

# BOX ELDER COUNTY PLANNING COMMISSION MINUTES SEPTEMBER 15, 2022

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The Board of Planning Commissioners of Box Elder County, Utah met in the Box Elder County Commission Chambers at 7:00 p.m. The following members were present by a roll call, constituting a quorum:

## *Roll Call*

Mellonee Wilding	Chairman
Jared Holmgren	Vice-Chair
Kevin McGaha	Excused
Lonnie Jensen	Member
Steven Zollinger	Member
Bonnie Robinson	Member
Jed Pugsley	Member
Jennifer Jacobsen	Alternate/Member
Vance Smith	Excused

## *the following Staff was present:*

Scott Lyons	Comm Dev Director
Marcus Wager	County Planner
Destin Christiansen	County Planner
Steve Hadfield	County Attorney
Jeff Scott	Excused
Diane Fuhrman	Executive Secretary

Chairman Mellonee Wilding called the meeting to order at 7:00 p.m.

The Invocation was offered by Commissioner Bonnie Robinson.  
Pledge was led by Commissioner Mellonee Wilding.

## **The following citizens were present & signed the attendance sheet**

See Attachment No. 1 – Attendance Sheet.

The Minutes of the August 18, 2022 meeting were made available to the Planning Commissioners prior to this meeting and upon review a **Motion** was made by Commissioner Bonnie Robinson to approve the minutes as written. The motion was seconded by Commissioner Jared Holmgren and passed unanimously.

## **UNFINISHED BUSINESS -NONE**

## **PUBLIC HEARINGS**

Chairman Mellonee Wilding explained public hearings provide an opportunity for the public to voice their concerns or approval on an item. In the meeting there is also unfinished business, public hearings, and new business. The unfinished business and new business provides opportunity for the commissioners to take action on an item. It is not a time for public comment or input. Although the commissioners may ask questions of the applicant during these times.

**CONDITIONAL USE PERMIT, CUP22-003, Request for a Conditional Use Permit for an Accessory Dwelling Unit, located at approximately 13965 North Willow Creek Drive in the Beaver Dam area of Unincorporated Box Elder County. ACTION**

Staff stated the applicant is requesting a conditional use permit for an accessory dwelling unit. They intend to build an approximate 1,500 sq. foot dwelling unit located to the north-west side of the existing home. No other accessory dwelling unit (internal or external) exists on the property. The main home is currently used as their primary residence and is approximately 4,642 sq. feet in size. The property is located at 13965 North Willow Creek Dr. in the Beaver Dam area. The surrounding land uses are Rural Residential and Agriculture. The surrounding zones are RR-2 and Unzoned.

Staff read the outline from county code for reviewing conditional uses as follows:

1. Decreased street service levels and/or traffic patterns including the need for street modifications such as dedicated turn lanes, traffic control devices, safety, street widening, curb, gutter and sidewalks, location of ingress/egress, lot surfacing and design of off-street parking and circulation, loading docks, as well as compliance with off-street parking standards.
2. Negative impacts on the adequacy of utility systems, service delivery, and capacities, including the need for such items as relocating, upgrading, providing additional capacity, or preserving existing systems.
3. Negative impacts on connectivity and safety for pedestrians and bicyclists.
4. Detrimental effects by the use due to its nature, including noise that exceeds sound levels normally found in residential areas, odors beyond what is normally considered acceptable within the district including such effects as environmental impacts, dust, fumes, smoke, odor, noise, vibrations; chemicals, toxins, pathogens, gases, heat, light, electromagnetic disturbances, glare, and radiation. Detrimental effects by the use may include hours of operation and the potential to create an attractive nuisance.
5. Environmental impacts that increase the risk of contamination of or damage to adjacent properties and injury or sickness to people such as waste disposal, fire safety, geologic hazards such as fault lines, soil or slope conditions, liquefaction potential, site grading/topography, storm drainage/flood control, high ground water, environmental health hazards, or wetlands.
6. Modifications to signs and exterior lighting to assure proper integration of the use.
7. Incompatible designs in terms of use, scale, intensity, height, mass, setbacks, construction, solar access, landscaping, fencing, screening, and architectural design and exterior detailing/finishes and colors within the neighborhood in which the conditional use will be located.
8. Reduction in the tax base and property values.
9. Reduction in the current level of economy in governmental expenditures.
10. Insufficient emergency fire service and emergency vehicle access as determined by the County Fire Marshall.
11. Reduction in usable open space.
12. Inadequate maintenance of the property and structures in perpetuity including performance measures, compliance reviews, and monitoring.

