

**MINUTES OF THE MEETING
OF THE
LOUISVILLE AND JEFFERSON COUNTY PLANNING COMMISSION**

November 7, 2002

A meeting of the Louisville and Jefferson County Planning Commission was held on Thursday, November 7, 2002 at 1:00 p.m. **for Docket Numbers 1-18-02 & 9-82-02VLW** at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Commission members present:

John M. Crawford, Sr., Chairman
Kenneth Thieneman, Vice Chairman
William Herron, City of Louisville Director of Works
Carol Norton
Mark Adams, Jefferson County Engineer
Charles Cash, AIA
Lula Howard
Marshall Abstain

Commission members absent:

Sue Ernst

Staff Members present:

Deborah Bilitski, Legal Counsel
Dave Hulefeld, Planning Manager
Jack Ruf, Planning Manager
Steve Lutz, Planning Coordinator
Ken Baker, Planning Coordinator
Chris French, Planner II
Steve Rusie, Planner II
Aliza Tourkow, Planner I
Aida Copic, Planner I
Paula Vincent, Administrative Liaison
Connie Ewing, Public Information Specialist
Beth Stevenson, Management Assistant
Cheryl Fogle, Associate Planner

Others Present:

Tom Pinto, Air Pollution Control District
David Johnson, Metropolitan Sewer District
Wendy McLaughlin, Court Reporter
Bill Pike, reporter for the Courier Journal

The following matters were considered

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CONSENT AGENDA

DOCKET NO. 1-18-02

Request to close an unnamed alley located 200' south of the intersection of Frankfort Avenue and State Street, from its west intersection with State Street, west 194.78 ' to its terminus, and being in the City of Louisville.

Applicant:

City of Louisville
Dept of Public Works by Rick Storm
601 West Jefferson Street
Louisville KY 40202

Attorney:

Kris M. Carlton
Department of Law
601 West Jefferson Street
Louisville, KY 40202

Staff Case Manager:

Doris J. Heyman, Associate Planner.

This request met the requirement for a non-hearing procedure street closure. It was reviewed by the Land Development and Transportation Committee on October 24, 2002 and scheduled for consideration in Consent Agenda by the full Commission today.

Reason: The applicant states the reason for the request is as follows: "Alley is unimproved and is no longer needed as a public right-of-way. Closure of the alley will allow for development of the property for housing, a community center and a community park."

On a motion by Commissioner Herron , the following resolution was unanimously adopted:

WHEREAS, the Commission finds the proposal to be in compliance with all applicable guidelines of the Comprehensive Plan; now, therefore be it

RESOLVED, That the Louisville and Jefferson County Planning Commission does hereby **FIND**, the request to close the section of Lee Street located between Brook Street and Second Street and being in the City of Louisville, more particularly described in the attached legal description, to be **IN ACCORDANCE** with the guidelines, principles, and objectives of the Comprehensive Plan and does hereby **RECOMMEND** to the Board of Aldermen of the City of Louisville that it be **CLOSED ON CONDITION** that all necessary easements are granted or measures are taken that are requested by an agency, and that no construction of permanent structures shall be permitted within the easement area, and that such

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reservation and prohibition also be included in any litigation concerning the street closing.

The vote was as follows:

YES: Commissioners Crawford, Thieneman, Abstain, Cash, Herron, Norton, Adams and Howard.

NO: No one.

NOT PRESENT FOR THIS CASE: Commissioners Ernst.

ABSTAINING: No one.

LEGAL DESCRIPTION
OF
ALLEY TO BE CLOSED

BEGINNING at a point in the West right-of-way line of State Street 200 feet South of its intersection with Frankfort Avenue; thence West 180 feet to the East right-of-way line of a 15 foot unnamed alley; thence South with the East right-of-way line of said 15 foot unnamed alley 20 feet to a point; thence East 180 feet to the West right-of-way line of State Street; thence North 20 feet to the point of **BEGINNING**.

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DEVELOPMENT SERVICES

1-10-02

PLANNING COMMISSION MINUTES

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NEW BUSINESS:

Public Hearing and Consideration of Cases

DOCKET NO. 9-82-02VLW

Ordinance to change the zoning from R-5A Multi-Family Residential to R-4 Single Family Residential, U-N Urban Neighborhood, and R-7 Multi-Family Residential on property located at 1800 Arlington Avenue, and 1808, 1810, 1812, 1814 and 1816 Frankfort Avenue, containing 1.8 acres and being in the City of Louisville.

