



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

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Salem, OR 97301-2540

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www.lcd.state.or.us

NOTICE OF ADOPTED AMENDMENT

February 21, 2007



TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of North Bend Plan Amendment
DLCD File Number 005-06

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: March 8, 2007

This amendment was submitted to DLCD for review 45 days prior to adoption. Pursuant to ORS 197.830 (2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

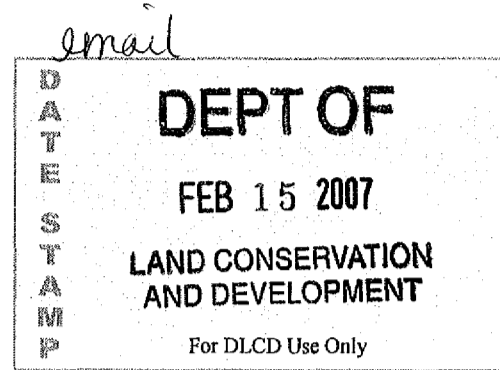
***NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.**

Cc: Gloria Gardiner, DLCD Urban Planning Specialist
Dave Perry, DLCD Regional Representative
David Voss, City of North Bend

<paa> ya/

2 Notice of Adoption

THIS FORM **MUST BE MAILED** TO DLCD
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18



Jurisdiction: City of North Bend Local file number: N/A
Date of Adoption: 2/13/2007 Date Mailed: 2/15/2007
Date original Notice of Proposed Amendment was mailed to DLCD: 11/9/2006

- | | |
|---|---|
| <input checked="" type="checkbox"/> Comprehensive Plan Text Amendment | <input type="checkbox"/> Comprehensive Plan Map Amendment |
| <input type="checkbox"/> Land Use Regulation Amendment | <input type="checkbox"/> Zoning Map Amendment |
| <input type="checkbox"/> New Land Use Regulation | <input type="checkbox"/> Other: _____ |

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

Text amendment to Coos Bay Estuary Management Plan Segment 52NA and a new Exception #28 to allow filling and construction of a seawall to expand the taxiway of SW OR Regional Airport to meet FAA requirements. The amendment will include changes to allow maintenance of existing storm drainage utilities.

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "SAME". If you did not give Notice for the Proposed Amendment, write "N/A".
SAME.

Plan Map Changed from: NA to: NA
Zone Map Changed from: NA to: NA
Location: Coos Bay Estuary at taxiway 4-22 Acres Involved: +/- 1 acre
Specify Density: Previous: NA New: NA
Applicable Statewide Planning Goals: 16

Was and Exception Adopted? YES NO

DLCD File No.: 005-06 (15681)

Did the Department of Land Conservation and Development receive a Notice of Proposed Amendment.....

- Forty-five (45) days prior to first evidentiary hearing?** Yes No
If no, do the statewide planning goals apply? Yes No
If no, did Emergency Circumstances require immediate adoption? Yes No

Affected State or Federal Agencies, Local Governments or Special Districts:

**Coos Co. Airport Dist., Int'l Port of Coos Bay, DSL, COE, ODFW, NMFS, ODOT
Aviation, FAA, City of Coos Bay**

Local Contact: **David Voss, City Planner** Phone: **(541) 756-8535** Extension: **0**

Address: **PO Box "B"** City: **North Bend**

Zip Code + 4: **97459-14** Email Address: **planner@uci.net**

ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and TWO (2) Copies of the Adopted Amendment to:
**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**
2. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can copy this form on to 8-1/2x11 green paper only; or call the DLCD Office at (503) 373-0050; or Fax your request to:(503) 378-5518; or Email your request to **mara.ulloa@state.or.us** - ATTENTION: PLAN AMENDMENT SPECIALIST.

ORDINANCE NO. 1959

AN ORDINANCE AMENDING THE COMPREHENSIVE PLAN, TEXT AMENDMENTS TO THE COOS BAY ESTUARY MANAGEMENT PLAN WITHIN THE CITY LIMITS.

