



# City of Aurora

44 East Downer Place  
Aurora, Illinois 60505  
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## Legistar History Report

**File Number: 17-01009**

<b>File ID:</b> 17-01009	<b>Type:</b> Petition	<b>Status:</b> Draft
<b>Version:</b> 2	<b>General Ledger #:</b>	<b>In Control:</b> Planning & Development Committee
<b>File Name:</b> Velbar, LLC / 645 N. Elmwood Drive / Major Variance		<b>File Created:</b> 10/31/2017
		<b>Final Action:</b>

**Title:** An Ordinance Granting a Setback Variance Pursuant to Section 10.5, for the Property Located at 645 North Elmwood Drive.

**Notes:**

**Agenda Date:** 12/14/2017

**Agenda Number:**

**Sponsors:**

**Enactment Date:**

**Attachments:** Exhibit "A" Legal Description - 2017-11-30 - 2017.156.pdf, Exhibit "B" Plat of Survey - 2017-10-31 - 2017.156.pdf, Final Plan - 2017-11-27 - 2017.156.pdf, Landscape Plan - 2017-11-17 - 2017.156.pdf, Building and Signage Elevations - 2017-11-27 - 2017.156.pdf, Fire Access Plan - 2017-11-27 - 2017.156.pdf, Landscape Material Worksheet - 2017-10-31 - 2017.156.pdf, Property Research Sheet - ID #13506 - 2017-07-28 - 2017.156.pdf, Land Use Petition and Supporting Documents - 2017-10-31 - 2017.156.pdf, Legistar History Report - 2017-11-28 - 2017.156.pdf, Findings of Facts - 2017-11-28 - 2017.156.pdf

**Enactment Number:**

**Planning Case #:** AU16/3-17.156-V

**Hearing Date:**

**Drafter:** sbroadwell@aurora-il.org

**Effective Date:**

### History of Legislative File

Version:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Committee of the Whole	11/07/2017	Forward to Planning Council	DST Staff Council (Planning Council)			
<b>Action Text:</b> This Petition was Forward to Planning Council to the DST Staff Council (Planning Council)							
1	DST Staff Council (Planning Council)	11/14/2017					
<b>Notes:</b> Mr. Sieben said so this is the plan. This is straight zoned. I believe it is B-2. This has been vacant for many years. It was a former small little corner gas station that I believe has been gone for more than 20 years. The request is to build a retail center. The anchor tenant would be the owner who							

would run a small restaurant there. What they are proposing basically is to do 5 foot setbacks all around. That's really the request for the variance.

Representatives Present: John Tebrugge and Jaime Velazquez

Mr. Tebrugge said Jaime Velazquez is requesting to put in a 4 unit strip mall type building, with the north unit being a restaurant at this location at Illinois and Elmwood Drive. We are working things out with the architect and that's where some of these various setbacks started going back and forth when he was modifying things. We were at first under the impression some of this stuff had been worked through and now we realize that the variances are going to have to be looked at. We were trying to fit the number of parking places and handicap stalls to meet the area of the building. The building had been reduced, I think, twice in size, so we are now down to 4,925 or something, but either way it is still a very viable size of building for this. It is definitely a tremendous improvement to this corner. It has been empty for quite a while and had been a bit of an eyesore. We are going to be bringing in all new utilities. We've already had one review with Engineering. We are responding to that. Things are moving forward on this.

Mr. Sieben said and from the beginning we've been very supportive of this. We wanted to get a minimal setback so we could do landscaping on the perimeter. We realize it is an old commercial site. It's been kind of an eyesore for 20 years. It is really just a combination of gravel and concrete here, so this will be a nice development for the neighborhood. I think the layout is good. The only comment, and I know Steve talked to you briefly John, and I think we maybe have a little bit more of a revision comment, those 2 spaces on the dead end really don't work. We think we have an option to keep the 2. If you put an additional one on the north side and an additional one where the grease trap is on the south side I think you could do that.

Mr. Tebrugge said well the thing that we were talking about is the restaurant personnel is going to be at least 3 employees there and 2 of them are going to be there early to start cooking and they are there until well after the last person is there. Those 2 spots were going to be dedicated to the employee parking where there is going to be no movements. So looking at the geometry of that, I mean, you can back out, pull forward and leave and not have to go all the way down with that extra little jut out there where we left a little landscape there by their outside dining area. I thought with that being dedicated to staff only, I really felt that those parking spaces aren't going to be used all day long.

