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August 18, 2021

Matthew D'Agostino, Chair
Zoning Board of Appeals
City of Methuen
41 Pleasant Street
Methuen MA 01844

RE: Application for a Comprehensive Permit
Property: Portion of 10 Ingalls Court Lot 1 / City of Methuen Assessors: 716-115-2A
Owner: Henry C. Nevins Home, Inc.
Applicant: YWCA of Greater Newburyport for the YWCA Residence at Ingalls Court

Dear Mr. D'Agostino and Members of the Board;

Reference is made to the above captioned matter. In that connection, we represent the YWCA of Greater Newburyport (the "Applicant"). This document comprises an application, pursuant to G. L. c. 40B, §§ 20-23 (the "Act"), and the regulations promulgated thereunder with regard to a Comprehensive Permit to authorize the construction of ninety-six (96) affordable rental apartments for seniors to be constructed in two phases and two parcels of land comprising approximately 1.17 acres and 2.18 acres for a total of 3.35 acres and located at a portion of the land known and numbered as 10 Ingalls Court Lot 1, Methuen, Massachusetts identified on the City of Methuen Assessor's Map as 716-115-2A and which is located in the Multifamily Residential ("MB") zoning district (the "Property" or the "Site").

1.0 The Applicant

The within application is filed by the YWCA of Greater Newburyport (the "Applicant"), a Massachusetts 501(C)(3) not-for-profit corporation, with a principal address of 13 Market Street, Newburyport, MA 01950. A copy of the Applicant's Certificate of Organization as filed with the Massachusetts Secretary of State's Office is attached hereto as

Exhibit A. The Applicant is represented by John Feehan, the Executive Director of the YWCA of Greater Newburyport. The Applicant or a single purpose entity to be created following permitting and for financing will be the owner of the Property. The developer of the Project will be L.D. Russo, Inc., represented by its President, Nat Coughlin.

The Development Team is as follows:

A. APPLICANT

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B. DEVELOPER

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E. ARCHITECT

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Michelle Apigian
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Any questions should be directed to attorney Lisa L. Mead.

2.0 Limited Dividend Organization

The Applicant is a 501(C)(3) non-profit corporation, and as such the Applicant qualifies as a non-profit organization eligible to file a comprehensive permit application pursuant to G. L. 40B, § 21. There will be a separate single-purpose limited dividend organization formed for the purpose of construction and financing of the project.

3.0 Project Subsidy

The Applicant has received a Project Eligibility Letter from the Department of Housing and Community Development (“DHCD”) pursuant to the Low Income Housing Tax Credit (“LIHTC”) Program. A copy of the Project Eligibility Letter is attached hereto as **Exhibit B**. The Project Eligibility Letter issued by DHCD satisfies the jurisdictional subsidy requirements established under the Act and the regulations promulgated thereunder.

The Project Eligibility Letter issued by DHCD contains the findings required by 760 CMR 56.04(4), including the finding that the Applicant controls the Site pursuant to 760 CMR 56.04(4)(g). Pursuant to 760 CMR 56.04(6), the determinations made by the Subsidizing Agency (in this instance DHCD) are conclusive, and any challenge to such determination may be made “solely upon the grounds that there has been a substantial change affecting the project eligibility requirements set forth at 760 CMR 56.04(1).”

The Applicant has notified the Subsidizing Agency of the submittal of this application. A copy of the notice to the DHCD is attached hereto as **Exhibit C**.

4.0 Site Control

The Applicant controls the Property within the meaning of the Act. The Property is controlled by the Applicant and the Developer. A copy of the Purchase and Sale Agreement is attached hereto as **Exhibit D**. The Applicant is

proposing to reconfigure lot lines as part of the comprehensive permit approval process, and said Approval Not Required plan (“ANR Plan”) for the Board to sign creates the new lot lines and is a part of the “Site Development Plan” set.

5.0 The Property

The Property consists of approximately 3.35 acres +/- located at 10 Ingalls Court Lot (the “Property”). The Property is shown on a set of plans entitled Plan of Land in Methuen, MA, Showing Proposed Site Improvements including two phases of development, Site Plan, Phase I, and Site Plan Phase II at Ingalls Court, dated June 30, 2021, prepared by Millennium Engineering, Inc. and consists of 8 sheets (the “Site Development Plans”). Such plans fulfill the requirements of 760 CMR 56.05(2)(a), preliminary site development plans.

