

PC RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF POMONA, CALIFORNIA APPROVING CONDITIONAL USE PERMIT (CUP 6158-2016) FOR A DRIVE-THRU IN CONJUNCTION WITH TENANT IMPROVEMENTS ON A PROPERTY LOCATED AT 775 EAST FOOTHILL BOULEVARD

WHEREAS, the applicant, Lyons Warren, has submitted an application for Conditional Use Permit (CUP 6158-2016) for a drive-thru in association with tenant improvements of a CVS Pharmacy on a property located at 775 E. Foothill Blvd.;

WHEREAS, the subject property is currently located within the Pomona Corridors Specific Plan—Neighborhood Center zoning district;

WHEREAS, the Planning Commission of the City of Pomona has, after giving notice thereof as required by law, held a public hearing on August 23, 2017, concerning the requested Conditional Use Permit (CUP 6158-2016); and

WHEREAS, the Planning Commission has carefully considered all pertinent testimony and the staff report offered in the case as presented at the public hearing.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Planning Commission of the City of Pomona, California:

SECTION 1. The Planning Commission exercising independent judgment finds that the proposed project will not have a significant effect on the environment. Pursuant to the Guidelines for Implementation of the California Environmental Quality Act (CEQA), the project is categorically exempt under Section 15332 of the California Public Resources Code, which exempts in-fill developments located in urbanized settings. The Planning Commission finds that the project meets the following criteria listed in the exemption: 1) the proposed project is consistent with the General Plan and Zoning Ordinance of the City; 2) the parcel is smaller than five acres; 3) the project site has no value as habitat for endangered, rare or threatened species; 4) the project will not have significant effects upon the environment; and 5) the site can adequately be served by utilities and public services.

SECTION 2. If any part, provision, or section of this resolution is determined by a court or other legal authority with jurisdiction over the subject matter of this resolution to be unenforceable or invalid, the remainder of the entirety of this resolution shall not be affected and shall continue in full force and effect. To this end, the provisions of this resolution are severable.

SECTION 3. In accordance with Section .580.B of the Zoning Ordinance, the Planning Commission must make five (5) findings in order to approve Conditional Use Permit (CUP 6158-2016). Based on consideration of the whole record before it, including but not limited to, the staff report, public testimony received at the public hearing on this matter, and evidence made part of the

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public record, the Planning Commission hereby finds as follows:

1. *That the proposed use at the particular location will contribute to the general well-being of the neighborhood or community.*

The proposed use of the subject site for commercial development, specifically, the addition of a drive-through at a pharmacy, will contribute to the general well-being of the neighborhood and the community by providing a convenience to residents seeking healthcare, and adding to the economic viability of a commercial shopping plaza.

2. *That such use will not, under the circumstances of the particular case be detrimental to the health, safety, peace, or general welfare of persons residing or working in the vicinity or detrimental to the use, valuation or enjoyment of property or improvements in the vicinity.*

The project will not be detrimental to the health, safety, peace, or general welfare of persons residing or working in the vicinity since the project is in full conformance with the development standards and use requirements of a Neighborhood Center as defined in the Pomona Corridors Specific Plan. The project will not be detrimental to the use, valuation, and enjoyment of property and improvements in the vicinity since the subject site is consistent with the surrounding properties which are also in the Pomona Corridors Specific Plan. The project, as designed, will enhance the neighborhood.

3. *That the site of the proposed use is of adequate topography, size and shaped to accommodate said use as well as all yards spaces, walls, fences, parking, loading, landscaping and any other features necessary to allow said use with the land and uses in the neighborhood and make it compatible thereto.*

The site has the adequate topography, size and shape to accommodate the proposed addition of a drive-through.

4. *That the site abuts streets and highways are adequate in width and improvements to carry traffic generations typical of the proposed use.*

The subject site has street access directly to Towne Avenue and Foothill Boulevard, both of which are major thoroughfares. Both are of adequate width and improvement to carry traffic generations typical of this drive-through use.

