

**CITY OF MOUNTAIN VIEW
SUBDIVISION CONDITIONS**

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APPLICATION NO.:

PL-2023-103

DATE OF FINDINGS:

November 13, 2024

EXPIRATION OF ZONING PERMIT:

THIS DOCUMENT REPRESENTS THE ZONING PERMIT RECEIVED FOR THE SUBJECT SITE. THIS DOCUMENT DOES NOT WAIVE THE REQUIREMENT FOR SUBSEQUENT CITY APPROVALS AS APPLICABLE, INCLUDING, BUT NOT LIMITED TO, BUILDING PERMITS, EXCAVATION PERMITS, ETC.

Applicant's Name:

Forrest Linebarger of Tower Investment, LLC

Property Address:

Assessor's Parcel No(s).:

Zone:

294-296 Tyrella Avenue

160-32-001 and 163-32-002

R3-1

Request:

Request for a Tentative Map for condominium purposes associated with an 85-unit residential condominium development project (PL-2023-102) on a 0.48-acre project site.

APPROVED CONDITIONALLY DISAPPROVED OTHER
APPROVED

******SUBDIVISION COMMITTEE RECOMMENDATION TO CITY COUNCIL******

FINDINGS OF APPROVAL:

The Tentative Map for condominium purposes associated with an 85-unit condominium project (PL-2023-102) is conditionally approved based upon the conditions of approval contained herein and upon the following findings per Section 36.44.70:

- A. **The proposed subdivision, together with the provisions for its design and improvement, is consistent with applicable general and specific plans. (Gov. Code §§ 66473.5, 66474)** The Builder's Remedy provisions of the Housing Accountability Act prohibit local agencies from relying on inconsistency with zoning and General Plan standards as a basis for denial of a housing development project for very low-, low-, or moderate-income households. The project is consistent with some provisions of the Zoning Ordinance and General Plan, and where the project is inconsistent with the Zoning Ordinance and General Plan, said inconsistencies are not a basis for disapproval of the project. The subdivision is compatible with some General Plan policies. Specifically, the project supports the General Plan Policies LUD 3.5 (Diversity) and LUD 3.9 (Parcel Assembly). The subdivision provides for the improvement of the 0.48 acre with frontage improvements, including new utility connections, new landscaping, and repair of damaged curb, gutter, and sidewalks;
- B. **The site is physically suitable for the type and density of development. (Gov. Code § 66474)** The Builder's Remedy provisions of the Housing Accountability Act prohibit local agencies from relying on inconsistency with zoning and General Plan standards as a basis for denial of a housing development project for very low-, low-, or moderate-income households. The project is consistent with some provisions of the Zoning Ordinance and General Plan, and where the project is inconsistent with the Zoning Ordinance and General Plan, said inconsistencies are not a basis for disapproval of the project. The proposed map facilitates development of the project site consistent with some provisions of the Zoning Ordinance and is intended to provide 85 mixed-income residential units (68 market-rate and 17 units affordable to low-income households) to alleviate housing and affordability problems. The site is flat and is surrounded by existing residential developments in the area. The site supports General Plan Policy LUD 3.5 (Diversity) as the project is a residential development serving a range of diverse households and

Owner

Agent

File

Fire

Public Works

incomes (68 market-rate units and 17 affordable units). The proposed development of 0.48-acre site will not exceed a maximum development of 85 units;

C. **The proposed design of the subdivision and the improvements, as conditioned, will not cause environmental damage or substantially and avoidably injure fish or wildlife or their habitat. (Gov. Code § 66474)** The design of the subdivision and the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitats as the project site complies with the California Environmental Quality Act (CEQA) as a categorically exempt project under CEQA Guidelines Section 15332 (“In-Fill Development”) because the project is consistent with the following findings, and none of the exceptions in CEQA Guidelines Section 15300.2 apply:

1. **The project is consistent with the applicable General Plan designation and all applicable General Plan policies as well as with applicable zoning designation and regulations.** The applicant submitted a preliminary application before the City adopted a substantially compliant Housing Element for a housing development project that proposes 20% of its total units to be affordable to lower-income households; therefore, the project qualifies as Builder’s Remedy project. The Builder’s Remedy provision of the HAA prohibits the City from relying on inconsistencies with zoning and the General Plan standards as a basis for denial of a housing development project for very low-, low-, or moderate-income households. Therefore, any existing zoning requirements and development standards that the project is not in compliance with are not “applicable” to the project within the meaning of CEQA Guidelines Section 15332, subdivision (a). For these reasons, the project is consistent with the “applicable” designations and policies.
2. **The proposed development occurs within City limits on a project site of no more than five acres and substantially surrounded by urban uses.** The gross project site is approximately 0.48 acres in size and is located at the southwest corner of Middlefield Road and Tyrella Avenue within the eastern-central portion of the City of Mountain View. The site is located within an urbanized, developed residential area of the City and is surrounded by existing residential uses. Therefore, the proposed project would meet this criterion.
3. **The project site has no value as habitat for endangered, rare, or threatened species.** The project site is developed with existing residential uses and is located within a developed, urban area of the City. Vegetation on the site consists of landscape trees, and the site does not contain habitat for endangered, rare, or threatened species. The project will be required to comply with the City’s standard tree replacement requirements outlined in the City Code and the City’s Standard Conditions of Approval.

No species identified as a candidate, sensitive, or special-status species are known to occur at the site location, and no sensitive or jurisdictional habitats are present at or adjacent to the site. The site is not part of any habitat conservation plan. Therefore, the project site has no value as habitat for endangered, rare, or threatened species, and the project would meet this criterion under CEQA Guidelines Section 15332(c).

4. **Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.**

Traffic/Transportation: As the project is residential, it would not exceed the City’s transportation impact thresholds. According to the City of Mountain View’s Vehicle Miles Traveled (VMT) policy, residential projects located in areas of low VMT, defined as exhibiting VMT that is 15% or greater below the existing nine-county Bay Area regional average VMT, shall be presumed to have a less-than-significant transportation impact. The project site is located in a low VMT area and, therefore, the project would not result in significant transportation impacts.

Noise: The project would not exceed the City’s applicable significance thresholds related to noise or vibration. The project is not located within the vicinity of a private airstrip or a public airport and would not expose people residing or working in the area to excessive aircraft noise levels.

The project would result in construction noise and vibration at levels similar to other midrise construction projects within the City. There is nothing unique or peculiar about the project or its construction that would suggest that the project would have greater construction noise or vibration impacts than other typical midrise construction projects.

The project would include stationary sources of operational noise, such as mechanical heating, ventilating, and air conditioning (HVAC) equipment, that is standardized for noise reduction, as well as an emergency generator for the

elevator. Stationary equipment would be located and shielded to operate within the City's Noise Ordinance requirements. As directed by the California Supreme Court in *Make UC A Good Neighbor v. Regents of University of California (2024) 16 Cal.5th 43*, noise from resident activity at the site is not considered an environmental impact.

Based on the above discussion, the project would not result in significant or unique noise impacts. With implementation of all required standard conditions of approval pertaining to noise (see Section 5.0 CEQA Checklist for full text of applicable conditions), the project would not result in significant effects related to noise or vibration. For these reasons, the project would meet the criteria pursuant to CEQA Guidelines Section 15332(d).

Air Quality: The project would not exceed the City's applicable significance thresholds related to air quality. The project is consistent with the policies and standards of the City's General Plan and proposes infill residential development within an area that is well served by transit. As such, the project is also considered to be consistent with the Clean Air Plan.

The project would not exceed the screening criteria published by the Bay Area Air Quality Management District (BAAQMD) air quality emissions resulting from construction or operations. Construction-related emissions from the project will be reduced to a less-than-significant level with implementation of required City of Mountain View standard conditions of approval. Given the nature of the proposed residential use, project operations would not be a substantial source of toxic air contaminants and would not pose a health risk to others. Pursuant to the City of Mountain View's standard conditions of approval, the project will be required to install MERV 13 or better HVAC air filters which will remove emissions from indoor air and ensure that the project will not result in significant health risks.

With implementation of the City's standard condition of approval, the project would not result in significant effects related to air quality and would meet the criteria pursuant to CEQA Guidelines Section 15332(d).