THE CITY OF NORTH BEND ORDAINS AS FOLLOWS:

Section 1. The City of North Bend finds as follows:

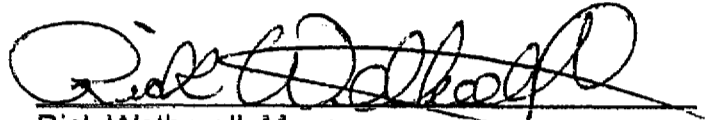
1. An application to amend the Coos Bay Estuary Management Plan text pertaining to certain areas within the City has been submitted by the Coos County Airport District, Gary Le Tellier, Executive Director.
2. Notice of the Plan Amendments was mailed to the Oregon Department of Land Conservation and Development (DLCD) on November 9, 2006. A letter responding to the application was received from David Perry, DLCD South Coast Regional Representative concerning the application and dated December 21, 2006. The comments and information were found to be addressed by other state and local application requirements.
3. Notice was mailed to affected property owners on December 28, 2006. Said notice identified the subject property, applicable criteria, time, date and location of the public hearings and information concerning testimony and appeals.
4. Proper notice was published as required by law.
5. A public hearing was held by the City Planning Commission on January 22, 2007 and the Planning Commission made a unanimous recommendation (9-0) to approve the request.
6. The City Council held a public hearing on February 13, 2007 at which time the City Council approved the requested Coos Bay Estuary Management Plan text amendments, based on the information contained in the submitted application, the staff report, the Planning Commission recommendation and evidence submitted by the applicant.

Section 2. The Council of the City of North Bend hereby declares that:

1. **The Coos Bay Estuary Management Plan text shall be amended to reflect the following changes:**
 - A. **The text of Aquatic Unit 52 NA shall be amended as shown in Exhibit "A" of this Ordinance.**
 - B. **Plan Exception #28 shall be adopted as a new Exception amending the Coos Bay Estuary Management Plan as shown in Exhibit "B" of this Ordinance.**

2. Upon completion of the fill activity authorized by Activity #12 of the amended text of Aquatic Unit 52 NA and Exception #28, the filled area will be administratively re-designated as Shoreland Segment 51 UD, without further action by the Council.

Passed and enacted by the Council of the City of North Bend February 13, 2007.



Rick Wetherell, Mayor

ATTEST:



Angie Kellar, City Recorder

EXHIBIT "A"

LOWER BAY BAY
MANAGEMENT

AQUATIC UNIT - 52

CLASSIFICATION - NA

BOUNDARIES:

This unit extends north to the deep-draft navigation channel beginning at a line extending northwest from the configuration change in the shoreline that parallels Runway 4-22. The segment ends at a line extending west from a point at the approximate center of Section 17 and surrounds the disposal islands southwest of Runway 4-22.

MANAGEMENT OBJECTIVE:

The supporting documentation for the CBEMP acknowledges the importance of the Southwest Oregon Regional Airport (formerly North Bend Municipal Airport) and allows for its continued operation through adoption of Exception 21 in the Plan. This aquatic unit contains extensive eelgrass beds with associated fish and waterfowl habitat, and shall be managed to maintain these resources in their natural condition to protect their productivity, while allowing alteration, including fill for airport use, in accordance with FAA requirements for safety.

Dredging of a small channel on the north side of the proposed airport fill shall be necessary as a form of mitigation to maintain tidal currents.

Maintenance only of the existing sewage treatment plant *and storm water* outfalls shall be permitted.

USES:

- | | | |
|-----|---|---|
| 1. | Airport Lighting | * |
| 2. | Aquaculture | * |
| 3. | Bridge Crossing Support Structures and dredging necessary for their installation | * |
| 4. | Bridge Crossings | A |
| 5. | Commercial | N |
| 6. | Docks | N |
| 7. | Industrial and Port Facilities | N |
| 8. | Log Dump/Sort/Storage (in water) | N |
| 9. | Marinas | N |
| 10. | Mining/Mineral Extraction | N |
| 11. | Recreation Facilities | - |
| | a. Low-intensity | N |
| | b. High-intensity | N |
| 12. | Research and Educational Observation Structure | A |
| 13. | Utilities | |
| | a. Low-intensity | A |
| | b. High-intensity | N |
| 14. | Water storage areas where needed for products used in, or resulting from industry, commerce, and recreation | N |

ACTIVITIES:

- | | | |
|----|---------------------|---|
| 1. | Dikes | |
| | a. New Construction | N |

	b.	Maintenance/Repair	N/A
2.		Dredging	
	a.	New	*
	b.	Maintenance Dredging of Existing Facilities	N
	c.	To Repair Dikes and Tidegates	N/A
3.		Fill	N
4.		Flow Lane Dredged Material Disposal	N
5.		Mitigation	A
6.		Navigational	
	a.	Aids (e.g., beacons, buoys)	A
	b.	Minor Improvements	N
	c.	Structures	N
7.		Piling/Dolphin Installation	N
8.		Restoration	
	a.	Active	N
	b.	Passive	A
9.		Shoreline Stabilization	
	a.	Vegetative	A
	b.	Rip-rap	*
	c.	Bulkheads	N
10.		Temporary Alterations	*
11.		Waste Water/Storm Water Discharge	*
12.		Fill and Bulkhead for airport runway/taxiway relocation	*

