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June 6, 2011

VIA HAND DELIVERY

D.C. Board of Zoning Adjustment
Suite 210
441 4th Street, N.W.
Washington, D.C. 20001

Re: Board of Zoning Adjustment Application 18227 (1700 New York Avenue, NW)
Prehearing Submission

Dear Members of the Board:

On behalf of the Corcoran Gallery of Art, enclosed please find an unbound original and twenty copies of the prehearing submission in support of the above-referenced application for special exception relief.

Should you have any questions regarding this matter, please do not hesitate to have staff contact me.

Sincerely,

HOLLAND & KNIGHT LLP



Christine Moseley Shiker

Enclosures

cc:	Jennifer Steingasser, Office of Planning	(Via Hand Delivery; w/enclosure)
	Joel Lawson, Office of Planning	(Via Hand Delivery; w/enclosure)
	Karen Thomas, Office of Planning	(Via Hand Delivery; w/enclosure)
	Maurice Keyes, DDOT	(Via Hand Delivery; w/enclosure)
	Jeff Jennings, DDOT	(Via Hand Delivery; w/enclosure)

BOARD OF ZONING ADJUSTMENT
District of Columbia
CASE NO. 18227
EXHIBIT NO. 26

Board of Zoning Adjustment
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**BEFORE THE BOARD
OF ZONING ADJUSTMENT
FOR THE DISTRICT OF COLUMBIA**

**APPLICATION OF THE
CORCORAN GALLERY OF ART
1700 NEW YORK AVENUE, NW**

**BZA APPLICATION NO. 18227
HEARING DATE: JUNE 21, 2011
ANC 2A**

STATEMENT OF THE APPLICANT

**I.
NATURE OF RELIEF SOUGHT**

This statement is submitted on behalf of the Corcoran Gallery of Art and Carr Properties, Inc.¹ (the "Applicant") in support of its application to the Board of Zoning Adjustment for the following variance and special exception relief from the requirements of the Zoning Regulations pursuant to 11 DCMR §§ 3103.2 and 3104.1: (i) a variance from Section 531.1 of the Zoning Regulations to increase the permitted FAR by 1,431.5 square feet of gross floor area (or 0.02 FAR); (ii) a variance to reduce the parking required by Section 2101.1 of the Zoning Regulations; (iii) a special exception to allow office use in the SP District pursuant to Section 508 of the Zoning Regulations; and (iv) a special exception for the roof structure to allow walls of unequal height pursuant to Section 411 of the Zoning Regulations. The requested relief will permit an office building addition to the Corcoran Gallery of Art located at 1700 New York Avenue, NW (Lot 34, Square 171) (the "Site"). The proposed development is appropriate for the Site, fully compatible with the surrounding area, and not inconsistent with both the Comprehensive Plan and the Zoning Regulations.

¹ The Corcoran Gallery of Art is the owner of the Site described herein. Carr Properties, Inc. is the developer of the Office Addition described herein.

II.

JURISDICTION OF THE BOARD

The Board of Zoning Adjustment (the "Board") has jurisdiction to grant the variance and special exception relief requested herein pursuant to Sections 3103 and 3104 of the District of Columbia Municipal Regulations ("Zoning Regulations"). 11 DCMR §§ 3103 and 3104.

III.

BACKGROUND

A. Description of the Site

The Site is located at Lot 34 in Square 171, which is bounded by New York Avenue to the north, 17th Street to the east, E Street to the south, and 18th Street to the west. The Site is located in the eastern half of the square and is zoned SP-2. The Site is irregularly shaped and contains approximately 68,231 square feet of land area. The Site is improved with the Corcoran Gallery of Art, a historic landmark, (the "Corcoran") and a small surface parking lot that serves the Corcoran. The Corcoran has an irregularly-shaped footprint, contains 125,545 square feet of gross floor area and occupies approximately 70% of the Site.

B. Description of Surrounding Area

The Site is adjacent to the United Unions Building, which is located in the western part of Square 171 with frontage on E Street, 18th Street and New York Avenue. The United Unions Building is an office building having a maximum height of approximately 90 feet and is the only other building in the square. Across New York Avenue to the north are office buildings for the Federal Deposit Insurance Corporation and the American Institute of Architects. Across E Street to the south is the national headquarters of the America Red Cross. Across 17th Street from the Corcoran is the Ellipse and to the north and across State Place is the Old Executive Office

Building. Further south along 17th Street is the national headquarters of the Daughters of the American Revolution and the Organization of American States.