Water Quality: The project would not exceed the City's applicable significance thresholds related to water quality. The project site is currently developed and is located within an urbanized environment. There are no lakes, creeks, or other surface waters in the immediate site vicinity. The project site is served by the City's existing stormwater system and downstream conveyance channels that will receive runoff from the project.

Given the location and flat nature of the site, the project would not substantially increase runoff as a source of polluted runoff from the site. The project will be subject to regulatory requirements and the City's standard conditions of approval, which require site design measures to reduce the amount of stormwater runoff and limit pollution in stormwater runoff. With implementation of all required standard conditions pertaining to water, the project would not result in significant impacts related to water quality and would meet the criteria pursuant to CEQA Guidelines Section 15332(d) for an infill exemption.

5. **The site can be adequately served by all required utilities and public services.** As documented in the utility impact study, the project would not exceed the City's applicable significance thresholds related to utilities and public services. The project site is located within an urbanized residential area of the City which is served by all needed utilities (e.g., water, electricity, sanitary sewer facilities, and storm drain facilities) and all required public services (e.g., police and fire services, public schools). The proposed redevelopment will require specific on-site extensions and improvements to existing utility infrastructure to serve the new residential condominium building. Based on the findings and recommendations of the Utility Study which also incorporates information from previous studies, the project would not contribute to additional deficiencies in the water system or sewer system.

The project would not result in significant effects related to utilities or public services and would meet the criteria pursuant to CEQA Guidelines Section 15332(d) for an infill exemption;

- D. **The design of the subdivision and its improvements will not cause serious public health problems. (Gov. Code § 66474)** The design of the subdivision and the proposed improvements are not likely to cause serious public health problems because the project will be consistent with applicable policies included in the General Plan and the City Code and will be subject to standard conditions of approval to protect public health, safety, convenience, and welfare. Proposed public (off-site) improvements are designed to meet applicable City design standards and the City Code. Additionally, the project will be further reviewed for compliance with Building and Fire Codes to ensure on-site improvements comply with applicable codes for safe habitation;

- E. **The design of the subdivision and its improvements will not conflict with easements, acquired by the public at large, for access through or use of property within the subdivision (Gov. Code § 66474).** The subdivision and improvements as conditioned will not conflict with existing easements;
- F. **For a proposed subdivision with more than five hundred (500) dwelling units, water will be available and sufficient to serve the proposed subdivision in accordance with Section 66473.7 of the Subdivision Map Act. (Gov. Code § 66473.7)** This finding does not apply because the project proposes 85 dwelling units;
- G. **The discharge of waste from the proposed subdivision into the sewer system will not violate regional water quality control regulations. (Gov. Code § 66474.6)** The subdivision will not result in the discharge of waste into the sewer system that would violate regional water quality control regulations;
- H. **The design of the subdivision provides, to the extent feasible, for future passive or natural heating or cooling opportunities. (Gov. Code § 66473.1)** The subdivision provides, to the extent feasible, for future passive or natural heating or cooling opportunities. The project includes a cool roof to reflect sunlight and absorb less energy to reduce energy consumption; and
- I. **The City has considered the effects on housing needs of the region in which the local jurisdiction is situated and balanced these needs against the public service needs of its residents and available fiscal and environmental resources. (Gov. Code § 66412.3)** In approving the tentative tract map, the City Council has considered its effect upon the housing needs of the region balanced with the public service needs of Mountain View residents and available fiscal and environmental resources.

This approval is granted to merge two existing parcels to create a single lot for 85 residential condominium units located on Assessor's Parcel Nos. 160-32-001 and 163-32-002. Development shall be substantially as shown on the project materials listed below, except as may be modified by conditions contained herein, which are kept on file in the Planning Division of the Community Development Department:

- a. Tentative Map prepared by Tower Investment, LLC, dated October 7, 2024.

