

MEMORANDUM

DATE: May 26, 2022

To: Cassandra van der Zweep, Supervising Planner

FROM: Theresa Wallace, AICP, Principal
Kyle Simpson, Project Manager

SUBJECT: Errata to the Gschwend Residence Project Initial Study/Mitigated Negative Declaration

This memorandum provides minor revisions to the Gschwend Residence Initial Study/Mitigated Negative Declaration (IS/MND) that are being made to clarify, correct, or amplify materials in the IS/MND. In addition, text has been amended to address revisions related to proposed project design features that are limited to the addition of 15 agriculture trees within the project site. No other changes to the project described in the IS/MND are proposed. In no case do any revisions identified result in a greater number of impacts, or impacts of a greater severity than those set forth in the IS/MND.

Double-underlined text represents language that has been added to the IS/MND, and text with ~~strikethrough~~ represents language that has been deleted from the IS/MND. In no case do any revisions identified result in a greater number of impacts, or impacts of a greater severity than those set forth in the IS/MND.

SECTION 2.0, PROJECT INFORMATION

Subsection 2.8, Project-Related Approvals, Agreements, and Permits, on page 2-1, is amended as follows:

2.8 PROJECT-RELATED APPROVALS, AGREEMENTS, AND PERMITS

- City of San José, demolition, grading, and building permit approval
- County of Santa Clara, well permit approval (per Valley Water Ordinance 90-1)
- County of Santa Clara, septic system
- Santa Clara Valley Habitat Agency

SECTION 3.0, PROJECT DESCRIPTION

Subsection 3.2.1, Development Proposal, on page 3-4, is amended as follows:

3.2.1 Development Proposal

As shown on Figure 3-3, Conceptual Site Plan, the proposed Project consists of the construction of an approximately 4,464-square-foot single-family home that would be two stories and approximately 31 feet, 6 inches in height and include an approximately 1,441-square-foot attached garage, as well as related improvements including installation of a water well and tanks, a septic system, ~~and a leach field,~~ and associated orchard. Conceptual floor plans for the first and second floors are shown in Figure 3-4, Conceptual First and Second Floor Plan. The proposed residence would be located on a relatively flat section of the hillside in the middle of the northern parcel (referred to as the residence site), as shown in Figure 3-3. The residence site is located within the City's jurisdiction.

The proposed Project would also include grading and construction of a new approximately 1,400-foot-long driveway from Santa Teresa Boulevard to the home site. The majority of the proposed driveway would generally utilize the alignment of the existing dirt maintenance road but would deviate from the existing road alignment for the driveway along Santa Teresa Boulevard and an approximately 400-foot section east of the proposed residence. The driveway would be improved with gravel and asphalt section, drainage gutters, low retaining walls where needed, and pull-outs for passing vehicles. The majority of the proposed driveway would be located within the County's jurisdiction. Pursuant to the County's fire code, the Project applicant would be required to clear and maintain vegetation within 30 to 50 feet of the driveway. In addition, the current design incorporates a 35-foot buffer, as shown in Figure 3-3.

In addition, as shown in Figure 3-3, a 15-tree agriculture orchard would be planted approximately 75 feet northwest of the proposed residence to provide a visual separation between the proposed residence and the adjacent neighborhood. The species of agriculture trees has not been determined by the Project applicant, but all agriculture operations would follow organic practices, including soil fertilizers and pest management.

The residence site would be graded to create a flat pad at an elevation of approximately 330 feet. Grading for the proposed Project, including all utilities, would result in approximately 2,574 cubic yards of cut and 2,569 cubic yards of fill, requiring an import of approximately 5 cubic yards. The proposed orchard would be located approximately 75 feet northwest of the proposed residence. The proposed Project would be constructed in one phase lasting approximately three months, with construction anticipated to begin in fall 2021.

Subsection 3.3, Approvals/Permits, on page 3-5, is amended as follows:

3.3 APPROVALS/PERMITS

While the City is the CEQA Lead Agency for the Project, other agencies also have discretionary authority related to the Project and approvals or serve as a responsible and/or trustee agency in connection to the proposed Project. A list of these agencies and potential permits and approvals that may be required is provided below.

