Los Angeles County
Department of Regional Planning

Planning for the Challenges Ahead

Richard J. Bruckner
Director

June 14, 2012

Maryann Harwood
1576 N. Batavia St.
Orange, CA 92865

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

REGARDING: PROJECT NO. R2004-00198-(2)
CONDITIONAL USE PERMIT NO. 201100129
ENVIRONMENTAL ASSESSMENT NO. 201100208
Wireless telecommunications facility at 10410 S. Western Ave., West Athens-Westmont

Dear Applicant:

The Regional Planning Commission, by its action of June 13, 2012, **APPROVED** the above described project and entitlements. The attached documents contain the Regional Planning Commission's findings and conditions relating to the approval. Please carefully review each condition. Condition No. 2 requires that the permittee file an affidavit accepting the conditions before the grants becomes effective.

The applicant and/or other interested persons may appeal the Regional Planning Commission's decision to the Board of Supervisors through the office of Sachi A. Hamai, Executive Officer, Room 383, Kenneth Hahn Hall of Administration, 500 West Temple Street, Los Angeles, California 90012. Please contact the Executive Office for the amount of the appeal fee at (213) 974-1426. **The appeal period for this project will end at 5:00 p.m. on June 27, 2012.** Any appeal must be delivered in person to the Executive Office by this time. If no appeal is filed during the specified period, the Regional Planning Commission action is final.

Upon completion of the appeal period, **hand deliver** a notarized affidavit of acceptance form, a certified copy of the recorded findings and conditions of approval, and any other required fees or materials to the planner assigned to your case (see attached instructions for more information). Please **make an appointment** with the case planner to ensure that processing will be completed expeditiously. If the required documents and fees are not received within 60 days of this final letter's date, this permit will be transferred to Zoning Enforcement for further action.

For additional information on appeal procedures or any other matter pertaining to these approvals, please contact Tyler Montgomery of the Zoning Permits West Section at (213) 974-6462 or e-mail at TMontgomery@planning.lacounty.gov. Our office hours are Monday through Thursday, 7:30 a.m. to 5:30 p.m. We are closed on Fridays.

Sincerely,
DEPARTMENT OF REGIONAL PLANNING
Richard J. Bruckner
Director

Mi Kim, Supervising Regional Planner
Zoning Permits West Section

Enclosures: Findings and Conditions, Affidavits (Permittee's Completion)
c: BOS; DPW (Building and Safety); Zoning Enforcement; Henry Porter
MK:TM

FINDINGS AND ORDER OF THE REGIONAL PLANNING COMMISSION COUNTY OF LOS ANGELES

PROJECT NUMBER R2004-00198-(2)
CONDITIONAL USE PERMIT NUMBER 201100129
ENVIRONMENTAL ASSESSMENT NUMBER 201100208

REGIONAL PLANNING COMMISSION HEARING DATES:
MARCH 14, 2012 & JUNE 13, 2012

SYNOPSIS:
Pursuant to County Code Section 22.28.210, which is pursuant to Part 1 of Chapter 22.56, the applicant is requesting a CUP to authorize the construction of a 50-foot wireless telecommunications tower with 12 antennas disguised as a eucalyptus tree in the C-2 (Neighborhood Business) zone. A wireless telecommunications facility is not a defined use in the County Code; however, staff has traditionally utilized the defined use of "radio and television stations and towers" as a comparable use. Radio and television stations and towers are uses subject to conditional use permits within the C-2 zone.

PROCEEDINGS BEFORE THE REGIONAL PLANNING COMMISSION:

March 14, 2012 Public Hearing
A duly noticed public hearing was held before the Regional Planning Commission on March 14, 2012. Regional Planning staff gave a presentation recommending approval of the project. There was no representative present for the applicant, AT&T. Mr. Henry Porter, President of the Southwest Community Association, and area resident Mr. Deramus Welch were sworn in and stated concerns they had with the project. Mr. Porter expressed dismay at the lack of community outreach done by the applicant and his inability to communicate with the property owner. He also questioned why the applicant had not proposed to co-locate the facility on one of many nearby rooftops or wireless structures, a list of which he provided, although he stated that better service from AT&T was sorely needed in the community. Mr. Welch stated concerns he had with potential health effects of radiation from the facility, as well as lowered property values. During discussion, the Commission expressed concerns that the facility would discourage future redevelopment of the site, which is currently permitted for oil and gas extraction, although not developed for such uses. The Commission subsequently voted 5-0 to continue the public hearing to June 13, 2012, at which time the applicant should be prepared to address all of the discussed concerns.

