

city of saint paul
planning commission resolution
file number
date

WHEREAS, in File # 17-000-688, the Planning Commission has considered revocation or modification of a conditional use permit (Zoning File #14-326-683) for a bed & breakfast residence with 4 guest rooms due to noncompliance with conditions for this use under the provisions of § 61.108; § 61.501; § 61.502; § 65.641 of the Saint Paul Legislative Code, on property located at 241 George Street West, Parcel Identification Number (PIN) 07.28.22.13.0175; W 15 feet of S 35 feet of Lot 2, S 41.53 feet of Lot 3, Lot 6, and W 15 feet of Lot 7, Dorhardt Rearrangement; and

WHEREAS, the Zoning Committee of the Planning Commission, on February 16, 2017, held a public hearing at which all persons present were given an opportunity to be heard pursuant to said application in accordance with the requirements of §61.303 of the Saint Paul Legislative Code; and

WHEREAS, the Saint Paul Planning Commission, based on the evidence presented to its Zoning Committee at the public hearing as substantially reflected in the minutes, made the following findings of fact:

1. On October 3, 2014, under provisions § 61.501 and § 65.641 of the Zoning Code, the Planning Commission approved Planning Commission Resolution # 14-66 granting a conditional use permit for the Dearing Mansion Bed and Breakfast residence with four (4) guest rooms at 241 George Street West.
2. After receiving a complaint, on March 16, 2016 the Zoning Administrator sent an enforcement notice to the permit holder, Scott Kramer, regarding the following violations of the Zoning Code and conditions of the conditional use permit:
 - The house was being advertised and used as a reception house for wedding receptions, as a retreat center for corporate retreats, and for a variety of other gatherings, uses not permitted in the RT1 two-family residential zoning district, and also in violation of the condition in Zoning Code § 65.641(e) that dining and other *bed and breakfast residence* facilities shall be used exclusively by the residents and registered guests.
 - The house was being advertised and used as a *bed and breakfast residence* with six (6) guest rooms, in violation of the condition in Zoning Code § 65.641(g) that a *bed and breakfast residence* in a one-family dwelling shall have a maximum of four (4) guest rooms, and in violation of the permit granted by the Planning Commission.
 - Final plans for the *bed and breakfast residence*, including floor plans and a site plan showing the layout of required off-street parking had not yet been approved by the Zoning Administrator, in violation of a condition of the permit granted by the Planning Commission.

The permit holder was given until March 31, 2016 to comply by renting a maximum of four (4) guest rooms, eliminating any use of the property for events open to the public, and submitting floor plans along with a site plan that indicates the layout of off-street parking. The permit holder was notified that failure to comply with the inspector's order would result in permit revocation proceedings.

moved by _____
seconded by _____
in favor _____
against _____

On March 29, 2016 the permit holder emailed the inspector stating that the whole house listing was removed from the Airbnb website, that he would revise the Dearing Mansion website to eliminate language that mentioned availability of six (6) guest rooms, and that he would cease using the bed and breakfast residence for events.

In October 2016 DSI received another complaint regarding use of the property for a wedding reception, causing noise, and traffic issues for a neighboring property owner. The inspector also discovered the advertisements on the aforementioned webpages had been reestablished to indicate six (6) guest rooms available in the bed and breakfast and also showcasing the Dearing Mansion as an event space.

3. On December 22, 2016, under the requirements of Zoning Code § 61.108, *Conditions violated, permit revocation*, the Zoning Administrator notified the Planning Commission of noncompliance with the conditions of the conditional use permit at 241 George Street West. On December 30, 2016 the Planning Commission voted to schedule a public hearing to consider the matter.

Zoning Code § 61.108, *Conditions violated, permit revocation* states, "The zoning administrator shall notify the planning commission ... when a development covered by a ... permit ... or other zoning approval is not in compliance with any of the conditions imposed upon such use approval. The commission ... may, at a public hearing, following notice to the owner of subject property and other adjacent property owners as specified in section 61.303(c), and upon determination that the conditions imposed by such approval are not being complied with, revoke the authorization for such approval and require that such use be discontinued. The commission ..., in lieu of revoking the permission, may impose additional conditions, modify existing conditions, or delete conditions which are deemed by the commission ... to be unnecessary, unreasonable or impossible of compliance."