Staff stated access will be via Willow Creek Drive and all built structures can adhere to the RR-2 zone building setbacks.

The public hearing was then opened for comments.

Lauren Tree, applicant, explained no one will be living there other than her mother and father. Her parents currently live in her basement. She would like to move them to a more handicap accessible, single level dwelling.

Hearing no further comments, a motion was made by Commissioner Bonnie Robinson to close the public hearing on Conditional Use Permit, CUP 22-003. The motion was seconded by Commissioner Jed Pugsley and passed unanimously.

### **ACTION**

Staff explained county code allows for conditional use permits for accessory dwelling units approved by the Planning Commission. Staff recommends approval.

Commissioner Bonnie Robinson asked if the water company approves of both homes being on one water tap. Applicant replied they have approval from their water company.

Commissioner Jed Pugsley questioned if the same address is used for both residences, is a second driveway allowed? Staff explained it depends on how wide the lot is. There are some parking standards that require a certain amount of frontage for a second access.

**MOTION:** A Motion was made by Commissioner Bonnie Robinson to approve application CUP22-003, a Conditional Use Permit for an Accessory Dwelling Unit and adopting the conditions and findings of staff. The motion was seconded by Commissioner Jed Pugsley and passed unanimously.

### **CONDITIONS:**

1. Compliance with Article 5 of the Box Elder Land Use Management & Development Code.
2. Compliance with Article 2-2-100, Conditional Use Permit, of the Box Elder County Land Use Management & Development Code.
3. Compliance with all applicable county, state, and federal laws regulating the proposed use, including all licenses, permits, etc.

### **CONDITIONAL USE PERMIT/SITE PLAN, CUP22-005/SP22-001, Request for a Conditional Use Permit for bringing in fill and Site Plan approval for Truck Tire Repair Shop, located at approximately 1815 North 2800 West in the West Corinne area of Unincorporated Box Elder County. ACTION**

Staff stated the applicant is requesting approval for a conditional use permit for bringing in fill and a site plan for a tire repair shop on five acres located in the West Corinne area. County code allows for fill with a conditional use permit and allows tires, batteries, and accessories as a permitted use subject to site plan approval. The surrounding land uses are Industrial and Agriculture, the



surrounding zones are RR-20 and A-20. The proposed structure meets setbacks in the C-H zone and access to the property is obtained via 2800 West.

The public hearing was then opened for comments. There were no comments.

Hearing no comments, a motion was made by Commissioner Jed Pugsley to close the public hearing on the Conditional Use Permit/Site Plan, CUP22-005/SP22-001. The motion was seconded by Commissioner Jared Holmgren and passed unanimously.

## **ACTION**

Staff explained all county departments are currently reviewing the site plan. The county has an interim fire marshal who just received this request and staff should be receiving his comments soon. Based on their review, staff recommends approval subject to certain conditions including compliance with Section 2-2-120 of county code and finalization of the subdivision. The commissioners job is to try and mitigate any negative impacts.

Commissioner Bonnie Robinson asked about turn lanes for 2800 West. She said it is very difficult to get on the highway from 2800 West. Staff said 2800 West is a UDOT road and they will work with UDOT concerning any safety issues.

Commissioner Jed Pugsley asked if the four feet of fill is for grade or for hard pack parking surface underneath. Jim Flint, Engineer, said four feet of fill is a lot. The next application on the agenda also needs about 32 inches of material. He said this is a 10-acre parcel that needs to be split into two 5-acre parcels.

The commissioners discussed how boggy the area is and drainage issues. Commissioner Bonnie Robinson asked if this would drain into the Bear River. Staff said currently the 2800 West swell and site drainage will drain under the road out to West Corinne to a detention pond.

**MOTION:** A Motion was made by Commissioner Bonnie Robinson to approve application CUP22-005/SP22-001 a Conditional Use Permit for fill and a Site Plan for Tires, Batteries and Accessories and adopting the conditions and findings of staff with the addition to Condition #2 of being in compliance with Section 2-2-120 and subject to the subdivision being finalized. The motion was seconded by Commissioner Jared Holmgren and passed unanimously.

