in the area, and the Luttrells are already having difficulty with weeds in the field. Aerial spraying is hampered by the houses to the north and south, the power poles along the roads on the west and south sides, and the terrain and trees to the east and west. This field is effectively isolated from the Luttrell's other farm properties to the north and west by these factors.

In addition, the 22.74 acre parcel could be divided into three or four residential parcels, and the Gregg's 7.85 parcel could become residential without a farm management plan or a Conditional Use Permit. The end result would be the addition of 7 to 10 more dwellings in an area that is already fairly crowded with houses.

The additional dwellings would not violate any other Statewide Goals, nor would they commit any adjacent or nearby land to nonresource use: the subject area is surrounded by much larger parcels that are clearly in farm or forest use and that could not support an exception statement or a re-zoning.

It is difficult to say if the proposed rezoning and Comprehensive Plan revision of the 84.87 acres would be

"compatible with adjacent or nearby resource uses". Residential uses are usually not desirable in farming areas. In this case, however, there are already 11 houses in the area, and 3 more could be built under the existing zoning, so the area is already quite infiltrated with residential uses. The addition of 7 to 10 more houses would be mostly infilling and would have little or no additional effect on the management of adjacent or nearby farm and forest operations.

OREGON ADMINISTRATIVE RULES 660-04-025:

OAR 660-04-025 requires that the findings "...identify the extent and location of the existing physical development on the land and can include information on structures, roads, sewer and water facilities, and utility facilities." Applicants address this "irrevocably committed" criterion in Response C.2. of "Legislative Request", where they describe the soils on the properties, the ravines, slopes, surrounding lot sizes, adjacent zoning, roads, and existing homesites.

There are a total of 15 tax lots in the subject area, but only 11 ownerships and 13 contiguous undivided parcels. Parcel sizes range from 1.09 to 22.74 acres, with an average of 6.53 acres (84.87/13). If we deduct the two largest parcels (19.1 and 22.74 acres) from the total 84.87 acres, we have 43.03 acres in 11 parcels. These 11 parcels are all less than 10 acres and average 3.9 acres in size (43.03/11).

All 7 of the small parcels are occupied by residences, as are 4 of the 6 larger ownerships; the Luttrell 19.1 acre parcel (1700) and the Gregg 7.85 acre parcel (1800) are the only vacant parcels.

There are three roads in the area, all of which are county roads and two of which are paved. Access to all parcels in the subject area is excellent, although reaching the eastern parts of the southernmost parcel will not be easy due to the steep terrain. Sewer is not available, but all the existing and proposed parcels have McNulty Water available to them. Utility facilities consist of power and telephone, which is available to all existing and potential parcels.

OREGON ADMINISTRATIVE RULES 660-04-028:

OAR 660-04-028(6)(c), require that "Findings of fact for a committed exception shall address...parcel size and ownership patterns of the exception area and adjacent lands." OAR 660-04-028(6)(c)(B) requires that "Existing parcel sizes and contiguous ownerships shall be considered together" and "several contiguous undeveloped parcels...under one ownership shall be considered as one farm or forest operation." Both of these requirements have been addressed in detail above.

OAR 660-04-028(2) requires that "The findings for a committed exception...must address...the characteristics of the exception area, the characteristics of the adjacent lands, the relationship between the exception area and the lands adjacent to it,..." OAR 660-04-028(6) requires that the findings must also address "...existing adjacent uses, existing public facilities and services, and parcel size and ownership patterns of the exception area and adjacent lands," including "...an analysis of how the existing development pattern came about and whether findings against the Goals were made at the time of partitioning..."

A detailed analysis of adjacent land uses, development patterns, parcel sizes, etc. will not be included in this submission, but a preliminary look at adjacent lands reveals parcels of 162.85 acres (west), 31.33 acres (north), 40.28, 15.0 and 40.0 acres (east), and 23.62 acres (south). These parcels are zoned Primary Agriculture (west), Primary Forest (northeast) and Forest Agriculture (east and south).

Because of the terrain, roads, etc. these adjacent uses should be minimally affected by additional development within the subject area. The only part of the area that is being commercially farmed is the Luttrell 19.1 acre field north of Hankey Road (except for a small part of the 22.74 acre parcel at the south end). Roads, power lines and the terrain have effectively isolated this field from the remaining Luttrell properties to the west, and trees, power lines and nearby housing have impeded efficient spraying of the field and permitted an unacceptable degree of weed infestation.

The subject area and surrounding parcels were all divided and developed before the Zoning Ordinance and Comprehensive Plan were adopted in 1985, except for the Olson properties at the corner of Robinette and Pittsburg Roads. No findings against the Statewide Goals appear to have been made for any of the earlier partitions or dwellings. Findings against the Goals were prepared for the Olson land divisions.