Owner: Rob Kanzler
745 W. Main Street
Louisville, Kentucky 40202

Applicant: Richard A. Storm
601 W. Jefferson Street
Louisville, Kentucky 40202

Existing Uses: Vacant School

Proposed Use: Low Income Elderly Housing, Physically Handicapped Housing, Non-Profit Community Center, Community Park

Notice of this public hearing appeared in The Courier Journal on October 17, 2002, a notice was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Development Services offices, 900 Fiscal Court Building.)

The following spoke in favor of this request:

Kris M. Carlton, City of Louisville Law Department, 601 W. Jefferson Street, Louisville, Kentucky 40202.

Al Spots, New Directions.

John Baker, 2225 Sycamore Avenue, Louisville, Kentucky 40206, who submitted binding elements.

Pam Vetter, 123 Waverly Court, Louisville, Kentucky 40206.

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The following spoke in opposition:

No one.

SUMMARY OF TESTIMONY OF PROPONENTS: (See transcript for text in full.)

Kris Carlton, Attorney for the Applicant, stated that the purpose of the rezoning is to redevelop properties upon which the old Franklin Elementary School is situated. The property consists of 12 parcels owned by the City of Louisville that are being consolidated, and then subdivided into four parcels. Parcel 1 will be conveyed to New Directions for residential housing for the visually impaired. The zoning change requested is from R-5A to R-7, along with a variance for the building to encroach into the required side-yard setback. New Directions will also control Parcel 4, which will become a passive-use community park. The rezoning requested for this parcel is from R-5A to R-4, to protect the integrity of the development, and prevent more dense uses in the future. Parcel 2 will be conveyed to Louisville East Community Development Corporation, to be developed into low-income housing units. The plan shows that a boiler room in the back of the property will be razed; if the building is kept, this will be shown on a new detailed development plan. The zoning change requested is from R-5A to R-7. Parcel 3 will become the new site for the United Crescent Hill Ministries' community center. A rezoning from R-5A to U-N is requested, so that the floor-area ratio can be maintained. Both Parcels 2 and 3 require variances for side-yard setbacks. This is necessitated due to the resubdivision of the parcels; the buildings are already existing as the Franklin Elementary School and the school's addition. Variances are also requested for the existing walkways, dumpster enclosures, and to allow parking in the front-yard setback of Parcel 2. Because the community park in Parcel 4 will have its own landscaping, there are also landscaping waivers being requested. At this time, the City seeks rezoning of the four parcels, and the required variances and landscaping waivers.

The site will provide sufficient parking on each parcel, as per the requirements of the Development Code; there is, however, additional on-street parking available, in what previously were school-bus zones. Other than the residential units on Parcels 1 and 2, most of the community utilization will be from residents who walk, or are transported by bus.

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Parcel 3 is the only one with a detailed development plan being submitted at this time; Parcels 1, 2 and 4 are simply general development plans. When the other parcels are ready to be developed, the owners will then submit new detailed development plans. Immediate approval of the rezoning for Parcel 3 is needed to ensure the owners/developers receive federal funding pledged to the project.

Al Spotts, with New Directions, stated that the exterior of the building on Parcel 3 would be constructed from vinyl and brick. Renderings were shown to the Commissioners.

SUMMARY OF TESTIMONY OF OPPONENTS: (See transcript for text in full.)

No one spoke.

SUMMARY OF TESTIMONY OF INTERESTED PARTIES: (See transcript for text in full.)

No one spoke.

REBUTTAL:

No one.

DISCUSSION:

Ms. Tourkow discussed the proposal and summarized the central issues related to the rezoning.

A transcript of the public hearing is on file in this docket.

In a business session subsequent to the public hearing on this request, the Commission took the following action.