The Future Land Use Map of the Comprehensive Plan designates the Site for Institutional Use, with the western portion of the square and property immediately to the north being designated for High Density Commercial Land Use. The Site is located within the Central Employment Area and is located approximately 4 blocks south of the Farragut West Metrorail station. The Site is located within the SP-2 District, which is bounded to the east, south and west by unzoned Federal land and on the north by the C-3-C District.

C. Project Description

The Applicant proposes to infill the existing surface parking lot to construct a new office building addition fronting on New York Avenue (the “Office Addition”). The Office Addition will be an eight-story building with a maximum height of 90 feet and will contain approximately 114,695.5² square feet of gross floor area devoted to office use. The Office Addition will be connected to and form a single building with the existing Corcoran.

The design of the Office Addition is a primarily glass building, with several angled setbacks and reveals that defer to the massing of the Corcoran and the United Unions Building. The contemporary glass curtainwall structure is meant to quietly contrast and provide an elegant backdrop to the stone Beaux Arts design of the Corcoran. The white marble base, granite site walls, and accents pay homage to the materials of the Corcoran while grounding the glass curtainwall. This design has received concept approval from the Commission of Fine Arts, pursuant to the Shipstead Luce Act.

² The total office gross floor area includes the 114,263 square feet of gross floor area to be constructed as part of the Office Addition as well as the 431.5 square feet of gross floor area that exists on the Site today as an encroachment of the United Unions Building.

The Office Addition incorporates three levels of below grade space. The first level (B-1 level) will house additional office use while the second and third levels (B-2 and B-3 levels) will provide below-grade parking. Access to the parking levels will be provided by a one-way ingress ramp through an existing curb cut on E Street, while the egress ramp will discharge onto New York Avenue via a proposed new curb cut. The main pedestrian entrance to the Office Addition will be adjacent to the Corcoran on New York Avenue. The project incorporates expansive green areas in the public space along New York Avenue, and an areaway along the New York Avenue elevation continues and aligns with the areaway around the Corcoran.

The Office Addition is currently being designed to meet US Green Building Council's requirements for LEED Gold under the Core and Shell version 3.0 rating system. Sustainable features will include, among other features, an extensive green roof, energy efficient HVAC systems, recycled material, and high performance glazing.

IV.
THE APPLICANT MEETS THE TEST FOR
VARIANCE RELIEF TO REDUCE THE PARKING REQUIRED PURSUANT TO 11
DMCR § 2101.1 AND TO INCREASE THE PERMITTED FLOOR AREA RATIO
PURSUANT TO 11 DCMR § 531.1

A. Standards for Granting Area Variances

Under D.C. Code §6-641.07(g)(3) and 11 DCMR 3103.2, the Board is authorized to grant an area variance where it finds that three conditions exist:

- (1) the property is unusual because of its size, shape or topography or other extraordinary or exceptional situation or condition;
- (2) the owner would encounter practical difficulties if the zoning regulations were strictly applied; and
- (3) the variance would not cause substantial detriment to the public good and would not substantially impair the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map.

See French v. District of Columbia Board of Zoning Adjustment, 658 A.2d 1023, 1035 (D.C. 1995) (quoting *Roumel v. District of Columbia Board of Zoning Adjustment*, 417 A.2d 405, 408 (D.C. 1980)); see also, *Capitol Hill Restoration Society, Inc. v. District of Columbia Board of Zoning Adjustment*, 534 A.2d 939 (D.C. 1987). As discussed below, the proposed Office Addition and the variances requested for the same meet all three prongs of this test.