Section 1502.1.A.1 of the Columbia County Zoning Ordinance requires that, "The proposed Zone Change is consistent with the policies of the Comprehensive Plan;"

All of the properties are designated Forest Resource on the Comprehensive Plan and are zoned Forest Agriculture (FA-19). Policy 2 of the FOREST LANDS section of the Comprehensive Plan (pp. 18-19) reads:

"2. Designate Forest Lands as Forest-Conservation in the Comprehensive Plan and implement this plan designation through the use of two forest zones and one overlay zone which will maintain or enhance the existing commercial forest products enterprise of the

county. They are:

- A. Primary Forest = PF-76
- B. Forest Agriculture = FA-19
- C. Buffer Woodlot Overlay = BW"

The FA-19 zoning agrees with the current Comprehensive Plan designation. If the zoning is changed to RR-5, the Comprehensive Plan must also be changed to Rural Residential.

COMPLIANCE WITH THE COLUMBIA COUNTY COMPREHENSIVE PLAN:

The RURAL RESIDENTIAL section of the Comprehensive Plan has the following applicable sections (p. 53):

"GOAL: It is the goal of the County to provide for the continuation and needed expansion of Rural Residential uses on those resource lands where a valid exception can be, or has been shown to be, justified."

"POLICIES: It shall be a policy of the County to:

1. Designate as Rural Residential in the Plan those lands for which a valid exception has been, or can be shown to be, justified, and implement this plan designation through the use of a single Rural Residential (RR-5) zone.
2. Designate as Rural Residential in the implementing ordinances those lands which:
 - A. Meet the criteria for a valid exception as set out in OAR 660-04-025 or OAR 660-04-028."

See above for an Exception Statement regarding these properties, justifying a zone change to RR-5 and a Comprehensive Plan revision to Rural Residential.

Continuing with the RURAL RESIDENTIAL POLICIES of the Comprehensive Plan:

- "4. Establish a two acre lot size in the Rural Residential Zone where such lands:
 - A. Are served by a public or community water system.
 - B. Are served by an individual, or community, sewage system.
 - C. Have access onto a public right-of-way.
 - D. Are within, and are able to be served by, a rural fire protection district."

All parcels in the subject area meet these criteria. However, 2 acre zoning would appear to conflict with Statewide Goals 11 and 14, so it is proposed to limit parcel sizes within the subject area to 5 acres.

Continuing with the RURAL RESIDENTIAL POLICIES of the Comprehensive Plan:

- "5. Encourage the in-filling of existing built and committed lands for new residential development."

The subject area meets this policy. See above.

Continuing with the RURAL RESIDENTIAL POLICIES of the Comprehensive Plan:

- "6. Encourage rural growth in exception areas where facilities and services such as adequate transportation networks, school facilities, fire districts, water and police services, etc. already exist so as to minimize costs of providing such services to these areas."

The existing facilities are adequate to support 2 acre parcels, but a conflict with Statewide Goals 11 and 14 will limit development to 5 acre parcels.

Continuing with the RURAL RESIDENTIAL POLICIES of the Comprehensive Plan:

- "7. Require a buffer between Rural Residential development and adjacent resource lands."

The total perimeter of the subject area is about 9325', of which 4675' abuts FA-19 zoning and 725' abuts RR-5 zoning. If the subject properties are zoned Rural Residential (RR-5), they will abut lands zoned Primary Agriculture (about 1975') and Primary Forest (about 1950') without the required buffer zoning (e.g. Forest Agriculture). The total length of perimeter abutting resource lands is 3925' (1975 + 1950), or 42% of the total perimeter. However, as detailed above, development in the subject area will be largely infilling of areas abutting FA-19 zoning. Development of the Luttrell property will abut PF-76 zoning to the north and PA-38 zoning to the west. Three or four more 5-acre parcels should have a minimal additional effect on the PF-76 lands, especially as there are already 5 small homesites adjacent to these lands. The PA-38 lands being farmed to the west, also owned by Luttrells, are effectively separated from the 19.1 acre parcel by Robinette Road and a forested valley.

Continuing with Zoning Ordinance Section 1502.1.A:

"2. The proposed Zone Change is consistent with the Statewide Planning Goals (ORS 197); and"

Goal 3, AGRICULTURAL LAND, reads:

"GOAL: To preserve and maintain agricultural lands. Agricultural lands shall be preserved and maintained for farm use, consistent with existing and future needs for agricultural products, forest and open space. These lands shall be inventoried and preserved by adopting exclusive farm use zones pursuant to ORS Chapter 215. Such minimum lot sizes as are utilized for any farm use zones shall be appropriate for the continuation of the existing commercial agricultural enterprise within the area."

Further sections deal with conversion of agricultural land to urbanizable land, designating agricultural land as marginal land, and defining "Farm Use."

"Agricultural Land" is defined as "...land of predominantly Class I, II, III and IV soils..."

The subject lands are all Class IIw, IIIe and IVe. Rezoning these properties would directly conflict with this goal, unless an exception can be taken. An exception has been justified (see above).