June 13, 2012 Continued Public Hearing
A continued public hearing was held before the Regional Planning Commission at 9:00 a.m. on June 13, 2012. The applicant's representative, Ms. Maryann Harwood, was sworn in and testified in favor of the project. She provided the Commission with explanations as to why the alternative sites suggested by Mr. Porter were infeasible,

either due to technical limitations, distance from the desired coverage area, or property owners unwillingness to lease. She also stated that the facility would not interfere with the planned placement of any oil and gas extraction equipment slated for the project site. Mr. Henry Porter and Mr. Deramus Welch again expressed their concerns regarding the project. Mr. Porter stated that the project may interfere with redevelopment of the project site for a commercial or residential use, as the site has been vacant for several years without being utilized for its permitted use. Mr. Welch again expressed concerns regarding the health effects of the project. During discussion, the Commission stated that federal law prohibits them from considering the health effects of wireless telecommunication facilities as long as they comply with the standards of the Federal Communications Commission. They also expressed concerns that the placement of the facility may indeed inhibit the site's potential redevelopment. To address this, Regional Planning staff recommended adding a condition allowing the facility to be relocated or placed on a rooftop within the subject property through the Revised Exhibit "A" process, which does not require a new public hearing. The Commission agreed to this and subsequently closed the public hearing, adopted the Negative Declaration, and approved the project.

Findings

1. The applicant seeks a conditional use permit ("CUP") to authorize the construction, operation, and maintenance of a wireless telecommunications facility, consisting of antennas mounted on a new 50-foot high monopole disguised as a eucalyptus tree.

2. The project site is located on the southwestern portion of a property used for oil and gas extraction, at 10410 South Western Avenue in the West Athens-Westmont Zoned District and within the West Athens-Westmont Community Standards District ("CSD") of unincorporated Los Angeles County.

3. The subject property is divided into three parcels and is currently used for oil and gas extraction and is surrounded by a 10-foot-high concrete block wall, painted white, with an exterior landscape buffer of approximately ten feet. The site is accessed by 25-foot-wide paved driveway and locked gate facing Western Avenue to the west. There is also a small doorway facing 104th Street to the north. The entire site totals approximately 1.05 acres and is relatively level. The proposed lease area would be 15-foot by 42-foot (630 square feet), located on the southwestern portion of the project site, immediately inside the existing block wall and adjacent to its southwestern corner.

4. The project site is zoned C-2 (Neighborhood Business), although the northeastern parcel of the subject property (approximately 0.25 acres) is zoned R-2 (Two Family Residence). The proposed wireless facility would be located completely within the C-2 zone.

5. Surrounding properties within the 500-foot radius of the project are zoned as follows:
   North: City of Los Angeles

South: C-2, R-2
East: R-2
West: City of Los Angeles

6. Land uses within 500 feet of the subject property consist of the following:
   North: Church, small businesses, single-family residences
   South: Small businesses, single-family residences, multiple-family residences, apartments
   East: Single-family residences, multiple-family residences, apartments
   West: Church, small businesses, liquor store, single-family residences, apartments

7. The subject property is located within the "C.2 (Community Commercial)" classification of the Westmont-West Athens Neighborhood Plan. The primary intent of this classification is to allow for locally-serving commercial developments. Utility and infrastructure uses are also allowed. Therefore, the wireless telecommunications facility is consistent with this classification.

8. The site plan depicts the proposed 50-foot-high monopole, disguised as a eucalyptus tree, on the southwestern corner of the subject property. The monopole structure and nine equipment cabinets would be located on a lease area of 630 square feet (15'x42') and surrounded by a six-foot-high wrought iron fence. The proposed lease area would be 15-foot by 42-foot (630 square feet), located on the southwestern portion of the project site, immediately inside the existing block wall and adjacent to its southwestern corner and would house equipment cabinets (approximately four feet in height) and the monopole. The monopole itself would be located on the northeastern portion of the lease area, 22 feet, 10 inches from the southern property line and 44 feet, four inches from the western property line. The facility would consist of 12 eight-foot panel antennas and three GPS antennas, which would be disguised by imitation eucalyptus branches and foliage. The foliage would protrude approximately three feet above the monopole's 50-foot height. The project site is currently used for oil and gas extraction and is surrounded by a 10-foot-high concrete block wall, painted white, with an exterior landscape buffer of approximately ten feet. The site is accessed by 25-foot-wide paved driveway and locked gate facing Western Avenue to the west. There is also a small doorway facing 104th Street to the north.