THIS REQUEST IS GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:

FINAL MAP

1. **MAP SUBMITTAL:** File a final map for approval and recordation in accordance with the City Code and the California Subdivision Map Act prior to the issuance of any building permit for the property(ies) within the subdivision. All existing and proposed easements are to be shown on the map. Submit the map for review concurrent with all items on the Map Checklist and the Off-Site Improvement Plans to the Public Works Department. All required materials shall be submitted electronically (i.e., flattened, reduced-size PDFs).
2. **PRELIMINARY TITLE REPORT:** At first submittal of a final map to the Public Works Department, the applicant shall provide a current preliminary title report indicating the exact name of the current legal owners of the property(ies), their type of ownership (individual, partnership, corporation, etc.), and legal description of the property(ies) involved (dated within six months of the submission). The title report shall include all easements and agreements referenced in the title report. Depending upon the type of ownership, additional information may be required. The applicant shall provide an updated title report to the Public Works Department upon request. All required materials shall be submitted electronically (i.e., flattened, reduced-size PDFs).
3. **SOILS REPORT:** Soils and geotechnical reports prepared for the subdivision shall be indicated on a final map. Submit a copy of the report with the first submittal of a final map. All required materials shall be submitted electronically (i.e., flattened, reduced-size PDFs).

As required by the State Seismic Hazards Mapping Act, a project site-specific geotechnical investigation shall be conducted by a registered soils/geologist identifying any seismic hazards and recommending mitigation measures to be taken by the project. The applicant, through the applicant's registered soils engineer/geologist, shall certify the project complies with the requirements of the State Seismic Hazards Mapping Act. Indicate the location (page number) within the geotechnical report of where this certification is located or provide a separate letter stating such.

4. **MAP DOCUMENTS:** Prior to the approval and recordation of the map, submit a subdivision guarantee, Santa Clara County Tax Collector's letter regarding unpaid taxes or assessments, and subdivision security if there are unpaid taxes or special assessments. All required materials shall be submitted electronically (i.e., flattened, reduced-size PDFs).
5. **FINAL MAP APPROVAL:** A final map shall be signed and notarized by the owner and engineer/surveyor and submitted with a PDF to the Public Works Department. In order to place the approval of a final map on the public hearing agenda for the City Council, all related materials and agreements must be completed, signed, and received by the Public Works Department 40 calendar days prior to the Council meeting date. After City Council approval, the City Engineer will sign the map. The applicant's title company shall have the Santa Clara County Recorder's Office record the original and shall provide a Xerox Mylar copy of the map to be endorsed by the Santa Clara County Recorder's Office. The endorsed Xerox Mylar copy and a PDF shall be returned within one week after recording the map to the Public Works Department.

RIGHTS-OF-WAY

6. **STREET DEDICATION:** The existing half-street widths are 50' for Middlefield Road and 30' for Tyrella Avenue. No street dedication in easement or fee shall be dedicated on the map.
7. **PRIVATE UTILITY AND ACCESS EASEMENTS:** Dedicate private utility and/or access easements on the face of the map, as necessary, for the utility improvements.

ASSESSMENTS, FEES, AND PARK LAND

8. **SUBDIVISION FEES:** Pay all subdivision fees due in accordance with the rates in effect at the time of payment prior to the approval of a final map.
9. **MAP PLAN CHECK FEE:** Prior to issuance of any building permits OR prior to approval of a final map, as applicable, the applicant shall pay the map plan check fee in accordance with Sections 28.27.b and 28.19.b of the City Code per the rates in effect at time of payment. The map plan check fee shall be paid at the time of first map plan check submittal per the adopted fee in effect at time of payment.
10. **PLAN CHECK AND INSPECTION FEE:** Prior to issuance of any building permits OR prior to approval of a final map, the applicant shall pay the plan check and inspection fee in accordance with Sections 27.60 and 28.36 of the City Code per the adopted rates in effect at time of payment.

An initial plan check fee based on the Public Works adopted fee schedule shall be paid at the time of initial improvement plan check submittal based on the initial cost estimate for constructing street improvements and other public facilities; public and private utilities and structures located within the public right-of-way; and utility, grading, and driveway improvements for common green and townhouse-type condominiums. Once the plans have been approved, the approved cost estimate will be used to determine the final bond amounts, plan check fees, and inspection fees. Any paid initial plan check fee will be deducted from the approved final plan check fee.

11. **TRANSPORTATION IMPACT FEE:** Prior to issuance of any building permits OR prior to approval of the first final map, as applicable, the applicant shall pay the transportation impact fee for the development. Residential category fees are based on the number of units. Retail, Service, Office, R&D, and Industrial category fees are based on the square footage of the development. Credit is given for the existing site use(s), as applicable.
12. **PARK LAND DEDICATION FEE:** Prior to the issuance of any building permits or prior to the approval of the first final map, the applicant shall pay the Park Land Dedication In-Lieu Fee as described below.