## **CONDITIONS:**

1. Compliance with all comments from staff.
2. Compliance with Section 2-2-100 and Section 2-2-120 of the Box Elder County Land Use Management & Development Code.
3. Compliance with Article 5, Regulations of General Applicability, of the Box Elder County Land Use Management & Development Code.
4. Compliance with all applicable County, State, and Federal laws regulating the proposed use, including all current licenses, permits, etc.
5. Finalization of the subdivision.

**CONDITIONAL USE PERMIT/SITE PLAN, CUP22-006/SP22-002, Request for a Conditional Use Permit and Site Plan approval for Hard Surface Parking, located at approximately 1831 North 2800 West in the West Corinne area of Unincorporated Box Elder County. ACTION**

Staff said the applicant is requesting approval of a site plan for a semi-truck parking lot on five acres located in the West Corinne area. The surrounding land uses are Industrial and Agriculture; the surrounding zones are RR-20 and A-20. County code allows hard surface parking as a conditional use subject to site plan approval. The proposed structure meets the setbacks in the C-H areas but they are not planning on building the structure right now, their goal is to get the trucks there. Staff has not received an updated site plan yet but have sent comments to the applicant. Access to the property will be obtained via 2800 West.

The public hearing was then opened for comments. There were no comments.

Hearing no comments, a motion was made by Commissioner Bonnie Robinson to close the public hearing on the Conditional Use Permit/Site Plan CUP22-006/SP22-002. The motion was seconded by Commissioner Jared Holmgren and passed unanimously.

**ACTION**

Staff explained after all comments from staff have been satisfied, the site plan will conform to all requirements within the LUM&DC code. Staff recommends approval.

**MOTION:** A Motion was made by Commissioner Jared Holmgren to approve application CUP22-006/SP22-002, a Conditional Use Permit and Site Plan for Hard Surface Parking and adopting the conditions and findings of staff with the addition to Condition #2 of being in compliance with Section 2-2-120 and subject to the subdivision being finalized. The motion was seconded by Commissioner Jed Pugsley and passed unanimously.

**CONDITIONS:**

1. Compliance with all comments from staff.
2. Compliance with Section 2-2-100 and Section 2-2-120 of the Box Elder County Land Use Management & Development Code.
3. Compliance with Article 5, Regulations of General Applicability, of the Box Elder County Land Use Management & Development Code.
4. Compliance with all applicable County, State, and Federal laws regulating the proposed use, including all current licenses, permits, etc.
5. Finalization of the subdivision.

**CONDITIONAL USE PERMIT, CUP22-004, Request for a Conditional Use Permit for a dog kennel, located at 3695 North Highway 38 in the Harper Ward area of Unincorporated Box Elder County. ACTION**

Staff said the applicant is requesting a conditional use permit for a dog kennel. The applicant has approximately 530 sq. ft., consisting of three kennels housing their dogs. Adjacent to the kennels there is an approximate 1500 sq. ft. fenced area used as a dog run. The property located at 3695 N.

Highway 38 in the Harper Ward area is currently used as their residence. The surrounding land uses are Rural Residential and Agriculture. The surrounding zone is RR-5. All structures to be used are existing and no new structures are being proposed. Access to the property is via Highway 38.

The public hearing was then opened for comments. There were no comments.

Hearing no comments, a motion was made by Commissioner Bonnie Robinson to close the public hearing on the Conditional Use Permit, CUP 22-004. The motion was seconded by Commissioner Jared Holmgren and passed unanimously.

### **ACTION**

Staff stated county code allows for conditional use permits for kennels approved by the Planning Commission. Subject to applicant's compliance with conditions set by the commission, the applicant should be eligible for a conditional use permit.

Commissioner Mellonee Wilding is concerned with the number of dogs that could possibly be in this kennel and asked what is available to the commission to be able to limit that number. Staff stated the commission can put the number of dogs as a condition. She is also concerned with noise.

Commissioner Bonnie Robinson is also concerned with noise. She asked the applicant how she deals with the dog waste. There needs to be a plan in place. Vicky Taylor, applicant, explained they have over twelve acres of land and they work the excrement into the land immediately around the kennel. Ms. Taylor said they only have nine adult dogs at the present time. Commissioner Robinson then asked what she does about the flies. Ms. Taylor indicated they use fly traps. She also has a horse barn there so they treat both the kennel and the barn for flies as best they can in an agricultural setting.