Mr. Sieben said I can appreciate that, but also the last one on the north end, that's going to be tough to get out of there too if there are 2 cars parked in the employee spots.

Mr. Tebrugge said we made that a little extra wide to be able to back out. I think you'd be able to get right out of there.

Mr. Sieben said what's the width of the isle in that section?

Mr. Tebrugge said 24. At one time we had it 26, but we decided to add some landscaping alongside the outside.

Mr. Sieben said maybe we can redline it and forward it to you and take a look at it.

Mr. Tebrugge said knowing that every restaurant we've had on New York and other places, it ends up really needing parking.

Mr. Sieben said we don't want to lose parking.

Mr. Tebrugge said I don't want to lose any parking either.

Mr. Sieben said I think you are just slightly over the minimum at 1 to 175. Steve, is he a couple over?

Mr. Broadwell said I think the minimum was 26 and you had 30.

*Mr. Sieben said we definitely want to keep as many as we can.*

*Mr. Tebrugge said and the grease trap, I know there was comment about the landscaping, the grease trap, what we like about that being in the landscape is we are not having to put an 8 inch slab over it because that's what they typically require if you are going to park over it. That's why we left the landscaping there because all they have to do is have access to the hatches to clean it.*

*Mrs. Vacek said we were just talking about this. It is totally up to you if you want to keep it there or not. Our suggestion would be to kind of put it in the drive isle and reason being is it gets kind of messy when you take out the grease from it and sometimes it does smell and if you are going to have a dining area right next to it, it may be good to kind of move it a little bit away from there.*

*Mr. Feltman said you could even put it on that landscape area too.*

*Mrs. Vacek said up in the corner.*

*Mr. Tebrugge said well we could shift the inspection manhole.*

*Mr. Feltman said that can move anywhere.*

*Mr. Frankino said and know that some of the requirements of some of the manufacturers require that pad no matter what, even in non-drive areas because of heavy equipment that could drive over it, lawn mowing equipment, etc.*

*Mrs. Vacek said anyway that would be our suggestion.*

*Mr. Sieben said we'll throw it out there. We'll redline it. This is going to ZBA on December 6th at 6:30. We can see what they think. If you want to sign that as employee only, you'd probably have to do that if you want to keep that, but otherwise it is a good layout. It is a good project.*

*Mr. Beneke said building-wise, I think they are already aware that you have to be rated along the two ends, the south and the east side, the exterior walls.*

*Mr. Tebrugge said I think it was all masonry wasn't it?*

*Mr. Velazquez said yes.*

*Mr. Beneke said I think it was. I think the plans have already come in. We are looking at them. Fire-wise, I believe we looked at this and have already approved it. It is pretty typical.*

*Mr. Frankino said is there thought of what establishments are going in here? Will it be a food establishment and then multiple unknown tenants at this time?*

*Mr. Sieben said I think the owner is going to run it.*

*Mr. Velazquez said I am going to run the restaurant myself. The other tenants, I don't know who is going to rent that out yet, but I'm going to put them up for rent.*

*Mr. Frankino said as usual, contact us about the sizing.*

*Mr. Tebrugge said as far as the grease trap?*

*Mr. Frankino said yes.*

*Mr. Tebrugge said we've already talked to (inaudible). We are putting in the 1,500. That way we are covered in case something else is added.*

Mr. Beneke said and you are not looking at liquor at this establishment, right?

Mr. Sieben said just for the record, liquor is not allowed here because the School District is across the street. It is actually not allowed per the state requirements too. We've talked about that. You're okay to move forward without the possibility of liquor in the restaurant?

Mr. Velazquez said yes.

Mr. Broadwell said one thing I noticed with the elevations is that for the southern side of the building it is right up against the southern property line and there is a building just south of there, so if there are signs on it, there is a proposed sign there, they might not be able to see it from the street or at all. That's just something to keep in mind.

Mr. Tebrugge said I have a feeling that probably wouldn't work too well. Part of it might be exposed. I'd have to go back and look at our overall site plan. We did shoot that building to see exactly where it is, or the aerial, I guess you could look at the aerial as well. We'll go over that with the architect to see if that's worthwhile to put anything up in that corner.

