

Attachment D

Planning Commission
Resolution No. 12-002
Recommending to the
Board of Supervisors approval of
Non-Coastal Ordinance
January 11, 2012

**Before the Planning Commission in and for the
County of Monterey, State of California**

RESOLUTION NO. 12-002

Resolution by the Monterey County Planning Commission recommending that the Monterey County Board of Supervisors:

- 1) Find the project Categorically Exempt, per Section 15061(b)(3); and
- 2) Adopt the Ordinance amending Title 19 (Non-Coastal Subdivision Ordinance) and Title 21 (Non-Coastal Zoning Ordinance) to eliminate Administrative Approvals of Non-Coastal Zone Lot Line Adjustments and Minor Subdivisions, eliminate the Minor and Standard Subdivision Committees, and designate the Monterey County Planning Commission as the appropriate authority to consider applications for Subdivisions and Lot Line Adjustments.

[REF100014, County-wide Non-Coastal Areas]

The proposed amendments to Title 19 (Non-Coastal Subdivision Ordinance) and Title 21 (Non-Coastal Zoning Ordinance) (REF100014) came on for public hearing before the Monterey County Planning Commission on January 11, 2012. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Planning Commission forwards the following recommendation to the Board of Supervisors with reference to the following facts:

I. RECITALS:

1. In January of 2009, the Board of Supervisors requested (Board Referral No. 2009-03) a review of the Minor Subdivision application process with a detailed analysis of the public notice process for hearings. The purpose of the review was to identify if the Minor Subdivision Committee was the proper forum to consider controversial Minor Subdivision projects and if due process occurred.
2. On July 13, 2010, the Board of Supervisors conducted a public hearing and accepted a report by the Resource Management Agency-Planning Department on the Lot Line Adjustment and Subdivision application process outlined in Title 19 (Non-Coastal Subdivision Ordinance). The report also included 4 options for Board consideration relative to processing application for Lot Line Adjustment and Minor Subdivision applications. The Options were presented as follows:

Option 1: Operate as status quo. No change to the both the Inland and Coastal Minor or Standard Subdivision Process.

Option 2: Eliminate the Minor Subdivision (MS) and Standard Subdivision (SS) Committee.

Option 3: Eliminate only the Standard Subdivision (SS) Committee.

Option 4: Eliminate Administrative Approvals of Non-Coastal Zone Lot Line Adjustments and Minor Subdivisions.

The Board of Supervisors passed and adopted a motion with a 4-0 vote and directed staff to proceed with the preparation of an amendment to Title 19 (Non-Coastal Subdivision Ordinance) and Title 21 with Options 2 and 4.

3. On January 11, 2012, the Monterey County Planning Commission conducted a public hearing on the Draft Ordinance amending Title 19 (Non-Coastal Subdivision Ordinance) and Title 21 (Non-Coastal Zoning Ordinance) at which all persons were provided the opportunity to appear and be heard. The hearing was duly noticed in the Salinas Californian and the Monterey County Herald at least 10 days prior to the hearing.
4. The Ordinance is not a project under CEQA per Section 15060 (c) (3) and 15378 (b) (5) because the Ordinance is an organizational or administrative activity of government that will not result in direct or indirect physical changes in the environment.

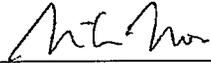
DECISION

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission hereby recommends that the Board of Supervisors:

Adopt the attached Ordinance (*Attachment I*) amending Title 19 (Non-Coastal Subdivision Ordinance) and Title 21 (Non-Coastal Zoning Ordinance).

