

2025 -- H 5799 SUBSTITUTE A

LC002159/SUB A

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2025

A N A C T

RELATING TO TOWNS AND CITIES -- SUBDIVISION OF LAND

Introduced By: Representatives Cruz, Shekarchi, Potter, Kislak, Stewart, Cotter,
Solomon, Slater, Casimiro, and Alzate
Date Introduced: February 27, 2025
Referred To: House Municipal Government & Housing

It is enacted by the General Assembly as follows:

- 1 SECTION 1. Section 45-23-32 of the General Laws in Chapter 45-23 entitled "Subdivision
- 2 of Land" is hereby amended to read as follows:
- 3 **45-23-32. Definitions.**
- 4 Where words or phrases used in this chapter are defined in the definitions section of either
- 5 the Rhode Island Comprehensive Planning and Land Use Regulation Act, § 45-22.2-4, or the Rhode
- 6 Island Zoning Enabling Act of 1991, § 45-24-31, they have the meanings stated in those acts.
- 7 Additional words and phrases may be defined in local ordinances, regulations, and rules under this
- 8 act in a manner that does not conflict or alter the terms or mandates in this act, the Rhode Island
- 9 Comprehensive Planning and Land Use Regulation Act § 45-22.2-4, and the Rhode Island Zoning
- 10 Enabling Act of 1991. The words and phrases defined in this section, however, shall be controlling
- 11 in all local ordinances, regulations, and rules created under this chapter. In addition, the following
- 12 words and phrases have the following meanings:
- 13 (1) **Administrative officer.** The municipal official(s) designated by the local regulations
- 14 to administer the land development and subdivision regulations to review and approve qualified
- 15 applications and/or coordinate with local boards and commissions, municipal staff, and state
- 16 agencies as set forth herein. The administrative officer may be a member, or the chair, of the
- 17 planning board, an employee of the municipal planning or zoning departments, or an appointed
- 18 official of the municipality. See § 45-23-55.
- 19 (2) **Board of appeal.** The local review authority for appeals of actions of the administrative

officer, which shall be the local zoning board of review constituted as the board of appeal. See § 45-23-57.

(3) **Bond.** See improvement guarantee.

(4) **Buildable lot.** A lot where construction for the use(s) permitted on the site under the local zoning ordinance is considered practicable by the planning board, considering the physical constraints to development of the site as well as the requirements of the pertinent federal, state, and local regulations. See § 45-23-60(a)(4).

(5) **Certificate of completeness.** A notice issued by the administrative officer informing an applicant that the application is complete and meets the requirements of the municipality's regulations, and that the applicant may proceed with the review process.

(6) **Concept plan.** A drawing with accompanying information showing the basic elements of a proposed land development plan or subdivision as used for pre-application meetings and early discussions, and classification of the project within the approval process.

(7) **Consistency with the comprehensive plan.** A requirement of all local land use regulations which means that all these regulations and subsequent actions are in accordance with the public policies arrived at through detailed study and analysis and adopted by the municipality as the comprehensive community plan as specified in § 45-22.2-3.

(8) **Dedication, fee-in-lieu-of.** Payments of cash that are authorized in the local regulations when requirements for mandatory dedication of land are not met because of physical conditions of the site or other reasons. The conditions under which the payments will be allowed and all formulas for calculating the amount shall be specified in advance in the local regulations. See § 45-23-47.

(9) **Development plan review.** Design or site plan review of a development of a permitted use. A municipality may utilize development plan review under limited circumstances to encourage development to comply with design and/or performance standards of the community under specific and objective guidelines, for the following categories of developments:

(i) A change in use at the property where no extensive construction of improvements is sought;

(ii) An adaptive reuse project located in a commercial zone where no extensive exterior construction of improvements is sought;

(iii) An adaptive reuse project located in a residential zone that results in less than nine (9) residential units;

(iv) Development in a designated urban or growth center; or

(v) Institutional development for educational or hospital facilities.

(vi) [Deleted by P.L. 2024, ch. 292, § 1 and P.L. 2024, ch. 293, § 1.]

1 (10) **Development regulation.** Zoning, subdivision, land development plan, development
2 plan review, historic district, official map, flood plain regulation, soil erosion control, or any other
3 governmental regulation of the use and development of land.

