

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
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**W6d**

Filed: March 4, 2011
49th Day: April 22, 2011
180th Day: August 31, 2011
Staff: John Del Arroz - LB
Staff Report: July 21, 2011
Hearing Date: August 10-12, 2011
Commission Action:

STAFF REPORT: CONSENT CALENDAR

APPLICATION NUMBER: 5-10-259

APPLICANT: Mr. John White

AGENT: Holdenwater Architecture + Engineering

PROJECT LOCATION: 319 West Avenida Valencia, Orange County.

PROJECT DESCRIPTION: New raised patio area using a caisson and grade beam foundation

LOCAL APPROVAL: City of San Clemente Approval In Concept

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending **APPROVAL** of the proposed project with five (5) special conditions regarding: 1) the applicant's assumption of risk; 2) future development; 3) construction responsibilities; 4) native landscaping on the site; and 5) revised plans requiring the proposed patio extension to be located outside of the canyon setback. As conditioned, the proposed development does not adversely affect visual resources or public access and recreation. **See Page Two for the motion to carry out the staff recommendation.** The applicant agrees with the staff recommendation. Staff recommends that the Commission find that the proposed development, as conditioned, conforms with the Chapter 3 policies of the Coastal Act and previous Commission approvals, and will not prejudice the City's ability to prepare an LCP.

SUBSTANTIVE FILE DOCUMENTS:

1. City of San Clemente Approval in Concept
2. City of San Clemente certified Land Use Plan

LIST OF EXHIBITS:

1. Vicinity Map
2. Site Plan

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolutions to **APPROVE** the coastal development permit with special conditions:

MOTION: ***I move that the Commission approve the coastal development permit applications included on the consent calendar in accordance with the staff recommendations.***

STAFF RECOMMENDATION TO ADOPT CONSENT CALENDAR:

Staff recommends a **YES** vote. Passage of this motion will result in approval of all the permits included on the consent calendar. The motion passes only by affirmative vote of a majority of the Commissioners present.

I. Resolution: Approval with Conditions

The Commission hereby **APPROVES** a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. Standard Conditions

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. Special Conditions

1. Assumption of Risk, Waiver of Liability and Indemnity

By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from landslide, erosion, and earth movement; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

2. Future Development

This permit is only for the development described in Coastal Development Permit No. 5-10-259. Pursuant to Title 14 California Code of Regulations Section 13250(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610 (a) shall not apply to the entire parcel. Accordingly, any future improvements to the development authorized by this permit, including but not limited to repair and maintenance activities identified as requiring a permit in Public Resources Section 30610(d) and Title 14 California Code of Regulations Sections 13252(a)-(b), shall require an amendment to Permit No. 5-10-259 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

3. Construction Responsibilities and Debris Removal

By acceptance of this permit, the permittee agrees that the permitted development shall be conducted in a manner that protects water quality pursuant to the implementation of the following BMPs:

- A.** No demolition debris, construction materials, equipment, debris, or waste shall be placed or stored where it may be subject to wind or rain erosion or dispersion.
- B.** The permittee shall dispose of all demolition and construction debris resulting from the proposed project at an appropriate location. If the disposal site is located within the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place.
- C.** All grading and excavation areas shall be properly covered and sandbags and/or ditches shall be used to prevent runoff from leaving the site, and measures to control erosion must be implemented at the end of each day's work.

- D. Washout from concrete trucks shall be disposed of at a controlled location not subject to runoff into coastal waters or onto the beach, and more than fifty feet away from a storm drain, open ditch or surface waters.
- E. Erosion control/sedimentation Best Management Practices (BMPs) shall be used to control sedimentation impacts to coastal waters during construction. BMPs shall include, but are not limited to: placement of sand bags around drainage inlets to prevent runoff/sediment transport into the sea.
- F. All construction equipment and materials shall be stored and managed in a manner to minimize the potential for discharge of pollutants. Any spills of construction equipment fluids or other hazardous materials shall be immediately contained on-site and disposed of in an environmentally safe manner as soon as possible.
- G. During construction of the proposed project, no runoff, site drainage or dewatering shall be directed from the site into any street or drainage unless specifically authorized by the California Regional Water Quality Control Board.
- H. In the event that hydrocarbon-contaminated soils or other toxins or contaminated material are discovered on the site, such matter shall be stockpiled and transported off-site only in accordance with Department of Toxic Substances Control (DTSC) rules and/or Regional Water Quality Control Board (RWQCB) regulations.

The permittee shall undertake the approved development in accordance with this condition.