5. *That granting of such conditional use permit will not adversely affect the General Plan of the city and conforms to the provisions of the zoning ordinance.*

The granting of the conditional use permit will not adversely affect the General Plan and

conforms to the provisions of the Pomona Zoning Ordinance. The proposed use is consistent with a Neighborhood Center as defined in the Pomona Corridors Specific Plan.

SECTION 4. Based upon the above findings, the Planning Commission hereby approves Conditional Use Permit (CUP 6158-2016) subject to compliance with all applicable laws and ordinances of the City as well as the addition of the following conditions, violations of which (or failure to complete any of which) shall constitute grounds for revocation of the conditional use permit or any portion thereof:

Planning Division

1. The subject property shall be developed and/or used in a manner consistent with the project plans reviewed and approved by the Planning Commission on August 23, 2017, and as illustrated in the stamped approved plans dated August 23, 2017. Any major modifications to the approved project plans shall be reviewed and approved by the Planning Commission as part of a modification to the approved plans. Any minor modifications that do not affect the overall intent of the approved project, may be reviewed and approved by the Planning Manager.
2. This approval shall lapse and become void if the privilege authorized is not utilized within two years from the date of this approval (August 23, 2019), in accordance with Pomona Zoning Ordinance section .580.I. The Planning Commission may extend this period for one year upon receipt of an application for a Time Extension request submitted by the applicant at least thirty days before the expiration date of this approval.
3. The project is subject to a twenty day appeal period. Written appeals may be filed with the City Clerk within twenty days by one or more City Council members, the applicant, or any person owning property within four hundred feet of the exterior boundary of the applicant's property. The appeal shall be filed with the City Clerk within twenty days from the date of action by the Planning Commission.
4. The applicant shall indemnify, protect, defend, and hold harmless, the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, from any and all claims, demands, law suits, writs of mandamus, and other actions and proceedings (whether legal, equitable, declaratory, administrative or adjudicatory in nature), and alternative dispute resolutions procedures (including, but not limited to arbitrations, mediations, and other such procedures), (collectively "Actions"), brought against the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, that challenge, attack, or seek to modify, set aside, void, or annul, the any action of, or any permit or approval issued by, the City and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof (including actions approved by the voters of the City), for or concerning the project, whether such

Actions are brought under the California Environmental Quality Act, the Planning and Zoning Law, the Subdivisions Map Act, Code of Civil Procedure Section 1085 or 1094.5, or any other state, federal, or local statute, law, ordinance, rule, regulation, or any decision of a court of competent jurisdiction. It is expressly agreed that the City shall have the right to approve, which approval will not be unreasonably withheld, the legal counsel providing the City's defense, and that applicant shall reimburse City for any costs and expenses directly and necessarily incurred by the City in the course of the defense. City shall promptly notify the applicant of any Action brought and City shall cooperate with applicant in the defense of the Action.

5. In case of a violation of any of the conditions of approval and/or City law, the property owner and tenant will be issued a Notice of Correction. If said violation is not remedied within a reasonable period of time and/or a subsequent violations of the conditions of approval and/or City law occurs within ninety (90) days of any Notice of Correction, the property owner shall be held responsible to reimburse the City for all staff time directly attributable to enforcement of the conditions of approval and/or City law, including, but not limited to, revocation of the herein Conditional Use Permit.
6. Pursuant to City Code Section 70-66 et seq.", prior to issuance of any grading or building permits, the applicant or developer shall pay the following Development Impact "Miscellaneous Fees". Traffic Signal & Control Device Program; Road & Highway Improvement Program; Parks & Recreation improvement program; and Public Safety Improvement Program.
7. Any future substantial changes in the approved plans, except as allowed for by the following conditions, shall require a modification to the Conditional Use Permit.
8. The property shall be maintained free of weeds and debris prior, during and after the construction period.
9. The applicant will incorporate Googie style architecture for the proposed monument sign along Foothill Boulevard, in keeping with the architectural character of Historic Route 66. Applicant will submit the plan for such styled signage as part of a sign permit.
10. The color of the drive through canopy should be consistent with the color scheme of the rest of the building.
11. Parking lot landscaping shall include a minimum of one tree per 30 linear feet of property line spaced regularly along the applicable property line, and one shrub per five linear feet of frontage. In order to provide shade and add trees to the City, continuous rows of parking stalls shall be subdivided by trees planted a minimum spacing of one tree every five spaces, with trees located between the sides of the parking stalls in curbed landscape islands. Remove existing trees and