The total amount of Park Land Dedication In-Lieu Fee for this project is \$4,610,400, or \$67,800 for each net new market-rate residential unit (\$11.3 million/acre land valuation, 68 units x \$67,800/unit = \$ 4,610,400). No credit against the Park Land Dedication Fee is allowed for private open space and recreational facilities.

In a good-faith effort to reduce constraints on housing development projects for lower-income households, the City is applying the lowest fair-market value per acre identified in the Fiscal Year 2024-25 Master Fee Schedule (\$11.3 million per acre) and is

implementing early application of Housing Program 1.8 (Park Land Ordinance Update) of the adopted Housing Element to apply a 20% reduction to the Park Land Dedication In-Lieu fees for this project. The total discounted Park Land Dedication In-Lieu Fee to be paid as a condition of approval for this project is \$3,688,320, or \$54,240 for each net new market-rate residential unit. **(PROJECT-SPECIFIC CONDITION)**

13. **PARK LAND DEDICATION:** New Lot B as shown on the Tentative Map does not meet the requirements for a City park parcel. The final map shall not show New Lot B. This condition supercedes the Tentative Map. **(PROJECT-SPECIFIC CONDITION)**

STREET IMPROVEMENTS

14. **UTILITY PAYMENT AGREEMENT:** Prior to the approval of the first final map, the applicant shall sign a utility payment agreement and post a security deposit made payable to the City as security if each unit or building does not have separate sewer connections and water meters in accordance with Section 35.38 of the City Code. The utility payment agreement shall include provisions to have the security transferred from the applicant to the homeowners association (HOA), but still made payable to the City, when the HOA is formed for the subdivision.
15. **PUBLIC IMPROVEMENTS:** Install or reconstruct standard public improvements that are required for the subdivision and as required by Chapters 27 and 28 of the City Code. These public improvements as shown on Sheet A1.1 and C-3 include: construction of new storm, sewer, and water connections; replace damaged curb, gutter, and sidewalk; install new landscape with street trees on Tyrella Avenue and Middlefield Road; reconstruction of a new driveway on Tyrella Avenue; construct a new curb ramp at the project corner of Middlefield Road and Tyrella Avenue; and pavement restoration on utility trench excavation on Middlefield Road and Tyrella Avenue.
- a. **Improvement Agreement:** Prior to the approval of the first final map, the property owner must sign a Public Works Department improvement agreement for the installation of the public improvements.
- b. **Bonds/Securities:** Prior to the approval of the first final map, the property owner must sign a Public Works Department faithful performance bond (100%) and materials/labor bond (100%) or provide a letter of credit (150%) or cash security (100%) securing the installation and warranty of the off-site improvements in a form approved by the City Attorney's Office. The surety (bond company) must be listed as an acceptable surety on the most current Department of the Treasury's Listing of Approved Sureties on Federal Bonds, Department Circular 570. This list of approved sureties is available through the internet at: www.fiscal.treasury.gov/fsreports/ref/suretyBnd/c570_a-z.htm. The bond amount must be below the underwriting limitation amount listed on the Department of the Treasury's Listing of Approved Sureties. The surety must be licensed to do business in California. Guidelines for security are available at the Public Works Department.
- c. **Insurance:** Prior to the approval of the first final map, the property owner must provide a Certificate of Insurance and endorsements for the Commercial General Liability and Automobile Liability naming the City as an additional insured from the entity that will sign the improvement agreement. The insurance coverage amounts are a minimum of Two Million Dollars (\$2,000,000) Commercial General Liability, One Million Dollars (\$1,000,000) Automobile Liability, One Million Dollars (\$1,000,000) Contractor's Pollution Liability, and One Million Dollars (\$1,000,000) Workers' Compensation. The insurance requirements are available from the Public Works Department.
16. **INFRASTRUCTURE QUANTITIES:** Upon submittal of the initial building permit and improvement plans, submit a completed construction cost estimate form indicating the quantities of the street and utility improvements with the submittal of the improvement plans. The construction cost estimate is used to estimate the cost of improvements and to determine the Public Works plan check and inspection fees. The construction cost estimate is to be prepared by the civil engineer preparing the improvement plans.
17. **OFF-SITE IMPROVEMENT PLANS:** Prepare off-site public improvement plans in accordance with Chapter 28 of the City Code, the City's Standard Design Criteria, Submittal Checklist, Plan Review Checklist, and the conditions of approval of the project. The plans are to be drawn on 24" x 36" sheets at a minimum scale of 1" = 20'. The plans shall be stamped by a California-registered civil engineer and shall show all public improvements and other applicable work within the public right-of-way.