4. A review of the Dearing Mansion website on February 8, 2017 shows the property advertised as *the ideal location for corporate trainings, retreats, groups, reunions, intimate weddings, receptions or a romantic getaway...* and that *events of up to 100 people are welcomed*. Four (4) guest rooms are advertised for rent. A review of the Airbnb website on February 8, 2017 identified the whole house for rent, including six (6) bedrooms.
5. Use of the house for receptions, retreats, conferences, or any other group events is not permitted in the RT1 two-family residential zoning district, and is also a violation of the condition in Zoning Code § 65.641(e) that dining and other *bed and breakfast residence* facilities shall be used exclusively by the residents and registered guests. Zoning Code § 66.313, *Intent. RT1 two-family residential district*, specifically states, "Because of its residential nature, this district is not intended for more intensive uses such as small conference centers, private retreat centers and reception houses."
6. The conditional use permit for the Dearing Mansion Bed and Breakfast residence granted by the Planning Commission in 2014 is for a maximum of four (4) guest rooms, the maximum number of guest rooms allowed under the condition in Zoning Code §65.641(g) that a *bed and breakfast residence* in a one-family dwelling shall have a maximum of four (4) guest rooms, as requested in the conditional use permit application.
7. Zoning Code § 61.502, *Modify special conditions*, provides that "the planning commission, after public hearing, may modify any or all special conditions, when strict application of such special conditions would unreasonably limit or prevent otherwise lawful use of a piece of property or an existing structure and would result in exceptional undue hardship to the owner of such property or structure; provided, that such modification will not impair the intent and purpose of such special condition and is consistent with health, morals and general welfare of the community and is consistent with reasonable enjoyment of adjacent property."

The condition in § 65.641(g) that a *bed and breakfast residence* shall have a maximum of four (4) guest rooms is subject to modification under this provision. The property owner is now requesting a modification of this condition to allow a maximum of six (6) guest rooms, which he states is the minimum needed to operate the bed and breakfast residence and cover the costs of extensive restoration and maintenance of the historic Dearing Mansion. The owner states that limiting the *bed and breakfast residence* to four (4) guest rooms would result in it having to be closed and sold, an undue hardship.

8. § 65.641(g) requires a minimum lot area of 8,000 square feet for a *bed and breakfast residence* with four (4) guest rooms. Given the large size (4,600 square feet) of the Dearing Mansion and the large lot size (14,810 square feet), it may be unnecessary and unreasonable to limit the *bed and breakfast residence* to four (4) guest rooms in this case. Allowing a maximum of six (6) guest rooms may be consistent with the intent and purpose of this special condition to limit potential negative impact on surrounding residential uses and provide for reasonable enjoyment of adjacent property
9. Zoning Code § 63.207 requires that a *bed and breakfast residence* shall have a minimum of one (1) off-street parking space per dwelling unit and 0.5 space per guest room. This is a requirement of four (4) off-street parking spaces for the *bed and breakfast residence* with six (6) guest rooms. The property owner states that there is adequate space to meet this requirement using the long, wide driveway on the east side of the site. A site plan showing this should be provided to and approved by the Zoning Administrator. On-street parking is not permitted on the north side of George Street in front of the property.
10. The City is working on Zoning Code amendments to regulate short term rental uses such as Airbnb and VRBO. Draft language for this would generally limit occupancy of a short term rental dwelling unit to the definition of a *family* in Zoning Code § 60.207, consistent with the current Zoning Code occupancy limit for a *dwelling unit* city-wide. The provision in Zoning Code § 65.641(g) for a *bed and breakfast residence* to have up to four (4) guest rooms, subject to a conditional use permit, is one of the few existing exceptions to this. The draft new Zoning Code language for short term rental uses would also provide for occupancy that exceeds the definition of *family* for large one- and two-family dwellings on large lots if a conditional use permit is obtained. The criteria for determining total occupancy in these situations would include the dwelling size, lot size, provision of off-street parking, and a fire certificate of occupancy inspection for non-owner occupied dwelling units. The draft short term rental ordinance will likely be considered by the City Council in summer 2017.

