

**REZ2022-00031**

**Zoning**

Automobile Filling Station w/ Convenience Store and Drive-Through Restaurant

Brookland District

400

Feet





COMMONWEALTH OF VIRGINIA  
COUNTY OF HENRICO

John A. Vithoukas  
County Manager

December 19, 2023

Rebkee Company  
c/o Joe Gibbons  
2800 Patterson Ave., Ste. 200  
Richmond, VA 23221

Re: Rezoning Case REZ2022-00031

Dear Mr. Gibbons:

The Board of Supervisors at its meeting on December 12, 2023, approved your request to conditionally rezone from R-4 One-Family Residence District, R-5C General Residence District (Conditional), O-2C Office District (Conditional), and B-2C Business District (Conditional) to B-2C Business District (Conditional) and R-5C General Residence District Parcel 772-749-6261 and part of Parcel 772-749-3398 containing 10.121 acres located on the west line of Staples Mill Road (U.S. Route 33) approximately 300' south of Bremner Boulevard, described as follows:

Parcel 1

Beginning at the true point of beginning, marked POB 1, on the west line of Staples Mill Road, said point being 289.00' ± from the south line of Bremner Boulevard, thence continuing along the west line of Staples Mill Road the following two courses: along a curve to the right having a radius of 1,067.92', a length of 62.00', a chord bearing S 25°47'48" E, and a chord of 62.00' to a point; thence S 24°08'00" E, 515.38' to a point; thence leaving the west line of Staples Mill Road S 70°07'00" W, 712.13' to a point; thence N 2°50'00" W, 311.86' to a point; thence N 14°05'15" W, 335.00' to a point; thence N 78°19'00" E, 117.89' to a point; thence N 11°41'00" W, 22.10' to a point; thence N 78°19'00" E, 426.81' to the true point of beginning on the west line of Staples Mill Road, marked POB 1. Containing 8.571 acres of land.

Parcel 2

Beginning at a point on the west line of Staples Mill Road, said point being 896' ± south of the south line of Bremner Boulevard; thence leaving the west line of Staples Mill Road along the southern right of way line of Dublin Street (unimproved) S 70°07'00" W, 268.08' to the true point of beginning, marked POB 2, thence leaving the southern right of way line of Dublin Street (unimproved) S 19°53'00" E, 150.00' to a point; thence S 70°07'00" W, 450.00' to a point; thence N 19°53'00" W, 150.00' to a point on the southern right of way line of Dublin Street (unimproved); thence along the southern right

of way line of Dublin Street (unimproved) N 70°07'00" E, 450.00' to the true point of beginning, marked POB 2. Containing 1.550 acres of land.

The Board of Supervisors accepted the following proffered conditions, dated December 8, 2023, which further regulate the above-described property in addition to all applicable provisions of Chapter 24, Code of Henrico (Zoning Ordinance):

### **Proffers Applicable to the Entirety of the Property**

1. **Concept Plan.** The Property will be developed in general conformance with Exhibit A, attached hereto (see case file), entitled "COMMERCIAL DEV. @ STAPLES MILL AND BREMNER, ZONING EXHIBIT", prepared by Kimley Horn, and dated November 21, 2023 (the "Concept Plan"). The exact locations, footprints, configurations, size, and details of the lots, drives, roads, buildings and other improvements shown on the Concept Plan are illustrative and are subject to change and may be updated from time to time as required for final engineering design, compliance with governmental regulations or as otherwise approved at the time of Plan of Development review of the Property.
2. **Underground Utility Lines.** All utility lines on the Property will be underground, except for existing utilities, junction boxes, meters, utility lines in wetlands areas, and utility lines required to be above ground by the utility company.
3. **Best Management Practices.** Best Management Practice ("BMP") structures will be located outside of any landscaped buffer within the Property, except as a landscaping amenity or water related feature, or unless approved at the time of subdivision review. Any wet pond BMP structures will include an aeration feature to move water within each structure.
4. **Hours of Construction.** During the construction of any development on the Property the hours of exterior construction will be limited to 7:00 a.m. to 7:00 p.m. Monday through Friday, 8:00 a.m. to 5:00 p.m. Saturday, and none on Sunday, except in emergencies or where unusual circumstances require extending the specific hours in order to complete work such as concrete pours or utility connections. Exceptions will require the approval of the Director of Planning. Construction signs will be posted in English and in Spanish and will state the hours of construction.
5. **Severance.** The unenforceability, elimination, revision or amendment of any proffer set forth herein, in whole or in part, will not affect the validity or enforceability of the other proffers or the unaffected part of any such proffer.