- City of San José, demolition, grading, and building permit approval

- County of Santa Clara, well permit approval (per Valley Water Ordinance 90-1)
- County of Santa Clara, septic system
- Santa Clara Valley Habitat Agency

Figure 3-3, Conceptual Site Plan, on page 3-9, and included on page 5 of this Errata, has been updated to include the approximate location of the proposed orchard.

SECTION 5.1, AESTHETICS

Impact discussion, 5.1.2.c, beginning on page 5-7, is amended as follows:

- c. In non-urbanized areas, would the project substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage points). If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?*

Less Than Significant Impact. As noted in Section 3.0, Project Description, the Project site is within the jurisdiction of both the City and the County, but the City is the Lead Agency under CEQA. The City has a population of more than 100,000, and is therefore an urbanized area.¹ However, given that the Project site is located in an undeveloped area of the City the following discussion includes an analysis of the Project's potential conflicts with the City's Zoning Code and General Plan. **Zoning.** The proposed Project would be required to comply with the Municipal Code standards for the Agricultural zone, including a minimum 50-foot setback from abutting streets and highways and from abutting property zoned for non-residential uses, and a minimum 300-foot setback from residential zones or properties. As described in Section 3.0, Project Description, the proposed Project would be a maximum of 31 feet, 6 inches in height, and therefore would be below the maximum height of 35 feet. Furthermore, the project is more than 300 feet from residential zones or properties. Therefore, the proposed Project would be consistent with the applicable zoning regulations. **General Plan.** According to the City's General Plan, the Project site currently has a General Plan designation of Open Hillside. The proposed Project would be consistent with permitted uses in this designation, which allows for single-family dwellings on large, privately-owned sites. The proposed Project would also be consistent with the goals and policies listed in Section 5.1.1.1 regulating visual character and urban design in the City.

¹ Section 21071 of the Public Resources Code defines an urbanized area as an incorporated city that meets either of the following criteria: 1) Has a population of at least 100,000 persons; or 2) Has a population of less than 100,000 persons if the population of that city and not more than two continuous incorporated cities combined equals at least 100,000 persons.

The design of the proposed Project would be compatible with the aforementioned zoning regulations and General Plan goals and policies, and would be consistent with the existing style of the surrounding neighborhoods. As noted previously, the proposed Project would be designed to set back into the hillside and would include earth-tone materials, including the roof shingle and siding, that would blend into the surrounding setting. In addition, the proposed Project includes the planting of a 15-tree orchard of agriculture trees located between the proposed residence and the existing residential neighborhood north of the Project site. The proposed orchard would provide a visual screen between the proposed residence and the existing residential neighborhood. The orchard would be consistent with the agricultural and rural characteristics of the site and vicinity. Therefore, the proposed Project would not substantially degrade the existing visual character or quality of public views of the site and its surroundings.

SECTION 5.4, BIOLOGICAL RESOURCES

Impact discussion, 5.4.2.a, beginning on page 5-40, is amended as follows:

- a. Would the Project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife (CDFW) or United States Fish and Wildlife Service (USFWS)?*

Less Than Significant Impact with Mitigation Incorporated. As discussed in Section 5.4.1.2, and as detailed in the Biological Resources Assessment (included as Appendix A),¹ no special-status plant species are likely to occur on the Project site due to the absence of suitable habitat (i.e., serpentine soils and rocky serpentine slopes). Therefore, the proposed Project would not impact special-status plants.

However, as detailed above and in Appendix A, there is a possibility that five special-status wildlife species could occur on the project site. If these species are present during grading, construction, or planting of the proposed orchard, they could be adversely impacted by the proposed Project.

Initial grading and ground disturbance of the Project site could injure or kill American badgers in dens, in the event any are present on the site at the time of the disturbance. To ensure that potential impacts to American badgers would be considered less than significant, Mitigation Measure BIO-1 would be required.

Proposed construction and agricultural activities would result in the removal of vegetation and possibly burrows that could be used by special-status birds. If conducted during the nesting season (February 1 to August 31), such activities could directly impact nesting birds.

¹ LSA Associates, Inc. 2020, op. cit.