Current draft ordinance language states, “*use of a short term rental dwelling unit for any commercial or social events is prohibited*”. The intent is allow hosts to have visitors but to prohibit use of short term rental dwelling units for gatherings such as receptions, retreats, conferences, or any other group events. The draft ordinance language calls for amending the language in §65.641(e) which states, “*dining and other bed and breakfast residence facilities shall be used exclusively by the residents and registered guests*” to read “*use of a bed and breakfast residence for any commercial or social events is prohibited.*” The intent is to make the language for short term rental dwelling units and bed and breakfast residences consistent, to allow guests to have visitors, and to prohibit bed and breakfast residences from being used for conference centers, private retreat centers, or reception houses.

11. At the public hearing on February 16, 2017 the following questions were raised about bed and breakfast residences: 1) is there a difference between the owner’s and registered guests’ use of the property; 2) should registered guests be allowed to use a bed and breakfast residence as they would their own residence and hold events; 3) if registered guests are allowed to invite guests and hold events should there be a limit on the number of guests, the location of events (indoors or outdoors), and the number of events held per year.

Responses to the questions are: 1) a bed and breakfast residence owner is allowed to use his or her property as any residential property owner in the City is allowed to use his or her property; 2) registered guests’ use of a bed and breakfast residence is limited by the standards and conditions in

§ 65.641 and the conditional use permit; 3) registered guests are not allowed to invite guests or hold events based on condition §65.641(e) which states, "dining and other *bed and breakfast residence* facilities shall be used exclusively by the residents and registered guests."

12. Zoning Code § 61.502 allows the planning commission to modify conditions as discussed in finding #7. The condition in § 65.641(e), dining and other *bed and breakfast residence* facilities shall be used exclusively by the residents and registered guests, is subject to modification under this provision. During the public hearing on February 16, 2017 the property owner requested § 65.641(e) be modified to allow registered guests and their visitors use of the bed and breakfast residence. Strict application of this condition may unreasonably limit otherwise lawful use of the property because it does not allow bed and breakfast guests to have any visitors for any reason. According to testimony from the property owner at the public hearing on February 16, 2017 it is customary for bed and breakfast guests to have visitors for coffee or even a meal. Input received during the short term rental study affirms this practice. Allowing this would not impair the intent and purpose of condition (e), and is consistent with the § 66.313 prohibition of conference centers, private retreat centers, and reception houses in the RT1 two-family residential district.

The owner stated that it would not be a hardship if outdoor events were not allowed, but that it would be a hardship if indoor events of about 30 people were not allowed. However, modification of condition (e) to allow such events would impair the intent and purpose of the condition and would be inconsistent with the specific prohibition of such commercial and social events in the RT1 zoning district as discussed in finding #5.

As noted in finding #10 the short term rental zoning study recommends amending § 65.641(e) to read, *use of a bed and breakfast residence for any commercial or social events is prohibited*. The intent is to allow guests to have visitors for coffee or a meal, for example, but to prohibit use of bed and breakfast residences for gatherings such as receptions, retreats, conferences, or any other group events. Prohibited commercial and social events include weddings, retreats, conferences, reunions, and parties. It is anticipated that the proposed amendment will be adopted later in 2017. It is therefore appropriate to apply the proposed language to this zoning case and modify §65.641(e) to simply prohibit use of the bed and breakfast residence for any commercial or social events. Modification of this condition does not impair the intent and purpose of the special condition and is consistent with health, morals, and general welfare of the community and is consistent with reasonable enjoyment of adjacent property.

NOW, THEREFORE, BE IT RESOLVED, by the Saint Paul Planning Commission, under the authority of the City's Legislative Code, that the Dearing Mansion Bed and Breakfast conditional use permit (Zoning File #14-326-683) at 241 George Street West is hereby modified to increase the number of guestrooms from four (4) to six (6) and to prohibit use of the bed and breakfast residence for any commercial or social events, subject to the following conditions.

1. Occupancy shall be limited to no more than two (2) adult guests per guest room.
2. § 65.641 (e) and (g) of the Zoning Code are modified by this permit. All other standards and conditions in § 65.641 (a) through (i) remain in force and must be met.
3. Floor plans and a site plan showing the layout of the required off-street parking spaces must be submitted to and be approved by the Zoning Administrator, and the four (4) required off-street parking spaces must be provided on the site according to the approved site plan by June 1, 2017.
4. The bed and breakfast residence shall not be used as a small conference center, private retreat center, or reception house for weddings, reunions, or parties. Documentation by the Zoning Administrator of any such use or advertising for such use shall result in immediate referral to the Planning Commission for revocation of the conditional use permit.