B. Exceptional Conditions or Situations

The Site is affected by several exceptional conditions due to its unique shape and size. First, the Site is an irregularly-shaped lot and improved with an irregularly shaped, historic building which occupies approximately 70% of the Site. Due to its age, the Corcoran has several building-related improvements that are presently mounted to exterior walls and are not included in FAR; however, such improvements, including fire stairs and shafts, will be counted within FAR with the construction of the Office Addition. Second, the portion of the Site to be devoted to the Office Addition contains only approximately 17,500 square feet, which is much smaller than the typical office building sites where typical floor plates range from 25,000 square feet to 30,000 square feet. The Site is further reduced in buildable area by approximately 15%, or approximately 14,900 square feet, due to the open space needed between the Office Addition and the United Unions Building on the west side of the Site (approximately 600 square feet) and the driveway from E Street to the Office Addition (approximately 2,000 square feet). Third, the Site has a grade change from north to south of almost 9 feet. Fourth, the new construction adjacent to the historic building has significant complexities due to portions of the Corcoran's foundation being gravel and easily damaged. Finally, a GSA steam tunnel is located approximately 15 feet north, and running parallel to, the property line along New York Avenue. This steam tunnel serves many of the Federal buildings in the area, including the White House, and creates further

complications for excavation of and construction on the Site. These conditions create a practical difficulty for the strict application of the FAR and parking requirements.

C. Variance from FAR Requirement of Section

Section 531.1 of the Zoning Regulations limits development on the Site to 3.5 FAR, which equals to 238,809.3 square feet of gross floor area. The Corcoran currently occupies 70% of the Site and comprises 125,545 square feet of gross floor area (1.8 FAR) while the addition will incorporate 114,695.5 square feet of gross floor area. Thus, the total gross floor area of the overall building will be 240,240.5 square feet, or 3.52 FAR. Accordingly, the Applicant requests an FAR variance of 0.02 FAR.

The Site's exceptional conditions lead to a practical difficulty in achieving strict compliance with the Zoning Regulations. First, in order to construct adjacent to the historic building, the Office Addition must enclose and provide certain fire stairs and shafts to serve the Corcoran. These facilities are not currently included in the FAR calculation. However, they will become part of the FAR calculation with the construction of the Office Addition and will likely comprise more than 1,000 square feet of gross floor area. In addition, the adjacent United Unions building encroaches into the Site in a manner which results in a loss of 431.5 square feet of gross floor area to the Applicant.

Moreover, the new construction adjacent to this historic building which occupies approximately 70% of the Site has significant complexities. Because the Corcoran occupies so much of the Site, the core factors are significantly affected. A typical office building on a more regularly shaped lot would have a core factor of approximately 10% to 14%. Due to the shape and size of the Site as well as the constraints placed on parking ingress and egress discussed below, the proposed building will have a core factor of approximately 20%, which equates to a

loss of approximately 6,800 square feet of gross floor area compared to a building without these exceptional situations. Given these practical difficulties resulting from the required non-FAR facilities that must now be included in the building, the encroachment of the United Unions Building and the inefficiencies of the building relating to it's the shape and size of the Site, the Applicant requests a variance of 0.02 FAR (or 1,431.5 square feet) in order to offset against these losses while providing an appropriately massed building for the Site.

The requested relief can be granted without harm to the public good and without threat to the integrity of the zone plan. The addition to the Corcoran has been sensitively designed and the increased FAR will not adversely impact the design and mass of the building adjacent to the Corcoran. Furthermore, the proposed design provides appropriate setbacks on the west façade in order to provide light and air to the adjacent United Unions Building. Accordingly, there will be no detrimental impact on the public or on the Zone Plan.

D. Variance from the Parking Requirements of Section 2101

Section 2101 of the Zoning Regulations requires that an office building within the SP-2 District provide one parking space for each 1,800 square feet, after the first 2,000 square feet. Based on the zoning compliant parking spaces currently provided for the Corcoran, parking is required as follows:

Office Use: $114,695.5 - 2,000 = 112,695.5 / 1800 = 62.6 = 63$ spaces

Corcoran: 20 spaces (based on existing zoning compliant spaces)

Total Parking Required: 83 parking spaces

The Office Addition incorporates 82 parking spaces; however, only 44 parking spaces will be provided completely within the Site's private property. The remaining 38 parking spaces are located within tandem and/or vault spaces. Accordingly, the Applicant must request a variance.

The Site's exceptional conditions result in a practical difficulty with complying with the strict application of the Zoning Regulations. First, due to the Site's irregular shape and the Corcoran's lot occupancy, the footprint of the parking garage is small and triangularly shaped, which limits the number of parking spaces that can be provided due to the necessary compliance with required parking space and drive aisle dimensions.