Commissioner Mellonee Wilding asked if there is a zone that allows kennels and is there a number of dogs allowed associated with that zone to base their decision. Staff stated this zone, RR-5 (Rural Residential – 5 acres) does allow kennels but there is no set number. However, any more than four dogs requires a kennel. Applicant Vicky Taylor stated she would not exceed ten to fifteen dogs but may go as high as twelve.

Commissioner Mellonee Wilding said this was brought to our attention because of noise from the dogs. Ms. Taylor stated she has one dog that is an excessive barker that the neighbor is concerned about. She has tried shock collars and other items to lessen the barking but feels those items are inhumane. Eventually she would like to sell that particular dog. Staff asked if the barking dog could be housed inside to mitigate the noise at night when noise is more of a nuisance. Ms. Taylor said the dog is not house trained and she is concerned with the nervousness of the dog not being able to go outside.

Commissioner Jennifer Jacobsen said she has seen kennels in neighborhoods in the cities with more than twelve dogs. This is more of a country setting and she is fine with capping at twelve dogs. Ms. Taylor said she is comfortable with the fifteen dogs mentioned before because she may have stud dogs come there to breed one of her females.



Staff said since shock collars and debarking are considered inhumane, having the dogs be inside at night is more humane. There are other kennels in the county that have their dogs go in at night, not necessarily in the residence, but in a structure in the kennel. Vicky Taylor said their kennels are equipped for that but are open on one side so the dog can go out to go to the bathroom. Staff said the commission needs to decide if the conditions associated with the permit are going to be customized to the one barking dog. The review standards state noise is to be addressed. If any other business was getting a CUP and had a noise issue, the commission would find a condition to apply to mitigate the noise.

**Commissioner Mellonee Wilding** feels this needs to be conditioned that the dogs be in an enclosed space at night. It won't silence them to the neighbors but will definitely mute it.

**MOTION:** A Motion was made by **Commissioner Bonnie Robinson** to table application CUP22-004, a Conditional Use Permit for a dog kennel, allowing time for the applicant to come up with a noise mitigation plan. The motion died for lack of a second.

**MOTION:** A Motion was made by **Commissioner Bonnie Robinson** to approve CUP22-004, a Conditional Use Permit for a dog kennel, and adopting the exhibits, conditions and findings of staff and modified by the conditions below. The motion was seconded by **Commissioner Jared Holmgren** and passed unanimously.

**CONDITIONS:**

1. Compliance with Article 5 of the Box Elder Land Use Management & Development Code.
2. Compliance with Article 2-2-100, Conditional Use Permit, of the Box Elder County Land Use Management & Development Code.
3. Compliance with all applicable county, state, and federal laws regulating the proposed use, including all licenses, permits, etc.
4. Dogs need to be contained in the kennel.
5. Dog waste is taken care of appropriately as to not become a fly hazard.
6. Number of dogs capped at ten and puppies out at the age of four months.
7. Noise be mitigated between the hours of 10 p.m. and 6 a.m.

**NEW BUSINESS**

**VALLEY VIEW ESTATES SUBDIVISION PH 3, SS22-024, Request for preliminary approval for a subdivision located at approximately 550 West 7150 South in the Willard area of Unincorporated Box Elder County. ACTION**

Staff said the applicant is requesting preliminary approval of the Valley View Estates Phase 3 Subdivision plat. The proposed subdivision is 8 new lots, all of the lots will be .46 acres or larger. The surrounding land uses are Agriculture and Residential; the surrounding zones are R-1-20 and MU-160. Access will come off 600 West, tying into 7150 South for the entire phase of the subdivision. A future access point is planned to the south and east for the rest of the parcel to be developed in the future and to connect to 7325 South. Staff has received will-serve letters from the power, gas, and water companies and a feasibility letter from the Bear River Health Department along with a geotechnical report. All setbacks can be met for the R-1-20 area.