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- replace with new ones; new trees in parking areas should be large and have high-branching, broad-headed form to create maximum shade. Curb planting areas should be provided at the end of each parking aisle to protect parked vehicles from turning movements of other vehicles.
12. Exterior driveway surfaces should be paved with non-slip, attractive surfaces such as interlocking unit pavers or scored and colored concrete.
 13. Provide cart corrals within the existing parking lot to accommodate the new grocer.
 14. Enhance and upgrade parking lot lighting fixtures in parking lot and fixtures along façade of existing building.
 15. Prior to receiving building permit final, the applicant shall obtain the approval from the Planning Division of a precise landscape and irrigation plan prepared by a licensed Landscape Architect, which meets the most current State of California Drought Executive Order Model Water Efficiency Landscape Ordinance (MWELo) and any modification as adopted by the City of Pomona.
 16. The property owner shall remove any graffiti on the project site within 24 hours of discovery. The paint utilized to cover the graffiti must substantially match the existing structure. In the event that the paint finish of the abated area is noticeably distinguishable from the rest of the structure, the property owner shall paint additional portions of the building to minimize the disparity, subject to the approval of the Development Services Manager. Original surface materials installed and designed to not accept paint material such as stone, metal, brick, faux stone, veneers, etc. shall be restored to original finish with methods accepted and agreed to by the Development Services Manager.
 17. All plumbing fixtures shall utilize low flow or low water usage appliances (toilets, sinks, water hose, etc.).
 18. Any proposed fencing on the subject site shall be in compliance with Section .503-I of the Pomona Zoning Ordinance and subject to review and approval of a Fence and Wall Permit by the Planning Division prior to receiving a final sign-off on building permits.
 19. Window and wall trim shall be provided with durable treatment material subject to the review and approval of the Development Services Manager. No foam trim shall be installed on the first floor portions of any structures.
 20. Red paint and “No Parking” indications shall be applied to curb areas along the project driveway. No vehicles shall be parked at any time within “no parking” areas and red curb areas.

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21. The property owner shall provide regular maintenance and cleaning of all exterior walkways, patios, canopies, sidewalks, and landscaped parkways in compliance with Pomona City Code 62-351.
22. There shall be no activity conducted on the subject site that exceeds the noise and vibration parameters of Pomona City Code Section 18-301, et seq., and City Council Ordinance No. 3939 at any time, or such other ordinance enacted related to noise and vibration.
23. Prior to issuance of building permits, the applicant shall submit, concurrently with the Plan Check process, and obtain the approval from the Planning Division of a lighting plan (photometric) demonstrating a minimum one foot-candle of illumination of parking, driveway, walkways, and common areas. The lighting plan shall include a site plan showing the locations of ground-mounted and building-mounted light fixtures, design and photometric information on fixtures, and shielding to orient light away from adjacent properties and buildings.

Building and Safety

24. The undergrounding of utility facilities is required (PMC 62-31)
25. The design must be reviewed and stamped by an architect or engineer licensed in the State of California -- (Business and Professions code Sections 5537, 5538 and 6737.1)
26. A building permit shall be obtained for the proposed construction and site development. The design of the building shall comply with the 2016 California Building Codes.
27. All proposed work shall comply with the 2016 California Energy Code and all other relevant laws, ordinances and resolutions governing Energy conservation as adopted by the City of Pomona.
28. Proposed project shall comply with the 2016 California Green Building Standards Code and all other relevant laws, ordinances and resolutions governing sustainable design as adopted by the City of Pomona.
29. Proposed project shall be sprinklered and comply with all other relevant all other relevant laws, ordinances and resolutions governing residential sprinklers as adopted by the City of Pomona.
30. Building Department comments and conditions are subject to plan check. Comments are based on information provided.