Second, the small size of the parking garage is further constrained by the ramping system. Specifically, the parking will be accessed through an existing, 12-foot wide driveway on E Street. This ingress cannot be widened to accommodate two-way traffic without demolishing a portion of the Corcoran. Thus, egress from the parking facility is proposed to be on New York Avenue as the only remaining option for the Site. Both ingress and egress cannot be provided from New York Avenue because the wider ramp system would create a noncompliant drive aisle where it enters the parking facility as well as eliminating a sizable portion of zoning compliant parking spaces on that level. Thus, the two-ramp system along with the size and shape of the parking garage results in a configuration of the parking garage permitting only 44 zoning compliant spaces in the B-2 and B-3 levels.

Third, due to the significant north-south grade change on the Site, the B-1 level cannot practically be used for additional below-grade parking. Specifically, the E Street ingress ramp cannot tie in to the B-1 level because it cannot clear the structure within a permitted slope. While the proposed New York Avenue egress ramp would be able to clear the structure, ramping it to the B-1 level would eliminate approximately one-half of the parking spaces on that level. Furthermore, because both ingress and egress cannot be provided from New York Avenue, a ramping and circulation system would be required to get cars entering the B-2 level to the B-1 level to park, and ultimately all cars from the B-3 level to the B-1 level to exit. Not only would

this ramping and circulation system be very complex, it would also consume a significant amount of space in the below-grade parking garage. The result would be only a minimal number of additional zoning compliant spaces, and the Office Addition would still not comply with the requirements of the Zoning Regulations.

Fourth, due to the proximity to the Corcoran, the width and depth of excavation for below-grade levels is limited. Specifically, the Applicant cannot excavate below the Corcoran to create larger floor plates on the B-2 or B-3 parking levels in order to create a more efficient garage layout. In addition, the Applicant cannot excavate additional levels of below-grade space below the B-3 level without serious risk to the historic structure. These limitations are due to the Corcoran's gravel and rubble foundation. The expansion of the excavation site - either horizontal or vertical - would pose a risk of damage to the historic building, which would not be acceptable.

Fifth, the GSA steam tunnel provides another limitation for below-grade construction and presents a unique challenge to the construction team. The installation of soldier beams from grade for sheeting and shoring directly adjacent to the steam tunnel is too dangerous and therefore will require careful excavation to uncover the steam tunnel before beginning. This will most likely require the use of lighter equipment in the area to avoid damaging the tunnel, which makes additional excavation more difficult. In addition, the design team will also need to demonstrate to GSA, through a series of calculations, that the steam tunnel will not be affected in any way by the new building. Deeper excavation poses more challenges for this requirement. Thus, it would be exceptionally difficult to excavate further levels to provide additional below-grade parking.

Finally, even if the Applicant could physically construct another level of parking below-grade, the garage would continue to be small in size and irregularly shaped and only contain

approximately 22 more spaces. Those additional parking spaces are not sufficient to bring the Office Addition into compliance with the parking requirements within the private property of the Site. Thus, given the shape and size of the Site, the existing footprint of the Corcoran, the grade change between New York Avenue and E Street, the only available ingress and egress locations, and the constraints on the depth and width of excavation, the garage is significantly limited in the number of zoning compliant parking spaces that it can provide and relief must be requested.

Relief can be granted without substantial detriment to the public and without substantially impairing the intent, purpose and integrity of the Zone Plan, as embodied in the Zoning Regulations and Map. The Office Addition provides sufficient parking needed for the Office Addition and the Corcoran with the parking spaces provided both in private property and vault space, which is only one less parking space than required by the Zoning Regulations. The Applicant is constrained, however, from providing any additional parking spaces within the vault space due to the proximity of the GSA steam tunnel. In addition, the Traffic Impact Study finds that the parking provided will accommodate the expected demand for the project. Accordingly, there will be no detrimental impact on the public or on the Zone Plan.

V.

