



ITEM FOR ENVIRONMENTAL BOARD AGENDA

BOARD MEETING

DATE REQUESTED: September 5, 2012

NAME & NUMBER OF PROJECT: CEDAR VALLEY VILLAGE (RESUBMITTAL OF SP-2010-0322D)
SP-2011-0314D

NAME OF APPLICANT OR ORGANIZATION: Hutson Land Planners & Development Consultants
[Contact: Duane Hutson-(512) 327-8222]

LOCATION: 11601 W US 290 HWY

PROJECT FILING DATE: November 2, 2011

PDR/ENVIRONMENTAL STAFF: Jim Dymkowski, 974-2707
james.dymkowski@austintexas.gov

PDR/ CASE MANAGER: Ron Czajkowski, 974-6307
ron.czajkowski@austintexas.gov

WATERSHED: Slaughter Creek Watershed (Barton Springs Zone)
Drinking Water Protection Zone

ORDINANCE: Comprehensive Watershed Ordinance (current Code)
REQUEST: Variance request is as follows:
1. To allow cut greater than 4 feet, not to exceed 5.75 feet.
[LDC Section 25-8-341].
2. To allow cut greater than 4 feet, not to exceed 8 feet for
the construction of the water quality control [LDC
Section 25-8-341]. (Administrative Variance 25-8-42
(B)(5))

STAFF RECOMMENDATION: Variance One is not recommended.
Variance Two is recommended.

REASONS FOR RECOMMENDATION: Findings of fact have not been met for Variance One.
Findings of fact have been met for Variance Two.



MEMORANDUM

TO: Betty Baker, Chairperson
Members of the Zoning and Platting Commission

FROM: Jim Dymkowski, Environmental Review Specialist Sr.
Planning and Development Review Department

DATE: September 5, 2012

SUBJECT: Cedar Valley Village (Resubmittal of SP-2010-0322D)
SP-2011-0314D

Variance Requests: To allow cut greater than 4 feet not to exceed 5.75 feet (LDC 25-8-341)
To allow cut greater than 4 feet not to exceed 8 feet for the construction
of a Water Quality/Detention Facility (LDC 25-8-341) (Administrative 25-
8-42(B) (5))

Description of Project Area

The proposed 7.035 acre site falls within a larger 18.75 acres legal lot (C8I-2001-0081 land status determination) and is approximately 6 miles west of the intersection US Highway 290 and State Highway 71 on the northeast corner of US Highway 290 and Rim Rock Trail. The site is within the City of Austin 5 Mile ETJ. It is in the Slaughter Creek Watershed, which is classified as Barton Springs Zone. It is in the Edward's Aquifer Contributing Zone and the Drinking Water Protection Zone.

The applicant is proposing to construct two single story retail buildings, with associate parking, drives, detention/water quality ponds and water quality pond re-irrigation area. This smaller project is being reviewed under the larger legal lot status parcel for overall impervious cover allowed since the larger acreage has never been platted. The maximum allowable impervious cover for this watershed is 25%, or approximately 4.17 acres for the upland portion of the larger legal lot. A total of 1.54 acres (or 8.21% net site area) of impervious cover is proposed for this project leaving 2.63 acres for future development.

The project area has a small ridge running roughly north/south separating the site in half sloping both to the southwest and southeast. The site is bordered by the remainder of the larger undisturbed legal lot to the north, Rim Rock Trail to the south, undisturbed hill country

woodlands to the east and US Highway 290 to the west. There are no classified waterways running through or adjacent to the proposed development.

Vegetation

The Environmental Assessment documents that this property formerly contained a single family residence. The vegetation is typical fauna situated within this portion of the Hill Country region in the Live Oak – Ashe Juniper Parks section as noted in the Vegetation Types of Texas maps. The majority of forest over story consists of Live oaks and Ashe Juniper, while the mid-grass and shrub understory is dominated by Flame leaf sumac, Texas mountain laurel, Prickly pear, Yaupon holly, and other native grasses and forbs.

Critical Environmental Features

An Environmental Assessment was performed on this site in September of 2010. There were no CEF's found on-site.