Mr. Sieben said so you'll have a little outdoor patio there on the north side too.

Mr. Frankino said I have one more question. You said that a gas station used to exist on this site?

Mr. Tebrugge said 20 or 30 years ago is what we were told.

Mr. Frankino said do you have any idea where their old service is and how it was abandoned, if that's even known in anyway? We would have to see that that is completely abandoned permanently or reused as part of this. We just can't have an old sanitary service leaking forever.

Mr. Tebrugge said the only thing I could think of is we have go back then through some of your tapes.

Mr. Frankino said maybe the city has televised the lines. Maybe we can get some information and help you out there. But if there is a stub, let's say to the property line, and you don't now plan on using it, then you have to figure out how to abandon that permanently so it doesn't infiltrate forever.

Mr. Tebrugge said well there is an inceptor on Elmwood, so no one would have tied to that. Still, where it is on the north and where is it on Illinois? We don't know.

Mr. Frankino said or you could reuse it. You can line it and then go from there with new plastic.

Mr. Tebrugge said if we can somehow come up an idea of where it is. Based on the aerial view of the old pad, you had your islands. I'm assuming the building was that pad right there, which is diagonally, which you would think at that point your service would run out somewhere in that, which is very close to where we are at now. With digging with the grease trap and our other 6 inch line, we've got to remove all that on Illinois anyway. I think we might come across it if it is still there.

Mr. Frankino said I just wanted to make sure for the record that the owner understands that we have to deal with the old service in some way if it is still there. Video evidence might show that it is capped.

Mr. Feltman said where is the old water service? Do you know where that's at?

Mr. Tebrugge said I have no idea.

Mr. Feltman said because it looked like you were proposing new water and sanitary, which is great. That's normal, but we need to make sure that the water service is abandoned as well.

Mr. Tebrugge said how would we even know 30 years ago where that even was? I don't know what records we would even be able to get. We didn't find anything on the site on the old B-Box. Of course, we talked about, I think there was a note that Souts had made about extending the saw cut

line for the utilities all the way across either Illinois or Elmwood or to a joint line and I guess that's what I was trying to verify exactly what he meant by a joint line. I've got to clear that up with him, what exactly he meant by that. If we had to, we can go all the way across. The water is on the north side of Illinois. We could go 10 feet apart and bring all the utilities across Illinois and end up with a 15 foot wide patch to be 10 feet apart or we go with 2 trenches and now we are tearing up both roads. That's the one thing that we wanted to clarify if there is any preference with the city on that. Both have a lot of traffic. It is going to require traffic control to get those in anyway.

Mr. Frankino said we have no preference as to whether or not it is to Elmwood or to Illinois.

Mr. Tebrugge said well no, you have an inceptor. We're not going to tie into an inceptor with that service.

Mr. Frankino said that's probably a City of Aurora combined line, at least on paper. It is not ours. It would be up to them. You'd have one cut, but you wouldn't have to go to the north side of Illinois Avenue.

Mr. Feltman said well I think our preference would be to stay out of Illinois if you can.

Mr. Tebrugge said we can tie into the sewer and rotate our sewer to come out the middle of the building and 10 feet off the water line. We really don't know which way the sewer went either. It could have went to Elmwood.

Mr. Frankino said it would be easier to identify that then it would be the water because televising evidence will help you.

Mr. Tebrugge said how often has that line even been televised?

Mr. Feltman said I'd have to research that. Let me see what we have on record.

Mr. Frankino said that's all I had. Thank you for that.

Mr. Tebrugge said well we certainly want to minimize the disruption to traffic, so it would be nice to go on one road and Elmwood certainly makes more sense than Illinois, but we'll take a look at that.

Mr. Sieben said so this will go December 6th at 6:30.

1 DST Staff Council 11/21/2017  
(Planning Council)

**Notes:** Mr. Broadwell said the Petitioner was here last week. The main part of the discussion was they have kind of a tight parking lot so they want to make sure they have as many parking spaces as possible, 30 total. We talked with them about the layout of the parking lot. Previously they had 2 parking stalls on the east side of the parking lot.