PASSED AND ADOPTED this 11th day of January, 2012 upon motion of Commissioner Diehl, seconded by Commissioner Vandevere, by the following vote:

AYES: Brown, Vandevere, Roberts, Rochester, Salazar, Getzelman, Diehl, Padilla, Hert
NOES: None
ABSENT: Mendez
ABSTAIN: None



Mike Novo, Secretary

Attachment 1 Ordinance Amending Title 19 (Non-Coastal Subdivision and Title 21 (Non-Coastal Zoning Ordinance)

Attachment 1

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA, AMENDING TITLE 19 (NON-COASTAL SUBDIVISION ORDINANCE) AND TITLE 21 (NON-COASTAL ZONING) OF THE MONTEREY COUNTY CODE TO ELIMINATE ADMINISTRATIVE APPROVALS OF NON-COASTAL ZONE LOT LINE ADJUSTMENTS AND MINOR SUBDIVISIONS, TO ELIMINATE THE MINOR AND STANDARD SUBDIVISION COMMITTEES, AND TO DESIGNATE THE MONTEREY COUNTY PLANNING COMMISSION AS THE APPROPRIATE AUTHORITY TO CONSIDER APPLICATIONS FOR SUBDIVISIONS AND LOT LINE ADJUSTMENTS.

County Counsel Summary

This ordinance amends Title 19 (Non-Coastal Subdivision Ordinance) of the Monterey County Code to eliminate Administrative Approvals of Non-Coastal Zone Lot Line Adjustments and Minor Subdivisions and to eliminate the Minor and Standard Subdivision Committees and to designate the Monterey County Planning Commission as the appropriate authority to consider applications for subdivisions and lot line adjustments in the inland unincorporated area of the County. The Ordinance also make corresponding amendments to Title 21 (Non-coastal Zoning Ordinance) of the Monterey County Code to eliminate references to the Subdivision Committee and substitute Planning Commission for Subdivision Committee.

The Board of Supervisors of the County of Monterey ordains as follows:

[Chapter 19.01-General Provisions-(Title of Contents)]**

SECTION 1. The Table of Contents of Chapter 19.01 of the Monterey County Code is amended to read as follows:

Chapter 19.01 - GENERAL PROVISIONS

Sections:

- 19.01.005 Citation and authority.
- 19.01.010 Purpose.
- 19.01.015 Consistency.

**Titles inserted for context only and will not be included in the final ordinance.

- 19.01.020 Exceptions.
- 19.01.025 ~~Minor Subdivision Committee~~ Technical Review.
- 19.01.030 ~~Standard Subdivision Committee~~. [reserved]
- 19.01.035 Planning Commission.
- 19.01.040 Board of Supervisors.
- 19.01.045 Fees and forms.
- 19.01.050 [Repealed.]
- 19.01.055 Public notice.
- 19.01.060 Applicability.
- 19.01.065 State pre-emption.
- 19.01.066 Compliance with local, state, and Federal laws.
- 19.01.070 Appropriate decision making bodies to consider housing needs of region.
- 19.01.075 Limitation on improvement requirements under a parcel map.
- 19.01.080 Designated remainder parcel improvement requirements.
- 19.01.090 Conditions for mobilehome parks.

[19.01.025-Technical Review]**

SECTION 2. Section 19.01.025 of the Monterey County Code is amended to read as follows:

~~19.01.025 Minor Subdivision Committee.~~

~~A. There is created a Minor Subdivision Committee to consist of one member of the Planning Commission and one alternate, the Director of Public Works, the Director of Environmental Health, the Director of Planning and Building Inspection, the General Manager of the Monterey County Water Resources Agency, and the County Fire Warden, or their designated representatives. The Planning Commission shall designate which voting member and alternate shall sit on the Minor Subdivision Committee for a period of one year on a rotational basis. The Director of Planning and Building Inspection or the designated representative shall be the secretary of the committee.~~

~~The Minor Subdivision Committee shall be charged with the following duties and responsibilities:~~

- ~~1. To serve in a technical capacity to the Board of Supervisors and the Planning Commission and make recommendations on the design, improvements, and standards of this Title pertaining to subdivisions.~~
- ~~2. To serve as the advisory agency authorized to approve, conditionally approve or disapprove minor subdivisions and divisions of property requiring a parcel map under Section 66426 of the Government Code of the State of California for which a public hearing pursuant to Section 19.04.025 F, is required.~~

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3. ~~To serve as the decision-making body on revised minor subdivisions and requests for reconsideration of conditions for which a public hearing, pursuant to Section 19.04.025, is required prior to the recordation of the parcel map.~~

19.01.025 – Technical Review.