Specifically, the Property consists of two lots, Lot A, including 95,474 square feet of area with no frontage on a public way. Phase I, noted below, is proposed to be constructed on Lot A. Lot B, including 50,980 square feet of area with 56.1 feet of frontage on Granite Street. Phase II is proposed to be constructed upon Lot B with a small connector overlapping into Lot A.

Additionally, the Applicant has submitted pictures (including nearby houses/ multifamily uses or health care uses) and aerial photographs of the surrounding area attached as **Exhibit E**. Such material, along with the existing conditions narrative contained herein, fulfills the requirement for an existing conditions summary contained in 760 CMR 56.05(2)(b). Proposed design features and floor plans and exterior elevations for the proposed structures are shown on a set of plans entitled “YWCA Residences at Ingalls Court”, 12 Ingalls Court, dated July 12, 2021, prepared by ICON Architecture (the “Architectural Plans”) (collectively, the Site Development Plans and the Architectural Plans are referred to as the “Project Plans”). The Architectural Plans submitted herewith fulfill the requirement for submitting preliminary, scaled architectural plans contained in 760 CMR 56.05(2)(c). The Project plans are filed with this application and are made a part hereof by reference. Under the Act, plans filed with a Comprehensive Permit application may be preliminary plans, and the Applicant reserves the right to revise the Project Plans prior to final approval of the Project.

6.0 Project Description

The “YWCA Residences at Ingalls Court” is located at the Nevins Nursing and Rehabilitation Center campus that consists of three buildings providing supportive programming and short-term stays for seniors as well as long term

apartments. The Nevins Nursing and Rehabilitation Center has been an important part of the Methuen community fabric for over 100 years.

This project will consist of the construction of two new free-standing buildings that will provide a total of 96 affordable units for independent seniors. The buildings will be connected as part of the Phase II construction. Anticipated to be built in two separate phases, this development will add vibrancy and leverage existing services and infrastructure.

Element Care, the organization providing senior day care services out of the existing Health Center building, will expand into new facilities on the first floor of the Phase 1 building. This will allow for future demolition of their existing home, making way for the Phase 2 building. The Element Care use will be the same as it is today.

The two buildings are expected to be connected at the ground level and through a bridge connection at upper levels. This direct relationship is intended to capitalize on space and programming synergies. With direct access to elevators, laundry and program spaces in Phase 1, the Applicant hopes to reduce the amount of non-residential space in Phase 2 and increase its efficiency ratio.

Each proposed apartment structure will contain forty-eight (48) units, all of which are proposed to be affordable units and limited to seniors over the age of 62. The Project will contain 122 parking spaces for the entire ninety six (96) units, serving both residents and visitors. The Project will feature clearly marked pedestrian pathways throughout the site and connecting to the Nevins Nursing and Rehabilitation Center.

The Applicant proposes to connect to the municipal water and sewer mains for the proposed structures. Such connections are available within the Granite Street and existing infrastructure within the Property along the river, providing easy access for these connections.

All commercial traffic and use of the Element Care services will remain the same entering and exiting the site either from Broadway or Granite Street. It is proposed that all commercial traffic related to the proposed apartments will be directed to and use easements to egress and enter off of Broadway.

Landscaping for the Project is proposed to consist of low-growth shrubs located along the front of the proposed residential structures, providing a buffer between the buildings and the parking area. The landscaping is shown on the ICON plans.

7.0 Existing Site and Surrounding Site Area Conditions (See 760 CMR 56.05(2)(b))

A. Existing Conditions

The Property consists of approximately 3.35 acres +/- located at a portion of 10 Ingalls Court Lot 1. The Property is proposed to be divided through an ANR plan into Lot A consisting of 2.18 acres +/- and Lot B consisting of 1.17 acres +/- . Currently existing upon Lot B is the structure housing Element Care.