Staff explained the preliminary subdivision plat does not comply with the preliminary subdivision regulations at this time, but can comply through the conditions listed in the commissioners staff report. The updated preliminary plat has one item the engineer is currently addressing. There are two drainage easements shown on the plat as part of Lot 1 and Lot 8 that need to be dedicated to the South Willard Flood Control District, however, there may not be enough frontage on Lot 1 if the detention basin easement is taken out.

**MOTION:** A Motion was made by Commissioner Bonnie Robinson to table application number SS22-024, a preliminary plat for the Valley View Estates Phase 3 Subdivision for up to 90 days/3 months to come into compliance with staff recommendations and the drainage easements can be fixed and frontages addressed. The motion was seconded by Commissioner Jed Pugsley and unanimously carried.

**CONDITIONS:**

1. Compliance with all comments from County staff.
2. Compliance with Article 5, Regulations of General Applicability, of the Box Elder County Land Use Management & Development Code.
3. Compliance with Chapter 6-1, Subdivisions, of the Box Elder County Land Use Management & Development Code.
4. Compliance with all applicable County, State, and Federal laws regulating the proposed use, including all current licenses, permits, etc.
5. Drainage easements need to be dedicated to the South Willard Flood Control District and the frontage on Lot 1 addressed.

**SUMMERLAND RANCHES SUBDIVISION PH 1, SS22-023, Request for final approval for a subdivision located at approximately 10800 West 13600 North in the Tremonton area of Unincorporated Box Elder County. ACTION**

Staff said the applicant is requesting final approval of the Summerland Ranches Subdivision plat. The proposed subdivision consists of 12 new lots, all of the lots will be 5.50 acres or larger. The existing parcel is 70.47 acres in size. The surrounding land uses are Rural Residential and Agriculture. The surrounding zones are RR-5. Access will be via 10800 West for the entire subdivision as well as a new, additional road, 13400 North. Staff has received will-serve letters from the power, gas, and water companies and a feasibility letter from the Bear River Health Department along with a geotechnical report. Staff is currently in the review process but has made substantial progress. Staff recommends approval.

Commissioner Steven Zollinger said 10800 West can be a river in the summer months. He would like to see something to address flooding of the homes downstream as well as the new homes going in. The water crosses at 13600 North on the east side of the property and filters down to 10800 West. The homes along 10800 West get flooded.

Commissioner Steven Zollinger is also concerned about culinary water. Staff said Bear River Water Conservancy District (BRWCD) will provide water. There is a high production well on Lot One that serves the pivot and has substantial water rights. The high production well will be utilized so each lot has private pressurized water. A six-inch secondary line will run along the west side of lots 11 and 12 (or east side of lots 2-8). The system will be under the control of an owner's



association who may delegate functional and maintenance responsibilities to a party or entity. BRWCD will not be involved in any secondary water matters. The culinary water system may be used for modest landscaping areas around a residence, typically limited to ¼ acre.

Staff indicated they were not aware of the flooding issue and questioned if the applicant's engineer and the road supervisor are aware of the flooding issue?

Jim Flint, Engineer, said he needs to look at the section of road. It is a valid concern. The commissioners could put a condition stating a drainage report is needed addressing the issue to the satisfaction of the county engineer.

Staff explained the county started work on a transportation master plan a few years ago and as part of the funding for that plan, some drainage projects were to be addressed. Staff will talk to the current and previous road supervisors and find out if any of this was part of that funding.

**MOTION:** A Motion was made by Commissioner Steven Zollinger to table application SS22-023, a final plat for the Summerland Ranches Subdivision, until information is provided by the county road department and/or the site engineer regarding the flood plain issue that exists along 10800 West, and adopting the exhibits, conditions and findings of staff. The motion was seconded by Commissioner Jed Pugsley and unanimously carried.

**CONDITIONS:**

1. Compliance with all County staff reviews and comments.
2. Compliance with Article 5, Regulations of General Applicability, of the Box Elder County Land Use Management & Development Code.
3. Compliance with Chapter 6-1, Subdivisions, of the Box Elder County Land Use Management & Development Code.
4. Compliance with all applicable County, State, and Federal laws regulating the proposed use, including all current licenses, permits, etc.
5. Secondary water plan be incorporated.