Water/Wastewater

This project will receive its water from LCRA. Wastewater will be handled by the construction of a new stand alone septic system near the southeast corner of the property.

Variance Request

1. A variance from LDC Section 25-8-341: To allow cut greater than 4 feet not to exceed 5.75 feet.
2. A variance from LDC Section 25-8-341: To allow cut greater than 4 feet not to exceed 8 feet for the construction of a Water Quality/Detention Facility (LDC 25-8-341) (Administrative 25-8-42(B) (5))
1. The applicant is proposing to construct two single story retail buildings, with associate parking, drives. The area of cut requested is located off the northeast corner of the northern building in an area of the proposed drive-thru queue from the building and for an additional traffic access point around the back of the building. As a result, the maximum of 5.75 feet of cut is requested.
2. The development also proposes to construct a water quality pond to comply with the current Save our Springs standards. The pond is to be located within the center of the project along the southern property line. While working with the site's existing topography and to allow the necessary pond volume and provide the necessary connection to the proposed site detention pond the maximum cut up to 8 feet is requested.

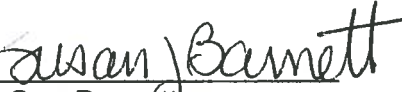
Similar Cases

1. Staff was unable to find a similar case to that of the Variance 1 cut request, as previous cases either met the findings or the projects provided some additional environmental benefit by having the variance granted. Therefore, no similar case could be provided.

2. Staff reviews and grants numerous requests consistent with the Variance 2 cut request for the construction of water quality and detention ponds. This Administrative Variance request is being included for review as along with the formal cut request.

Jim Dymkowski, Environmental Review Specialist Senior
Planning and Development Review Department

Environmental Program Manager:


Sue Barnett

Environmental Officer:


Chuck Lesniak



**Planning and Development Review Department
Staff Recommendations Concerning Required Findings
Water Quality Variances**

Application Name: Cedar Valley Village (Resubmittal of SP-2010-0322D)

Application Case No: SP-2011-0314D

Code Reference: LDC Section 25-8- 341

Variance Request: To allow cut up to 5.75 feet

**A. Land Use Commission variance determinations from Chapter 25-8, Subchapter A –
Water Quality of the City Code:**

1. The requirement will deprive the applicant of a privilege or the safety of property given to owners of other similarly situated property with approximately contemporaneous development.

No. Staff believes the site could still be developed with changes in building configuration or site layout.

2. The variance:

- a) Is not based on a condition caused by the method chosen by the applicant to develop the property, unless the development method provides greater overall environmental protection than is achievable without the variance;

No. The variance is based on the method chosen, (building size and site configuration) chosen by the applicant to develop the property. As currently proposed, there is no greater level of environmental protection.

- b) Is the minimum change necessary to avoid the deprivation of a privilege given to other property owners and to allow a reasonable use of the property;

No. The applicant has not shown a loss of privilege given to other property owners or a loss of reasonable use of the property.

- c) Does not create a significant probability of harmful environmental consequences; and

Yes. This variance will not increase harmful environmental consequences. The proposed a portion of the proposed cut area will occur in an area to be covered with the proposed drives while the other areas will be re-vegetated on a slope of 3:1 or greater.

3. Development with the variance will result in water quality that is at least equal to the water quality achievable without the variance.

Yes. Development with the variance will result in water quality that is at least equal to the water quality achievable without the variance. The project is required to comply with the Save Our Springs requirements for water quality.

B. Additional Land Use Commission variance determinations for a requirement of Section 25-8-393 (Water Quality Transition Zone), Section 25-8-423 (Water Quality Transition Zone), Section 25-8-453 (Water Quality Transition Zone), or Article 7, Division 1 (Critical Water Quality Zone Restrictions):

1. The above criteria for granting a variance are met;

N/A.

2. The requirement for which a variance is requested prevents a reasonable, economic use of the entire property; and

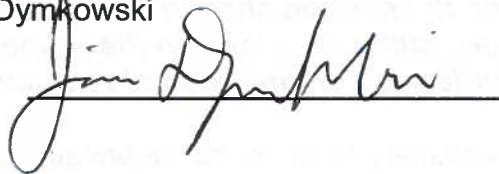
N/A.