A portion of the Property is located within the 200 foot Riverfront zone of the Spicket River. Indeed, there is a very small portion of the proposed structure in the Riverfront area, and a portion of the parking lot. However, the existing conditions also include development in the Riverfront area. Additionally, a portion of that same parking lot is also impacting the 100 foot wetlands buffer zone. Again, existing conditions similarly impact this area. The Applicant will be required to file a Notice of Intent with the Methuen Conservation Commission for any work within the Commission's jurisdiction under the Wetlands Protection Act.

The properties surrounding the Property are a mixture of residential housing, including multifamily buildings off of Granite Street, Multifamily Housing off of Ingalls Court, Industrial and health care. No negative impacts to the surrounding properties are anticipated as a result of the proposed construction.

B. Existing Public Utilities

Existing public utilities in the area of the Project include municipal water and sewer available in Granite Street and within the sewer infrastructure on the Property along the river.

C. Historic or Archeological Features of Significance

The Property does not appear to have any significant historic or archeological features.

D. Significant Natural Resources of Wildlife Habitat

The Massachusetts Natural Heritage Atlas, 13th Edition, was reviewed to obtain information regarding any significant natural resource or wildlife habitat areas. A review of the maps for both Priority Habitats of Rare Species and

Estimated Habitats of Rare Wildlife and Certified Vernal Pools indicated no vernal pools or rare wildlife habitat on the Property.

8.0 Proposed Landscaping/Buffers

The project will have an entrance via Ingalls Court and Broadway and in addition includes access off of Granite Street. The project includes frontage on Granite Street which is the frontage for Lot B. The Applicant will be providing landscaping in and around the building and the Property to be sure that the interface between the residential housing and the parking is properly treated and the building is suitably landscaped and the area near the Spicket River appropriately integrated into the site. The Landscape Plans are provided.

9.0 Project Impacts

A. Municipal Services

1. Water Supply

The Project will be serviced by public water from the City of Methuen public water system, with a proposed connection from Granite Street. With 96 bedrooms it is estimated that the water usage will be 7,200 gpd¹ for the Project when it is fully built out. The Project will be constructed with the appropriate water savings plumbing fixtures such as low flow toilets.

2. Wastewater

The Project will be serviced by a connection to the municipal wastewater system, with a proposed connection from existing sewer infrastructure along the river. As noted above the estimated impact on the sewer system will be 7,200 gpd which will have little impact on the Methuen sewer system.

¹ Water and sewer impacts are based upon the Title V standards. Generally speaking the residential standard is 110 gpd. However, this number is reduced to be consistent with the standard for senior housing. 310 CMR 15.203 provides for elderly housing 150 per 2 bedroom. Here the units are one bedroom, and therefore a number of 75 gpd has been used to determine impact.

3. Stormwater

The stormwater management system for the Project is designed in conformance with the Massachusetts Department of Environmental Protection's Stormwater Management Standards. The facility utilizes subsurface infiltration areas designed to store, treat and recharge stormwater flows from the Project for a 100-year storm event. Curb and gutter flow will direct the stormwater from the parking lot to the subsurface infiltration areas. No adverse impact on the municipal stormwater drainage system will be generated by the Project, as the Project will not connect to the municipal stormwater system.

4. Public Safety

Impacts to public safety would be associated with adequate access to and from the Site. Public safety vehicle access to and from the site will be from Broadway or Granite Street, both public ways. The Project will have no adverse impact upon public safety. A review of traffic impacts will be provided separately from this application, during the course of the hearing process.

5. Utilities

Utilities, including water, sewer and gas, will be extended to the Site from Granite Street and the sewer infrastructure on the Property near the river and as more specifically shown on the Site Development Plans. Other utilities such as electric, cable and telephone will be coordinated prior to construction with the local providers. No adverse impacts relative to public services or utilities to abutting properties or to the City in general are anticipated.

B. Construction Impacts

Anticipated impacts of the Project associated with the construction process include erosion and sedimentation, noise, dust and debris control. Although these impacts will be temporary in nature, mitigation controls will be in place. Such controls include the following:

- i. Construction sequencing, best management practices for erosion control, equipment and vehicle management, material storage and use, waste disposal and spill prevention and response.

- ii. A daily inspection of the site conditions, as needed, to control dust during construction and to provide watering, as needed.

C. Historical and Archeological Impacts

The Applicant is unaware of any historical or archeological impacts that will result from the Project.