**Proffers Applicable to the B-2C portion of the Property**

6. **Tree Preservation Area.** All trees within the area of the B-2C portion of the Property shown on the Concept Plan as "PRESERVATION AREA" (the "Preservation Area") (see case file) will be retained in their natural state and no development will be permitted therein. The Preservation Area will have a minimum depth of 100 feet. Notwithstanding the foregoing, as required by the County at the time of Plan of Development review, an opaque fence or wall a minimum of eight feet in height shall be provided along the eastern edge of the Preservation Area as shown on the Concept Plan. Such fence or wall shall be constructed of composite material (such as Trex or Simtek), pre-cast concrete, or such other material as approved by the Director of Planning. A row of evergreen trees (such as Green Giant Arborvitae or Leyland Cyprus) planted at a minimum height of six (6) feet and in two staggered, offset rows no further apart than ten (10) feet on center, unless otherwise approved at the time of landscape plan review, will be planted along the eastern edge of the Preservation Area as shown on the Concept Plan. The fence or wall will be constructed and the evergreen trees will be planted on top of a variable width undulating earthen berm, up to two feet in height, designed and constructed as approved at the time of landscape plan review.
7. **C-1 Conservation District.** Prior to filing a second Plan of Development on the B-2C portion of the Property, the Owner/Applicant will apply to rezone the Preservation Area to a C-1 Conservation District. Such rezoning request will include, at a minimum, proffer 6 from this case.
8. **Buffers.**
  - a. **Overall.** Any buffer within the B-2C portion of the Property required herein will be natural and landscaped and may include supplemental plantings, utilities, berms and/or fencing and other purposes as approved at the time of landscape plan review. Utility easements (including drainage) will be permitted within such buffer, provided, any such utility easements will be extended generally perpendicular through such buffer.
  - b. **Southern Boundary.** A variable width buffer a minimum of 10 and 25 feet in width, each as shown on the Concept Plan (see case file), and planted to the level of transitional buffer 10 and transitional buffer 25 respectively, will be provided along the southern boundary of the B-2C portion of the Property.
  - c. **Northern Boundary.** A variable width buffer a minimum of 15 and 35 feet in width, each as shown on the Concept Plan (see case file), and planted to the level of transitional buffer 10 and transitional buffer 35 respectively, will be provided along the southern boundary of the B-2C portion of the Property.

- d. **Eastern Boundary.** A buffer a minimum of 15 feet in width, as shown on the Concept Plan (see case file), and planted to the level of a transitional buffer 25 will be provided adjoining the eastern boundary of the B-2C portion of the Property along Staples Mill Road, except that small trees may be substituted for any large trees required therein.
9. **Uses.** The following uses will not be permitted on the B-2C portion of the Property:
    - a. Car wash;
    - b. Funeral home, mortuary and/or undertaking establishment;
    - c. Laundromats;
    - d. Temporary outdoor stand and/or sales area for seasonal decorations sales;
    - e. Automotive repair involving any outside storage of vehicles, including towing service;
    - f. Indoor recreation facilities including the following and the those uses similar to such: bowling alleys, skating rinks (ice skating and roller skating), swimming pools, tennis, and model racing tracks;
    - g. Establishments whose primary business is check cashing and/or the making of payday loans as defined and regulated by Sections 6.2-2100 et seq. and 6.2-1800 et seq. of the Code of Virginia (the foregoing will not preclude banks, savings and loans or similar financial institutions that are not regulated by the foregoing Virginia Code sections).
  10. **Architectural Treatment.** Any convenience store building constructed on the B-2C portion of the Property will be similar to the style and design and generally in conformance with the renderings entitled "PRELIMINARY ELEVATIONS", dated October 6, 2023 (see case file, 2 pages), and attached hereto and by this reference made a part hereof ("Renderings"), unless otherwise approved at the time of Plan of Development review. The determination of compatibility will be based on scale, materials, form, architectural features, and/or colors. Users will be permitted to include prototypical or corporate identification architectural elements in the design of their building or space. Any other building on the B-2C portion of the Property will be generally compatible with the Renderings with respect to building materials and treatment, lighting and design.