Dear Zoning Committee Members,

I am writing to express my appreciation for considering modifying my Conditional Use Permit from allowing 4 bedrooms to allowing 6 provided that I submit parking plans for approval before June 1st and meet with the other requirements.

As I stated at the public hearing I will no longer be advertising or otherwise allowing my guests to hold large parties or wedding receptions at my home. I have taken down any advertising to that effect and have shut down the website to modify language to reflect that fact. The truth of the matter is that I have only held 6 or 7 large events (three of which were weddings) over the past three years, (2014, 2015, 2016) and only two of which were actually outdoors.

And even though a few of my neighbors on George Street, including my neighbor directly next door, have expressed **enjoyment and support** at seeing the house used for festive and happy occasions like weddings I understand that the city cannot allow such events in a RT1 location.

It is not a major financial hardship for me to cease outdoor events and it is not a major financial hardship to limit the type or size of gatherings sponsored by my guests **as long as the number is not set too low.**

The staff report states on page 5 of 5 that "the owner stated that it would be a hardship if indoor events of about 30 people were not allowed." I may have arbitrarily mentioned that number 30 at the Feb 16 meeting but after careful consideration I would like to see that number designated arbitrarily at 40. I think that number is quite reasonable since any gatherings organized by my guests would be indoors, not on the back deck or in the back yard and would not cause any noise issues for my neighbor, Jim Katz. (FYI for the record, which is currently in error, no parking issues or complaints of any kind have been made by the neighbors who might have been impacted by additional George St. parking. Let it also be noted that I have obtained permission to park in the Apostolic Assembly Church parking lot directly to the east of my home from the pastor, Elias Elizondo. He stated that he has no issue with people parking in the church lot other than during church events.)

I realize that the City is still working on the Zoning Code amendments to regulate VRBO and AIRBNB short term rentals and that work will likely be completed later in 2017. And I see the logic to make all the language consistent. However, it is my understanding that Conditional Use Permits are designed so that special conditions can be applied. My guess is that 98% of all short term rentals in the City of St. Paul will not have to apply and pay for conditional use permits to operate as short term rentals. But for those of us that do, I believe special conditions can and should be written into our permits depending on the circumstances. In the case of the unique Dearing Mansion I would very much appreciate my short term registered guests be able to use the house as they would their own - within specific limits. My request is that they be allowed to have indoor groups no larger than 40 persons total. I am also happy and willing to limit the number of such indoor gatherings to 6 per calendar year if that makes a difference. I would even be willing to register the dates of such events with the DSI inspector so as to allow for further inspection and compliance.

One last comment or observation is that since the short term rental Zoning Code amendments have not been completed at this time it may make sense to wait until that work has been completed **before** the final modifications are made to my permit. If the Zoning committee chooses to further table this matter until a future date I would agree to operate my business as described above with no outdoor events and no large events or retreats or parties and limit the indoor gathering to 40 persons until a future date when the city finalizes their short term rental Zoning Code amendments and finalizes modifications to my Conditional Use Permit.

Thank you for your thoughtful consideration.

I will be attending the meeting on Thursday March 16th.

Sincerely,

Scott Kramer

Note regarding noise:

One thing to mention regarding noise or sounds coming from the back of my house: With overnight registered house guests they will periodically be drinking coffee in the morning or having cocktails in the evening on the back deck. Some sounds will inevitably come down the hill towards Jim Katz's house. For the record his house is 210 feet away from my back deck. Geographically speaking the floor of my back deck is approximately 6 feet above the very top of his tall 2 ½ story house. Which simply means that his house is at an elevation that is approximately 36 feet below the elevation of the deck on my house. There are also heavy bushes in between the back deck and the front of his house which is on the other side of Robie St. If there is a workable way to mitigate that small amount of noise I am willing to investigate into sound barriers as an option. If there exists a reasonably priced option that might satisfy my neighbor I would consider purchasing and installing such an option if I could be assured in advance that he will be satisfied.