D. Environmental Impacts

The Applicant does not expect the Project to result in any adverse environmental impacts to the Site.

E. Traffic Impacts

The Applicant does not anticipate any significant traffic impacts from the Project to the surrounding roadway system. The Property is located off of Broadway a major roadway in the City. The additional traffic generated by the newly constructed 96 units will have nominal impact on Broadway. Additionally, given the expected population of the housing, it is expected that there will be limited additional personal vehicles residing at the site. As noted above, a traffic memorandum by Vanasse & Associates, Inc. will be submitted separately from the submittal of this application.

10.0 Request for Zoning, General Ordinance and Regulation Waivers

Pursuant to the Act and the regulations promulgated thereunder, the Applicant requests that the following waivers be granted from the Zoning Ordinance, General Ordinance and local Regulations of the City²:

Article	Category	Required		
V and Attachment 1	Use – Multifamily Use	SP		
VI	Dimensional Requirements	All		
Appendix B	Dimensional Table	In MB District	See attached Dimensional Table	

² References herein are to the City of Methuen Ordinances Chapter Z, Zoning Ordinance and Chapter S, Subdivision Rules and Regulations, and various applicable provisions of the General Ordinance as noted.

Article VIII	Parking and Loading Requirements	All		
Article IX	Nonconforming Uses, Structures and Lots	As to Commercial Structures and Lots		
Article XII	Site Plan Approval	All		

- Chapter S, Subdivision Rules and Regulations – Section 2.2, Plans Believed Not to Require Approval inclusive of 2.2.1-2.2.4.
- Chapter 12, Wetlands Protection – Section 12.1-12.12 and accompanying regulations.
- Chapter 14, Sewer, Article VII, as to any sewer hook up fees and accompanying regulations for said fees.
- Chapter 15, Water, Article 15.5 Water Fees and Charges as to any water connection fees and accompanying regulations for said fees.
- Chapter 30, Stormwater Management & Erosion Control

MODIFICATION TO VARIANCE AND SPECIAL PERMIT FOR ADJACENT PROPERTY AND STRUCTURES

To the extent the lot separation and reconfiguration impacts the existing special permits and variances which apply to the Henry C. Nevins Home for the Aged and Incurable (“Health Center”) or the Element Care Center (“Adult Day Care”), the Applicant will be seeking to modify said permits under the authority of the Comprehensive Permit in order to allow the construction and operation of the affordable housing presented. At this time, those impacts appear to be limited to the parking requirements for the Health Center and the previously issued Special Permits for the Adult Day Care as the proposed development will change the configuration of both lots and/or reconfigure the access and parking thereto. Additionally, Lot C as noted on the plans will exacerbate the already modest excess in lot coverage for the Nevins facility.

For further specificity, and subject to modification and/or refinement during the permitting process, the following are the specific waiver impacts:

List of Zoning Waivers:

Phase 1 Lot A	Required	Proposed
Maximum Density	4 units/ac	22.2 units/ac
Frontage	150	0
Height	40	66.84'
Maximum Number of Stories	3	5
Front Setback	30	NA
Rear Setback	30	NA
Site Setback	25	0
Lot Coverage	40% max	43.5%
Parking Spaces – Housing for Elderly	48	45
Element Care Other Inst	20	28

Phase 2 Lot B

Maximum Density	4 units/ac	40.4 units.ac
Frontage	150	56.1'
Height	40	62'
Maximum Number of Stories	3	4
Lot Coverage	40% max	58%
Side Setback	25	0
Parking Spaces – Housing for Elderly	48	29
Element Care Other Institutional	00	20

Lot C

Lot Coverage	40% max	49.7% (existing is 41.3%)
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It should be noted that there are 122 parking spaces provided, 52 surface spaces and 70 spaces within the garage.

Finally, given the nature of the Application, in the event the Applicant has failed to request a waiver for a specific provision of the Ordinance and/or rule or regulation not set forth above, the Applicant requests the Board grant a blanket waiver as to those items not so enumerated.