County of Los Angeles Fire Department

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31. Fire Department access shall comply with Section 503 of the Los Angeles County Fire Code.
32. Cross-hatch any on-site Fire Department vehicular access.
33. Show any existing fire hydrants within 300 feet of the lot frontage.
34. Submit a fire flow availability form along with the plans.
35. All fire hydrants shall measure 6" x 4" x 2 ½," conforming to AWWA Standard C503-75 or approved equal.
36. Chapter 5, Section 507 and Table(s) B and C of the Los Angeles County fire Code will be used to determine water requirements for firefighting purposes.
37. Show type of construction, occupancy classification, square footage of structure per floor and number of floors.
38. Indicate address of subject property.

Water & Wastewater Operations Department

WATER

Main Line

39. There currently exists an eight-inch (8") ACP water main onsite near the existing CVS store. Within Foothill Boulevard there currently exists a sixteen-inch (16") DIP water main. The localized approximate static pressure for the proposed project area is 55-65 PSI.
40. The existing water infrastructure shall be shown on the site plan. Further design comments shall be issued by the WWOD regarding the extent of proposed public main within the proposed project area.
41. If verification of static pressure is desired, it may be obtained by requesting a fire hydrant flow test from the Public Works Department.
42. Any private onsite water improvements are the owner's responsibility and not the City's.

Domestic and Fire Service Line

43. Per City records there is an existing 3" compound water meter serving the existing CVS site at 755 E. Foothill Boulevard. A reduced pressure principle assembly (RPPA) shall be installed to protect the existing compound meter.
44. Contact the Los Angeles County Fire Department to determine if additional fire hydrants are required for this site. If new fire hydrants are required, they shall be placed at least five (5) feet from the proposed driveways and parking spaces. There are public fire hydrants within 500 feet of the proposed project site.
45. State if the existing 3" compound meter will continue to be used, or if two separate meters will be installed for each store. Provide fixture unit calculations to identify the proposed demand of each store.
46. The edge of all new meter vaults, if necessary, should be located in public right-of-way or the sidewalk two inches (2") from the back of the curb per Standard No.'s 11 and 12 of the *City of Pomona Water Division Standard Specifications for Water Facility Construction, January 2006*. Meter(s) cannot be placed in driveways, parking spaces or within the property line, to allow City personnel access to these meters for future maintenance.
47. All newly installed water lines shall be disinfected per the *City of Pomona Water Division Standard Specifications for Water Facility Construction, January 2006* before connection to the existing water main.
48. Contract the Public Works Department for information regarding meters and all applicable meter fees. The City will install meters less than or equal to 2" in size.
49. Effective January 1, 2016, the City has adopted new connection charges for water service. For further information on how charges are assessed contact the City's Public Works Business Services Division.
50. Approved low-lead (0.25%) backflow devices (list the brand and model) are required for the following service lines to the site:
 - Reduced principal pressure devices are required for dedicated irrigation service lines to the proposed site; and
 - Reduced principal pressure devices are required for all domestic services; and
 - Double check detector assembly devices for all fire sprinkler service lines.
51. Submit water development plans to the City for review and building approval showing water meters, service lines, approved backflow devices, and proposed/existing water mains. WWOD requests that these plans be sent in both hard copy and electronic format.

SEWER

52. There currently exists a twelve-inch (12") VCP sewer mains within Towne Avenue.
53. The sewer laterals from the public main to the site are considered private and shall be maintained by site owners.
54. New sewer laterals must be constructed per Standard No. B-8-61 per *City of Pomona Public Works Department Standard Drawings March 2006* (Public Works Standards). Construction shall also comply with Standard No. A-26-02 per the Public Works Standards.
55. The sewer lateral separation distances, relative to water mains, shall comply with California Code of Regulations, Title 22.
56. Effective January 1, 2016, the City has adopted new service charges for sewer service. For further information on how charges are assessed, contact the City's Public Works Business Services Division.
57. The applicant/developer shall submit and include the following items in the sewer development plan:
 - The proposed sewer lateral(s) connection to the existing sewer main.
 - Construction Notes: The Contractor shall provide all temporary seals enclosures, forced ventilation or other devices as maybe necessary to prevent odor nuisance and solid objects
58. Submit sewer development plans to the City for review and approval prior to the building permit approval showing all existing and proposed sewer mains, laterals, and manholes. WWOD requests that these plans be sent in both hard copy and electronic format.