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WHEREAS, Rift Valley Transportation, File # 17-014-925, has applied for a determination of similar use for office, parking, and light maintenance for a passenger van transportation company. under the provisions of § 61.106 of the Saint Paul Legislative Code, on property located at 1025 and 1033 Thomas Ave., Parcel Identification Numbers (PINs) 35.29.23.22.0074 & 35.39.23.22.0186; and

WHEREAS, the Zoning Committee of the Planning Commission, on March 16, 2017, held a public hearing at which all persons present were given an opportunity to be heard pursuant to said application in accordance with the requirements of § 61.303 of the Saint Paul Legislative Code; and

WHEREAS, the Saint Paul Planning Commission, based on the evidence presented to its Zoning Committee at the public hearing as substantially reflected in the minutes, made the following findings of fact:

1. Rift Valley Transportation is a privately owned and operated transportation company that provides transportation services to several Minnesota school districts, medical insurance companies, non-profit social service agencies, and other privately owned companies. The company was established in 2005 and moved to 1033 Thomas in 2016. According to the applicant, the subject property is ideal for their growing business because it is large enough to accommodate their growing fleet of vehicles within the enclosed accessory structure and the main brick building has space available for light maintenance of the vehicles.
2. Zoning Code § 61.106, *Similar use determination*, provides that the planning commission may determine if a use is similar to other uses permitted in a district when a use is not specifically listed in the zoning code, and that the Planning Commission shall make the following findings in making a similar use determination.

(a) *That the use is similar in character to one (1) or more of the principal uses permitted.* This finding is met. There are four main components to the van transportation business: an office, parking of vehicles, light maintenance of vehicles, and transportation of people. A number of uses permitted in the B3 zoning district are similar in character to the individual components of the proposed use, with similar potential off site impact.

The office component of the business is a permitted use in a B3 zoning district.

Parking of vehicles associated for the business is similar to numerous uses permitted in the B3 zoning district that use vehicles as part of their business operations. Unlike many of these uses where vehicles associated with the business are parked outside, the subject property has a large accessory shed that has the capacity to store all of the transportation vehicles within an enclosed structure, thereby lessening the visual impact on neighboring properties. The zoning code recognizes the distinction between vehicles being stored in enclosed structure as opposed to being stored outside with auto sales and rental uses.

moved by _____

seconded by _____

in favor _____

against _____

For example, outdoor auto sales and rental is a conditional use a B3 subject to a number of conditions, whereas, indoor auto sales are a permitted use with no supplemental standards. This suggests that storage of vehicles indoors is a large enough distinction between the two uses to mitigate potential impact on neighboring properties.

In this respect, the proposed use is similar to indoor auto sales, which is permitted outright in a B3 zoning district. As a part of the site plan submitted with this application, the applicant is proposing to develop an outdoor accessory parking lot that will be used for employee parking, in addition to the existing off street parking available in the enclosed structures that is used for parking company vehicles. Adding this supplemental parking lot will allow employees to park on site rather than on adjacent streets.

Light maintenance of the company vehicles is similar but less intensive than auto repair, which is a conditional use in the B3 zoning district. The light maintenance conducted on site is limited to minor upkeep on their fleet of vehicles; more extensive repairs are done at another location. It would be possible for auto repair, if it were to be a principal use at this site, to comply with all the applicable development standards in § 65.705 for auto repair. Light maintenance of the company vehicles for the business has less potential off site impact than an auto repair business open to the general public, a principal use permitted at this location.

The transportation component of the business is similar to package delivery services, a permitted use in B3. Like package delivery services, all of the trips from of Rift Valley Transportation are prearranged, and have comparable off site impact from vehicular trips to and from the site. The business is also similar to a package delivery services regarding the limited size of the vehicles associated with the business operations. The package delivery service definition in Zoning Code § 65.530 states that the size of vehicles is *primarily single axle straight trucks or smaller* vehicles, similar in to the type III school buses that are used for Rift Valley Transportations business operations.

The transportation component of the business has less impact on surrounding property than a bus passenger station, a permitted use in the B3 district.