11.0 Need for Affordable Housing

The Act, provides in relevant part that all communities are required to have a minimum of ten percent (10%) of their housing stock dedicated to low and moderate income housing. See G. L. c. 40B, § 20, and 760 CMR 56.03(3)(a). Based upon most recent applicable data available, the stock of housing utilized in Methuen for low to moderate income purposes is approximately 9.3%, which is just below the 10% requirement. See DHCD Subsidized Housing Inventory as of December 21, 2020, attached hereto as Exhibit “F”. It is the Applicant’s understanding however, that based upon internal calculations the City may be at 9.5%. With the City being below the required 10% threshold, there exists a legal presumption that there is a regional housing need which outweighs local concerns. In such case, the municipality must approve the Comprehensive Permit or approve it with conditions. Further, at the submission hereof, based upon pending building permits, Methuen may be above the 10% threshold, those numbers are prior to the calculation including the 2020 decennial census. As a result, as a planning tool, the Mayor has supported this LIP application as a measure to bring much needed senior affordable housing to the City of Methuen at rates which are below the generally used 80% Area Median income. Further, in light of the impending census numbers, the City is likely to fall below the 10% threshold and this project would allow the City to again, be over the SHI threshold once approved.

Indeed, the Applicant proposes and agrees that one hundred percent (100%) of the total number of units in the Project will be dedicated as affordable units to persons earning not more than sixty percent (60%) of the area median income. Indeed, a number of units will be at fifty percent (50%) median income and thirty percent (30%) median income thereby serving a broad cross section of the population. The on terms acceptable to the Subsidizing Agency, in accordance with applicable fair housing law.

12.0 Filing with Other Boards

The Applicant will file a Notice of Intent with the City of Methuen Conservation Commission consistent with its jurisdiction pursuant to G. L. c. 131, § 40 (the “Wetlands Protection Act”) and the regulations promulgated thereunder.

13.0 Additional Information

The Applicant reserves the right to provide, and anticipates providing, additional information to the Board of Appeals during the course of the hearing process.

14.0 Phasing

The Project will be phased as described above.

15.0 Permitting the Element Care Under the Comprehensive Permit

As set forth above, the adult day care operated by Element Care will be moved from the Nevins Project to the Phase 1 building. Element Care is an existing permitted use on the site. However, the dimensional requirements for Element Care will be modified given the new lot configuration created by this project. Notwithstanding the change of dimensions as they apply to Element Care, the Board may use the Comprehensive Permit process to adjust the dimensional requirement of a use permitting and which is not affordable housing but which is intertwined with the Comprehensive Permit plan and application. (See Jepson v. Zoning Board of Appeals of Ipswich, 450 Mass. 81, 2007 in which the Court found "...that when commercial use is permitted on the property to be developed under the local zoning bylaw or ordinance, the board, under G.L. c. 40B, §§ 20–23, has that authority." to override the dimensional requirement related to that use.) In this instance, the relief necessary to allow the Element Care services to continue on site is intertwined with the senior housing being proposed in the application. Extending that flexibility to allow an *incidental* commercial component under the umbrella of the comprehensive permit provides additional incentives, including economic, to developers to establish affordable housing, and serves to further the development of needed affordable housing. This conclusion is consistent with the statutory scheme and the Legislature's intent. See Board of Appeals of Hanover v. Housing Appeals Comm., 363 Mass. 339, 354, 294 N.E.2d 393 (1973) (G.L. c. 40B "must be construed in a manner that effectuates its intent"). Nothing in G.L. c. 40B, §§ 20–23, expressly prohibits the inclusion of incidental commercial uses (when such uses are permitted on the proposed property by zoning ordinance or bylaw) to complement an affordable housing development. Further, the Legislature took into account that developers of affordable housing need to generate a reasonable economic return on their investment. This consideration is significant as illustrated by the right of appeal afforded to developers under G.L. c. 40B, § 22, when a developer's

application for a comprehensive permit is denied “or is granted with such conditions and requirements as to make the building or operation of such housing uneconomic.”) In the case at hand, the Element Care use already exists and is permitted on the site. The proposal is to move the actual location of the Element Care services, but not add something new via the Comprehensive Permit. The Element Care use is certainly integrated into the particular type of affordable housing that is being provided and incidental to it.