THE APPLICANT MEETS THE TEST FOR SPECIAL EXCEPTION RELIEF TO PERMIT OFFICE USE IN THE SP-2 DISTRICT PURSUANT TO 11 DCMR § 508 AND TO ALLOW ADJUSTMENTS TO THE ROOF STRUCTURE REQUIREMENTS UNDER 11 DCMR §§ 411

A. Description of Special Exception Relief Requested

The Applicant seeks a special exception for the approval of office use in the SP-2 District pursuant to Section 508 of the Zoning Regulations. As described below, the Office Addition meets each of the criteria for that special exception. In addition, due to the proximity of the Office Addition to the historic landmark and the strong desire to maintain as small and low of a

penthouse as possible, the project does not comply with the roof structure requirements set forth in Sections 411.5 of the Zoning Regulations. Specifically, the roof structure does not have walls of equal height. Accordingly, the Applicant requests special exception relief to deviate from the strict compliance of the Zoning Regulations as permitted under Sections 411.11 and 3104.1 of the Zoning Regulations.

B. Standard for Approving Special Exception Relief

Relief granted through a special exception is presumed appropriate, reasonable and compatible with other uses in the same zoning classification, provided the specific regulatory requirements for the relief requested are met. In reviewing an application for special exception relief, "[t]he Board's discretion ... is limited to a determination of whether the exception sought meets the requirements of the regulations." *First Baptist Church of Washington v. District of Columbia Board of Zoning Adjustment*, 423 A.2d 695, 701 (D.C. 1981) (quoting *Stewart v. District of Columbia Board of Zoning Adjustment*, 305 A.2d 516, 518 (D.C. 1973)). If the applicant meets its burden, the Board must ordinarily grant the application. *Id.*

C. Standard of Review for Office Use in the SP District Pursuant to § 508.1

Section 508.1 provides that construction of a new office building or construction of an addition to a building for office use shall be permitted in the SP District if approved by the Board of Zoning Adjustment. The following should be taken into consideration:

§ 508.3 The use, height, bulk and design shall be in harmony with existing uses and structures on neighboring property.

The proposed Office Addition will have a maximum height of 90 feet, which is consistent with the height of the adjacent United Unions Building and other nearby office buildings. The design of the structure is a primarily glass building, with several angled setbacks and reveals that defer to the massing of the Corcoran and the United Unions Building. The intent of the design is

to maintain the character and prominence of the Corcoran. This design has received concept approval from the Commission of Fine Arts.

Furthermore, the use is appropriate in this location between the museum space and the office and federal buildings to the north and northeast as well as the United Nations office building immediately to the west. In Board of Zoning Adjustment Case No. 14703, the Board previously found office use to be appropriate for this location given the fact that the predominant use in the immediate area is office, except for the Corcoran. Accordingly, the use, height, bulk and design will be in harmony with the existing uses and structures on neighboring properties.

§ 508.4 The use shall not create dangerous or other objectionable traffic conditions.

As set forth in the Traffic Impact Study, the Office Addition will have minimal impact on the immediate traffic conditions. Specifically, the results of the Traffic Impact Study indicate that no intersections are anticipated to exceed acceptable levels of service upon construction of the Office Addition, while also taking into considerations the projected growth in background traffic and background developments that are approved for the area, but not yet constructed. Gorove Slade further concludes that there will be little change to the levels of service expected throughout the study area due to the low number of future trips that are added to the road network. This result is based on the fact that the number of vehicular trips is expected to increase by only approximately 30 trips with the Office Addition, based on the number of cars that use the existing parking lot (which is approximately 50 cars) and the proposed parking garage that will contain 82 parking spaces. Finally, Gorove Slade concludes that the Office Addition provides satisfactory pedestrian facilities and connectivity throughout the study area. Accordingly, the Office Addition will not create a dangerous and other objectionable traffic condition.

§ 508.5 The Board may require special treatment in the way of design, screening of building, accessory uses, signs, and other facilities as it deems necessary to protect the value of neighboring properties.

The Board may choose to provide any special treatment necessary to protect the value of the neighboring properties, which include many office buildings. The design has been reviewed and approved by the Commission of Fine Arts. All exterior details, including treatment of the public space and signage, will also be subject to a design review to ensure that those elements are consistent with the intent for this area.

Finally, the special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Map and will not tend to affect adversely the use of neighboring properties. The Office Addition provides for the sensitive expansion of an important historic resource for office use in an appropriate location. Accordingly, the Office Addition will not adversely affect adjacent or nearby property and will serve to benefit this area.