A. County staff, including designated representatives from the Department of Public Works, Environmental Health Bureau, Resource Management Agency (RMA) – Planning Department, RMA - Building Inspection Department, Parks Department, and Economic Development Department (Housing division), with legal advice from County Counsel and technical input from the Monterey County Fire Warden or representative of a local fire district as applicable and the Monterey County Water Resources Agency, shall conduct a Technical Review (TR) of all applications for tentative maps, vesting tentative maps, and lot line adjustments. The designated representative from the RMA - Planning Department shall facilitate the review.

B. The purpose of the Technical Review shall be the following:

1. To serve in a technical capacity and make recommendations on the design, improvements, and application of state law and County plans, ordinances, and regulations to subdivision applications and lot line adjustment applications; and

2. To develop recommendations to the appropriate decision-making body.

[19.01.030-Standard Subdivision Committee]**

SECTION 3. Section 19.01.030 of the Monterey County Code is repealed.

~~19.01.030 – Standard Subdivision Committee.~~

~~A. There is created a Standard Subdivision Committee to consist of the Director of Public Works, the Director of Planning, the Director of Environmental Health, the General Manager of the Monterey County Water Resources Agency, the Director of Parks and the County Fire Warden, or their designated representatives. The Committee shall have the powers and duties specified by this Title. The Director of Planning or the designated representative shall be the secretary of the committee.~~

~~B. The Standard Subdivision Committee shall serve in a technical capacity to the Planning Commission and make recommendations on the design, improvements standard subdivisions.~~

[19.01.035-Planning Commission]**

SECTION 4. Section 19.01.035 of the Monterey County Code is amended to read as follows:

19.01.035 Planning Commission.

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A. Pursuant to section 66415 of the Government Code of the State of California, ~~The Planning Commission is hereby designated the appropriate decision making body for standard subdivisions as defined in this Title and Section 66415 of the Government Code of the State of California~~ lot line adjustments and tentative maps, tentative parcel maps, and vesting tentative maps for standard or minor subdivisions, unless otherwise provided by this Title or Title 21.

B. The Planning Commission shall be the appropriate decision making for the reconsideration of tentative maps for ~~standard subdivisions~~ and requests for reconsiderations of conditions of ~~standard subdivisions~~ prior to recordation of the final map.

C. The Planning Commission shall be charged with the duty of making recommendations to the Board of Supervisors to reduce, alter, or add to the provisions of this Title.

[Chapter 19.02-Definition of Terms-(Title of Contents)]**

SECTION 5. The Table of Contents of Chapter 19.02 of the Monterey County Code is amended to read as follows:

Chapter 19.02 - DEFINITION OF TERMS.

Sections:

- 19.02.005 - Advisory agency.
- 19.02.010 - Advisory committee.
- 19.02.015 - Allocation.
- 19.02.016 - Appropriate decision making body.
- 19.02.020 - Building envelope.
- 19.02.025 - Building setback line.
- 19.02.030 - Building site.
- 19.02.035 - Certificate of compliance.
- 19.02.040 - California Environmental Quality Act (CEQA).
- 19.02.045 - Citizen's Subdivision Evaluation Committee.
- 19.02.050 - Common interest development.
- 19.02.055 - Community apartment project.
- 19.02.060 - Condominium plan.
- 19.02.065 - Coastal Land Use Plan.
- 19.02.070 - Coastal zone.
- 19.02.075 - Condominium project.
- 19.02.080 - County.
- 19.02.085 - Combined development permit.
- 19.02.086 - Development.