Additionally, and along these same lines, to the extent that any adjustments or relief is needed for the adjacent parcel due to the redrawing of the lot lines separating the proposal with the Henry Nevins Facilities, this Board may grant that relief as well. Case law supports the Board’s determination to use the comprehensive permit process to make changes to adjoining property to facilitate the subject development. In the decision of Cloverleaf Apartments the Housing Appeals Committee stated: “[t]he Board questioned the propriety of a comprehensive permit including approval of minor changes (primarily sidewalks in this case) on an adjoining lot. We have no doubt that such changes may be permitted under our reasoning in Woodridge Realty Trust v. Ipswich.” Cloverleaf Apartments, LLC Appellant Natick Board of Appeals, Appellee, 2002 MA. HAC. 01-21, 22, 2002 WL 34082288, at *11. The reasoning in Woodridge referred by HAC, that the HAC was that the changes sought were relatively minor, did not create a significant impact on the neighborhood, and that the changes were publicly discussed through the comprehensive permit process. Also, and critically, the changes related to a subdivision approval decision, and the HAC noted that the concerns turned on matters that “would not have be grounds for denying subdivision approval.” Woodridge Realty Trust Appellant Ipswich Board of Appeals, Appellee, 2001 MA. HAC. 00-04, 23, 2001 WL 35912594, at *11. Here there is a slight reduction in the overall area of the Henry Nevins Property, said changes do not impact its use and/or parking or egress or ingress and use. All parking and related access remains the same or is improved. The Nevins property already exceeds lot coverage and it will be exacerbated slightly more going from 41.3% to 49.7%. Here, there are small adjustments in the lot lines separating the two properties. While parking facilities for the Henry Nevins Property may now be located partially on the subject property, available parking for Henry Nevins remain unchanged.

16.0 Request for Findings of Fact

The Applicant requests that the Board of Appeals make the following findings of fact in connection with the action of the

Board on this application:

- The YWCA of Greater Newburyport is a Massachusetts 501(C)(3) not-for-profit corporation within the meaning of General Laws, Chapter 40B.
- The Applicant has control of the site and has shown evidence of such sufficient to qualify it as a recipient of a Comprehensive Permit for this site as confirmed in the Project eligibility letter sufficient to comply with 760 CMR56.04(4)9g)
- The number of low or moderate income housing units in the City of Methuen constitutes less than ten percent (10%) as reported in the latest decennial census of the City and reported by the Department of Housing & Community Development as of December 20, 2021³. If at the time of this decision it does not, the Board may find that the proposal continues to address the needs for affordable housing in the City and is consistent, as noted below, with local needs.
- The Development as proposed in the application is consistent with local needs within the meaning of General Laws, Chapter 40B, Section 20.
- The applicant has received approval and a Project Eligibility Letter through DHCD pursuant to the LIHTC Program and therefore has received approval in accordance with 760 CMR 56.04(4).

16.0 Summary

The within Application proposes an attractive, well-designed affordable housing development that will address a long-standing and serious shortage of rental housing for seniors households. According to the City's Housing Production Plan, 65%, or 4,750 of low-income households in Methuen are estimated to spend more than 30% for housing costs. In Methuen, a greater proportion of low-income renters are cost burdened than low-income owners. The Plan further estimates that 1,365 ELI households spending more than half of their gross income on housing is a population that can be particularly vulnerable to housing instability and possible homelessness.

³ The Applicant is aware that building permits have issued for 156 rental units which would qualify for the SHI and which would when submitted put the City over 10%. However, the Applicant is also aware that the 2020 census will be issued soon which will show the City will be under its 10% SHI requirement.

The Plan notes there are 5 year goals, which provide in number 6 that the City should partner with for and non profit developers to create affordable housing on privately owned sites and goal 12 provides that the City should provide support for elderly to age in place. This proposal helps to achieve these stated goals.

The Site design and existing conditions afford ample area to accommodate the proposed development. Moreover, the Project has been designed to minimize and mitigate potential impacts to municipal systems and services.

The Applicant respectfully submits that the Project will meet a severe regional and local need for affordable rental housing while also addressing the health, safety, and environmental concerns of Methuen residents.

Respectfully submitted,
YWCA of GREATER NEWBURYPORT
By its attorneys,
MEAD, TALERMAN & COSTA, LLC



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