4 (11) **Division of land.** A subdivision.

5 (12) **Environmental constraints.** Natural features, resources, or land characteristics that
6 are sensitive to change and may require conservation measures or the application of special
7 development techniques to prevent degradation of the site, or may require limited development, or
8 in certain instances, may preclude development. See also physical constraints to development.

9 (13) **Final plan.** The final stage of land development and subdivision review or a formal
10 development plan review application. See §§ 45-23-38, 45-23-39, and 45-23-50.

11 (14) **Final plat.** The final drawing(s) of all or a portion of a subdivision to be recorded after
12 approval by the planning board and any accompanying material as described in the community's
13 regulations and/or required by the planning board.

14 (15) **Floor area, gross.** See R.I. State Building Code.

15 (16) **Governing body.** The body of the local government, generally the city or town
16 council, having the power to adopt ordinances, accept public dedications, release public
17 improvement guarantees, and collect fees.

18 (17) **Improvement.** Any natural or built item that becomes part of, is placed upon, or is
19 affixed to, real estate.

20 (18) **Improvement guarantee.** A security instrument accepted by a municipality to ensure
21 that all improvements, facilities, or work required by the land development and subdivision
22 regulations, or required by the municipality as a condition of approval, will be completed in
23 compliance with the approved plans and specifications of a development. See § 45-23-46.

24 (19) **Land development project.** A project in which one or more lots, tracts, or parcels of
25 land or a portion thereof are developed or redeveloped as a coordinated site for one or more uses,
26 units, or structures, including but not limited to, planned development or cluster development for
27 residential, commercial, institutional, recreational, open space, or mixed uses. The local regulations
28 shall include all requirements, procedures, and standards necessary for proper review and approval
29 of land development projects to ensure consistency with this chapter and the Rhode Island zoning
30 enabling act.

31 (i) **Minor land development project.** A land development project involving any one of
32 the following categories which has not otherwise been specifically designated by local ordinance
33 as development plan review:

34 (A) Seven thousand five hundred (7,500) gross square feet of floor area of new commercial,

1 manufacturing, or industrial development, or less; or

2 (B) An expansion of up to fifty percent (50%) of existing floor area or up to ten thousand

3 (10,000) square feet for commercial, manufacturing, or industrial structures; or

4 (C) Mixed-use development consisting of up to six (6) dwelling units and two thousand

5 five hundred (2,500) gross square feet of commercial space or less; or

6 (D) Multi-family residential or residential condominium development of nine (9) units or

7 less; or

8 (E) Change in use at the property where no extensive construction of improvements is

9 sought; or

10 (F) An adaptive reuse project of up to twenty-five thousand (25,000) square feet of gross

11 floor area located in a commercial zone where no extensive exterior construction of improvements

12 is sought; or

13 (G) An adaptive reuse project located in a residential zone that results in less than nine (9)

14 residential units;

15 A community can increase but not decrease the thresholds for minor land development set

16 forth above if specifically set forth in the local ordinance and/or regulations. The process by which

17 minor land development projects are reviewed by the local planning board, commission, technical

18 review committee, and/or administrative officer is set forth in § 45-23-38.

19 (ii) **Major land development project.** A land development project that exceeds the

20 thresholds for a minor land development project as set forth in this section and local ordinance or

21 regulation. The process by which major land development projects are reviewed by the local

22 planning board, commission, technical review committee, or administrative officer is set forth in §

23 45-23-39.

24 (20) **Local regulations.** The land development and subdivision review regulations adopted

25 under the provisions of this act. For purposes of clarification, throughout this act, where reference

26 is made to local regulations, it is to be understood as the land development and subdivision review

27 regulations and all related ordinances and rules properly adopted pursuant to this chapter.

28 (21) **Maintenance guarantee.** Any security instrument that may be required and accepted

29 by a municipality to ensure that necessary improvements will function as required for a specific

30 period of time. See improvement guarantee.

31 (22) **Master plan.** An overall plan for a proposed project site outlining general, rather than

32 detailed, development intentions. It describes the basic parameters of a major development

33 proposal, rather than giving full engineering details. Required in major land development or major

34 subdivision review only. It is the first formal review step of the major land development or major

1 subdivision process and the step in the process in which the public hearing is held. See § 45-23-39.