D. Standard of Review for Roof Structure Special Exceptions

Under Section 411.11, the Board may grant special exception relief from the strict requirements for a roof structure where full compliance is "impracticable because of operating difficulties, size of building lot, or other conditions relating to the building or surrounding area" and would be "unduly restrictive, prohibitively costly, or unreasonable." 11 DCMR §411.11. The Board may approve deviations from the roof structure requirements provided the intent and purpose of Chapter 400 and the Zoning Regulations are not "materially impaired by the structure, and the light and air of adjacent buildings shall not be affected adversely." *Id.*

Section 411.5 of the Zoning Regulations provides that enclosing walls from roof level shall be of equal height; however, the enclosing walls of the roof structure are not of equal height for the Office Addition. The Applicant requests relief from Section 411.5 in order to create a

roof structure that is as small as possible in order to bring down the overall height of the building and provide for better views to the historic resource from a distance. In order to achieve this goal, the penthouse roof is set as low as possible while still enclosing the necessary mechanical equipment. However, because the elevator and fire stairs serving the roof require more height, they must be enclosed by slightly taller walls. The taller volumes enclosing the stair and elevator are proposed to be sloped and shaped in a way to mesh with the overall design of the building and to not appear as default rectangular boxes on the roof. Thus, all elements of the roof structure are reduced to the maximum extent possible, in keeping with the desires of the Commission of Fine Arts and resulting in a superior design for the Office Addition.

The proposed roof structure does comply, however, with the spirit and intent of the roof structure provisions and the Zoning Regulations by ensuring adequate light and air to adjacent property and abutting streets. The creation of a roof structure that is as low and small as possible preserves the light and air of other buildings and has no adverse impacts. Accordingly, the proposed penthouse is in harmony with the purpose and intent of the Zoning Regulations and meets the test for special exception relief under Section 411.11.

VI. COMMUNITY SUPPORT

The Applicant presented the project to the Advisory Neighborhood Commission 2A ("ANC 2A") at its regularly-scheduled public meeting on May 18, 2011. The ANC 2A voted 3-0-1 to support the application. A copy of the letter in support is attached as Exhibit G.

VII.
EXHIBITS SUBMITTED IN SUPPORT OF THE APPLICATION

- Exhibit A: Map showing the Site highlighted in yellow;
- Exhibit B: A portion of the Zoning Map showing the Site;
- Exhibit C: Generalized Land Use Plan and Interpretive Legend
- Exhibit D: Approval Letter from the Commission of Fine Arts
- Exhibit E: Traffic Impact Analysis prepared by Gorove Slade;
- Exhibit F: Letter of Support from Advisory Neighborhood Commission 2A;
- Exhibit G: Outline of Testimony of Robert Carr, representative of Carr Properties, Inc.;
- Exhibit H: Outline of Testimony of Fred Bollerer, representative of Corcoran Gallery of Art;
- Exhibit I: Outline of Testimony and Resume of Andrew Rollman, SmithGroup;
- Exhibit J: Outline of Testimony and Resume of Erwin Andres, Gorove Slade;
- Exhibit K: Outline of Testimony and Resume for Steven E. Sher, Land Planner; and
- Exhibit L: Updated Architectural Plans and Drawings for the Office Addition.

VIII.
WITNESSES

- A. Robert Carr, representative of Carr Properties, Inc.
- B. Fred Bollerer, representative of Corcoran Gallery of Art
- C. Andrew Rollman, SmithGroup
- D. Erwin Andres, Gorove Slade
- E. Steven E. Sher, Land Planner

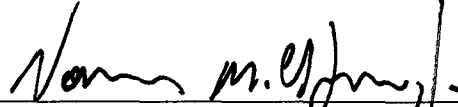
IX.
CONCLUSION

For the reasons stated above, the requested relief meets the applicable standards for variance and special exception relief under the Zoning Regulations. Accordingly, the Applicant respectfully requests the Board to grant the application.

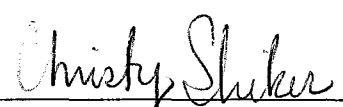
Respectfully submitted,

HOLLAND & KNIGHT, LLP

By: _____


Norman M. Glasgow, Jr., Esq.

By: _____


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