9. The property on which the project site is to be located is zoned C-2 (Neighborhood Business). A wireless telecommunications facility is not a defined use in the Zoning Ordinance; however, Regional Planning has determined that the defined use of "radio and television stations and towers" is a comparable use. Radio and television stations and towers are uses subject to conditional use permits.

10. Section 22.52.1220 of the County Code determines parking requirements for uses that are not specified. The Director of Regional Planning may impose an amount of

parking spaces that the Director finds to be adequate to prevent traffic congestion and excessive on-street parking. The proposed wireless telecommunications facility will be unmanned and will require periodic maintenance visits only. Maintenance vehicles would access the facility from the western gate, and the existing property includes enough undeveloped, level terrain for the parking of a vehicle. Therefore, the appropriate parking for such a use would be one space, and that parking would be satisfied on-site by the property's undeveloped terrain. Should this land be developed in the future, the vehicle could easily utilize street parking, as a survey of the neighborhood did not seem to indicate a shortage of these parking spaces nearby.

11. There are no specific setback requirements for the C-2 zone. Nevertheless, the wireless telecommunications facility is set back 22 feet, 10 inches from the southern property line and 44 feet, four inches from the western property line, which will help to ensure that there are no adverse impacts on neighboring properties and help to maintain compatibility with the surrounding community.

12. The general height limit for the C-2 zone is 35 feet above grade. Although the height of the proposed wireless facility would be 50 feet, this is consistent with the provisions of the West Athens-Westmont CSD, which allows public safety and utility structures to reach a maximum height of 50 feet. Therefore, the Commission may approve a wireless telecommunications structure with the proposed height on the site, pursuant to Section 22.52.200 of the County Code, which allows modification to the general development standards through the CUP process. This would also be consistent with the Regional Planning wireless telecommunications facilities policy memo 01-2010, as it states that CSD height limits shall apply to wireless telecommunications facilities, and the underlying development standards of the zone shall apply in the absence of a CSD.

13. The West Athens-Westmont CSD states that "the maximum height of any structure shall be 40 feet except that devices or apparatus essential to industrial processes or communications related to public health and safety may be 50 feet in height." Because a wireless telecommunications facility is recognized as a public utility under state law, and because Regional Planning has determined the most comparable use under the County Code is a utility type use, such as a radio tower, as well as the fact that wireless telecommunications facilities are utilized for emergency communications, Regional Planning has determined that a wireless telecommunications facility falls within the types of uses contemplated by the CSD to be allowed to reach a maximum height of 50 feet above grade.

14. The Department of Regional Planning has determined that a Negative Declaration is the appropriate environmental documentation under California Environmental Quality Act (CEQA) reporting requirements. The attached Initial Study has determined that the project, as proposed, would not have a significant effect upon the environment.

15. Pursuant to the provisions of Sections 22.60.174 and 22.60.175 of the County Code, the community was appropriately notified of the public hearing by mail, newspaper, library posting, and DRP website posting. Staff has received signed statements and photographs from the applicant's representative indicating that a public hearing notice was posted at the project site on February 10, 2012, reposted due to removal on February 11, 2012, and again reposted due to removal on February 17, 2012.

16. The operation of the wireless telecommunications facility is unlikely to adversely affect the health, peace, comfort or welfare of surrounding residents, be detrimental to surrounding properties, or create a hazard to public health, safety, or general welfare. The facility will be required to operate within safety standards of the Federal Communications Commission (FCC), and any sounds generated would be minimal. The photo simulations of the proposed facility provided by the applicant indicate that they would blend aesthetically with the surrounding area, as there are other eucalyptus trees, utility structures, and pole signs of similar height in the area.