Mr. Sieben said did we get that revision in or do you have a redline in here?

Mr. Broadwell said it is not in there, but they moved the 2 parking stalls to be on the northern property line. I spoke with them yesterday and they are revising it for the final plan landscape plan. We should have that within the next few days.

Mr. Sieben said so essentially these 2 that are hanging out on the east side, those will be flipped to that north landscape area and there will be a slight pullout, but it will be a much better layout to get in and out of there so they don't have to back all the way out. They are going to be making that one change.

Mr. Feltman said we sent out comments. I think it is pretty straightforward.

Mr. Sieben said I think Fire was already good with this one.

Mr. Cross said yes.

Mr. Sieben said we'll vote this out next week. This will go to ZBA for the variance hearing on December 6th.

1	DST Staff Council (Planning Council)	11/28/2017	Forwarded	Zoning Board of Appeals	12/06/2017	Pass
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**Action Text:** A motion was made by Mr. Broadwell, seconded by Mrs. Vacek, that this agenda item be Forwarded to the Zoning Board of Appeals, on the agenda for 12/6/2017. The motion carried by voice vote.

**Notes:** *Mr. Broadwell said we got revised copies of the plans from the Petitioner yesterday afternoon. I've only had a chance to look at them briefly. It looks like everything we asked for they did. The one thing I really need to look into is the landscaping. They moved the 2 spaces to the north side of the property line, so they just had to remove the landscaping around it, so I was working with the Petitioner last week, so I just need to verify everything matches up. We are getting ready to vote this out of Planning Council. Is there anything from Building and Permits or Engineering?*

*Mr. Beneke said I just right now received the revised plan so I can't respond.*

*Mr. Sieben said the change was real minor from what it was before.*

*Mr. Beneke said I think it might have been approved.*

*Mr. Broadwell said it was approved.*

*Mr. Beneke said I think it is just the parking spaces, right?*

*Mr. Broadwell said yes, the 2 on the north side.*

*Mr. Beneke said so I'm thinking as long as everything else is the same, we are probably okay.*

*Mr. Feltman said we looked at the utility locations that were altered and we are generally in agreement with it.*

*Mr. Frankino said good idea. It is a good idea to change it from the connection on Illinois to the one on Elmwood for the sanitary.*

*Mr. Broadwell said this is going to ZBA on December 6th, so I move to vote it out of Planning Council. Mrs. Vacek seconded the motion. The motion carried unanimously.*

2	Zoning Board of Appeals	12/06/2017	Forwarded	Planning & Development Committee	12/14/2017	Pass
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**Action Text:** A motion was made by Mr. Pilmer, seconded by Mrs. Cole, that this agenda item be Forwarded to the Planning & Development Committee, on the agenda for 12/14/2017. The motion carried.

**Notes:** *Mr. Broadwell said the Petitioner, Velbar, LLC, is requesting approval of a setback variance pursuant to Section 10.5 of the Aurora Zoning Ordinance for the property at 645 N. Elmwood Drive to allow for a 10 foot reduction of the front yard and exterior side yard setback from 15 feet to 5 feet, a 15 foot reduction of the interior side yard setback from 20 feet to 5 feet and a 3 foot reduction of the rear yard setback from 8 feet to 5 feet. A little bit of background for you. The subject property is currently vacant land with B-2 General Retail District zoning. The subject property is located in a small commercial area on W. Illinois Avenue and is appropriately designated by the Aurora Comprehensive Plan as Commercial. The surrounding neighborhood is predominantly one family dwelling and McCleery Elementary School is right across the street on Elmwood Drive. The subject property is .49 acres and is located at the southeast corner of W. Illinois Avenue and N. Elmwood Drive. There is more information in the Property Research Sheet, which is in your packet. Again, the Petitioner is requesting a setback variance to allow for the development of a 4,900 square foot commercial building with four units. Three of the units will be used for commercial/retail and one unit will be used for a restaurant. The accompanying parking lot will consist of 30 parking spaces. Then some discussion. The existing setback requirements for the subject property are based on its B-2 zoning, which is determined by the zoning of the adjacent lots and the abutting street classifications.*