3. The variance is the minimum change necessary to allow a reasonable, economic use of the entire property.

N/A.

Reviewer Name: Jim Dymkowski

Reviewer Signature:



Date: August 21, 2012

Staff may recommend approval of a variance after answering all applicable determinations in the affirmative (YES).



**Planning and Development Review Department
Staff Recommendations Concerning Required Findings
Water Quality Variances**

Application Name: Cedar Valley Village (Resubmittal of SP-2010-0322D)
Application Case No: SP-2011-0314D
Code Reference: LDC Section 25-8- 341
Variance Request: To allow cut up to 8 feet for the construction of a water quality pond (Administrative 25-8-42 (B) (5))

A. Land Use Commission variance determinations from Chapter 25-8, Subchapter A – Water Quality of the City Code:

1. The requirement will deprive the applicant of a privilege or the safety of property given to owners of other similarly situated property with approximately contemporaneous development.

Yes. Strict adherence to the code would deprive the applicant of the ability to develop the property. This request, allows the project to work with the site's existing topography while providing the necessary pond volume and connection to the proposed site detention pond. Typically this request could be reviewed administratively by Staff. But it has been included for your review with the formal cut variance request.

2. The variance:

- a) Is not based on a condition caused by the method chosen by the applicant to develop the property, unless the development method provides greater overall environmental protection than is achievable without the variance;

1. ***Yes. This request, allows the project to work with the site's existing topography while providing the necessary pond volume and connection to the proposed site detention pond.***

- d) Is the minimum change necessary to avoid the deprivation of a privilege given to other property owners and to allow a reasonable use of the property;

Yes. This is the minimum departure necessary to provide the required water quality pond volume and connection to the proposed site detention pond.

e) Does not create a significant probability of harmful environmental consequences; and

Yes. This variance will not increase harmful environmental consequences. The proposed cut will allow for the required volume in the water quality pond. The cut will be contained within the pond.

3. Development with the variance will result in water quality that is at least equal to the water quality achievable without the variance.

Yes. Development with the variance will result in water quality that is at least equal to the water quality achievable without the variance. The site is designed to meet the Save Our Springs water quality retention re-irrigation requirements. This will be accomplished through the requested cut to allow for the necessary water quality pond volume to be retained.

- B. Additional Land Use Commission variance determinations for a requirement of Section 25-8-393 (Water Quality Transition Zone), Section 25-8-423 (Water Quality Transition Zone), Section 25-8-453 (Water Quality Transition Zone), or Article 7, Division 1 (Critical Water Quality Zone Restrictions):

4. The above criteria for granting a variance are met;

N/A.

5. The requirement for which a variance is requested prevents a reasonable, economic use of the entire property; and

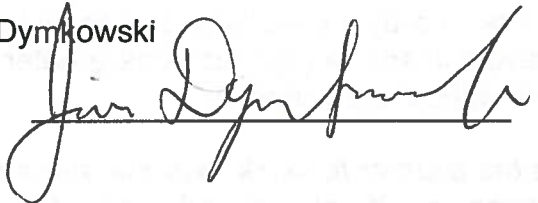
N/A.

6. The variance is the minimum change necessary to allow a reasonable, economic use of the entire property.

N/A.

Reviewer Name: Jim Dymkowski

Reviewer Signature:



Date: August 21, 2012

Staff may recommend approval of a variance after answering all applicable determinations in the affirmative (YES).

April 19th, 2012
Revised June 29th, 2012

Betty Baker, Chair
Zoning and Platting Commission
City of Austin
301 W. 2nd Street
Austin, Texas 78701

Re: **Variance Request for "Cedar Valley Village"**
11601 US Hwy. 290 West
SP-2011-0314D

Madam Chair,

This correspondence is being submitted as a request for a variance from Section 25-8-341 and Section 25-8-342 of the City of Austin Land Development Code for the above referenced Site Plan Application. The variance request is to allow for cut in excess of four (4) feet and is required for a small portion of the site behind the structure due to topographic constraints on the property and the need to address impervious cover restrictions.