On a motion by Commissioner Herron, the following resolution was unanimously adopted:

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WHEREAS, for the four parcels identified as the Franklin School Rezoning Project, located at 1800 Arlington Avenue, and 1806-1820 Frankfort Avenue, the Commission finds that the proposal to change the zoning from R-5A to R-7 on Parcel 1; from R-5A to U-N on Parcel 2; R-5A to R-7 on Parcel 3, and R-5A to R-4 on Parcel 4, is consistent with the zoning of surrounding blocks, and is compatible with development in the Clifton neighborhood. The property formerly was the site of an elementary school, now vacant. The parcels will be redeveloped as low-income elderly housing, residences for the visually-impaired, a relocation for the United Crescent Hills Ministries' Community Center, and a community park. These zoning changes would allow development that is harmonious with existing residential areas surrounding this site; and

WHEREAS, the Planning Commission finds that, based upon testimony and evidence submitted during the public hearing, the Land Development, and Transportation Committee review, the staff report and the file of the case, the proposal for the submitted project complies with Policy II.B.2 (Traditional Neighborhood). The existing pattern for surrounding properties is primarily Traditional Neighborhood residential use. The rehabilitation of the Franklin School will provide both low-income residential use, as well as a community center for the neighborhood's residents. The adjoining parcels will provide residential use by the visually-impaired, as well as a passive-use community park. These uses are compatible with one another and with the existing neighborhood; and

WHEREAS, the proposed zoning changes are the most restrictive zoning classifications available, given the constraints of the site dimensions and floor area ratios; this will prevent future development that would be less compatible with the surrounding Traditional Neighborhood; and

WHEREAS, Parcel 3 must be granted this zoning change in order to comply with federal requirements for funding of its project; this parcel's detailed development plan complies with the requirements of Cornerstone 2020 and the regulations of the Development Code for all of Jefferson County, which will be effective in March 2003; and

WHEREAS, the Commission is advised that the City of Louisville is the current owner of all parcels. As parcels are conveyed to new owners for development, the owners of said parcels will submit detailed development plans for any

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proposed changes to the current site plan submitted for these zoning changes; and

WHEREAS, the Commission is advised that the City of Louisville has had extensive discussions with New Directions, United Crescent Hill Ministries, and Louisville East Community Development Corporation, the entities to which the parcels will be conveyed, as well as representatives of the surrounding neighborhood organizations; these entities are in agreement with regard to the proposed rezoning and development of the parcels, and are working together to ensure compatible development; and

WHEREAS, the Commission finds that the proposal has received preliminary approval from the Jefferson County Department of Public Works, and the Metropolitan Sewer District; and

WHEREAS, the Commission finds the proposal to be in conformance with all other applicable guidelines of the Comprehensive Plan; now, therefore, be it

RESOLVED, that the Louisville and Jefferson County Planning Commission does hereby **RECOMMEND** to the Board of Aldermen of the City of Louisville that the change in zoning for Parcel 1 from R-5A to R-7; for Parcel 2 from R-5A to U-N; for Parcel 3 from R-5A to R-7; and for Parcel 4 from R-5A to R-4, on property described in the attached legal description be **APPROVED**.

RESOLVED, That the Louisville and Jefferson County Planning Commission does hereby **APPROVE** the district development plan **SUBJECT** to the following binding elements:

BINDING ELEMENTS

1. The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission for review and approval; any changes/additions/alterations not so referred shall not be valid.
- 1a. Prior to development (includes clearing and grading) of each site or phase of this project, the applicant, developer, or property owner shall obtain

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approval of a detailed district development plan from the Planning Commission. Each plan shall be in adequate detail and subject to additional binding elements. The additional binding elements may relate, but not be limited, to the following items:

- a. screening, buffering, landscaping, tree preservation
- b. density, floor area, size, and height of buildings
- c. points of access and site layout with respect to on-site circulation
- d. land uses
- e. signage
- f. loading berths
- g. parking
- h. sidewalks
- i. site design elements relating to alternative transportation modes
- j. outdoor lighting
- k. minor subdivision plat approval
- l. air pollution
- m. the timing of construction to coincide with the availability of flood protection measures, municipal sewer and water service, and adequate fire protection
- n. dumpsters

2. Parcel 3: The density of the development shall not exceed 30.9 dwelling units per acre (14 units on 0.453 acres).
3. There shall be no freestanding sign permitted on site without prior approval. Monument style signs that meet the size and height limits established in the "Policies for Future Development Along Designated Parkways" may be approved by DPDS staff. Signs that exceed those limits are permitted only if approved by LD&T or the Commission. LD&T or the Planning Commission may require that the signs be smaller than would otherwise be permitted by the Zoning District Regulations.
4. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
5. Outdoor lighting (for parking lot illumination and security) shall be directed down and away from surrounding residential properties. Lighting fixtures

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shall have a 90-degree cutoff and height of the light standard shall be set so that no light source is visible off-site.

6. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:
 - a. The development plan must receive full construction approval from the City of Louisville Department of Inspections, Permits and Licenses (617 W. Jefferson Street) and the Metropolitan Sewer District (700 West Liberty).
 - b. A minor subdivision plat shall be recorded creating the lot lines as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Development Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Article 12 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. An access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be secured from the adjoining property owner and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Development Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - e. An alley closure approval shall be approved prior to requesting a building permit.
7. If a building permit is not issued within one year of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.
8. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be

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implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.

9. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
10. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
11. If work is required within the easements causing removal or damage of landscape materials, the property owner shall be responsible for replacement of materials according to the approved landscape plan.
12. Dumpsters shall be fully enclosed and shall not be emptied between the hours of 10 pm. and 7 am.
13. No overnight idling of trucks shall be permitted on-site.
14. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the November 7, 2002, Planning Commission meeting.
15. All construction vehicles, including those vehicles operated by the employees of contractors, subcontractors, and other parties engaged in the development of this site, shall be parked on-site.
16. The property owner shall notify first and second tier property owners and the Clifton Community Council thirty (30) days in advance of any application for a change in use of the property, any further development, minor plats, consolidation of lots, alteration of existing structure or

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property, or change in binding elements which requires a hearing before the Planning Commission, any zoning board, or committee.

17. Construction vehicles shall be cleaned off of any dirt or debris prior to exiting property.
18. Discuss interior and exterior modifications that would improve accessibility for the visually impaired with Renee Farrell, mobility specialist at Kentucky School for the Blind.
19. Construct interior sidewalks for pedestrian access between buildings.

The vote was as follows:

YES: Commissioners Crawford, Thieneman, Abstain, Cash, Herron, Norton, Adams, and Howard.

NO: No one.

NOT PRESENT FOR THIS CASE: Commissioners Ernst.

ABSTAINING: No one.

WAIVERS

On a motion by Commissioner Herron, the following resolution was adopted:

WHEREAS, based on testimony and evidence submitted with the application, in the Staff Report and to the Planning Commission at various meetings, including LD&T Committee meetings and the public hearing, that the proposal is in agreement with the Guidelines of Cornerstone 2020 Comprehensive Plan for Louisville and Jefferson County, and

WHEREAS, the Commission finds a landscape waiver is needed to omit a 6-foot LBA with one tree per 50 feet, plus 6-foot high hedge, fence, wall or earth mound. Parcel 4 will be used as a community park and will have its own landscaping; all properties will be designed to have connectivity and flow; thus, the Commission finds the landscape waiver should be granted; and

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WHEREAS, based on the foregoing, the Commission finds that the proposal is also in compliance with all other applicable guidelines of the Cornerstone 2020 Comprehensive Plan; now therefore, be it

RESOLVED that the Louisville and Jefferson County Planning Commission does hereby **GRANT** the following waiver:

1. A Landscape Waiver is requested for Parcel 3 to eliminate the 6 ft. Landscape Buffer Area and associated vegetation required per Article 12.D1.(a). A.6.

The waiver(s) are as specified in the Commission's resolution and do not waive any other regulation.

The vote was as follows:

YES: Commissioners Crawford, Thieneman, Abstain, Cash, Herron, Norton, Adams and Howard.

NO: No one.

NOT PRESENT FOR THIS CASE: Commissioners Ernst.

ABSTAINING: No one.