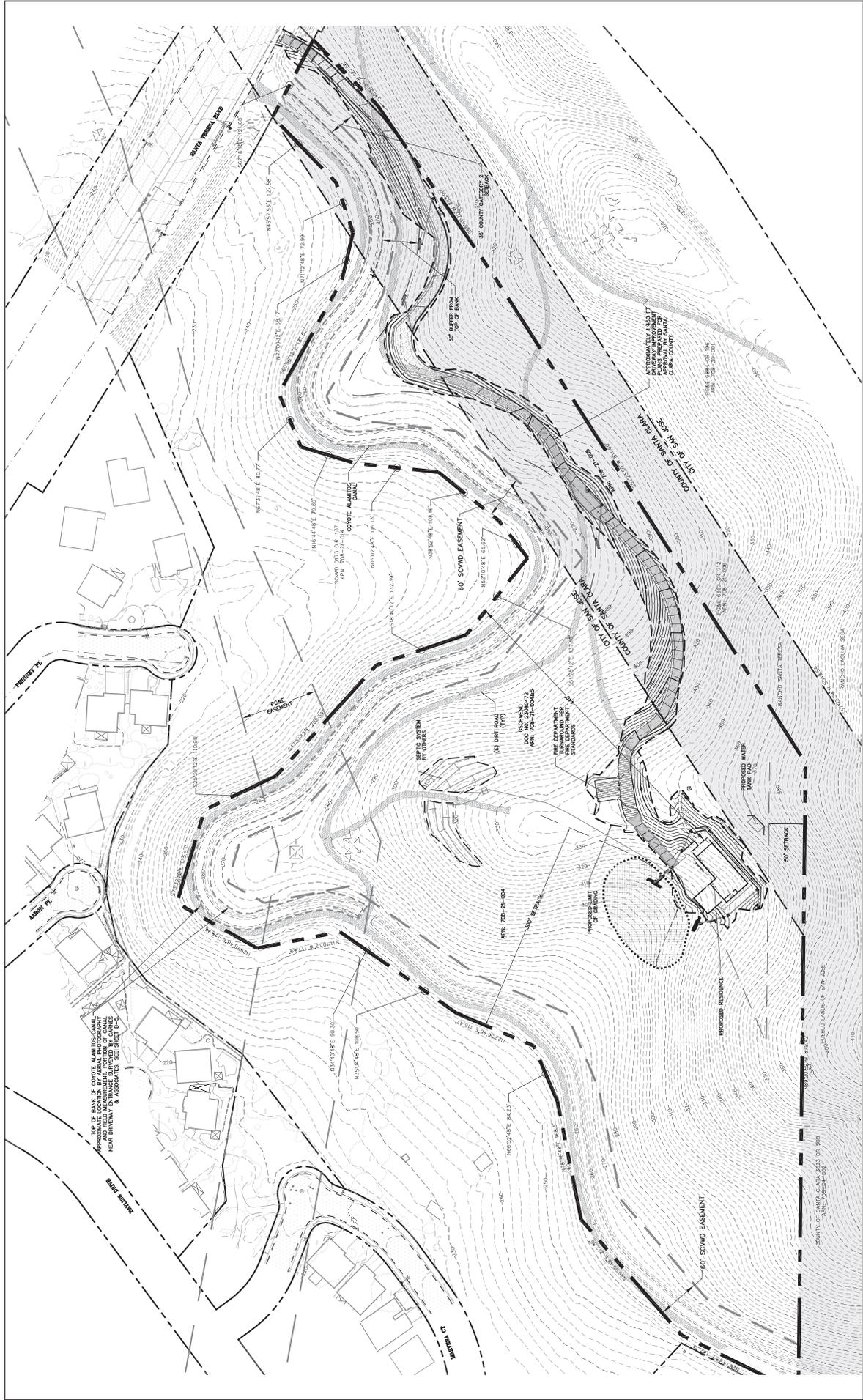


FIGURE 3-3

Gschwend Residence Project Initial Study
Conceptual Site Plan

LEGEND

- (E) AB
- (E) AC
- PROPOSED 2" AC OVER 6" AB
- PROPOSED 6" AB
- PROPOSED RETAINING WALL
- PROPERTY LINE
- APPROXIMATE LOCATION OF PROPOSED ORCHARD



SOURCE: R.I. ENGINEERING, APRIL 2020

P:\GSC2001\PRODUCTS\Graphics\Figure 3-3.ai (12/1/2021)

Construction-related disturbance (e.g., noise, vehicle traffic, personnel working adjacent to occupied nesting habitat) could also indirectly impact nesting birds by causing adults to abandon nests in nearby trees or other vegetation, resulting in nest failure and reduced reproductive potential. To ensure that potential impacts to special-status birds would be considered less than significant, Mitigation Measure BIO-2 and Mitigation Measure BIO-3 would be required.