4. Landscaping – Native, and Drought Tolerant, Non Invasive Plants

To minimize the need for irrigation and minimize encroachment of non-native plant species into adjacent existing native plant areas, all landscaping adjacent to the canyon shall consist of drought tolerant plants native to coastal Orange County and appropriate to the habitat type. Native plants shall be from local stock wherever possible. Landscaped areas in the front yard (street-facing) area shall consist of native and/or non-invasive non-native drought tolerant plant species. No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a “noxious weed” by the State of California or the U.S. Federal Government shall be utilized within the property. All plants shall be low water use plants as identified by California Department of Water Resources (See: <http://www.owue.water.ca.gov/docs/wucols00.pdf>).

5. Submittal of Revised Final Plans

A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and written approval, two (2) sets of final site and building plans that substantially conform with the plans by Holdenwater Architecture received by the Commission January 13, 2011, but shall be revised to remove all portions of the proposed patio structure, including foundations, from within 15 feet of the canyon edge

B. All final design and construction plans, including foundations, grading and drainage plans, shall be consistent with all recommendations contained in the Geotechnical Report prepared by Global Geo-Engineering Inc. and dated January 7, 2011 . **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the Executive Director's review and approval, evidence that an appropriate licensed professional has reviewed and approved all final design and construction plans and certified that each of those final plans is consistent with all of the recommendations specified in the above-referenced geologic evaluation approved by the California Coastal Commission for the project site.

C. The permittee shall undertake the development authorized by the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description

The proposed project is the extension of a raised patio by 691 square feet. The patio would be supported by a caisson grade beam foundation consisting of three 36" diameter and two 30" diameter caissons. The site is located at 319 West Avenida Valencia, in the City of San Clemente, Orange County within an existing, developed single family neighborhood. The closest beach access exists approximately 600 feet to the west, at Boca Del Canon. The site is currently developed with an existing 4134 sq. ft. single family residence, and an existing raised patio of approximately 170 sq. ft, located adjacent to Toledo Canyon.

The canyon adjacent to the subject site is considered somewhat degraded due to the presence of both native and non-native plant species. No portion of the applicant's site contains resources that rise to the level of ESHA. However, to decrease the potential for canyon instability, deep-rooted, low water use, plants, preferably native to coastal Orange County, should be selected for general landscaping purposes in order to minimize irrigation requirements and saturation of underlying soils. Low water use, drought tolerant, native plants require less water than other types of vegetation, thereby minimizing the amount of water introduced into the canyon slope. Drought resistant plantings and minimal irrigation encourage root penetration that increases slope stability. The Commission typically requires that applicants utilize native plant species, particularly along coastal canyons.

In addition, since the proposed development is adjacent to a coastal canyon where the protection and enhancement of habitat values is sought, the placement of vegetation that is considered to be invasive which could supplant native vegetation should not be allowed. Invasive plants have the potential to overcome native plants and spread quickly. Invasive plants are generally those identified by the California Invasive Plant Council (<http://www.cal-ipc.org>) and California Native Plant Society (www.CNPS.org/) in their publications. In the areas on the canyonward side of the lot, landscaping should consist of plant species native to coastal Orange County only. Elsewhere on the site, while the use of native plants is still encouraged, non-native plant species that are drought-tolerant and non-invasive may be used.

To meet the requirements of the Coastal Act, developments along coastal canyons must be sited and designed to assure stability and structural integrity for their expected economic lifespans while minimizing alteration of natural landforms. Canyon edge developments must not be allowed to create or contribute significantly to problems of erosion or geologic instability on the site or on surrounding

geologically hazardous areas which would then require stabilization measures. In San Clemente, the Commission typically requires that structures be set back at least 15 feet from the canyon edge to minimize the potential that the development will contribute to slope instability.

The proposed 691 square foot addition to the existing patio would extend the patio towards the canyon edge, to within 8 feet of the canyon edge and would require the use of significant foundations including the use of caissons. Therefore the proposed project would be considered a significant non-attached structure. The proposed patio extension is not consistent with the Commission's typical 15-foot setback for significant structures on coastal canyon lots in San Clemente. Therefore, the Commission imposes Special Condition 5, requiring the applicant to submit revised final plans for the proposed patio to modify the structure to comply with the 15 foot setback requirement.

As conditioned, the proposed development is consistent with past Commission actions in the area. Thus, as conditioned, the proposed patio extension will have no adverse impact on coastal access or resources in the project vicinity, and is consistent with the Chapter 3 policies of the Coastal Act.

B. ACCESS

As conditioned, the proposed development will not have any new adverse impact on public access to the coast or to nearby recreational facilities. Thus, as conditioned, the proposed development conforms with Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

C. DEVELOPMENT (HAZARDOUS AREAS)

Development adjacent to slopes such as those found on canyons or hillsides is inherently hazardous. Development which may require a protective device in the future can not be allowed due to the adverse impacts such devices have upon public access, and visual resources. To minimize risks to life and property the development has been conditioned to: require an appropriate set-back from the top of the slope, for conformance with a drainage and runoff control plan to minimize percolation of water into the slope and that future improvements must come back to the Commission for review. As conditioned, the Commission finds that the development conforms to the requirements of Sections 30235 and 30253 of the Coastal Act regarding the siting of development in hazardous locations.