**11. Exterior Materials.**

- a. Any building will have exposed exterior walls (above finished grade and exclusive of trim, windows and doors), of brick, glass, EIFS, stone, stone veneer (including artificial stone), split-face block, wood, fiber-cement siding, or architectural-grade metal panels, precast concrete panels, or a combination of the foregoing, using a complementary color palette of materials, unless different architectural treatment and/or materials are specifically approved at the time of Plan of Development. No building will be covered with or have exposed to view any painted or unfinished plain concrete block, sheet or corrugated aluminum, asbestos or metal, unless otherwise specifically approved by the Planning Commission at the time of Plan of Development review. The exposed portion of each exterior wall surface (front, rear and sides) of each building (excluding rooftop screening materials for mechanical equipment) will be similar to the exposed portions of other exterior walls of such building in architectural treatment and materials. Any visible sloped roof will be constructed of slate, simulated slate, standing seam metal, textured fiberglass shingles or shakes, or concrete or composition shingles.
- b. Retaining walls that are visible at ground level of the boundary line of the B-2C portion of the Property will be constructed of split face block, concrete masonry units, stone, stone veneer (including artificial stone), pre-cast concrete panels, or a combination of the foregoing, unless different materials are specifically approved at the time of Plan of Development.

**12. Loudspeakers.** Outside loudspeakers that can be heard beyond the B-2C portion of the Property line will be prohibited. The use of intercom-type systems commonly associated with banks and restaurants will be permitted.

**13. Signage.** All detached signs on the B-2C portion of the Property will be consistent in type and appearance and will be constructed primarily of materials that complement the exterior materials used on any buildings, and will be ground mounted monument-style signs. No pole signs, changeable message signs, or inflatable or other attention getting devices will be permitted.

**14. Lighting.** Any lighting plans submitted as part of a Plan of Development for the B-2C portion of the Property will include lighting to accommodate pedestrian movement along Staples Mill Road (Route 33) and into the site. Any lighting located in the parking area in the rear yard of a building on the Property shall be shielded so light is directed away from the Tree Preservation Area.

**15. Trash Receptacles and Dumpsters.** In addition to the requirements of the County Zoning Ordinance, dumpsters and trash receptacles, not including convenience containers, will be screened from public view at ground level at the perimeter of the

B-2C portion of the Property, with brick on three (3) sides complementary to the building it serves. The fourth (4th) side will have a gate or door that is of a substantial and durable material as determined at the time of Plan of Development review. Support posts, gate frames, hinges and latches will be of a sufficient size and strength to allow the gates to function without sagging or becoming a nuisance.

16. **Loading Docks/Doors.** Loading docks and loading doors (doors used exclusively for loading and deliveries) on the B-2C portion of the Property will be screened from view from any public street at ground level with use of buildings or structures, fencing or wall, landscaping, or such other method as may be approved at the time of Plan of Development. No loading docks or loading doors will face Staples Mill Road.
17. **Dumpster Pickup and Parking Lot Cleaning.** Dumpster pickup and unloading and parking lot cleaning (not including individuals sweeping and picking up trash) on the B-2C portion of the Property will be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday and 8:30 a.m. to 5:00 p.m. on Saturday.

#### **Proffers Applicable to the R-5C Portion of the Property**

18. **Density.** There will be no more than a total of 14 townhome units in the R-5C portion of the Property.
19. **Architecture.** To minimize visual repetition of buildings, within the R-5C portion of the Property no two adjacent townhome buildings will have the same identical individual elevation sequence pattern across the front of the building. All townhome units will have a front porch or stoop. The side of each townhome end unit will include at least two (2) windows and the rear of each Townhome unit will include at least two (2) windows. Townhomes will be no more than five (5) units wide for any building. Townhomes will be similar to the style and design and generally in conformance with the renderings entitled EXHIBIT B and dated November 21, 2023 (2 pages) (see case file) and attached hereto and by this reference made a part hereof, unless otherwise approved at the time of Plan of Development review.
20. **Home Size.** Any home constructed on the R-5C portion of the Property will have a minimum of 1,700 square feet of finished floor area.
21. **Building Materials.** All buildings within the R-5C portion of the Property will have exposed exterior walls (above grade and exclusive of trim) of stone, stone veneer, brick, hardi-plank, vinyl or a combination of the foregoing unless different architectural treatment and/or materials are specifically approved with respect to the exposed portion of any such wall, at the time of Plan of Development review. Townhomes constructed on the R-5C portion of the Property will generally be in

