

NOTICE OF DECISION

PLANNING DIVISION
555 LIBERTY ST. SE, RM 305
SALEM, OREGON 97301
PHONE: 503-588-6173
FAX: 503-588-6005



*Si necesita ayuda para comprender esta informacion, por favor llame
503-588-6173*

DECISION OF THE HISTORIC PRESERVATION OFFICER

MINOR HISTORIC DESIGN REVIEW CASE NO.: HIS21-21

APPLICATION NO.: 21-117109-DR

NOTICE OF DECISION DATE: November 9, 2021

SUMMARY: A proposal to add a new exterior enclosed eating area at the rear and a vent and CO2 fill box within the front entry of the Electric Building (1917).

REQUEST: Class 2 Minor Historic Design Review of a proposal to add a new exterior enclosed eating area at the rear and a vent and CO2 fill box within the front entry of the Electric Building (1917), a historic contributing resource within the Downtown Salem National Register Historic District on property zoned CB (Central Business District) and located at 249 Liberty Street NE (aka 241-249 Liberty Street NE-Marion County Assessors Map and Tax Lot number: 073W22DC07301).

APPLICANT: Rex Robertson on behalf of Newberry LLC (Roy Carmen)

LOCATION: 249 Liberty St NE, Salem OR 97301

CRITERIA: Salem Revised Code (SRC) Chapters 230.040 – Standards for historic contributing buildings in commercial historic districts

FINDINGS: The findings are in the attached Decision dated November 9, 2021.

DECISION: The **Historic Preservation Officer (a Planning Administrator designee)** **APPROVED** Minor Historic Design Review Case No. HIS21-21 based upon the application materials deemed complete on October 13, 2021 and the findings as presented in this report.

The rights granted by the attached decision must be exercised, or an extension granted, by November 25, 2023, or this approval shall be null and void.

Application Deemed Complete:	<u>October 13, 2021</u>
Notice of Decision Mailing Date:	<u>November 9, 2021</u>
Decision Effective Date:	<u>November 25, 2021</u>
State Mandate Date:	<u>February 10, 2022</u>

Case Manager: Kimberli Fitzgerald, kfitzgerald@cityofsalem.net, 503-540-2397

This decision is final unless written appeal and associated fee (if applicable) from an aggrieved party is filed with the City of Salem Planning Division, Room 320, 555 Liberty Street SE, Salem OR 97301, or by email at planning@cityofsalem.net, no later than 5:00 p.m. Wednesday, November 24, 2021. The notice of appeal must contain the information required by SRC 300.1020 and must state where the decision failed to conform to the provisions of the applicable code section, SRC

Chapter(s) 230. The appeal fee must be paid at the time of filing. If the appeal is untimely and/or lacks the proper fee, the appeal will be rejected. The Historic Landmarks Commission will review the appeal at a public hearing. After the hearing, the Historic Landmarks Commission may amend, rescind, or affirm the action, or refer the matter to staff for additional information.

The complete case file, including findings, conclusions and conditions of approval, if any, is available for review by contacting the case manager, or at the Planning Desk in the Permit Application Center, Room 305, City Hall, 555 Liberty Street SE, during regular business hours.

<http://www.cityofsalem.net/planning>

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BEFORE THE PLANNING ADMINISTRATOR OF THE CITY OF SALEM

**HISTORIC DESIGN REVIEW CASE NO. HIS21-21
DECISION**

**IN THE MATTER OF APPROVAL OF) MINOR HISTORIC DESIGN REVIEW
HISTORIC DESIGN REVIEW)
CASE NO. HIS21-21)
249 LIBERTY STREET NE) NOVEMBER 9, 2021**

In the matter of the application for a Minor Historic Design Review submitted by Rex Robertson on behalf of Newberry LLC, the Historic Preservation Officer (a Planning Administrator Designee), having received and reviewed evidence and the application materials, makes the following findings and adopts the following order as set forth herein.

REQUEST

SUMMARY: A proposal to add a new exterior enclosed eating area at the rear and a vent and CO2 fill box within the front entry of the Electric Building (1917).

REQUEST: Class 2 Minor Historic Design Review of a proposal to add a new exterior enclosed eating area at the rear and a vent and CO2 fill box within the front entry of the Electric Building (1917), a historic contributing resource within the Downtown Salem National Register Historic District on property zoned CB (Central Business District) and located at 249 Liberty Street NE (aka 241-249 Liberty Street NE-Marion County Assessors Map and Tax Lot number: 073W22DC07301).

A vicinity map illustrating the location of the property is attached hereto, and made a part of this decision (**Attachment A**).

DECISION

APPROVED based upon the application materials deemed complete on October 13, 2021 and the findings as presented in this report.

FINDINGS

1. Minor Historic Design Review Applicability

SRC230.020(f) requires Historic Design Review approval for any alterations to historic resources as those terms and procedures are defined in SRC 230. The Planning Administrator shall render a decision supported by findings that explain conformance or lack thereof with relevant design standards, state the facts relied upon in rendering the decision, and explain justification for the decision.

PROPOSAL

The applicant is proposing to install a new enclosed eating area will be approximately 30' in length and extend 3' under the existing steel canopies and extend the length of the roll up

doors fronting the alley square and is proposed at the rear of the Electric Building. The eating area will be enclosed by a black metal railing approximately 33" high. Wooden panels will be framed by 3" x 3" metal rails with wooden panels ¾" thick and 29" tall surrounding the new eating area. Five square metal posts, approximately 8' in height will be installed within the metal railing enclosure and will be utilized to hang exterior lights. The metal and wood enclosure will not be attached to the rear of the historic structure, but instead will abut the building. The applicant is proposing to install roll down vinyl shades 8' by 8' in size which will be attached using metal brackets to the existing metal canopies at the rear of the structure. Initially the applicant was proposing to install a new metal framed fixed transom window insert, and a 12" x 12" metal vent within the existing transom window opening above the front door- but he has withdrawn that portion of the request as they have found an alternative way to vent which will not require alterations to the front facade. The applicant is proposing to install a 7" x 8" CO2 metal fill box at the base of the southern end of the front entry frame within the recessed entry of the storefront within the primary façade fronting Liberty Street NE(**Attachment B**). Staff determined that the following standards from SRC 230.040(f) *Standards for Contributing Resources in Commercial Historic Districts, Alterations and Additions* are applicable to this project.