D. WATER QUALITY

The proposed work will be occurring in a location where there is a potential for a discharge of polluted runoff from the project site into coastal waters. The storage or placement of construction material, debris, or waste in a location where it could be carried into coastal waters would result in an adverse effect on the marine environment. Furthermore, uncontrolled runoff from the project site and the percolation of water would also affect the structural stability of the canyon. To reduce the potential for construction and post-construction related impacts on water quality, the Commission imposes special conditions requiring, but not limited to, the appropriate storage and handling of construction equipment and materials to minimize the potential of pollutants to enter coastal waters and for the use of on-going best management practices following construction. As conditioned, the Commission finds that the development conforms to Sections 30230 and 30231 of the Coastal Act regarding the protection of water quality to promote the biological productivity of coastal waters and to protect human health.

E. LOCAL COASTAL PROGRAM

Coastal Act section 30604(a) states that, prior to certification of a local coastal program ("LCP"), a coastal development permit can only be issued upon a finding that the proposed development is in conformity with Chapter 3 of the Act and that the permitted development will not prejudice the ability of the local government to prepare an LCP that is in conformity with Chapter 3. The Land Use Plan for San Clemente was effectively certified on May 11, 1988. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified Land Use Plan for the area. Approval of the project, as conditioned, will not prejudice the ability of the local government to prepare an LCP that is in conformity with the provisions of Chapter 3 of the Coastal Act.

F. CALIFORNIA ENVIRONMENTAL QUALITY ACT

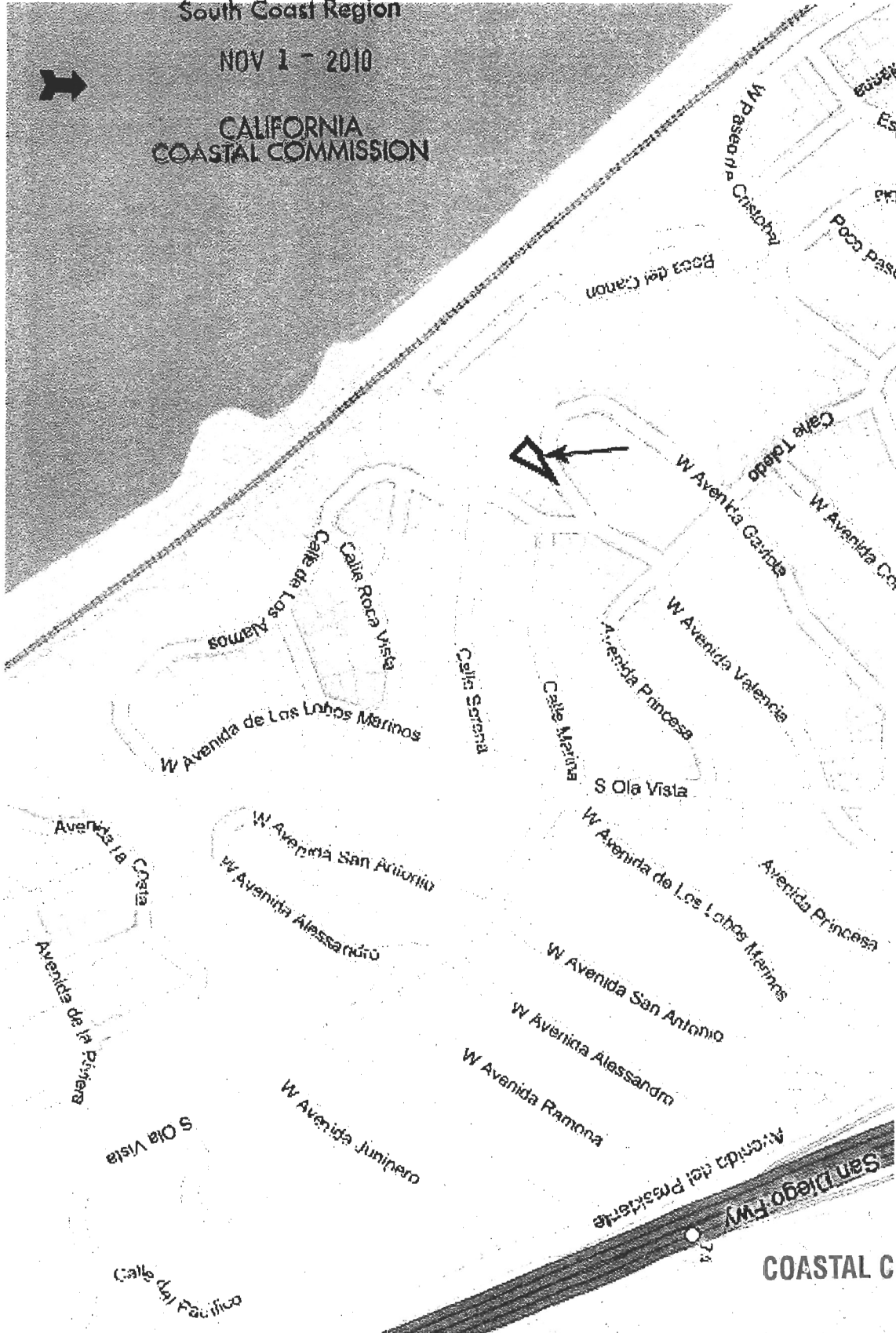
As conditioned, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