Development of the Project site may result in impacts to the American badger and special-status birds including burrowing owl, white-tailed kite, loggerhead shrike, and grasshopper sparrow. However, consistent with federal and State regulations, with implementation of the following conditions of approval adopted as part of the project, impacts would be considered less-than-significant.

Mitigation Measure BIO-1: Preconstruction Surveys for the American Badger.

- a. Preconstruction surveys shall be conducted for the American badger no more than 14 days prior to the initiation of ground-disturbing activities. Surveys shall be conducted by a qualified wildlife biologist with experience and knowledge in identifying badger burrows and include walking parallel transects looking for badger burrows and sign. Any badger burrows identified shall be flagged and mapped.
- b. In the event active badger dens are identified, a no-work buffer of 200 feet shall be established around the den and associated occupied areas. If avoidance is not feasible, a biologist shall determine if the burrow is being used as an active maternity den through utilization of remote cameras. If young are determined to be present, the burrow shall be avoided until the young have vacated the burrow as determined by a qualified biologist. If the burrow is determined not to be an active maternity den and young are not present, in coordination with the CDFW, a one-way eviction door shall be installed between September 1 and January 1 to passively relocate the badger and to avoid impacts during the breeding season. If the badger digs back into the burrow, CDFW staff may allow the use of live traps to relocate badgers to suitable habitat from the area of Project impact.

The proposed Project would result in construction and agricultural activities that could remove vegetation and possibly burrows used by special-status birds include the burrowing owl, white-tailed kite, loggerhead shrike, and grasshopper sparrow. If conducted during the nesting season (February 1 to August 31), such activities could directly impact nesting birds.

Construction-related disturbance (e.g., noise, vehicle traffic, personnel working adjacent to occupied nesting habitat) could indirectly impact nesting birds by causing adults to abandon nests in nearby trees or other vegetation, resulting in nest failure and reduced reproductive potential.

Impact discussion, 5.4.2.b, on page 5-43, is amended as follows:

- b. Would the Project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the CDFW or USFWS?*

No Impact. The CNDDDB contains occurrences for two sensitive natural communities within five miles of the Project site: Serpentine Bunchgrass and Sycamore Alluvial Woodland. Neither community is present on the Project site. The Coyote-Alamitos Canal, a stormwater conveyance facility, traverses the northern edge of the Project site, but is entirely artificial and does not have any riparian vegetation associated with it. The permanent and temporary development areas of the proposed single family home and the associated orchard, driveway, and amenities would be outside of the 35-foot setback from the top of bank. Therefore, the Project does not propose any work or disturbance that would have any effect to the canal. The proposed Project would not adversely affect riparian habitat or sensitive natural communities, and no impacts would occur.

The third and fourth paragraphs of impact discussion, 5.4.2.d, on page 5-44, is amended as follows:

The improvements proposed with the Project (driveway improvements, orchard, new home and garage) amount to relatively minor changes to the 17-acre property, and most new human activity on the site would occur within or adjacent to the proposed home. Barbed wire currently exists around the property along Santa Teresa Boulevard and the southeastern and southwestern property boundaries, and no new fencing is proposed. The residential development north of the Project site is also fenced with chain link and/or wood fences. No lighting would be installed along the driveway. The limited changes to the property as a result of the Project would not present a barrier to local wildlife movement through the site, and would therefore not significantly impact the use of the property by wildlife as a landscape linkage between the Santa Teresa Hills to Metcalf Canyon.

Areas where native birds can nest are ~~sometimes~~ generally considered native wildlife nursery sites. Several species of native birds likely nest in the trees and grasslands on the site. Incorporation of Mitigation Measure BIO-2 and Mitigation Measure BIO-3 would prevent impacts to all species of nesting birds.

Impact discussion, 5.4.2.f, beginning on page 5-45, is amended as follows:

- f. Would the Project conflict with the provisions of an adopted Habitat Conservation Plan (HCP), Natural Community Conservation Plan (NCCP), or other approved local, regional, or State habitat conservation plan?*

Less Than Significant Impact. The Project site is located within the Santa Clara Valley Habitat Plan Study Area and Permit Area. A Habitat Plan Application Package would be submitted to the City of San Jose. The application involves the submittal of a Coverage Screening Form to determine if the proposed development is eligible for coverage under the Habitat Plan.