2 (23) **Modification of requirements.** See § 45-23-62.

3 (24) **Parcel.** A lot, or contiguous group of lots in single ownership or under single control,
4 and usually considered a unit for purposes of development. Also referred to as a tract.

5 (25) **Parking area or lot.** All that portion of a development that is used by vehicles, the
6 total area used for vehicular access, circulation, parking, loading, and unloading.

7 (26) **Permitting authority.** The local agency of government, meaning any board,
8 commission, or administrative officer specifically empowered by state enabling law and local
9 regulation or ordinance to hear and decide on specific matters pertaining to local land use.

10 (27) **Phased development.** Development, usually for large-scale projects, where
11 construction of public and/or private improvements proceeds by sections subsequent to approval
12 of a master plan for the entire site. See § 45-23-48.

13 (28) **Physical constraints to development.** Characteristics of a site or area, either natural
14 or man-made, which present significant difficulties to construction of the uses permitted on that
15 site, or would require extraordinary construction methods. See also environmental constraints.

16 (29) **Planning board.** The official planning agency of a municipality, whether designated
17 as the plan commission, planning commission, plan board, or as otherwise known.

18 (30) **Plat.** A drawing or drawings of a land development or subdivision plan showing the
19 location, boundaries, and lot lines of individual properties, as well as other necessary information
20 as specified in the local regulations.

21 (31) **Pre-application conference.** An initial meeting between developers and municipal
22 representatives that affords developers the opportunity to present their proposals informally and to
23 receive comments and directions from the municipal officials and others. See § 45-23-35.

24 (32) **Preliminary plan.** A required stage of land development and subdivision review that
25 generally requires detailed engineered drawings. See § 45-23-39.

26 (33) **Public hearing.** A hearing before the planning board that is duly noticed in accordance
27 with § 45-23-42 and that allows public comment. A public hearing is not required for an application
28 or stage of approval unless otherwise stated in this chapter.

29 (34) **Public improvement.** Any street or other roadway, sidewalk, pedestrian way, tree,
30 lawn, off-street parking area, drainage feature, or other facility for which the local government or
31 other governmental entity either is presently responsible, or will ultimately assume the
32 responsibility for maintenance and operation upon municipal acceptance.

33 (35) **Slope of land.** The grade, pitch, rise, or incline of the topographic landform or surface
34 of the ground.

- 1 (36) **Storm water detention.** A provision for storage of storm water runoff and the
2 controlled release of the runoff during and after a flood or storm.
- 3 (37) **Storm water retention.** A provision for storage of storm water runoff.
- 4 (38) **Street.** A public or private thoroughfare used, or intended to be used, for passage or
5 travel by motor vehicles. Streets are further classified by the functions they perform. See street
6 classification.
- 7 (39) **Street, access to.** An adequate and permanent way of entering a lot. All lots of record
8 shall have access to a public street for all vehicles normally associated with the uses permitted for
9 that lot.
- 10 (40) **Street, alley.** A public or private thoroughfare primarily designed to serve as
11 secondary access to the side or rear of those properties whose principal frontage is on some other
12 street.
- 13 (41) **Street, cul-de-sac.** A local street with only one outlet and having an appropriate
14 vehicular turnaround, either temporary or permanent, at the closed end.
- 15 (42) **Street, limited access highway.** A freeway or expressway providing for through
16 traffic. Owners or occupants of abutting property on lands and other persons have no legal right to
17 access, except at the points and in the manner as may be determined by the public authority having
18 jurisdiction over the highway.
- 19 (43) **Street, private.** A thoroughfare established as a separate tract for the benefit of
20 multiple, adjacent properties and meeting specific, municipal improvement standards. This
21 definition does not apply to driveways.
- 22 (44) **Street, public.** All public property reserved or dedicated for street traffic.
- 23 (45) **Street, stub.** A portion of a street reserved to provide access to future development,
24 which may provide for utility connections.
- 25 (46) **Street classification.** A method of roadway organization that identifies a street
26 hierarchy according to function within a road system, that is, types of vehicles served and
27 anticipated volumes, for the purposes of promoting safety, efficient land use, and the design
28 character of neighborhoods and districts. Local classifications use the following as major
29 categories:
- 30 (i) **Arterial.** A major street that serves as an avenue for the circulation of traffic into, out
31 of, or around the municipality and carries high volumes of traffic.
- 32 (ii) **Collector.** A street whose principal function is to carry traffic between local streets and
33 arterial streets but that may also provide direct access to abutting properties.
- 34 (iii) **Local.** Streets whose primary function is to provide access to abutting properties.