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19.02.090 - Density.
19.02.095 - Density (Gross).
19.02.100 - Density (Slope).
19.02.105 - Design.
19.02.107 - Director.
19.02.110 - Easement.
19.02.115 - Environmental Impact Report (EIR).
19.02.120 - Findings.
19.02.125 - Reserved.
19.02.127 - General Manager.
19.02.130 - General plan.
19.02.135 - Grading.
19.02.137 - Health officer.
19.02.140 - Improvement.
19.02.143 - Long term water supply (Safe Yield).
19.02.145 - Lot.
19.02.150 - Lot line adjustment.
19.02.155 - Map Act.
19.02.160 - Map (Final).
19.02.165 - Map (Parcel).
19.02.170 - Map (Preliminary).
19.02.175 - Map (Preliminary Project Review).
19.02.180 - Map (Tentative).
19.02.185 - Map (Vesting Interest).
19.02.190 - Merger.
19.02.195 - Open space.
19.02.200 - Owner.
19.02.205 - Parcel.
19.02.207 - Person.
19.02.210 - Planned development.
19.02.215 - Planning area.
19.02.220 - Remainder parcel.
19.02.225 - Residential allocation zone.
19.02.230 - Specific plan.
19.02.235 - Stock cooperative.
19.02.240 - Street.
19.02.245 - Structure.

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19.02.250 - Subdivider.
19.02.255 - Subdivision.
19.02.256 - Technical Review.
19.02.260 Zoning Ordinance.

[19.02.256-Technical Review]**

SECTION 6. Section 19.02.256 of the Monterey County Code is added as follows:

19.02.256 Technical Review.

Technical Review (TR) means the staff level technical review of applications described in section 19.01.025 of this Title.

[19.03.025-Public hearing process and filing.]**

SECTION 7. Subsection C. of Section 19.03.025 of the Monterey County Code is amended to read as follows:

C. ~~Staff shall conduct a Technical Review to~~ The Standard Subdivision Committee shall meet to review and consider the proposed development and make and to review or recommend recommendations of proposed findings, recommend conditions of approval, or recommended disapproval to the Planning Commission. Notice of the meeting of the Standard Subdivision Committee shall be provided pursuant to Section 19.01.055.

[19.03.025-Public hearing process and filing.]**

SECTION 8. Subsection D. of Section 19.03.025 of the Monterey County Code is amended to read as follows:

D. ~~After consideration by the Standard Subdivision Committee,~~ The Director of Planning shall set the matter for public hearing before the Planning Commission to review and consider the report of the Standard Subdivision Committee on the proposed development. The matter shall not be set for hearing until the Technical Review has been conducted. The Planning Commission may approve or deny, in whole or in part, the proposed development with appropriate findings, evidence and conditions.

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[19.04.025- Minor Subdivisions.]**

SECTION 9. Subsection C of Section 19.04.025 of the Monterey County Code is amended to read as follows:

C. ~~The Director of Planning~~ Planning Commission is the appropriate decision making body to consider minor subdivisions, ~~unless the matter is referred to public hearing under Section 19.04.025 F. In such cases the Minor Subdivision Committee is the appropriate decision making body to hear and consider minor subdivisions or lot line adjustments.~~

[19.04.025- Minor Subdivisions.]**

SECTION 10. Subsection F of Section 19.04.025 of the Monterey County Code is amended to read as follows:

F. A minor subdivision shall be referred to the ~~Minor Subdivision Committee~~ Planning Commission for consideration at a public hearing, ~~if there is evidence of public controversy or public opposition to the proposed use or development. Such evidence includes, but is not limited to:~~

- ~~1. A staff recommendation for denial;~~
- ~~2. The applicant or applicant's representative requests, in writing, a public hearing;~~
- ~~3. Written request, based on a substantive issue, for a public hearing by one or more owners or residents in the area.~~

~~If a~~ The public hearing is required it shall be noticed and conducted pursuant to the public hearing provisions of Section 19.01.055.

[19.04.030- Action on tentative parcel map.]**

SECTION 11. Subsection A of Section 19.04.030 of the Monterey County Code is amended to read as follows:

A. Upon completion of the environmental documents, the Director of Planning shall set the matter for consideration by the appropriate decision making body which may approve, disapprove, or conditionally approve the tentative parcel map in conformance with standards set forth in the Subdivision Map Act and this Title. A tentative parcel map may not be denied without a public hearing before the ~~Minor Subdivision Committee~~ Planning Commission. Such action shall take place within the applicable time limits of this Title.