17. The location and design of the proposed facility are the most appropriate for the area. The monopole would be located 80 feet, nine inches feet from residences to the east and approximately 84 feet from residences to the southeast, which is as far away as it could be located and still remain within the bounds of the existing block wall. While the facility will be 50 feet tall, it is similar in height to several utility poles (approximately 55 feet high), running along the eastern edge of the Western Avenue right-of-way, as well as pole signs of more than 30 feet in height across the street. There are also several trees of more than 40 feet in height visible from the location. In addition, the disguising of the facility as a eucalyptus tree allows it to blend in better with the surrounding neighborhood, so that its height does not significantly degrade its character.

18. The carrier's alternative site location analysis and coverage map indicates that the proposed location is the most feasible site for the carrier to fill a gap in its coverage, as well as to provide relief for existing wireless facilities in the area.

19. The placement of the project is unlikely to affect any future development of the site, as it will be permitted to relocate to another location on the property—including a rooftop—with a Revised Exhibit "A," which does not require a public hearing.

20. The project site would be adequately served by Western Avenue, a four-lane thoroughfare without significant level-of-service issues.

BASED ON THE FOREGOING, THE REGIONAL PLANNING COMMISSION CONCLUDES:

A. The proposed use is consistent with the adopted general plan for the area; and

B. The requested use at the proposed location will not adversely affect the health, peace, comfort, or welfare of persons residing and working in the surrounding area, and not be materially detrimental to the use, enjoyment, or valuation of property of other persons located in the vicinity of the site, and will not jeopardize, endanger, or otherwise constitute a menace to the public health, safety and general welfare; and

C. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking, landscaping and other development features as is required in order to integrate said use with the uses in the surrounding area; and

D. The proposed site is adequately served by highways of sufficient width, and improved as necessary to carry the kind of traffic such uses would generate and by other public or private facilities as are required.

AND, THEREFORE, the information submitted by the applicant and presented at the public hearing substantiates the required findings and burden of proof for a conditional use permit as set forth in Sections 22.56.090 of the Los Angeles County Code.

REGIONAL PLANNING COMMISSION ACTION:

1. The Regional Planning Commission has considered the Negative Declaration associated with Environmental Assessment No. 201100208, together with any comments received during the public review process, finds on the basis of the whole record before the Commission that there is no substantial evidence the project as mitigated will have a significant effect of the environment, finds that the Negative Declaration reflects the independent judgment and analysis of the Commission, and adopts the Negative Declaration for the project.

2. In view of the findings of fact and conclusions presented above, Conditional Use Permit No. 201100129 is **APPROVED,** subject to the attached conditions.

VOTE: 4-0

Concurring: Pedersen, Louie, Valadez, Helsley
Dissenting: None
Abstaining: None
Absent: Modugno

Action Date: 06/13/2012

c: Commission Services, BOS

MK:TM
06/14/12

CONDITIONS OF APPROVAL
DEPARTMENT OF REGIONAL PLANNING
PROJECT NO. R2011-00198-(2)
CONDITIONAL USE PERMIT NO. 201100129
ENVIRONMENTAL ASSESSMENT NO. 201100208

PROJECT DESCRIPTION

This grant authorizes the construction, operation, and maintenance of a 50-foot-tall wireless telecommunications facility disguised as a eucalyptus tree. The project is approved as depicted on the approved Exhibit "A", subject to all of the following conditions of approval.

GENERAL CONDITIONS

1. Unless otherwise apparent from the context, the term "permittee" shall include the applicant, owner of the property, and any other person, corporation, or other entity making use of this grant.

2. This grant shall not be effective for any purpose and cannot be used until the permittee, and the owner of the subject property if other than the permittee, have filed at the office of the Los Angeles County ("County") Department of Regional Planning ("Regional Planning") their affidavit stating that they are aware of, and agree to accept, all conditions of this grant, and until all required fees have been paid pursuant to Condition No. 10. Notwithstanding the foregoing, this Condition No. 2, and Condition Nos. 4, 5, and 6 shall be effective immediately upon the date of final approval of this grant by the County.

3. Unless otherwise apparent from the context, the term "date of final approval" shall mean the date the County's action becomes effective pursuant to Section 22.60.260 of the County Code.

