

APPLICATION OF RICHARD FUSEGNI
201 KEARSARGE WAY

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APPLICANT'S NARRATIVE

MAY 29 2019

I. THE PROPERTY

BY: _____

Richard Fusegni is the owner of the property located at 201 Kearsarge Way. The lot consists of a single-family residence on a lot containing 47,062 square feet. The lot is shown on Assessor's Map 218 as Lot 5. The parcel is located in the Single Residence B District.

The Fusegni lot is actually comprised of several smaller lots which were created in 1919 as part of the Buckminster Subdivision.

Those small lots were involuntarily merged through the years. The home was constructed in the 1950's by Mr. Fusegni's father.

In 2018, Mr. Fusegni received a variance to create a 7,834 sq. ft. lot by subdividing the then lot of 54,896 sq. ft. into 2 lots. Subdivision approval was then granted and construction of a single family home is ongoing on the lot created in 2018.

Mr. Fusegni has attempted to sell the existing lot with the large single family home, but to no avail. Thus, the within application seeks a variance to allow creation of a 15,723 Sq. ft. lot which has 83 lineal feet of frontage on Kearsarge Way. Two additional conforming lots having 15,000+ Sq. Ft. of area and 100 lineal feet of frontage are also proposed. As can be seen on the proposed Subdivision Plan, prepared by Ambit Engineering, Mr. Fusegni would place a conservation easement on the rear portion of each lot to protect a large stand of mature trees.

II. ARGUMENT

It is the Applicant's position that the within Application meets the five (5) criteria necessary for the Board to grant the requested variance. The proposed Lot 3 would be a lot on Kearsarge Way which meets the minimum lot size requirements of the ordinance. There would be 83' of frontage on Kearsarge Way. The resulting lot would have a buildable area sufficient for a single-family home. The lot would be comparable or larger in size to the surrounding lots. As can be seen from the Tax Map, the lots along Mangrove Street, Oak Street, and Orange Street, as well as many of the lots across Kearsarge Way are non conforming as to lot size or frontage.

Granting the requested variance would not substantially alter the characteristics of the neighborhood or threaten public health, safety or welfare. Thus, the test set forth by the

Supreme Court in the case of Malachy Glen v. Town of Chichester, 155 NH 102 (2007) is met for whether or not granting the variance would be contrary to the spirit and intent of the ordinance or contrary to the public interest.

Substantial justice will be done by granting the requested variance as the hardship upon the owner is certainly not outweighed by some benefit to the general public should the variance request be denied. The hardship upon the Applicant would not be outweighed by a benefit to the public in denying the variance. There is no benefit to the general public in denying the requested variance as there is adequate access for emergency vehicles, adequate space to build a home and adequate light and air. The addition of a lot would benefit the public from a housing need and property tax prospective.

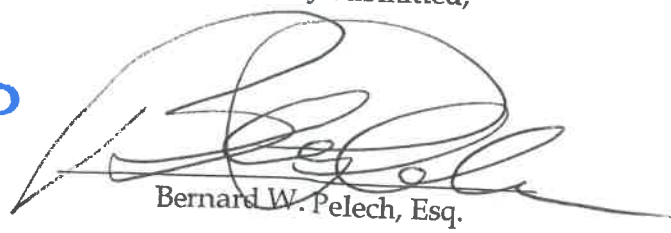
There would be no diminution in value to surrounding properties. A newly constructed code compliant home on the proposed lot on Kearsarge Way would certainly not diminish surrounding property values, but would in fact enhance surrounding property values.

Finally, there is a hardship created by the special conditions of the Fusegni property. As can be seen from the Tax Map in comparison to surrounding lots, the Fusegni lot is considerably larger than most surrounding lots. The lot is surrounded on 4 sides by either paper streets or public streets. Birch Street abuts the lot to the south, Kearsarge Way to the east, Mangrove Street to the north, and Oak Street, a paper street to the west. There is no fair and substantial relationship between the intent of the ordinance as it relates to this particular property as the minimum frontage requirement is not reflective of the majority of the lots in the area. The intent of the ordinance is to provide for lots with adequate light and air and access for emergency vehicles. Given the fact that the lot is 15,000 + Sq. Ft., there is certainly adequate light and air and access for emergency vehicles. A home can be constructed within the setbacks which would be compliant with the zoning ordinance with all respects. The use on the proposed lot of a single-family residence is a use allowed by the ordinance. Therefore, the Applicant's proposal meets the hardship criteria given the special conditions of this lot and its location with regard to the public streets and paper streets and the fact that there is no fair and substantial relationship between the purpose of the ordinance as applied to the proposed lot.

IV. CONCLUSION

In conclusion, it is the Applicant's position that the variance request meets the five (5) criteria necessary for the Board to grant the requested variance are met by the within Application and it is respectfully requested that the Application be granted as presented and advertised.