*As a means to demonstrate the need for a setback variance, the Petitioner has provided accompanying site plans and building elevations. You can see those in your Legistar packet. There is a Final Plan, a Landscape Plan and Building and Signage Elevations. These documents demonstrate the feasibility of a new retail center on the subject property with the support of a setback variance that will provide expanded economic opportunities for this vacant property and the surrounding neighborhood. It will also remain consistent with the surrounding built environment.*

*Mrs. Truax said has this property been cleared for underground tanks? This was a gas station as I recall. Has that process taken place already?*

*Mr. Sieben said that I don't know. I wouldn't know that.*

*Mrs. Truax said wouldn't that be something that we would need to...*

*Mr. Sieben said that's not the prevue of the Board.*

*Mrs. Truax said okay. Whose responsibility is it?*

*Mr. Sieben said I think that would be the Illinois EPA. I don't know if that's been taken care of or not. As you said, this was an old gas station site. It has been vacant for over 20 years. I don't know if that was discussed or not or if that has been remediated or not. Obviously, that would have to be taken care of prior. John Tebrugge is his engineer. I'm not sure whether or not he could probably answer that question for you. Hopefully they will be here. I'm just not aware of whether that's been taken care of.*

*Mrs. Cole said I had the same question about the tanks being removed.*

*The Petitioners were sworn in.*

*My name is Jaime Velazquez. I'm the owner of the property at 645 N. Elmwood. Yes the tanks have been removed from the place already, probably 10 or 15 years ago. That soil up there is clear and everything.*

*Mrs. Truax said okay, so the EPA has judged this as all clear and safe?*

*Mr. Velazquez said yes.*

*Mr. Tebrugge said all I can tell you is what the owner found out when he purchased the property. They said it was taken care of. I don't know if we have any documentation.*

*Mr. Velazquez said they gave me some paperwork up there that I have in my records.*

*Mr. Tebrugge said okay, so EPA must have issued a determination that the site was clean. We can certainly supply any letters to that effect.*

*Chairman Cameron said and that would be, of course, confirmed by the Building Department before anything was issued, correct?*

*Mr. Sieben said yes.*

*Chairman Cameron said would you care to comment on the requirements and the reason for the setback variations?*

*Mr. Tebrugge said the original plan was originally to build actually a bigger building. The architect and the owner had sat down and tried to work out a spot for his restaurant and then for 2 units. Then we started taking a look at the parking requirements, which really dictated, there wasn't much we could do as far as the parking stalls and the drive isle. Of course, we needed to have access and ADA accessibility for the front sidewalk, so it really ended up trimming the building down quite a bit,*

which led us to try to just go to a minimum setback and still leaving egress around the building so we have access to the rear doors. But the site is very tight to try to fit a building of any size on here and still meet all of the requirements for landscaping and parking. So this is just something we are trying to come up with a happy medium on to meet all the requirements.

Chairman Cameron said did the Fire Department have any concerns or anything as far as the setbacks and being able to get around the building?

Mr. Sieben said no, they are okay. I think they can stage in both of the streets. It is close enough. The only variances are the setbacks. This does meet parking. I think they are 4 over the requirement. As John stated, it was a ratio of square footage of the building. We think this is a good design. It has, obviously, been kind of an eyesore of a site for quite a while. Even though we don't give, obviously, recommendations, we have been working with Mr. Velazquez for a while and then John and we think this would be a good redevelopment of this site.

Chairman Cameron said I think the odds are there wouldn't be another gas station.

Mr. Sieben said right.

Mrs. Cole said the ingress and egress, that's only off of Elmwood? Is that correct?

Mr. Tebrugge said yes. There were 4 entrances to this parking lot now because it was a gas station. With the amount of traffic on Illinois we wanted to minimize the impact and Elmwood is a little less traveled, but just one entrance was adequate.

The public input portion of the public hearing was opened. The witnesses were sworn in.

My name is Mohammad Latif. I am across the street, the gas station, which I bought from Jim Pike. When I bought it, it was under the EPA clearance. At that time it was not done, but later on it was. The process was done for that and they sent me the EPA clearance letter also no further remediation required. According to my knowledge, in 2014 I bought that location. From that time up to now I don't see any EPA clearance across the street, which they are talking about. It should be cleared by the EPA before any further construction.

The public input portion of the public hearing was closed.