1 (47) **Subdivider.** Any person who: (i) Having an interest in land, causes it, directly or
2 indirectly, to be divided into a subdivision; or who (ii) Directly or indirectly sells, leases, or
3 develops, or offers to sell, lease, or develop, or advertises to sell, lease, or develop, any interest,
4 lot, parcel, site, unit, or plat in a subdivision; or who (iii) Engages directly or through an agent in
5 the business of selling, leasing, developing, or offering for sale, lease, or development a subdivision
6 or any interest, lot, parcel, site, unit, or plat in a subdivision.

7 (48) **Subdivision.** The division of a lot, tract, or parcel of land into two or more lots, tracts,
8 or parcels or any adjustment to existing lot lines is considered a subdivision.

9 (i) **Administrative subdivision.** Subdivision of existing lots that yields no additional lots
10 for development, and involves no creation or extension of streets. This subdivision only involves
11 division, mergers, mergers and division, or adjustments of boundaries of existing lots. The process
12 by which an administrative officer or municipal planning board or commission reviews any
13 subdivision qualifying for this review is set forth in § 45-23-37.

14 (ii) **Minor subdivision.** A subdivision creating nine (9) or fewer buildable lots. The process
15 by which a municipal planning board, commission, technical review committee, and/or
16 administrative officer reviews a minor subdivision is set forth in § 45-23-38. [Minor subdivisions](#)
17 [shall include oversized lot subdivisions.](#)

18 [Oversized lot subdivision. Subdivision of an existing lot, including a lot which was legally](#)
19 [merged or replatted, which result in the creation of a vacant lot or lots for residential use which are](#)
20 [equal to or greater in lot area than the area of fifty percent \(50%\) of the residential lots within two](#)
21 [hundred feet \(200'\) of the lot proposed for subdivision, as confirmed by a registered professional](#)
22 [engineer, surveyor or certified planner based on city or town records including geographic](#)
23 [information system and/or tax assessor data. A lot, qualifying for this type of subdivision shall be](#)
24 [allowed to subdivide even if the resulting lots fail to meet minimum lot size requirements of the](#)
25 [district in which such lot is located, subject to the applicable requirements in § 45-24-38. The](#)
26 [resulting subdivided lots shall have the benefit of reduced requirements as set forth in § 45-24-38,](#)
27 [and/or are eligible for the processes set forth in § 45-24-46, as applicable.](#)

28 (iii) **Major subdivision.** A subdivision creating ten (10) or more buildable lots. The
29 process by which a municipal planning board or commission reviews any subdivision qualifying
30 for this review under § 45-23-39.

31 (49) **Technical review committee.** A committee or committees appointed by the
32 municipality for the purpose of reviewing, commenting, approving, and/or making
33 recommendations to the planning board or administrative officer, as set forth in this chapter.

34 (50) **Temporary improvement.** Improvements built and maintained by a developer during

1 construction of a development project and prior to release of the improvement guarantee, but not
2 intended to be permanent.

3 (51) **Vested rights.** The right to initiate or continue the development of an approved project
4 for a specified period of time, under the regulations that were in effect at the time of approval, even
5 if, after the approval, the regulations change prior to the completion of the project.

6 (52) **Waiver of requirements.** See § 45-23-62.

7 SECTION 2. Sections 45-24-38 and 45-24-46 of the General Laws in Chapter 45-24
8 entitled "Zoning Ordinances" are hereby amended to read as follows:

9 **45-24-38. General provisions — Substandard lots of record.**

10 (a) Any city or town adopting or amending a zoning ordinance under this chapter shall
11 regulate the development of any single substandard lot of record or contiguous lots of record at the
12 effective date of adoption or amendment of the zoning ordinance.