Respectfully submitted,



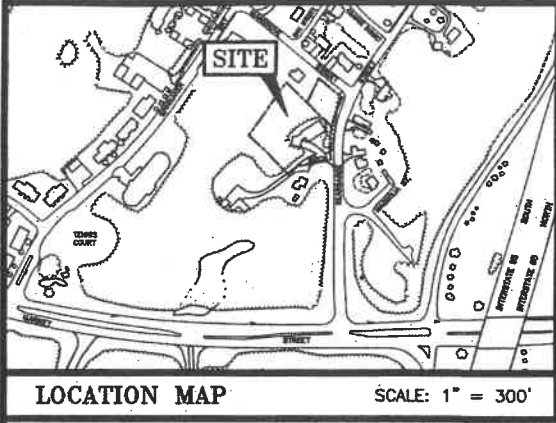
Bernard W. Pelech, Esq.

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Dated: May 28, 2019

BY: _____

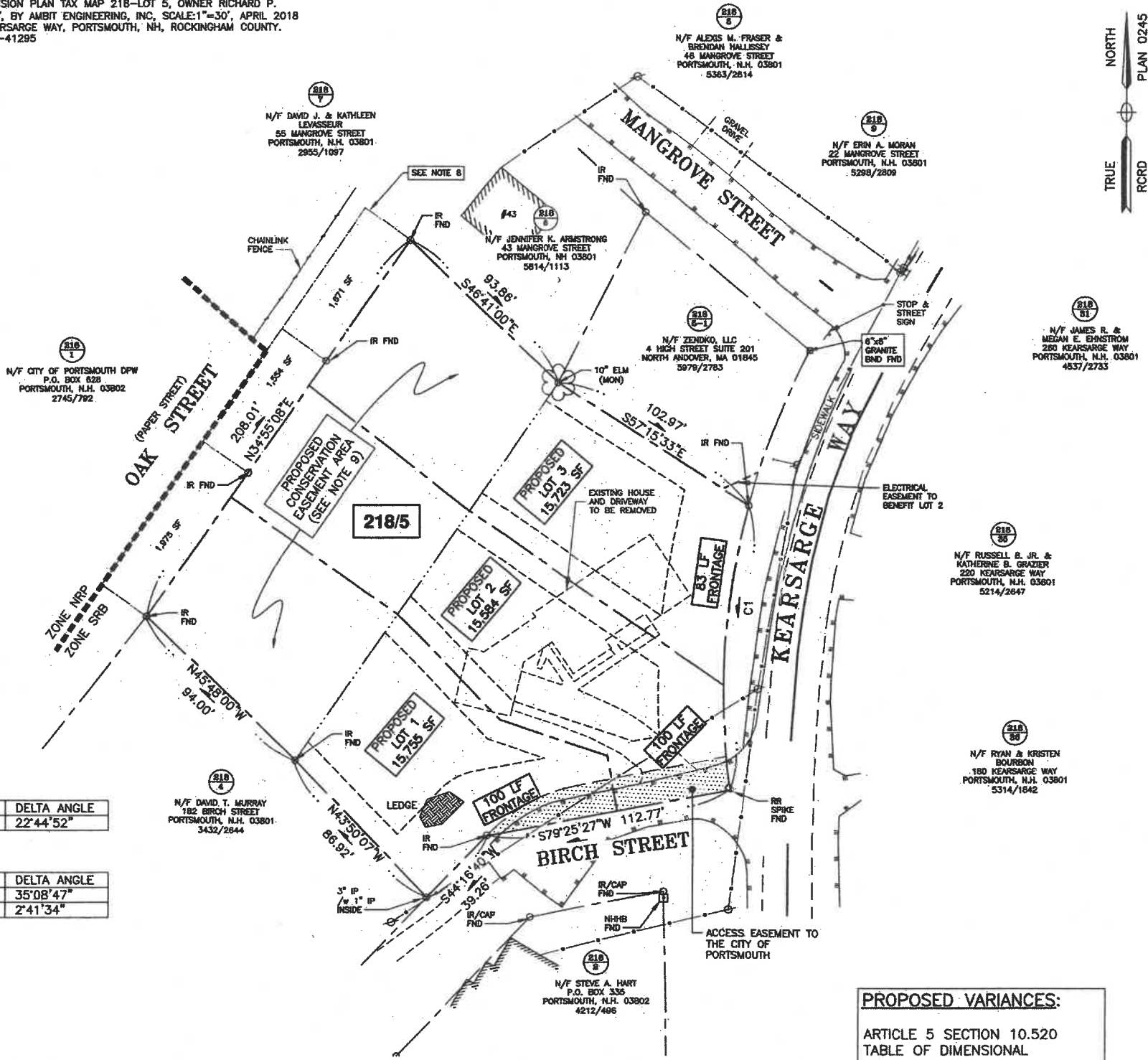


PLAN REFERENCES

- 1) "SUBDIVISION PLAN TAX MAP 218-LOT 5, OWNER RICHARD P. FUSEGNI", BY AMBIT ENGINEERING, INC. SCALE: 1"=30', APRIL 2018, 201 KEARSARGE WAY, PORTSMOUTH, NH, ROCKINGHAM COUNTY. RCRD-D-41295