Mrs. Anderson said I have a question. So you are saying there was no clean up that you know of as of 2004?

Mr. Latif said around 2004 I'm there. There wasn't anything done on that site yet. My side was done.

Mrs. Truax said so part of the site is done?

Mr. Latif said my side was when Jim Pike was the owner. At that time, the tank was an old tank which leaked and after that it was almost 10 years, that process we went through and after that in 2012, if I remember correctly, that site was cleared from the EPA. My side. But across the street, I'm there from 2004. There was nothing done on their property as for my knowledge.

Chairman Cameron said I would just give you a record that you need to make sure that is taken care of before you sink any more money at something you'll maybe have to settle between the person that said it was done and it may or may not have been done.

Mr. Tebrugge said I have not personally read the letter, but whatever letter he's gotten from the EPA we will certainly take a look at it and supply it to you to see what has been done. If it has not been completely signed off then they'll have to maybe go and do remediation. That's something we'll check on.

MOTION OF APPROVAL WAS MADE BY: Mr. Pilmer



MOTION SECONDED BY: Mrs. Cole

AYES: Mrs. Anderson, Mr. Bergeron, Mrs. Cole, Mr. Pilmer, Mrs. Truax

NAYS: None

FINDINGS OF FACT

1. *Is the proposal in accordance with all applicable official physical development policies and other related official plans and policies of the City of Aurora?*

*Mrs. Cole said these are listed in the staff report.*

2. *Does the proposal represent the logical establishment and/or consistent extension of the requested classification in consideration of the existing land uses, existing zoning classifications, and essential character of the general area of the property in question?*

*Mr. Pilmer said the proper zoning is already in place. This is for a variance for setbacks, but it is a logical extension of the neighborhood.*

3. *Is the proposal consistent with a desirable trend of development in the general area of the property in question, occurring since the property in question was placed in its present zoning classification, desirability being defined as the trend's consistency with applicable official physical development policies and other related official plans and policies of the City of Aurora?*

*Mrs. Anderson said this should be the best use of this property considering it has been vacant for 20 years.*

4. *Will the proposal maintain a compatible relationship with the traffic pattern and traffic volume of adjacent streets and not have an adverse effect upon traffic or pedestrian movement and safety in the general area of the property in question?*

*Mr. Pilmer said having the site occupied will increase traffic in the general area. However, it is designed accordingly to meet those needs.*

5. *Will the proposal allow for the provision of adequate public services and facilities to the property in question and have no adverse effect upon existing public services and facilities?*

*Mrs. Truax said they should all be in place.*

*Mrs. Cole said or they will be put in place.*

6. *Does the proposal take adequate measures or will they be taken to provide ingress and egress so designed as to maximize pedestrian and vehicular circulation ease and safety, minimize traffic congestion, and not substantially increase the congestion in the public streets?*

*Mr. Pilmer said was heard by the Petitioner, this site presently has 4 access locations on the property and it is being reduced to 1, so I would say it will minimize traffic congestion in the general area.*

8a. *Is the variance based on the particular physical surroundings, shape or topographical conditions of the specific property involved so that a particular hardship to the owner would result, as distinguished from a mere inconvenience, if a strict letter of regulations were carried out?*

*Mr. Pilmer said I would state potentially a financial hardship could result as the Petitioners originally were trying to build a larger building on this site, but due to the site constraints they are reducing it to fit within the parking requirements; however, asking for a variance on all 4 sides to meet those needs.*

8b. *Is the variance based on unique conditions to the property for which the variance is sought and are not applicable, generally, to other property within the same zoning classification?*

*Mrs. Truax said the unique condition on this property is that it is in a very much built up area, so I would think it would not be applicable to other properties necessarily.*

*8c. Is the variance based on an alleged difficulty or hardship that is caused by the ordinance and has not been created by any person presently having an interest in the property?*

*Mr. Pilmer said it is similar to question 8a. I believe it would create a hardship for the owner, but it is not particularly due to the owner's interest in the property.*

*Mr. Broadwell said this will next be heard at the Planning and Development Committee meeting on Thursday, December 14, 2017, at 4:00 p.m. in the 5th floor conference room of this building.*

*Aye: 5 At Large Truax, At Large Anderson, At Large Bergeron, At Large Cole and  
At Large Pilmer*

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