PUBLIC WORKS DEPARTMENT

Land development requirements

59. Applicant/Developer shall submit a **Lot Merger** application for the consolidation of lots 1 and 3 of Parcel Map 11178, associated with Assessor Parcel Numbers 8304-001-038 and -040; the application shall be submitted to the Public Works Department, for review and approval and shall be recorded prior to the issuance of the Certificate of Occupancy.
60. Applicant/Developer shall submit a **Water Easement** application for the new domestic and fire services proposed to be installed as part of the project; the application shall be submitted

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to the Public Works Department, for review and approval and shall be recorded prior to the issuance of the Certificate of Occupancy.

Improvement plans requirements

61. Applicant/Developer shall submit the **grading, drainage and erosion control plans** for review and approval by the Public Works, Planning and Building and Safety Departments.
 - The scale used for the plans needs to be large enough (1" = 10' is preferred) to clearly show all the details; the plans shall be submitted on 24" x 36" sheet size with a standard City title block.
 - One-foot topographic contours of the site must extend a minimum of 15 feet beyond the boundary lines.
 - The plans shall include sufficient cross sections to show all block wall locations, parkway width and all permanent facilities that might require maintenance and access easements.
 - Drainage configurations on the existing adjacent properties shall not be altered, redirected or modified in any way.
62. Prior to issuance of the grading permit the Applicant/Developer shall submit written notifications of adjacent property owners regarding the direct and indirect impact associated with the proposed construction. The notification shall include a statement confirming that the existing public services (sewer, water, storm drain) to adjacent property owners will not be affected by the proposed development. The proposed development shall accept the conveyance of the existing offsite drainage.
63. Prior to the issuance of the grading permit the applicant/developer shall provide non-interference letters from all applicable utility agencies for all utility easements located within the areas subject to grading activities. All such documents shall be subject to review and approval by the City Engineer.
64. Applicant/Developer shall submit **public street improvement plans** to include the following:
 - Removal and reconstruction of the existing Towne Avenue driveway approaches, total of three (3), in compliance with the City standards and ADA requirements.
 - New sidewalk, curb and gutter along the property frontages to replace all existing damaged, cracked and uplifted sections.
 - Overlay paving of Towne Avenue in compliance with the City paving standards, as follows: along the lot frontage, from gutter over one lane width or over both southbound lanes width, based on the wet and/or dry utility cuts.

- Parkway drains per City standards.
 - Upgrading of two (2) existing public street lights with LED luminaires.
 - Installation of a new tree to match existing, in the vacant tree well located south of the most northerly driveway approach along Towne Avenue. The maintenance of the parkway landscaping is the responsibility of the property owner, as required by the City's Municipal Code Section 46-496.
 - Existing sewer, water and storm drain infrastructure.
 - Unobstructed visibility shall be ensured at all intersections and driveways along the project boundaries.
 - Undergrounding of all proposed utility lines per City of Pomona Municipal Code Section 62-31(b).
 - Note: It is the owner's and the contractor's responsibility to repair all damage to the existing public improvements due to the proposed construction activities and to address all repairs requested by the Public Works Inspector based on the inspector's review of the current condition of the said public improvements.
65. The demolition or relocation of all public improvements (street lights, signs, trees, vaults, catch basins, hydrants, etc.) due to the proposed project construction must be coordinated and agreed upon by the appropriate City departments, shall be designed per City standards and applicable ADA requirements, and must be reviewed and approved by the Engineering Division of the Public Works Department.
66. Applicant/Developer shall identify the existence of all City utilities that may be in conflict with the development and submit protection measures to the City Engineer for those City utilities.
67. If future placement of permanent structures conflicts with location of existing public utilities (water, sewer and storm drain), then improvement plans proposing the relocation or abandonment of identified utilities must be submitted, reviewed and accepted by the Public Works Department. No public utility infrastructure shall be removed or modified as part of the onsite demolition plan approved by the Building and Safety Department.
68. Prior to issuance of the grading permit Applicant/Developer shall develop and obtain the City approval of the final Standard Urban **Stormwater Mitigation Plan** (SUSMP) for the proposed project. The SUSMP shall be prepared in accordance with the City of Pomona's Low Impact Development (LID) Ordinance, the City of Pomona's Green Streets Policy and the Los Angeles Region NPDES MS4 Permit No. CAS004001, Order No. R4-2012-0175 which includes:
- Site Design BMPs;
 - Source Control BMPs; and