conformance with Exhibit B (see case file, 2 pages), attached hereto and by this reference made a part hereof, unless otherwise approved by the Planning Commission at the time of Plan of Development or subdivision review.

22. **Sound Suppression Measures.** Walls between Townhome units will be constructed with a minimum certified sound transmission class (STC) of fifty-four (54). A cross section detail, reviewed and approved by a certified architect or engineer as to the methodology accomplishing the STC, will be included in the building permit application.
23. **Chimneys.** The exposed portions of all fireplace chimneys will be of brick, stone, cultured stone, or siding similar to the exterior treatment of the building. The exposed bases of all chimneys will be of the same material as the dwelling foundation. This proffer will not apply to direct-vent gas fireplaces or appliances.
24. **Foundations.** The exposed exterior portions of all foundations below the first floor level will be finished with brick, stone or cultured stone. On the front and side of each building, there will be a minimum of twelve (12) inches of brick, stone or cultured stone visible above grade. For reasons associated with required site grading, the requirements of this proffer may be modified or waived by the Director of Planning for individual side facades.
25. **Foundation Planting.** Each residential unit will have a minimum of four (4) shrubs planted in the front planting bed.
26. **Sidewalks.** A continuous sidewalk a minimum of four (4) feet in width will be provided on at least one side of the street.
27. **Trash.** There will be no central trash receptacles.
28. **Protective Covenants.** Prior to or concurrent with the recordation of the final subdivision plat for the Property, a document setting forth covenants (the "Covenants") will be recorded in the Clerk's Office of the Circuit Court of Henrico County, Virginia (the "County"), setting forth controls on the development and maintenance of the Property and establishing one or more owners' associations (the "Association").
29. **Rental Product.** No more than two (2) of the dwelling units will be rented at any given time. This restriction will also be made a part of the Covenants and enforced by the Association.
30. **Buffer.** The area shown on the Concept Plan as "10 FT SIDE BUFFER" (see case file) will be planted to a minimum of a transitional buffer 10, with trees being evergreen trees, or as otherwise approved at the time of Plan of Development

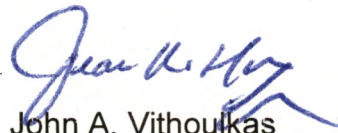


review. Such buffer will be natural and landscaped and may include supplemental plantings, utilities, berms and/or fencing and other purposes as approved at the time of landscape plan review. Utility easements (including drainage) will be permitted within such buffer, provided, any such utility easements will be extended generally perpendicular through such buffer. As required by the County at the time of Plan of Development review, an opaque fence a minimum of six feet in height will be provided along the exterior boundary of such buffer.

31. **Road Standards.** The road providing access to the homes will meet County public road standards, if dedicated as a public road, as determined by the Director of Public Works and the Director of Planning at the time of Plan of Development review. If such road is to remain private, such road will be constructed pursuant to the standards determined by the Director of Public Works and the Director of Planning at the time of Plan of Development review.
32. **Driveways.** All driveways shall be constructed of exposed aggregate, concrete, brick, stone, asphalt, pre-cast pavers or other similar materials approved by the Director of Planning.

The Planning Department has been advised of the action of the Board of Supervisors and will revise its records.