The Project site is located in a rural area, and therefore the development area is defined by the Habitat Plan as all permanent improvements plus a 50-foot buffer and temporary improvements plus a 10-foot buffer. Therefore, the proposed construction of a residence, water tanks, well, and driveway to the Santa Teresa Boulevard area, and planting of the proposed orchard, plus the and 50-foot buffer, will impact 4.23-94 acres of California annual grassland habitat, and 1.100-99 acre of valley oak woodland habitat. Additionally, 0.34 acre of annual grassland will be temporarily disturbed.

SECTION 5.10, HYDROLOGY AND WATER QUALITY

Description of federal and State Regulations, in subsection 5.10.1.1, is amended as follows:

National Flood Insurance Program

The National Flood Insurance Program exists under the Federal Emergency Management Agency (FEMA) so to distinguish and evaluate flood hazards. FEMA generated Flood Insurance Rate Maps (FIRMs) identify the location of these potential flooding hazards and help plan for the correct land use and floodplain development within those locations. Information for FIRMs is generated by Flood Insurance Studies (FISs). Special Flood Hazard Areas (SFHAs) are distinguished via FIRMs. The current FIRM Map No. 06085C0409H (May 18, 2009) ~~06085C0263H (May 18, 2009)~~, and Map No. ~~06085C0264H (May 18, 2009)~~, shows that the Project site is located in Zone D, Area of Undetermined Flood Hazard, which is not considered a special flood hazard area.

Impact discussion, 5.10.2.b, beginning on page 5-100, is amended as follows:

- b. Would the Project substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the Project may impede sustainable groundwater management of the basin?*

Less Than Significant Impact. Construction of the proposed Project would not require groundwater extraction. However, a private well used for groundwater extraction would be included as a part of the proposed Project. As previously noted, the Project site is located within the Santa Clara groundwater subbasin, which according to the 2016 Groundwater Management Plan, has been in a sustainable condition for many decades. The Santa Clara

groundwater subbasin has a volume of approximately 350,000 acre-feet (AF). As noted in the SCVWD's 2016 Groundwater Management Plan, nearly all groundwater used in the Santa Clara Subbasin is for municipal and industrial uses, with only 1 percent for agricultural and domestic uses. Therefore, because the proposed Project would consist of one single-family residential use, and associated small-scale agriculture activities, water demand associated with the proposed Project would be minimal compared to existing uses within the Santa Clara Subbasin.

Following Project implementation, there would be an increase in impervious surface area of 13,059 square feet or 0.3 acre. An increase in impervious surface area decreases infiltration, which can decrease the amount of water that is able to recharge the aquifer/groundwater. However, compared to the volume of the groundwater basin (350,000 AF), any reduction in on-site infiltration would not be substantial. Therefore, the Project would not impede the SCVWD's ability to manage groundwater in the Santa Clara groundwater subbasin, which according to the 2016 Groundwater Management Plan, has been in a sustainable condition for many decades. Thus, this Project would not substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that the Project would impede sustainable management of the Santa Clara groundwater subbasin. Impacts would be less than significant, and no mitigation is required.

Impact discussion, 5.10.2.e, on page 5-104, is amended as follows:

e. Would the Project conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?

Less Than Significant Impact. As discussed in Response 4.10.3(a), the proposed Project would retain stormwater runoff on-site and would not connect to any existing stormwater infrastructure, and therefore would not discharge any water into surface waters. As required as a condition of approval, the proposed Project would include the implementation of construction BMPs to reduce impacts to water quality during construction, including those impacts associated with soil erosion and siltation.

As discussed in Response 4.10.3(b), construction and operation of the proposed Project, including irrigating the proposed orchard, would require the use of groundwater. However, water demand associated with the proposed Project and associated small-scale agriculture activities would be minimal compared to existing water demand within the Santa Clara Subbasin. In addition, compared to the volume of the groundwater basin (350,000 acre-feet [AF]), any reduction in on-site infiltration would not be substantial. For these reasons, the Project would not conflict with the SCVWD's 2016 Groundwater Management Plan.

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