GENERAL CONDITIONS:

None

SPECIAL CONDITIONS:

Uses

1. This use is only permitted for the 1,425 foot "Medium-Intensity Approach Lighting System with Runway Alignment Indicator Lights (MALSR)" at the southern end of Runway 04 of the North Bend Municipal Airport. The maintenance walkway, which will support the MALSR, is permitted as set forth by Exception # 26.
- 2, 3 This use is only allowed subject to the making of resource capability consistency findings and impact assessments (see Policy #4a).

Activities:

- 2a New dredging shall be allowed only to dredge a small channel on the north side of the proposed airport fill as necessary to maintain tidal currents. In addition, this activity is only allowed subject to a finding that adverse impacts have been minimized (see Policy #5).
- 9b This activity is only permitted subject to the general findings required by Policy #9, "Solutions to Erosion and Flooding Problems," preferring non-structural to structural solutions, and to the specific findings for rip-rap.
- 10, 11 This use is only allowed subject to the making of resource capability consistency findings and impact assessments (see Policy #4a).

- 12 ***This activity is only permitted for the fill of approximately 53,580 square feet (total) of estuary immediately south of Runway 4-22 in order to allow the existing portion of parallel Taxiway C that is built on fill, to be shifted an additional 75 feet from the runway to bring the airport into compliance with FAA safety requirements. The bulkhead or seawall is permitted to protect the relocated taxiway. See Exception # 28. (Upon completion of the fill activity, the filled area will be administratively re-designated as Shoreland Segment 51 UD.)***

EXHIBIT "B"

Exception #28: Aquatic Unit 52-NA (Southwest Oregon Regional Airport [formerly the North Bend Municipal Airport]): Runway 4-22/Taxiway C Separation and Safety Area

(A) The Proposal: To permit filling in this unit, specific to the requirement of runway/taxiway separation and taxiway safety area at the west end of Runway 4-22 and Taxiway C, per the FAA requirements in place as of January 1, 2004 requiring a separation of 400 feet (centerline to centerline) and a safety area of 34 feet on each side of the taxiway. This necessitates the filling of a rectangular area of about 65 feet in width and 880 feet in length at the southern end of the slough. Approximately 180 feet are within city of Coos Bay jurisdiction and the remaining 700 feet are within city of North Bend jurisdiction.

(B) The Exception: At the time the Coos Bay Estuary Management Plan was prepared, Runway 4-22 was 4,600 feet in length and was being proposed for extension. The area west of the runway included two dredged material disposal islands that were targeted to be the base for extending the runway and providing the necessary runway safety area. The runway is currently 5,330 feet in length and is not being considered for extension. At the time of initial proposal and construction, requirements for separation were less than they currently are. At the time of the CBEMP analysis, the critical aircraft was a DC-9. While this aircraft is not in common use today, it is a C-III aircraft, in the same category as aircraft commonly using the airport today (including Boeing Business Jet, Boeing 737-200 or Gulfstream V). Since that time, the FAA has established more stringent safety requirements, based on incident reports and other data, including a revision to the separation requirement for airports serving Design Group III aircraft. The FAA has the authority to de-certify the runway for commercial use, which would force aircraft to use Runway 13-31. This would direct more noise over the developed parts of North Bend. It would also place limitations on flights using the airport in inclement weather and overall restrictions on larger aircraft that currently use the airport.

Correcting the deficiency on the non-filled portion and shortening the taxiway, would effectively limit the length of usable runway, as larger aircraft typically cannot back-taxi on the runway.

The only viable option to meeting the FAA design standard is to fill a rectangular portion of the estuary, adjacent to the existing filled area of Taxiway C. The action of filling this area is to create a paved taxiway and a compact, level surface for the taxiway safety area in accordance with FAA regulations is not consistent with the language in Goal #16 requiring areas such as this to be designated as "Natural," including prohibition of fill.

(C) The Findings:

- (i) Reasons justify why the state policy embodied in Goal 16 should not apply.