1. There are very limited options of placement of the structures on the site due to the location of an existing LCRA water transmission main easement and the existing severe cut along US Hwy. 290 west for access to the site. The driveway design requirements at the crossing the of the LCRA 24" waterline have been dictated by both TxDOT and the LCRA which require the drive to be extended further into the site to maintain proper coverage over the pipeline as well as provide a safe entrance to the site. The access to the site requires the construction of a driveway meeting TxDOT standards which limits the slope of the drive coming off US Hwy. 290 West and thus grading of the site while balancing contours with the frontage. We have tried to locate the buildings and drives in an area most suitable in terms of compact development, overall impervious cover allowed and site development criteria of the City of Austin and TxDOT for proper circulation and ingress and egress. The cut is very isolated and it is our opinion that the site can not be designed differently due to the natural grade on the site and the need to minimize the internal drive slopes to accommodate ADA requirements. Sites require connectivity throughout the site for both pedestrian (ADA) and vehicular safety as well as fire protection and locating the buildings in any other area while still meeting the impervious cover limitations and safe access would result in the same request for a variance. The variance is a very small departure and we believe this variance has been given to owners of similarly situated properties.

2(a). We disagree with staff that the cut proposed is a condition caused by the methods chosen to develop the property. Similar to the response in Number one listed above, the site characteristics of the property encourage the improvements to be placed on the property as proposed. The issues associated with the LCRA easement, TxDOT driveway requirements and safe access for customers and fire protection need to be addressed and have been with the design proposed.

2(b). The maximum cut proposed is 5.75 feet which is only 1.75 feet more than the allowable. We have made every attempt to reduce this cut to meet the code but given the ADA access requirements and safe access required for fire we believe the minimum departure does not grant this tract privileges over similarly situated properties.

2(c). Finally, the proposed design does not create a significant probability of harmful environmental affects. The limited cut variance will not require additional environmental treatments nor trigger new concerns for the environment due to the location of the cut. Stormwater and Erosion Controls have been designed meeting all of the current City of Austin Design Criteria and are more than adequate for the property including the area of the proposed cut. The variance approval we believe is a minimum departure from the Land Development Code and the approval of the variance will not create any significant environmental consequences.

Should you have any questions or require any additional information, please contact our office.

Sincerely,



Duane Hutson, AICP

APPENDIX U:

FINDINGS OF FACT

Watershed Variances - Findings of Fact

As required in LDC Section 25-8-41, in order to grant a variance the Planning Commission must make the following findings of fact: Include an explanation with each applicable finding of fact.

Project: Cedar Valley Village

Ordinance Standard: Section 25-8-341 and 25-8-342

JUSTIFICATION:

1. Are there special circumstances applicable to the property involved where strict application deprives such property owner of privileges or safety enjoyed by other similarly situated property with similarly timed development? YES/NO
2. Does the project demonstrate minimum departures from the terms of the ordinance necessary to avoid such deprivation of privileges enjoyed by such other property and to facilitate a reasonable use, and which will not create significant probabilities of harmful environmental consequences? YES/NO
3. The proposal does not provide special privileges not enjoyed by other similarly situated properties with similarly timed development, and is not based on a special or unique condition which was created as a result of the method by which a person voluntarily subdivided land. YES/NO
4. Does the proposal demonstrate water quality equal to or better than would have resulted had development proceeded without the variance? YES/NO
5. For a variance from the requirements for development within the Critical Water Quality Zone and/or Water Quality Transition Zone: Does the application of restrictions leave the property owner without any reasonable, economic use of the entire property? YES/NO N/A

A variance requires all above affirmative findings with explanations/reasons.

Please see attached letter.