4. The permittee shall defend, indemnify, and hold harmless the County, its agents, officers, and employees from any claim, action, or proceeding against the County or its agents, officers, or employees to attack, set aside, void or annul this permit approval, which action is brought within the applicable time period of Government Code Section 65009 or any other applicable limitations period. The County shall notify the permittee of any claim, action, or proceeding and the County shall fully cooperate in the defense. If the County fails to promptly notify the permittee of any claim, action, or proceeding, or if the County fails to cooperate fully in the defense, the permittee shall not thereafter be responsible to defend, indemnify, or hold harmless the County.

5. In the event that any claim, action, or proceeding as described above is filed against the County, the permittee shall within ten days of the filing make an initial deposit with Regional Planning in the amount of $5,000.00, from which actual costs and expenses shall be billed and deducted for the purpose of defraying the costs or expenses involved in Regional Planning's cooperation in the defense, including but

not limited to, depositions, testimony, and other assistance provided to permittee or permittee's counsel.

If during the litigation process, actual costs or expenses incurred reach 80 percent of the amount on deposit, the permittee shall deposit additional funds sufficient to bring the balance up to the amount of $5,000.00. There is no limit to the number of supplemental deposits that may be required prior to completion of the litigation.

At the sole discretion of the permittee, the amount of an initial or any supplemental deposit may exceed the minimum amounts defined herein. Additionally, the cost for collection and duplication of records and other related documents shall be paid by the permittee in accordance with to Los Angeles County Code Section 2.170.010.

6. This grant shall expire unless used within two (2) years from the date of final approval of the grant by the County. A single, one-year time extension may be requested, in writing and with payment of the applicable fee, before the expiration date.

7. If any material provision of this grant is held or declared to be invalid by a court of competent jurisdiction, the permit shall be void and the privileges granted hereunder shall lapse.

8. Prior to the use of this grant, the terms and conditions of the grant shall be recorded in the office of the County Recorder. In addition, upon any transfer or lease of the property during the term of this grant, the permittee shall promptly provide a copy of the grant and its conditions to the transferee or lessee, as applicable, of the subject property.

9. Upon any transfer or lease of the subject property during the term of this grant, the permittee, or the owner of the subject property if other than the permittee, shall promptly provide a copy of the grant and its conditions to the transferee or lessee of the subject property.

10. **This grant shall terminate on June 13, 2027**. Entitlement to the use of the property thereafter shall be subject to the regulations then in effect. If the permittee intends to continue the operations after such date, whether or not the permittee proposes any modifications to the use at that time, the permittee shall file a new permit application with Regional Planning prior to the expiration of this permit, or shall otherwise comply with the applicable requirements at that time. Such application shall be filed at least six months prior to the expiration date for this grant and shall be accompanied by the required fee. In the event that the permittee seeks to discontinue or otherwise change the use, notice is hereby given that the use of such property may require additional or different permits and would be subject to the then-applicable regulations.

11. The subject property shall be maintained and operated in full compliance with the conditions of this grant and any law, statute, ordinance, or other regulation applicable to any development or activity on the subject property. Failure of the permittee to cease any development or activity not in full compliance shall be a violation of these conditions. Inspections shall be made to ensure compliance with the conditions of this grant as well as to ensure than any development undertaken on the subject property is in accordance with the approved site plan on file. **The permittee shall deposit with the County the sum of $1,400.00**. This deposit shall be placed in a performance fund, which shall be used exclusively to compensate Regional Planning for all expenses incurred while inspecting the premises to determine the permittee's compliance with the conditions of approval. The fund provides for **seven (7) biennial** (one every other year) inspections. Inspections shall be unannounced.

    If additional inspections are required to ensure compliance with the conditions of this grant, or if any inspection discloses that the subject property is being used in violation of any condition of this grant, the permittee shall be financially responsible and shall reimburse Regional Planning for all additional enforcement efforts necessary to bring the subject property into compliance. The amount charged for additional inspections shall be $200.00 per inspection, or the current recovery cost at the time any additional inspections are required, whichever is greater.

12. Notice is hereby given that any person violating a provision of this grant is guilty of a misdemeanor. Notice is further given that the Regional Planning Commission ("Commission") or a Hearing Officer may, after conducting a public hearing, revoke or modify this grant, if the Commission or Hearing Officer finds that these conditions have been violated, that this grant has been exercised so as to be detrimental to the public's health or safety, or so as to be a nuisance, or as otherwise authorized pursuant to Chapter 22.56, Part 13 of the County Code.