Traffic control plans for each phase of construction shall be prepared in accordance with the latest edition of the California Manual of Uniform Traffic Control Devices (CA MUTCD) and shall show, at a minimum, work areas, delineators, signs, and other traffic-control measures required for work that impacts traffic on existing streets. Construction management plans: Locations of on-site parking for construction equipment and construction workers and on-site material storage areas must be submitted for review and approval and shall be incorporated into the off-site improvement plans and identified as "For Reference Only."

Off-site improvement plans, an initial plan check fee, and map plan check fee based on the Public Works fee schedule, Improvement Plan Checklist, and items noted within the Checklist must be submitted together as a separate package concurrent with the first submittal of the building plans and a final map. All required materials shall be submitted electronically (i.e., flattened, reduced-size PDFs).

The off-site plans must be approved and signed by the Public Works Department. After the plans have been signed by the Public Works Department, two full-size and two half-size black-line sets, one PDF of the signed/stamped plan set, and a USB flash drive with CAD file and PDF must be submitted to the Public Works Department prior to the approval of a final map. CAD files shall meet the City's Digital Data Submission Standards.

UTILITIES

18. **ON-SITE UTILITY MAINTENANCE:** On-site water, sanitary sewer, and storm drainage facilities shall be privately maintained by the property owner(s).
19. **JOINT UTILITY PLANS:** Upon submittal of the initial building permit and improvement plans, the applicant shall submit joint utility plans showing the location of the proposed electric, gas, and telecommunication conduits and associated facilities, including, but not limited to, vaults, manholes, cabinets, pedestals, etc. Appropriate horizontal and vertical clearances in accordance with PG&E requirements shall be provided between gas transmission lines, gas service lines, overhead utility lines, street trees, streetlights, and building structures. These plans shall be combined with and made part of the improvement plans. Joint trench intent drawings will be accepted at first improvement plan submittal. All subsequent improvement plan submittals shall include joint trench design plans.

GRADING AND DRAINAGE IMPROVEMENTS (ON-SITE)

20. **SURFACE WATER RELEASE:** Provide a surface stormwater release for the lots, driveways, alleys, and private streets that prevents the residential buildings from being flooded in the event the storm drainage system becomes blocked or obstructed. Show and identify path of surface water release on the improvement plans.

OTHER APPROVALS AND EXPIRATION

21. **CONSISTENCY WITH OTHER APPROVALS:** This map shall be consistent with all requirements of Application No. PL-2023-102. All conditions of approval imposed under that application shall remain in full force and effect and shall be met prior to approval of a final map.
22. **APPROVAL EXPIRATION:** If the map is not completed within 24 months from the date of this approval, this map shall expire. The map is eligible for an extension of an additional 12 or 24 months, provided the application for extension is filed with the Planning Division by the applicant prior to the expiration of the original map. Upon filing a timely application for extension, the map shall automatically be extended for 60 days or until the application for the extension is approved, conditionally approved, or denied, whichever occurs first. Notwithstanding any automatic extension period authorized in the Subdivision Map Act, the City may, upon the subdivider's application filed before the Tentative Map expiration date, extend its life in accordance with state law and Section 28.19.75 of the Municipal Code.

NOTE: As required by California Government Code Section 66020, the applicant is hereby notified that the 90-day period has begun as of the date of approval of this application, in which the applicant may protest any fees, dedications, reservations, or other exactions

imposed by the City as part of this approval or as a condition of approval. The fees, dedications, reservations, or other exactions are described in the approved plans, conditions of approval, and/or the adopted City fee schedule.

AMBER BLIZINSKI, ASSISTANT COMMUNITY DEVELOPMENT DIRECTOR

AB/KP/6/FDG
PL-2023-103

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