VARIANCES

WHEREAS, based on testimony and evidence submitted with the application, in the Staff Report and to the Planning Commission at various meetings, including LD&T Committee meetings and the public hearing, that the proposal is in agreement with Guidelines of the Cornerstone 2020 Comprehensive Plan for Louisville and Jefferson County, and

WHEREAS, the Commission finds that a variance is necessary to permit the residential building on Parcel 1, the housing for visually-impaired on Parcel 3, and the dumpster enclosures on Parcels 2 and 3 to encroach into R-7 required side-yard setbacks. The building variances are required as a result of the resubdivision of the original 12 parcels into 4 parcels. The Commission also finds that a variance is needed for existing walkways, and to allow parking in the front yard setbacks of the U-N zoning of Parcel 2. Without the variances, applicant would be grievously injured; thus, the Commission finds the variances

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should be granted, to prevent the razing of existing structures, and to eliminate the need for applicants to seek a parking waiver; now therefore, be it

RESOLVED that the Louisville and Jefferson County Planning Commission does hereby **GRANT** the following Variances:

Tracts 1

1. A Variance is requested to allow an existing structure to encroach into the R-7 Side Yard required per Article 4.12.C.2.b and be located 0 ft. from the property line.

Tract 2

1. A Variance is requested to allow a dumpster enclosure to encroach into the U-N Rear Yard required per Article 4.8.C.2.d, and be located 0 ft. from the property line.

Tract 3

1. A Variance is requested to allow a dumpster enclosure and a proposed building to encroach into the R-7 Side Yard required per Article 4.12.C.2.b, and be located 0 ft. from the property line for the dumpster enclosure, and 2.5' from the property line for the building.

The vote was as follows:

YES: Commissioners Crawford, Thieneman, Abstain, Cash, Herron, Norton, Adams, and Howard.

NO: No one.

NOT PRESENT FOR THIS CASE: Commissioners Ernst.

ABSTAINING: No one.

Parcel 1
R-5A to R-7

Beginning at a point at the northwest corner of the intersection of State Street and Arlington Avenue; thence with the north line of Arlington Avenue, N 68°21'50" W, 180.00 feet to the east line of a 15.00 foot alley; thence with said alley, N 21°02'17" E, 107.78 feet to a point; thence leaving said alley, S 68°21'50" E, 179.90 feet to a point in the aforementioned State Street right-of-way; thence with said right-of-way, S 20°58'51" W, 107.78 feet to the point of beginning, containing 0.45 acres.

September 11, 2002

Prepared by:
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Consulting Engineers•Landscape Architects•Planners
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Louisville, KY 40220

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Parcel 2
To Remain R5-A

Beginning at a point, said point being N 20°58'51" E, 107.78 feet from the northwest intersection of Arlington Avenue and State Street; thence leaving State Street, N 68°21'50" W, 179.90 feet to a point in the east line of a 15-foot alley; thence with said alley, N 21°02'17" E, 92.22 feet to a point; thence leaving said alley, S 68°21'50" E, 83.13 feet to a point; thence N 21°02'17" E, 67.07 feet to a point; thence S 68°21'50" E, 96.61 feet to a point in the aforementioned State Street right-of-way; thence with said State Street right-of-way, S 20°58'51" W, 159.29 feet to the point of beginning, containing 0.53 acres.

August 15, 2002

Revised: September 11, 2002

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**PLANNING &
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Parcel 3
R-5A to R-7

Beginning at the northwest corner of Parcel 3 in the south right-of-way line of Frankfort Avenue; thence with said right-of-way line, S 68°21'50" E, 98.13 feet to a point; thence leaving Frankfort Avenue, S 21°02'17" W, 220.00 feet to a point; thence N 68°21'50" W, 83.13 feet to the east line of a 15.00 foot alley; thence with said alley, N 21°02'17" E, 85.42 feet to a point in the north line of a 20.00 foot alley; thence with said 20.00 foot alley, N 68°21'50" W, 15.00 feet to a point; thence leaving said line, N 21°02'17" E, 134.57 feet to the point of beginning, containing 0.47 acres.

September 6, 2002

Revised: September 11, 2002

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DEVELOPMENT SERVICES

Parcel 4

R-5 to R-4

Beginning at a point at the southwest intersection of State Street and Frankfort Avenue; thence with State Street, S 20°58'51" W, 152.93 feet to a point; thence leaving State Street, N 68°21'50" W, 96.60 feet to a point; thence N 21°02'17" E, 152.93 feet to a point in the south line of aforementioned Frankfort Avenue; thence with Frankfort Avenue, S 68°21'50" E, 96.45 feet to the point of beginning, containing 0.34 acres.

August 15, 2002

Revised: September 11, 2002

Prepared by:

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Louisville, KY 40220

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