13. All development shall comply with the requirements of Title 22 of the County Code ("Zoning Ordinance") and of the specific zoning of the subject property, unless specifically modified by this grant, as set forth in these conditions, including the approved Exhibit "A," or a revised Exhibit "A" approved by the Director.

14. All development pursuant to this grant shall conform to the requirements of the County Department of Public Works, the County Fire Department and Fire Warden, and the County Department of Public Health.

15. The subject property shall be developed and maintained in substantial compliance with the plans on file marked Exhibit "A". If changes to the site plan are required as a result of instruction given at the public hearing, a revised Exhibit "A" shall be submitted to Regional Planning within 60 days of the date of final approval of the CUP. In the event that subsequent plans are submitted, the written authorization of the service provider and property owner is necessary.

PROJECT-SPECIFIC CONDITIONS

16. The facility shall be operated in accordance with regulations of the State Public Utilities Commission.

17. The permittee shall submit to the Zoning Enforcement Section of the Department of Regional Planning written certification that the radio frequency electromagnetic emissions levels comply with adopted Federal Communications Commission (FCC) limitations for general population/uncontrolled exposure to such emissions when operating at full strength and capacity. If other WTFs are located on the subject property or on adjacent parcels, the aforementioned report shall include the radio frequency electromagnetic emissions of said WTFs.

18. Insofar as is feasible, the operator shall cooperate with any subsequent applicants for wireless communications facilities in the vicinity with regard to possible co-location. Such subsequent applicants shall be subject to the regulations in effect at that time.

19. Any proposed WTF that will be co-locating on the proposed facility shall be required to submit the same written verification of radio frequency electromagnetic emissions and include the cumulative radiation and emissions of all such facilities to the Zoning Enforcement Section of the Department of Regional Planning.

20. Construction and maintenance on the facility shall be limited to the hours of 9:00 AM to 5:00 PM, Monday through Friday. Emergency repairs of the facility may occur at any time.

21. Within 60 days following the approval date of this grant, the permittee shall submit to the Director for review and approval of an Exhibit "A" depicting the proposed monopole with a maximum height of 50 feet above grade. The project shall be developed and maintained in substantial compliance with the approved plans marked Exhibit "A". Placement and height of all equipment shall be in substantial conformance with that shown on the approved Exhibit "A".

22. The facility may be relocated on the subject property, so long as its height, bulk, and aesthetic impact are substantially similar to that which was approved at public hearing. Such relocation may include conversion to a rooftop-mounted facility with an alternative method of visual screening. Any such changes shall be requested by the permittee as a Revised Exhibit "A." The intent of this condition is to facilitate development of the project site for any future commercial or residential use.

23. Maintenance vehicles shall not block access to driveways, loading areas, or parking spaces.

24. The maximum height of the structure shall not exceed 50 feet above natural grade, including any artificial foliage necessary to disguise the monopole as approved in the Exhibit "A."

25. Within 30 days of change in service provider ownership, the permittee shall provide the Zoning Enforcement Section of the Department of Regional Planning the name and contact information of the new service provider.

26. The finished surface of the facility shall not be glossy or reflective in nature. The finish shall be graffiti-resistant. Panel antennas and other equipment mounted on the pole shall be painted in a color or colors so as to blend in with the imitation eucalyptus foliage.

27. The permittee shall maintain the facility in good condition and repair, and shall ensure that the facility remain free of: general dirt and grease; chipped, faded, peeling or cracked paint; trash, debris, litter, graffiti and other forms of vandalism; cracks, dents, blemishes and discolorations; and visible rust or corrosion on any unpainted metal areas. The permittee shall repair any damage from any cause within 30 days of its occurrence. The permittee shall repair or replace weathered, faded, damaged, or missing parts/materials used to disguise/camouflage the facility as shown on the approved Exhibit "A" within 30 days of such parts/materials becoming weathered, faded, damaged, or missing. The permittee shall remove any and all graffiti within 48 hours of its occurrence. A sign shall be posted on the project site with a contact phone number for reporting any graffiti or maintenance issues at the facility.

28. Upon request, the permittee/operator shall submit annual reports to the Zoning Enforcement Section of the Department of Regional Planning to show compliance with the maintenance and removal conditions.

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