Sincerely,



John A. Vithoukas  
County Manager

pc: Rebkee Partners Staples Mill, LLC/Dan Hargett  
Economic Development Authority of Henrico County, Virginia  
Andrew M. Condlin  
Director, Real Estate Assessment  
Police, Special Services  
Henrico County Public Schools

NO.	REVISIONS	DATE	BY

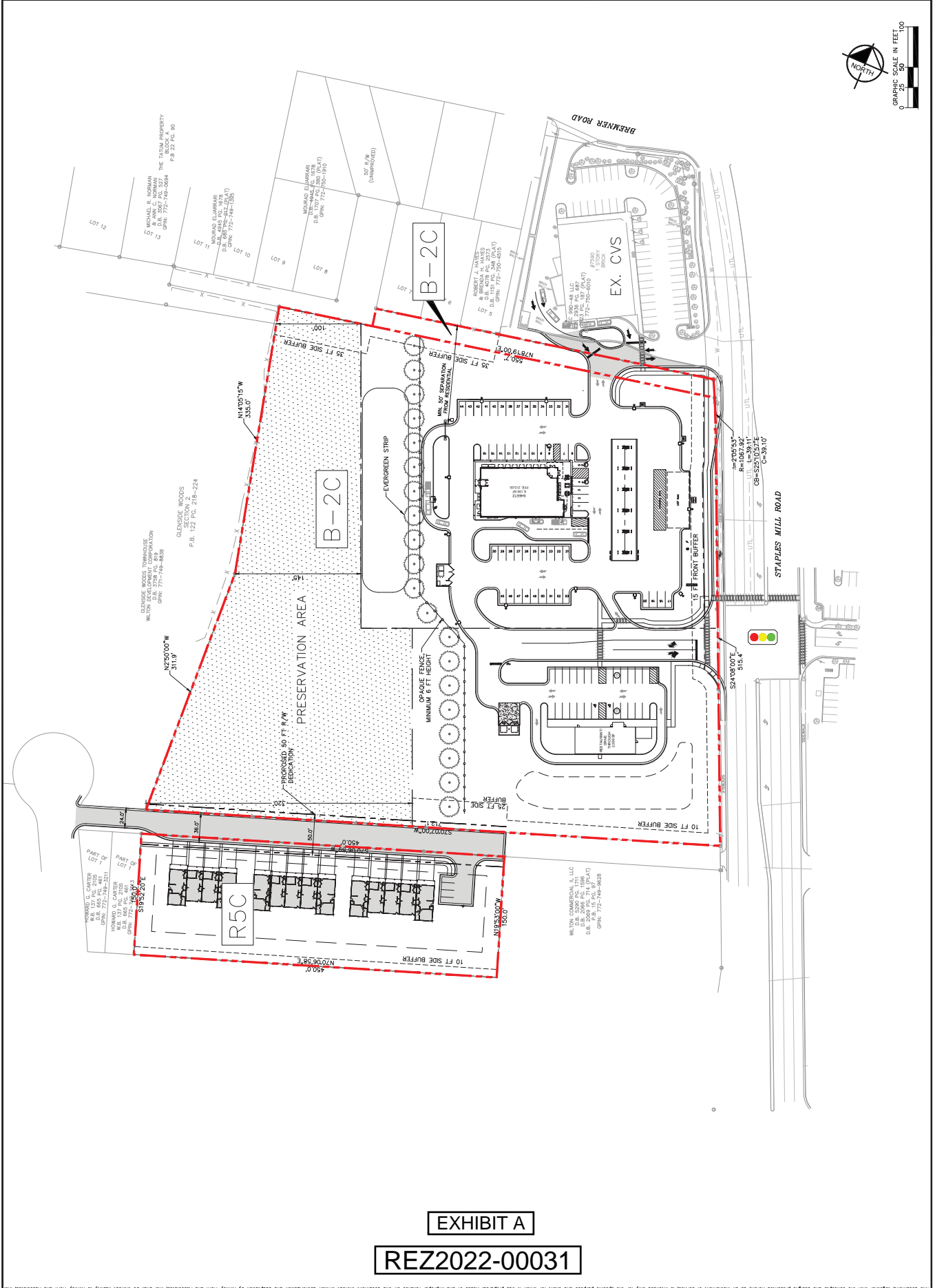
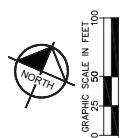
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PROJECT: KHA PROJECT  
 DATE: 11/21/2023  
 SCALE: AS SHOWN  
 DESIGNED BY: STM  
 DRAWN BY: STM  
 CHECKED BY: RHP

**ZONING EXHIBIT**

**COMMERCIAL DEV. @  
 STAPLES MILL AND  
 BREMNER**  
 HENRICO COUNTY

SHEET NUMBER  
 1



**EXHIBIT A**

**REZ2022-00031**

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