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[19.07.025- Preliminary Project Review Map and Review and Processing.]**

SECTION 12. Subsection F of Section 19.07.025 of the Monterey County Code is amended to read as follows:

F. ~~Action by the Subdivision Committee or Minor Subdivision Committee~~ Technical Review:

Staff shall conduct Technical Review to consider the proposed development and to review or recommend proposed findings, recommend conditions of approval, or recommend disapproval to the Planning Commission. The Subdivision Committee or Minor Subdivision Committee shall hold a duly noticed public hearing to review and consider the proposed development and make recommendations of proposed findings, conditions of approval or recommend disapproval to the Planning Commission. The Subdivision Committee or Minor Subdivision Committee shall only review the proposed project from a technical standpoint and will not evaluate the project to confirm scoring a development. The Technical Review by staff shall only review the proposed project from a technical standpoint and will not evaluate the project to confirm scoring a development.

[19.07.025- Preliminary Project Review Map and Review and Processing.]**

SECTION 13. Subsection G of Section 19.07.025 of the Monterey County Code is amended to read as follows:

G. Action by the Planning Commission:

1. ~~After consideration by the Subdivision Committee or the Minor Subdivision Committee, the~~ Director of Planning shall set the matter for public hearing before the Planning Commission to review and consider the report and recommendation of the Subdivision Committee or Minor Subdivision Committee regarding the proposed development. The matter shall not be set for hearing until the Technical Review has been conducted.

2. The Planning Commission shall review the preliminary project review map and report of the ~~Subdivision Committee or Minor Subdivision Committee~~ and make recommendations relating to technical matters, subdivision design and consistency of the map with the land use element and provisions of the applicable General Plan, Local Coastal Program, Area Plan, Land Use Plan or Master Plan documents.

3. The Planning Commission shall make a finding, based on substantial evidence, upon the recommendation of the Health Officer, pursuant to Section 19.03.015L, 19.05.040L, or 19.07.020K that

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that the source capacity and water quality for all lots proposed to be created through the subdivision meets the requirements of all applicable health and safety regulations prior to approval of the standard subdivision tentative map, or vesting tentative map, or tentative parcel map.

4. The Appropriate Authority shall make a finding, based on substantial evidence, upon the recommendation of the Health Officer, pursuant to Section 19.03.015 that the source capacity and water quality for all lots proposed to be created through the subdivision meets the requirements of all applicable health and safety regulations prior to approval of the tentative parcel map.

[19.09.005- Lot Line Adjustment Map Requirement.]**

SECTION 14. Subsection E of Section 19.09.005 of the Monterey County Code is amended to read as follows:

E. ~~The Director of Planning~~ Planning Commission is the appropriate decision making body to consider lot line adjustments, ~~unless the matter is referred to public hearing under Section 19.09.005G. In such case the Minor Subdivision Committee is the appropriate decision making body to hear and consider lot line adjustments.~~

[19.09.005- Lot Line Adjustment Map Requirement.]**

SECTION 15. Subsection H of Section 19.09.005 of the Monterey County Code is amended to read as follows:

H. A lot line adjustment shall be referred to the ~~Minor Subdivision Committee~~ Planning Commission for consideration at a public hearing, ~~if there is evidence of public controversy or public opinion to the proposed use of development. Such evidence includes, but is not limited to:~~

- ~~1. A staff recommendation for denial;~~
- ~~2. The applicant or applicant's representative requests, in writing, a public hearing;~~

~~3. Written request, based on a substantive issue, for a public hearing by one or more owners or residents in the area.~~

~~If a~~ The public hearing is required it shall be notified and conducted pursuant to the public hearing provisions of Section 19.01.055.