LEGEND:

- N/F NOW OR FORMERLY
- RP RECORD OF PROBATE
- RCRD ROCKINGHAM COUNTY
- RR SPK RAILROAD SPIKE
- MAP 11/LOT 21
- IR FND IRON ROD FOUND
- IP FND IRON PIPE FOUND
- IR SET IRON ROD SET
- DH FND DRILL HOLE FOUND
- DH SET DRILL HOLE SET
- NHFB NHDOT BOUND FOUND
- EDGE OF PAVEMENT
- OVERHEAD WIRE
- LEDGE OUTCROP
- PRL PAVEMENT REMOVAL LINE



CURVE TABLE

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	330.00'	131.02'	130.16'	S03°34'31"W	22°44'52"

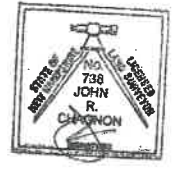
EASEMENT TABLE

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
EC1	70.00'	42.94'	42.27'	N61°51'03"E	35°08'47"
EC2	330.00'	15.51'	15.51'	S06°27'08"E	2°41'34"

LINE	BEARING	DISTANCE
E1	N44°16'40"E	3.45'
E2	N78°50'37"E	70.76'

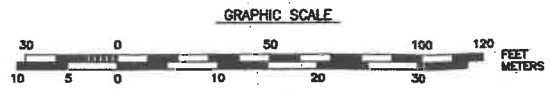
"I CERTIFY THAT THIS PLAN WAS PREPARED UNDER MY DIRECT SUPERVISION, THAT IT IS THE RESULT OF A FIELD SURVEY BY THIS OFFICE AND HAS AN ACCURACY OF THE CLOSED TRAVERSE THAT EXCEEDS THE PRECISION OF 1:15,000."

JOHN R. CHANSON, JLS DATE 5-21-19



APPROVED BY THE PORTSMOUTH ZONING BOARD

CHAIRMAN DATE



AMBIT ENGINEERING, INC.
Civil Engineers & Land Surveyors
300 Griffin Road - Unit 3
Portsmouth, N.H. 03801-7114
Tel (603) 436-9222
Fax (603) 436-2816

- NOTES:**
- 1) PARCEL IS SHOWN ON THE CITY OF PORTSMOUTH ASSESSOR'S MAP 218 AS LOT 5.
 - 2) OWNER OF RECORD:
RICHARD P. FUSEGNI
201 KEARSARGE WAY
PORTSMOUTH, N.H. 03801
5476/266
RCRD PLAN 0245
 - 3) PARCEL IS NOT IN A FLOOD HAZARD ZONE AS SHOWN ON FIRM PANEL 33015C0259E, EFFECTIVE MAY 17, 2005.
 - 4) EXISTING LOT AREA:
47,082 S.F.
1.0804 AC
 - 5) PARCEL IS LOCATED IN THE SINGLE RESIDENCE B (SRB) DISTRICT.
 - 6) DIMENSIONAL REQUIREMENTS:
MIN. LOT AREA: 15,000 S.F.
FRONTAGE: 100 FT.
SETBACKS: FRONT: 30 FT.
SIDE: 10 FT.
REAR: 30 FT.
MAXIMUM STRUCTURE HEIGHT: 35 FT.
MAXIMUM STRUCTURE COVERAGE: 20%
MINIMUM OPEN SPACE: 40%
 - 7) THE PURPOSE OF THIS PLAN IS TO SHOW A SUBDIVISION OF TAX MAP 218 LOT 5.
 - 8) OAK STREET WAS CREATED BY A PLAN DATED 1919 AND WAS NEVER CONSTRUCTED. BY OPERATION OF LAW THE AREAS SHOWN BELONG TO THE RESPECTIVE LOTS BY WAY OF APPROPRIATION OF REVERSION RIGHTS. AREAS SHOWN ARE NOT INCLUDED IN EXISTING LOT AREA.
 - 9) PROPOSED CONSERVATION EASEMENT AREA RESTRICTIONS SUBJECT TO REVIEW AND APPROVAL BY THE CITY OF PORTSMOUTH. CONSERVATION EASEMENT RESTRICTIONS WILL ALLOW FOR INSTALLATION AND MAINTENANCE OF PROPOSED DRAINAGE.