The proposed exception is to allow the airport to fill a rectangular area adjacent to existing fill for the purpose of shifting the existing Taxiway C to the south, in order to meet FAA separation requirements. This fill area will also include the area designated as taxiway safety area. Under FAA requirements, no development can occur in the area known as the taxiway safety area, runway safety area, or area separating the runway and taxiway (other than drainage features and specifically allowed signage and lighting). The land may be maintained in grass or other ground cover to prevent erosion, under FAA rules, but no other uses are allowed. The language in the Coos Bay Estuary Management Plan for Segment 52-NA, as amended, will

include language that prohibits any use of the expanded area except as a taxiway and associated safety area.

- (ii) Areas that do not require a new exception cannot reasonably accommodate the use (Alternative Locations).

As discussed under B, above, there are no alternative sites that reasonably meet the purpose and need of the action. The proposed site was the subject of Exception #21 in the original CBEMP. The development requirements for the Airport, based on FAA design standards at that time were considered in determining the size of the exception area. Since that time, the FAA has revised the design standards for separation of the runway and taxiway to improve airport safety. To some extent, this is not a new exception, but a revision to the previously approved Exception #21 for the reason of a change in FAA standards.

Approximately 80% of the proposed use will be within the city limits of North Bend and 20% will be within the city limits of Coos Bay.

The preparation of Exception #21 in the CBEMP reviewed alternative sites for relocation of the airport, as well as alternatives for implementing runway extension that was ultimately completed in 1988. The main objective of the airport is to maintain operation of the runway and taxiway, in its full length, in order to allow continued use by commercial passenger aircraft. This objective is supported by OAR 660, Division 13. Within this objective, the preferred alternative is to create the required separation and taxiway safety area by shifting the taxiway to the south.

(iii) Consequences

- (a) Environmental – The proposed action will allow the airport to continue operating as it does today. It will not result in an increase in impervious surface and it will not allow any developed uses. There will be no extension of the runway surface. The exception allows filling of approximately 53,580 square feet of Coos Bay, in an area already significantly disturbed by prior permitted filling. This filled area will be used to create a new base for the taxiway and a compact level surface for aircraft to use in the event of an emergency during taxiing. The action would not change on-or-off airport noise, nor would it have any impacts to land use or surface transportation.

A biological and essential fish habitat assessment for the proposed parallel taxiway C relocation has been prepared for the project and submitted. The assessment has been reviewed by the US Army Corps of Engineers and the Oregon Department of State Lands. The taxiway will be designed to minimize impacts to wetlands areas and to accommodate the FAA requirements related to a taxiway object free area. A range of impacts will result from the construction of improvements to the Airport. The impacts will predominantly be temporary, resulting from activities that are necessary to meet current standards, but a section of estuarine tidal flat will probably be impacted, resulting in the loss of rearing habitat for salmonids and coastal pelagic species in the area, although impacts will be minimized and avoided at each step in the design and construction process. A long-term beneficial effect will occur with the treatment of the stormwater at the airport.

- (b) Social and Economic - The action of filling the subject area will have

little or no social or economic effect beyond providing short-term employment of the selected construction company. The energy commitment would include use of equipment to complete the construction activity.

Greater negative consequences are anticipated from the alternative of no action. The airport could be required to limit the size and type of aircraft using Runway 4-22, the airport runway with an instrument landing system. The airport could lose federal funds that are provided for operations and maintenance of the runway if it is not in compliance with FAA design standards.

Negative long-term economic impacts to the community would likely result from not allowing the specific use. Ultimately, restrictions on aircraft using the airport could result in the area being a less desirable tourism destination, or could result in the need for additional highway capacity to meet tourism demands. Businesses that rely on the airport for supplies or for business travel may re-locate. Smaller businesses that operate remotely (e.g. e-businesses) may also relocate to be nearer to transportation hubs.

Alternatives to shift the runway or build a new taxiway on the north side of Runway 4-22 have greater impacts to the estuary in terms of quantity of fill and impacts to navigation, fish and wildlife.

- (c) Energy - Negative long-term economic impacts to the community would likely result from not allowing the specific use. Ultimately, restrictions on aircraft using the airport could result in the area being a less desirable tourism destination, or could result in the need for additional highway capacity to meet tourism demands. Businesses that rely on the airport for supplies or for business travel may re-locate.

iv) Compatibility with Adjacent Uses

The proposed use is compatible with the surrounding airport use. Visually, it will resemble the current taxiway and associated safety area. The fill may (pending approval of an Estuary Use Application addressing Policy #4a) be held in place by a vertical wall made of large concrete blocks method as suggested by the resource agencies as a preferred alternative to using rock or rip-rap. The use will not involve any buildings or above surface structures. Any native oyster populations currently on the rocks will be relocated to a site recommended by Oregon Department of Fish and Wildlife. Other measures will be taken during construction to minimize impacts to water quality, including the use of a "Port-a-dam," or similar structure, to create a de-watered area for construction.