13 (b) Notwithstanding the failure of that lot or those lots to meet the dimensional and/or
14 quantitative requirements, and/or road frontage or other access requirements, applicable in the
15 district as stated in the ordinance, a substandard lot of record shall not be required to seek any
16 zoning relief based solely on the failure to meet minimum lot size requirements of the district in
17 which such lot is located. For any structure proposed under this section on a substandard lot of
18 record, the following dimensional regulations shall apply:

19 (1) Minimum building setbacks, lot frontage, and lot width requirements for a lot that is
20 nonconforming in area shall be reduced by applying the building setback, lot frontage, and lot width
21 requirements from another zoning district in the municipality in which the subject lot would be
22 conforming as to lot area. If the subject lot is not conforming as to lot area in any zoning district in
23 the municipality, the setbacks, lot frontage, and lot width shall be reduced by the same proportion
24 that the area of such substandard lot meets the minimum lot area of the district in which the lot is
25 located. By way of example, if the lot area of a substandard lot only meets forty percent (40%) of
26 the minimum lot area required in the district in which it is located, the setbacks, lot frontage, and
27 lot width shall each be reduced to forty percent (40%) of the requirements for those dimensional
28 standards in the same district.

29 (2) Maximum lot building coverage for lots that are nonconforming in area shall be
30 increased by the inverse proportion that the area of such substandard lot meets the minimum area
31 requirements in the district in which the lot is located. By way of example, if the lot area of a
32 substandard lot only meets forty percent (40%) of the required minimum lot area, the maximum lot
33 building coverage is allowed to increase by sixty percent (60%) over the maximum permitted lot
34 building coverage in that district.

1 All proposals exceeding such reduced requirement shall proceed with a modification
2 request under § 45-24-46 or a dimensional variance request under § 45-24-41, whichever is
3 applicable.

4 (c) ~~Provisions~~ Except as set forth otherwise in this chapter and in chapter 23 of title 45,
5 provisions may be made for the merger of contiguous unimproved, or improved and unimproved,
6 substandard lots of record in the same ownership to create dimensionally conforming lots or to
7 reduce the extent of dimensional nonconformance. The ordinance shall specify the standards, on a
8 district by district basis, which determine the mergers. The standards shall include, but are not to
9 be limited to, the availability of infrastructure, the character of the neighborhood, and the
10 consistency with the comprehensive plan. The merger of lots shall not be required when the
11 substandard lot of record has an area equal to or greater than the area of fifty percent (50%) of the
12 lots within two hundred feet (200') of the subject lot, as confirmed by the zoning enforcement
13 officer.

14 **45-24-46. Special provisions — Modification.**

15 (a) A zoning ordinance shall provide for the issuance of modifications from the literal
16 dimensional requirements of the zoning ordinance in the instance of the construction, alteration, or
17 structural modification of a structure or lot of record. The zoning enforcement officer is authorized
18 to grant modification permits. The zoning ordinance shall permit modifications that are fifteen
19 percent (15%) or less of the dimensional requirements specified in the zoning ordinance but may
20 permit modification up to twenty-five percent (25%). A modification does not permit moving of
21 lot lines. Within ten (10) days of the receipt of a request for a modification, the zoning enforcement
22 officer shall make a decision as to the suitability of the requested modification based on the
23 following determinations:

24 (1) The modification requested is reasonably necessary for the full enjoyment of the
25 permitted use;

26 (2) If the modification is granted, neighboring property will neither be substantially injured
27 nor its appropriate use substantially impaired;

28 (3) The modification requested does not require a variance of a flood hazard requirement,
29 unless the building is built in accordance with applicable regulations; and

30 (4) The modification requested does not violate any rules or regulations with respect to
31 freshwater or coastal wetlands.

32 (b) Upon an affirmative determination, in the case of a modification of five percent (5%)
33 or less, the zoning enforcement officer shall have the authority to issue a permit approving the
34 modification, without any public notice requirements. In the case of a modification of greater than

1 five percent (5%), the zoning enforcement officer shall notify, by first class mail, all property
2 owners abutting the property which is the subject of the modification request, and shall indicate the
3 street address of the subject property in the notice, and shall publish in a newspaper of local
4 circulation within the city or town that the modification will be granted unless written objection is
5 received within fourteen (14) days of the public notice. If written objection is received within
6 fourteen (14) days, the request for a modification shall be scheduled for the next available hearing
7 before the zoning board of review on application for a dimensional variance following the standard
8 procedures for such variances, including notice requirements provided for under this chapter. If no
9 written objections are received within fourteen (14) days, the zoning enforcement officer shall grant
10 the modification. The zoning enforcement officer may apply any special conditions to the permit
11 as may, in the opinion of the officer, be required to conform to the intent and purposes of the zoning
12 ordinance. The zoning enforcement officer shall keep public records of all requests for
13 modifications, and of findings, determinations, special conditions, and any objections received.
14 Costs of any notice required under this subsection shall be borne by the applicant requesting the
15 modification.