- (b) *That the traffic generated on such use is similar to one (1) or more of the principal uses permitted.* This finding is met. About 70% of the business's current contracts are derived from driving students to school. Traffic generated by the van transportation company for this is similar to a school, a permitted use in B3. The remaining 30% of their contracts are with medical insurance companies, non-profit social service agencies, and other privately owned companies. The traffic patterns generated by contracts with these types of businesses are often on an appointment basis, similar to traffic patterns of service businesses with a showroom or workshop, a permitted use in B3. *Service business with showroom or workshop* is defined in § 65.534 as including such things as contractors (electrical, heating, air conditioning, mechanical, painter, plumber, etc.) that send out service vans on an appointment basis.
- (c) *That the use is not first permitted in a less restrictive zoning district.* This finding is met. Although there are some aspects of the business that are similar to transportation uses first permitted in I1, the business is substantially different from these regarding the limited size of vehicles, all trips being pre-arranged, and indoor parking of vehicles.

The vehicles used for the business operations are limited to Type III school buses which are defined by Minnesota State Statute 169.011 Subd. 71 (h). Type III school buses are restricted to passenger cars, station wagons, vans, SUV's and buses having a maximum manufacturer's rated seating capacity of ten or fewer people, including the driver, and a gross vehicle weight rating of 10,000 pounds or less.

The company's drivers typically leave for their pre-arranged routes in the morning and don't return to their vehicles to the business until their route is done in the evening. Because all of the routes are prearranged, there is less of an impact on neighboring properties compared to other transportation uses in less restrictive districts, where drivers may be coming and going from the site throughout the day.

The business at 1033 Thomas parks its entire fleet of vehicles within an enclosed structure, lessening impact on neighboring properties.

- (d) *That the use is consistent with the comprehensive plan.* This finding is met. Strategy 2.2 of the land use chapter calls for the redevelopment of outmoded and non-productive sites so they can sustain existing industries and attract emerging industries to Saint Paul. Because of the design and location of the buildings, reuse for most other uses permitted in the B3 zoning district would be unfeasible. The industrial design of the buildings is ideal for the passenger van transportation business because there is space for light maintenance and indoor parking for all company vehicles. The use is also consistent with strategy ED2 in the District 7 neighborhood plan, which calls for encouraging companies that locate in the community to hire directly from the community. According to the materials submitted by the applicant, one of the benefits of the site is that it provides opportunity for neighborhood residents to find a job right outside their door.

NOW, THEREFORE, BE IT RESOLVED, by the Saint Paul Planning Commission, under the authority of the City's Legislative Code, that the application of Rift Valley Transportation for a determination of similar use for office, parking, and light maintenance for a passenger van transportation company at 1025 and 1033 Thomas Ave., in the B3 general business district, is hereby approved subject to the following conditions.

1. Final plans approved by the Zoning Administrator for this use shall be in substantial compliance with the plans submitted as part of this application.
2. The structures shall be brought into compliance with applicable building code and fire code standards.
3. 1033 Thomas Ave., PIN 35.29.23.22.0074, and 1025 Thomas Ave., PIN 35.39.23.22.0186 shall be combined into one lot.
4. The transportation services offered shall be limited to prearranged trips with schools, medical insurance companies, nonprofit social services, and other privately owned companies.
5. The vehicles associated with the business shall be limited to those having a manufacturers seating capacity of ten (10) or fewer people, and a gross vehicle rating of 10,000 pounds or less.
6. All vehicles utilized as a part of the business operations shall be stored in an enclosed structure.
7. The exterior lot shall be reserved for employee and visitor parking.
8. Light maintenance of vehicles on the site shall be limited to light maintenance of vehicles used exclusively for the business. No general vehicle repair or body work shall occur on the premises
9. No vehicle maintenance may occur on the exterior of the lot or in the public right-of-way. All vehicle maintenance activity must occur within an enclosed building.

Johnson, Tony (CI-StPaul)

From: hhussein@aeds-mn.org
Sent: Monday, March 13, 2017 2:42 PM
To: Johnson, Tony (CI-StPaul)
Subject: Support for Ebisso Uka of Rift Valley Transportation

Hi,

I am writing in support of the application of Ebisso Uka of Rift Valley Transportation under review by the Planning Commission.

Mr. Uka has been a client of ours for years. By moving to his new office location, Mr. Uka has been able to create jobs for the local community and the use of the building is instrumental in making this a reality.

Accordingly, we will appreciate any support extended to Mr. Uka.

Let me please know if you have any questions or seek further information.

Sincerely,

Hassen Hussein, Director of Business Development
African Economic Development Solutions & Little Africa
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