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PROPOSED VARIANCES:

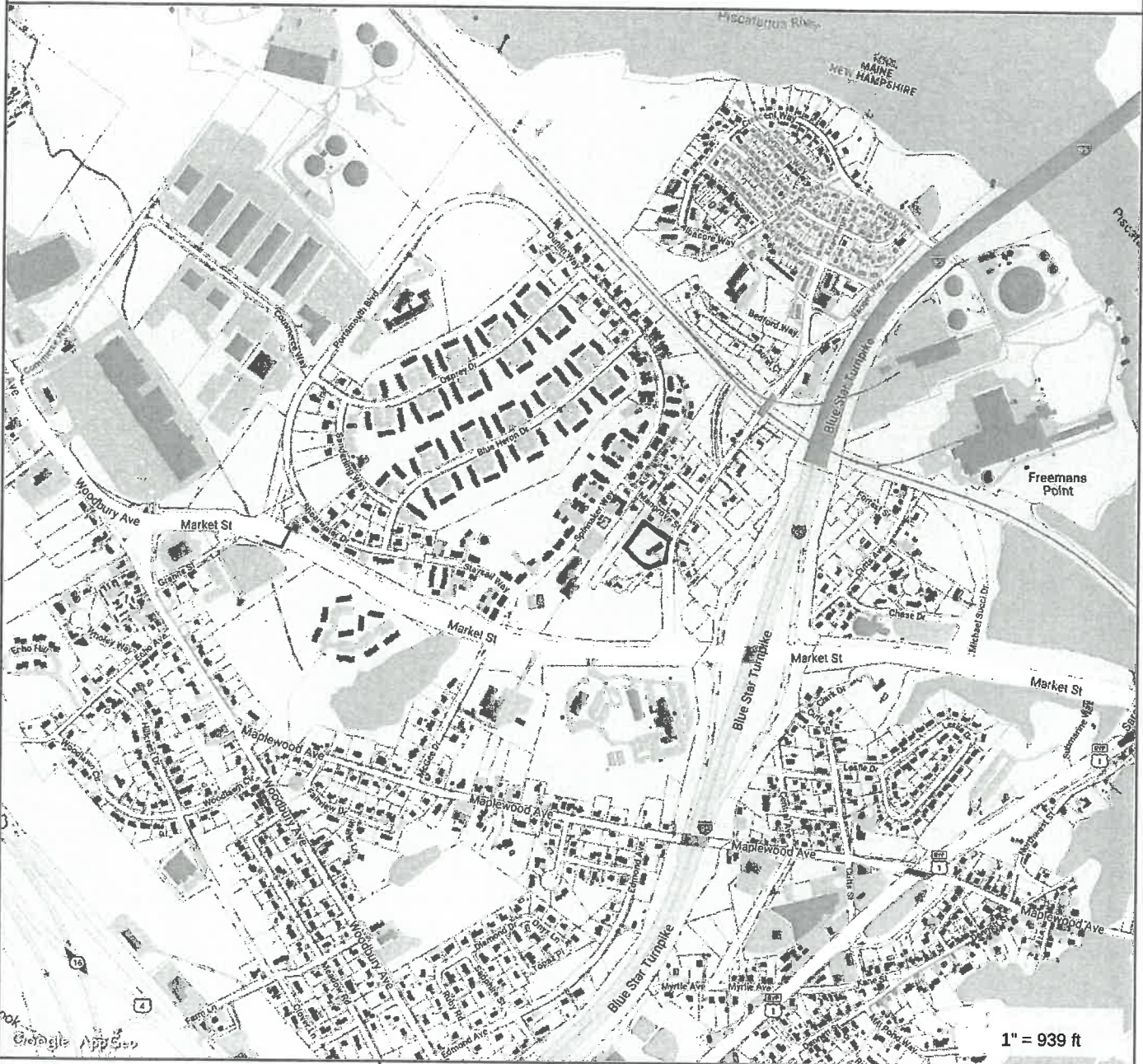
ARTICLE 5 SECTION 10.520
TABLE OF DIMENSIONAL
STANDARDS:
STREET FRONTAGE:
* PROPOSED LOT 3:
FRONTAGE OF 83 FEET WHERE
100 FEET IS REQUIRED

NO.	DESCRIPTION	DATE
2	REVISED PER CLIENT	5/21/19
1	REVISED FOR SUBMISSION	5/15/19
0	ISSUED FOR COMMENT	4/16/19

**SUBDIVISION PLAN
TAX MAP 218 - LOT 5**

OWNER
RICHARD P. FUSEGNI
201 KEARSARGE WAY
CITY OF PORTSMOUTH
COUNTY OF ROCKINGHAM
STATE OF NEW HAMPSHIRE

201 Kearsarge Way



MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT

City of Portsmouth, NH makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Geometry updated 11/30/2018
Data updated 11/19/2018

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