16 (c) Neighborhood character-based modifications (“NCBM”). The zoning enforcement
17 officer is authorized to grant NCBM on any parcel with a water and sewer connection, and for
18 purposes of residential use, from the literal dimensional requirements of the zoning ordinance in
19 the instance of the construction, alteration, creation or structural modification of a dwelling unit,
20 provided that:

21 (1) Such modifications shall only be granted for dimensional relief from setbacks, height,
22 frontage, lot coverage, lot size, lot width, and lot depth, up to the average dimensions of the
23 comparable existing built environment;

24 (2) The resulting lots are not less than three thousand square feet (3,000 ft²) in lot size each;

25 (3) The average dimensions of the comparable existing built environment shall be
26 calculated as follows:

27 (i) Comparable existing parcels shall mean all parcels that are:

28 (A) Within two hundred feet (200’) of the subject property; and

29 (B) In the same base zone; and

30 (C) Used for residential purposes.

31 (ii) The average dimensions shall be confirmed by a registered professional engineer,
32 surveyor or certified planner based on city or town records including geographic information
33 system and/or tax assessor data.

34 (iii) The average dimensions are to be determined without any additional review of zoning

1 or building code analysis of the legality of the existing dimensions of the comparable existing
2 parcels.

3 (4) Within ten (10) days of the receipt of a request for NCBM, the zoning enforcement
4 officer shall make a decision as to the suitability of the requested modification based on the
5 following determinations:

6 (i) The modification requested does not require a variance of a flood hazard requirement,
7 unless the building is built in accordance with applicable regulations; and

8 (ii) The modification requested does not violate any rules or regulations with respect to
9 freshwater or coastal wetlands; and

10 (iii) The NCBM does not violate any provisions regarding separation included in the state
11 building or fire code;

12 (5) Upon an affirmative determination, in the case of an NCBM modification of equal to
13 or less than thirty percent (30%) of the requirements of the zoning district, the zoning enforcement
14 officer shall have the authority to issue a permit approving the modification, without any public
15 notice requirements. In the case of an NCBM modification of greater than thirty percent (30%), the
16 zoning enforcement officer shall notify, by first class mail, all property owners abutting the
17 property which is the subject of the NCBM modification request, and shall indicate the street
18 address of the subject property in the notice, and shall publish in a newspaper of local circulation
19 within the city or town that the modification will be granted unless written objection is received
20 within fourteen (14) days of the public notice. If written objection is received from any party
21 entitled to notice under this section within fourteen (14) days, the request for a modification shall
22 be scheduled for the next available hearing before the zoning board of review on application for a
23 dimensional variance following the standard procedures for such variances, including notice
24 requirements provided for under this chapter. If no written objections are received within fourteen
25 (14) days, the zoning enforcement officer shall grant the modification. The zoning enforcement
26 officer may apply any special conditions to the permit as may, in the opinion of the officer, be
27 required to conform to the intent and purposes of the zoning ordinance. The zoning enforcement
28 officer shall keep public records of all requests for modifications, and of findings, determinations,
29 special conditions, and any objections received. Costs of any notice required under this subsection
30 shall be borne by the applicant requesting the modification.

31 SECTION 3. This act shall take effect on January 1, 2026.

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LC002159/SUB A
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO TOWNS AND CITIES -- SUBDIVISION OF LAND

1 This act would provide that, relative to subdivision of land, minor subdivisions would
2 include oversized lot subdivisions under certain circumstances and would also, relative to zoning
3 ordinances, permit a modification to allow "neighborhood character-based modifications" under
4 certain circumstances.

5 This act would take effect on January 1, 2026.

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