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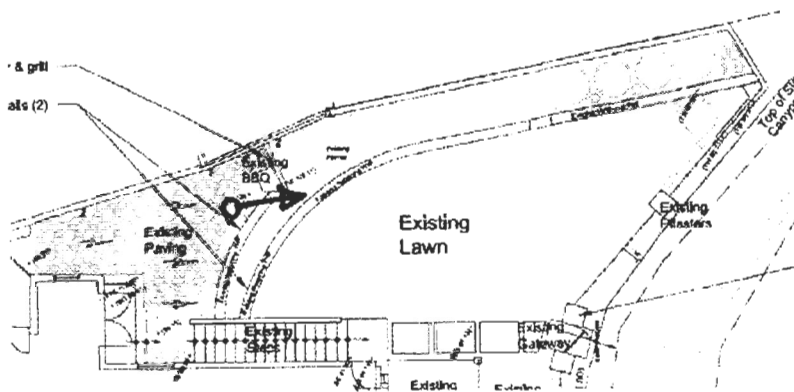
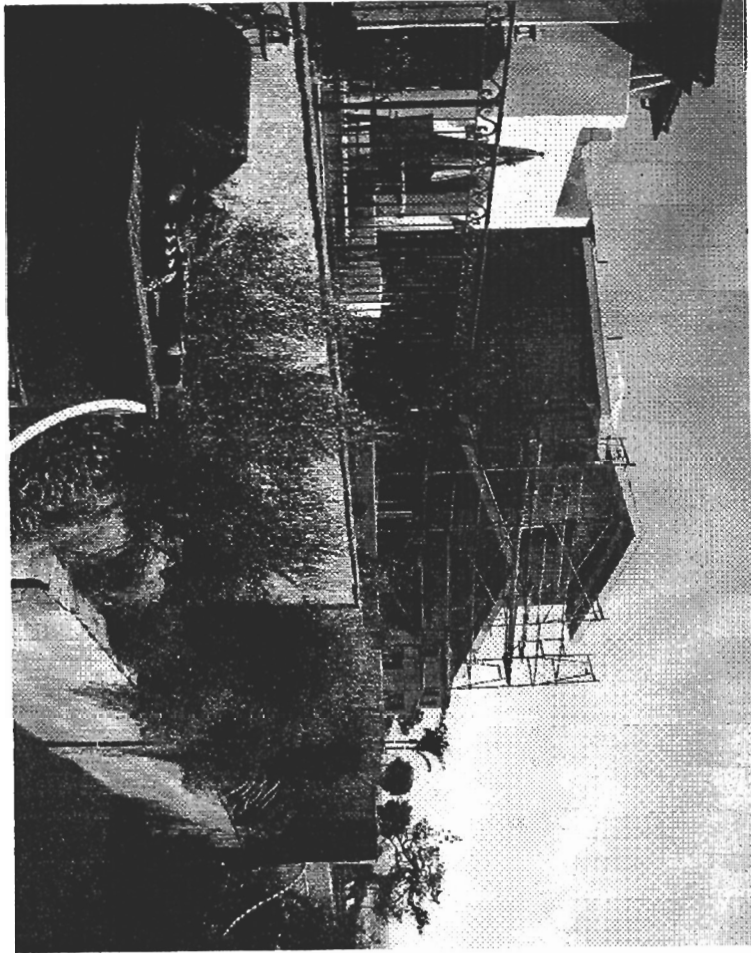
319 W Avenida Valencia, San Clemente CA 92672

Vicinity Map Prepared for:

COASTAL COMMISSION

EXHIBIT # 1

PAGE OF



This picture is taken from the existing patio looking outward toward the canyon and ocean.
 The purpose of the project is to enlarge this patio area.
 Note the existing BBQ in the lower left corner of the photograph also showing the Property Line wall with wrought iron railing upwards to the left.
 A section of the plans has been rotated for orientation and inserted to assist with clarity.

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EXHIBIT # 2
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