**WORKING REPORTS**

**Residential Animals**

Staff explained the way code is written, it is easier for the applicant to understand how many animals they may have in a residential area, or a realtor can let their client know how many horses they can have on a property. Staff does like going off the available area per animal rather than having it tied to lot size. Commissioner Mellonee Wilding stated the limit starts at 20,000 acre lots but now that sewer is available outside city limits, there can be smaller lots in the county. Staff said there are also lots zoned R-1-8 that allows for 8,000 sq. ft. lots. Currently the code only applies to the R-1-20 zone. Staff asked if the commissioners want to apply this to the RR-1, RR-2, and R-1-8 zones but on the large animals, not go less than the ½-acre lot. Commissioner Wilding suggested taking out the part stating there needs to be an additional amount of land to increase the number. Commissioner Bonnie Robinson likes that it states usable space for the animals not just space. Commissioner Jed Pugsley has spoken to staff about having an exemption for 4-H and FHA.

Staff will incorporate the recommendations made by the commissioners, create a draft to send to the commissioners for any additional feedback, and plan to notice this as a public hearing on next month's agenda. That draft will be what will be used to get the public's feedback.

### **Annexation Policy**

Staff said the policy encourages annexation if the parcel is located within a municipal annexation boundary, are within a ½ mile from a municipality, or if the development will be using a utility provided by the municipality. Staff received feedback from Commissioner Jennifer Jacobsen who changed the layout somewhat. Commissioner Mellonee Wilding loves the encouragement to annex. Commissioner Steven Zollinger liked the statements from the general plan, the paragraph from Sanpete County, and the two paragraphs from Iron County. Staff verified that the commissioners would like to keep the policy the way it is but add in the policy from Rich County.

### **PUBLIC COMMENTS - NONE**

Susan Nielsen, Bothwell, said in 1983 during the spring thaw there were washes in a particular field up to 15 ft. in depth. The road, 10800 West was five feet below the level of the fields being farmed. The county came in and raised the road up which just made it spread farther. The proposed subdivision along that road cannot happen, these people are going to be flooded and their homes damaged. Who has to pay for the roads? Who is going to make it a 2 lane highway? Her property taxes went up 25% and she is on a fixed income. The developers will be gone and leave the taxpayers to fix the road. There should be a way to make the developers foot the bill. She also feels there is not enough water for all the new homes and the huge parcels. Ms. Nielsen thinks the commissioners need to seriously consider stopping some of this development because there is not enough water and there are no resources or infrastructure to support them.

Katherine Nielsen mirrors Susan's comments. She said these developments also affect the schools. There is a severe shortage of teachers and bus drivers are also needed. There will be children living in these homes who are going to go to school and will need school and hospital services. The roads are another issue because of the increased traffic. These issues need to be fixed now before these subdivisions come in. The subdivisions will also need fire hydrants. She asked where the water comes from? The water bills for the residents already there have doubled.

Jeff Ivers, is curious if there are covenants by the builder for the subdivision. Are these going to be stick built homes or manufactured homes? What are the provisions for dumping waste? Is the county going to maintain and pave the roads around the subdivision?

Sandy Hood lives on 10800 West and water took out her driveway and flooded her fields. She has been flooded four or five times. If more houses come in it will block it even more, and more flooding will happen. They have begged to have something done. She said no one comes in and offers money to fix their yards but they are taxed for it. They raise our taxes but nothing gets done. Putting in more homes is going to cause more water issues.

Ryan Stokes, property owner/developer, is curious where the flood water comes from. Commissioner Steven Zollinger said it comes out of White's Valley. It comes off the hill from the west as well as the east side then gathers and comes straight down 10800 West. Mr. Stokes asked if where the water generates is on private property. He is concerned if the flooding is coming from his property or from other people's property. Commissioner Zollinger stated if more houses are concentrated there, it is going to increase the flood area. There needs to be a way to channel the water through culverts or some type of drainage. Mr. Stokes will address the flood issues.

Jim Flint, engineer, said the developers are understandably chagrined because the flooding is not a subdivision induced problem this is an upstream problem. He wants to be a part of the solution.

### **ADJOURN**

**MOTION:** A Motion was made by Commissioner Bonnie Robinson to adjourn commission meeting. The motion was seconded by Commissioner Jared Holmgren and meeting adjourned at 9:30 p.m.

  
Mellonee Wilding, Chairman  
Box Elder County Planning Commission



## PLANNING COMMISSION MEETING

**THURSDAY** September 15, 2022

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