April 19th, 2012
Revised June 29th, 2012

Mr. Jim Dymkowski, Environmental Review
Planning and Development Review Department
City of Austin
505 Barton Springs Road
Austin, Texas 78701

Re: **Administrative Variance Request for "Cedar Valley Village"**
11601 US Hwy. 290 W
SP-2011-0314D

Mr. Dymkowski,

This correspondence is being submitted as a request for an administrative variance according to Section 25-8-42(B) (5) of the City of Austin Land Development Code for the above referenced Site Plan Application. The variance request is to allow for cut or fill in excess of four (4) feet for a detention/water quality facility in accordance to section 25-8-341 and 342

It is our opinion that approval of the administrative variance request is necessary due to limited impervious cover in this watershed and site development constraints on the property. The administrative variance approval we believe is a minimum departure from the Land Development Code and the approval of the administrative variance will not create any significant environmental concerns. Based on the following justifications, we are respectfully requesting your support of this variance:

1. The pond location is dictated by the natural terrain on the property and the pond size is dictated by the City of Austin Design Criteria. We have located the pond in a spot that is accessible for maintenance and can capture all the developed flow from site. If the pond were to be relocated to avoid the cut variance the result would be more clearing and extensions of storm water pipe to allow the flow to be reach the pond. We have tried to locate the pond in what we believe is the most efficient spot in terms of reducing the amount of clearing of the natural vegetation on site as well as allowing for all flows to be routed to the pond. The location of the water quality facility is, in our opinion, situated in the most effective spot based on the topography of the property and accessibility for maintenance. We believe any other location would result in undue environmental destruction of natural terrain and habitat.

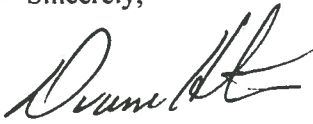
2(a). In our opinion the proposed cut is not a condition caused by the methods chosen to develop the property. Similar to the response in Number one listed above, the site characteristics of the property encourage the pond to be placed as proposed.

2(b). The maximum cut proposed is roughly eight (8) feet within a portion of the proposed pond. We believe this is a minimum departure necessary for the pond to remain located in the most environmentally acceptable location while avoiding additional clearing and excavation to relocate the pond to another area.

2(c). The proposed design does not create a significant probability of harmful environmental affects. The depth of the pond will not require additional environmental treatments or trigger new concerns for the environment due to its proper location on the site. The storm water and erosion controls have been designed meeting all current City of Austin Design Criteria and they are more than adequate for the property including the area of the proposed cut for the pond. We believe the variance approval is a minimum departure from the Land Development Code and the approval of the variance will not create any significant environmental consequences.

Should you have any questions or require any additional information, please contact our office.

Sincerely,



Duane Hutson, AICP

APPENDIX U:

FINDINGS OF FACT

Watershed Variances - Findings of Fact

As required in LDC Section 25-8-41, in order to grant a variance the Planning Commission must make the following findings of fact: Include an explanation with each applicable finding of fact.

Project: Cedar Valley Village

Ordinance Standard: Section 25-8-42(B) (5)

JUSTIFICATION:

1. Are there special circumstances applicable to the property involved where strict application deprives such property owner of privileges or safety enjoyed by other similarly situated property with similarly timed development? YES/NO
2. Does the project demonstrate minimum departures from the terms of the ordinance necessary to avoid such deprivation of privileges enjoyed by such other property and to facilitate a reasonable use, and which will not create significant probabilities of harmful environmental consequences? YES/NO
3. The proposal does not provide special privileges not enjoyed by other similarly situated properties with similarly timed development, and is not based on a special or unique condition which was created as a result of the method by which a person voluntarily subdivided land. YES/NO
4. Does the proposal demonstrate water quality equal to or better than would have resulted had development proceeded without the variance? YES/NO
5. For a variance from the requirements for development within the Critical Water Quality Zone and/or Water Quality Transition Zone: Does the application of restrictions leave the property owner without any reasonable, economic use of the entire property? YES/NO N/A

A variance requires all above affirmative findings with explanations/reasons.

Please see attached letter.