- v) OAR 660-04-0022(7) – Goal 16: Other Alterations or Uses: An exception to the requirement limiting dredge and fill or other reductions or degradations of natural values to water dependent uses or to the natural and conservation management unit requirements limiting alterations and uses is justified, where consistent with ORS Chapter 541, in any of the following circumstances:...
- (d) Dredge or fill or other alteration for expansion of an existing public nonwater-dependent use or a nonsubstantial fill for a private nonwater-dependent use where:

The proposal is for an exception to Goal 16 to allow filling approximately 53,580 square feet of - Coos Bay, adjacent to a previously granted Exception area, to allow the Airport to relocate Taxiway C and associated safety area (a public nonwater-dependent use) to comply with Federal Aviation Administration safety regulations.

- (a) A Countywide Economic Analysis based on the factors in Goal 9 demonstrates that additional land is required to accommodate the proposed use; and

A countywide economic analysis is not relevant for the purposes of the subject exception. In 1998, the Bay Area Comprehensive Economic Analysis was prepared. This study, combined with the 1996 "Economic Impact of Airports in Oregon Study" conducted by Oregon Department of Transportation, Aeronautics Section, provide a basis for identifying the value to the community of the airport in its current configuration.

The ODOT study concluded that in 1995, the airport was directly responsible for 324 jobs and \$16.2 million to the local economy. Indirect impacts added another 324 jobs and \$19.1 million.

The Bay Area Comprehensive Analysis did not place dollar values directly on the airports contribution, but identified implementation strategies that included the airport's role in economic development. Page 3-64, cites "Because air travel and freight are important for tourism, shipping and other business, improvements to the North Bend Municipal Airport, as identified in the Airport Master Plan, will be important for the Bay Area's economic future." If airport facilities are not improved, it is unlikely that the airport will be able to accommodate forecast demand and the Bay Area may not remain economically competitive.

- (b) An analysis of the operational characteristics of the existing use and proposed expansion demonstrates that the entire operation or the proposed expansion cannot be reasonably relocated; and

The proposed exception is for an addition of approximately 53,580 square feet of fill to an area that was allowed to be filled under Exception #21. The Federal Aviation Administration has specific guidelines and requirements regarding runway spacing, location and safety areas. The relocation of Runway 4-22 or construction of a new taxiway to the north of the runway to avoid the need to expand the fill area would require a significantly larger fill area in another aquatic management unit. The relocation of the airport to a different location in the county is also not feasible, given site availability and environmental constraints.

- (c) That the size and design of the proposed use and the extent of the proposed activity are the minimum amount necessary to provide for the use.

The proposed area, is the minimum needed to meet the FAA requirements. During the design process, it may be necessary to temporarily enlarge the footprint of the area slightly to meet the needs of wall construction and erosion control.

- vi) The exception must demonstrate that proposed use and alteration will be carried out in a manner which minimizes adverse impacts upon the affected aquatic and shoreland areas and habitats.

The proposal for the taxiway relocation includes a mitigation proposal to restore a diked pasture and other activities to provide compensatory mitigation. Construction standards and directions will be developed during final design, and likely as conditions on the state and federal permits, to use best management practices, follow in-water work period rules, and to use specific low-impacting equipment as part of the construction process.

(D) Conclusions: The proposed action is consistent with the intent of the Comprehensive Plan and Goal 16. Elsewhere in the Plan, there are specific management objectives that allow fill in areas designated as Natural to allow for marine navigation structures and maintenance of uses existing at the time of the plan. The airport has been in place since the 1940s, however the safety requirements have

evolved as aircraft have become faster and air travel volumes have increased. At the time of Plan development, it is likely that the need for an increased safety area was overlooked as a future concern. These changes are now needed because of enforcement of FAA regulations and the limitations placed on airport funding until these deficiencies are corrected.

The negative environmental, social and energy consequences of the proposal are likely greater if the exception is not taken and the airport is forced to shorten its primary use runway. The economic consequences are also more negative in the event of a runway shortening.

The proposal is not for a runway extension and it will not increase impervious surfaces. A review of the wetland and fisheries habitat associated with the site has concluded that there will be no significant impact to the estuary system or on-site if the activity is allowed. Compensatory off-site mitigation is also planned as part of the action.

The proposed activity meets the criteria within the Oregon Administrative Rules for an exception.