[19.16.010- Appeals (Applicability)]**

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SECTION 16. Section 19.16.010 of the Monterey County Code is amended to read as follows:

19.16.010-Applicability

The provisions of this Chapter apply to discretionary decisions made pursuant to the provisions of this Title by the ~~Director of Planning, the Minor Subdivision Committee, and the Planning Commission.~~

[19.16.020- Appeals (Designation of appeal authorities.)]**

SECTION 17. Section 19.16.020 of the Monterey County Code is amended to read as follows:

19.16.020-Designation of appeal authorities.

~~A. The Board of Supervisors is the Appeal Authority to consider appeals from the discretionary decisions of the Director of Planning made pursuant to this Title.~~

~~B. The Board of Supervisors is the Appeal Authority to consider appeals from the discretionary decisions of the Minor Subdivision Committee made pursuant to this Title.~~

~~C. The Board of Supervisors is the Appeal Authority to consider appeals from the decisions of the Planning Commission.~~

[21.02.040-Title 21; Nature of Zoning Ordinance.]**

SECTION 18. Section 21.02.040 of the Monterey County Code is amended to read as follows:

The Zoning Ordinance consists of the establishment of various districts, regulations and permit processes for the unincorporated territory of the County of Monterey.

The zoning districts list the uses which are allowed or may be allowed subject to discretionary permit processes. Those listed uses and other uses which are consistent with the Monterey County General Plan and applicable area plans may be allowed subject to appropriate permits. Other uses are prohibited. Further, the districts provide the regulation of structural height, bulk, and setbacks, as well as prescribing other site development amenities and requirements such as parking, landscaping, and lighting control.

This Title is not intended and shall not be construed as authorizing the County of Monterey, through the Board of Supervisors, Planning Commission, Zoning Administrator, ~~Minor Subdivision~~

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Committee or Director of Planning, acting pursuant to this Title, to exercise its power to grant or deny a permit in a manner which will take or damage private property for public use without the payment of just compensation therefore.

[21.76.030-Title 21; Combined Development Permits; Approving Authority.]**

SECTION 19. Subsection A of Section 21.76.030 of the Monterey County Code is amended to read as follows:

A. The Appropriate Authority to consider a Combined Development Permit shall be the Planning Commission, Zoning Administrator, ~~Minor Subdivision Committee~~ or Board of Supervisors. The basis of the designation shall be that the body established under State Law, Title 19 (Subdivisions), Monterey County Code, or Title 21 (Zoning), Monterey County Code, as the decision making body for the Combined Development Permit. Should the Combined Development Permit include any permit normally considered by the Planning Commission, then the Planning Commission shall consider the entire Combined Development Permit, including variances.

[21.84.130-Title 21; Restoration of land required before application deemed complete.]**

SECTION 20. Section 21.84.130 of the Monterey County Code is amended to read as follows:

No application for a discretionary land use permit under the authority of the Director of Planning, the Zoning Administrator, ~~the Minor Subdivision Committee~~, the Planning Commission or the Board of Supervisors shall be deemed complete if there is a violation on said property of a County ordinance which regulates grading, vegetation removal or tree removal until that property has been restored to its pre-violation state. "Restoration" of the property shall include, but not limited to, the re-vegetation of native plants and trees and the reconstruction of natural features of the land which have been removed or changed in violation of County ordinances regulating grading, vegetation removal or tree removal. Alternatives to restoration of the property shall not be considered unless the applicant can show that restoration would endanger the public health or safety, or that restoration is unfeasible due to circumstances beyond the control of the applicant of property owner.

Plans for restoration shall be submitted to and approved by the Director of Planning prior to the commencement of restoration and the plan shall include a time period to ensure reestablishment of the soil or vegetation.

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SECTION 21. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

SECTION 22. EFFECTIVE DATE. This Ordinance shall become effective on the 31st day following its adoption.

PASSED AND ADOPTED on this ____ day of _____, 2012, by the following vote:

AYES: Supervisors
NOES:
ABSENT:
ABSTAIN:

Jane Parker, Chair
Monterey County Board of Supervisors

A T T E S T:

GAIL T. BORKOWSKI
Clerk of the Board

By: _____
Deputy

APPROVED AS TO FORM:

Wendy S. Strimling
Senior Deputy County Counsel

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