CEDAR VALLEY VILLAGE (RESUBMITTAL OF SP-2010-0322D)
SP-2011-0314D
Driving Directions

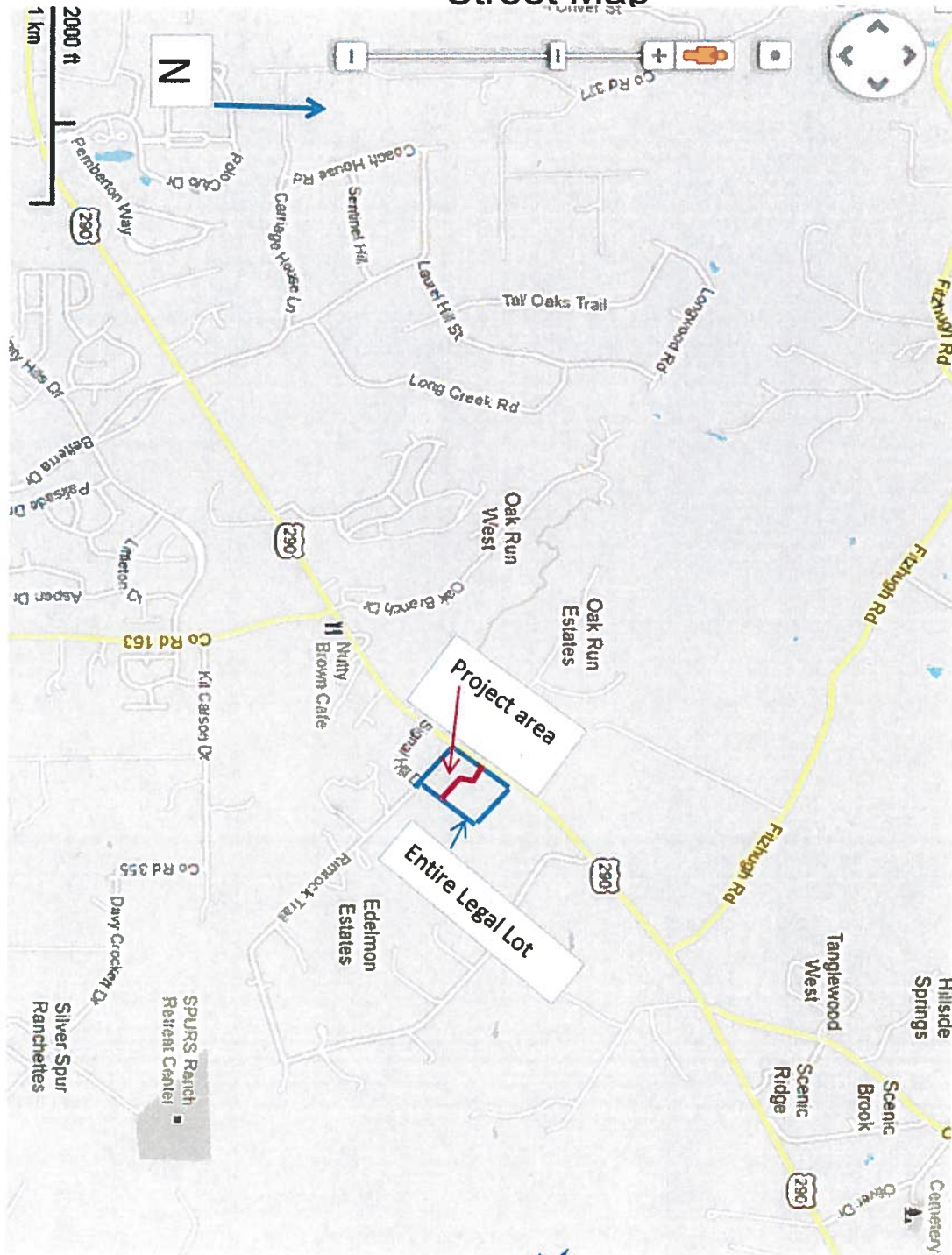
Beginning at the intersection of US 290 and Mopac SH 1:

Go west on US 290 approximately 2.8 miles, to the intersection of US 290 and SH 71 at the Y in Oakhill.

Veer left continuing on US 290 and travel approximately 6 miles to the intersection of Rim Rock Trail and US 290.

11601 W US 290 HWY will be on the south side of the road southeast corner of this intersection.

Cedar Valley Village
SP-2011-0314D
Street Map



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