- Treatment Control BMPs.

Applicant/Developer shall utilize the County of Los Angeles Department of Public Works Low Impact Development Standards Manual (Published February 2014) as a guidance document for the design of applicable Best Management Practices (BMPs) proposed for the project.

Post-construction Structural and/or Treatment Control BMPs, shall be designed to mitigate (infiltrate or harvest and use) storm water run-off from the 85th percentile 24-hour rain event or 0.75-inch, 24-hour rain event, whichever is greater. The comparison must be provided in the SUSMP.

Applicant/Developer shall utilize the County of Los Angeles Department of Public Works' HydroCalc program described in the LID Manual to calculate these design flows and volumes. The program download can be found at <http://dpw.lacounty.gov/wrd/publication/>.

Applicant/Developer shall implement Good Housekeeping Best Management Practices (BMPs) for the site to ensure that pollutants are not discharged to the municipal storm drain system during construction and throughout occupancy.

69. Prior to issuance of the building permit or the approval of the public water development plan, Applicant/Developer is responsible for paying the project's **water connection fees**.
70. The final improvement plans, as shown on the Mylar, shall be provided to the City in both hard copy and electronic in AutoCAD v. 2010. Following construction and prior to acceptance of the improvements by the City, the project engineer shall provide hand drafted "AS BUILT" corrections on the original approved Mylars of the final constructed improvements to the satisfaction of the City Engineer. A corrected "**AS BUILT**" plan shall also be provided to the City on disk in AutoCAD v. 2010 and .pdf formats.
71. The plans shall be submitted on 24" x 36" sheet size with a standard City title block, and must correctly identify the property owner, address, legal description, property lines, street centerline, curb-lines, existing and proposed utilities (water, sewer, and storm drain), utility easements, and the public right-of-way areas with dimensions.

Public Works Improvements Permit

All work in the public right-of-way and City easements is subject to review, approval, and permitting requirements of Public Works Department.

8. **Prior to the issuance of the public improvements permits, Applicant/Developer shall post surety bonds for the proposed public improvements, including but not limited to: driveway approaches, sidewalk, curb and gutter, street paving, parkway landscaping, street lights, water, and storm drain improvements.**
9. Permittee shall procure and maintain throughout the period of the Permit the following policies of insurance:

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- a. Commercial General Liability;
- b. Automobile Liability;
- c. Worker's Compensation as required by the State of California;

Note: The Commercial General Liability and the Automobile Liability policies shall include the City of Pomona as additional insured.

- 10. Permittee shall pay fees associated with and possess the City of Pomona Business License.
- 11. Changes and additions to the proposed work, including but not limited to detail plans for street improvement work, water plans and/or other work associated with this project and due to developer's or City's request shall require additional conditions to be completed by the applicant.

SECTION 5. The Secretary shall certify to the adoption of this Resolution and forward the original to the City Clerk.

APPROVED AND ADOPTED THIS 23RD DAY OF AUGUST, 2017.

CAROLYN HEMMING
PLANNING COMMISSION CHAIRPERSON

ATTEST:

BRAD JOHNSON
PLANNING COMMISSION SECRETARY

APPROVED AS TO FORM:

ANDREW JARED
ASSISTANT CITY ATTORNEY

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STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.
CITY OF POMONA)

AYES:
NOES:
ABSTAIN:
ABSENT:

Pursuant to Resolution No. 76-258 of the City of Pomona, the time in which judicial review of this action must be sought is governed by California Code of Civil Procedure Section 1094.6.

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