SUMMARY OF RECORD

The following items are submitted to the record and are available upon request: All materials submitted by the applicant, including any applicable professional studies such as traffic impact analysis, geologic assessments, and stormwater reports; any materials and comments from public agencies, City departments, neighborhood associations, and the public; and all documents referenced in this report.

APPLICANT'S STATEMENT

A request for historic design review must be supported by proof that it conforms to all applicable criteria imposed by the Salem Revised Code. The applicants submitted a written statement, which is included in its entirety as **Attachment B** in this staff report.

Staff utilized the information from the applicant's statements to evaluate the applicant's proposal and to compose the facts and findings within the staff report. Salem Revised Code (SRC) 230.040(f) *Standards for Contributing Resources in Commercial Historic Districts, Alterations and Additions* are the applicable criteria for evaluation of this proposal.

FACTS & FINDINGS

1. Historic Designation

Under Salem Revised Code (SRC) Chapter 230, no exterior portion of a local historic resource, contributing, non-contributing building or new construction in a historic district shall be erected, altered, restored, moved or demolished until historic design review approval has been granted on the basis of the project's conformity with the applicable criteria in SRC 230. Conditions of approval, if any, shall be limited to project modifications required to meet the applicable criteria.

According to SRC 230.020(f), historic design review approval shall be granted if the application satisfies the applicable standards set forth in Chapter 230. For Class 1 and Class 2 Minor Historic Design Review decisions HLC staff, the Historic Preservation Officer (a designee of the Planning Administrator), shall render their decision supported by findings that explain conformance or lack thereof with relevant design standards, state the facts relied upon in rendering the decision, and explain justification for the decision.

2. Historic Significance

The Electric Building (aka. PGE/Yeater buildings) were originally evaluated as 'historic non-contributing' to the Downtown Historic District. At the time of the establishment of the Salem Downtown Historic District in 2001, the building was occupied by Anderson's Sporting Goods and the upper portion of the original historic façade of both buildings was covered with a blue rectangular synthetic material added in the 1950s to make it appear as one building. The owner completed a restoration of the front façade in 2007-2008 and the status of the buildings was changed to 'historic contributing' by the Oregon Historic Preservation Office on January 14, 2013. The HLC approved a proposal to modify the alley façade (installation of storefront and metal awnings) and the addition of a rooftop penthouse in 2013 (HIS13-06).

Neighborhood and Citizen Comments

The subject property is located within the Central Area Neighborhood Development Organization (CANDO). A Request for Comments was sent to the neighborhood association, and surrounding property owners and tenants within 250 feet of the property pursuant to Salem Revised Code (SRC) requirements on October 13, 2021. Comments were received from Michael Livingston, CANDO Vice Chair indicating that CANDO does not oppose the proposal. He indicated that the historic characteristics would not be diminished by this proposal (**Attachment C**).

3. City Department and Public Agency Comments

The Building and Safety Division indicates that the applicant must obtain required permits. The Planning Division has reviewed the proposal and has stated that Class 2 Site Plan Review is required for the exterior work. The project will require site plan with measurements/property lines to ensure compliance with zone setbacks. The Fire Department has stated that the enclosed dining area shall not reduce the width of the existing alley way and other alterations be required to comply with the applicable sections of the Oregon Fire Code and be reviewed during building permit review. The Public Works Department has stated that the alterations cannot encroach into the public right of way (alley).

4. Historic Design Review

SRC Chapter SRC 230.040(f) *Standards for Contributing Resources in Commercial Historic Districts, Alterations and Additions* are applicable to this project. Table 230-1 defines this activity as a Class 2 Minor Historic Design Review. Historic Landmarks Commission staff reviewed the project proposal and has the following findings for the applicable criterion.

FINDINGS:

Criteria: 230.040(f) Alterations and Additions. *Additions to, or alterations of, the historic contributing building may be made to accommodate uses other than the originally intended purpose*

(1) Materials. *Materials for alterations or additions shall:*

(A) *Building materials shall be of traditional dimensions.*

Finding: The applicant is proposing to install a new CO2 box of metal, and a patio enclosure constructed of wood and metal. Staff finds that these materials are traditional materials and dimensions found throughout the Downtown Historic District and therefore this standard is met for this portion of the proposal. The proposed under awning shades are vinyl, a modern material, however the dimensions of these shades are similar to those from the historic period thereby meeting SRC 230.040(f)(1)(A).

(B) *Material shall be of the same type, quality and finish as original material in the building.*

Finding: The proposed materials utilized for the patio enclosure are wood and metal. The applicants proposed material for the new CO2 box within the recessed entry are of metal. These traditional materials are similar in quality and finish to materials for similar features throughout the building. The proposed under awning shades are vinyl, a modern material, however these shades are compatible with the original material from the historic period and as this feature is located at the rear of the resource, any adverse impact from their installation has been minimized. Staff finds that SRC 230.040(f)(1)(B) has been met.

(C) *New masonry added to a building shall, to the greatest degree possible, match the color, texture and bonding pattern of the original masonry.*

Finding: The applicant is not proposing to install any new masonry, therefore this standard is not applicable to the evaluation of this proposal.

(D) *For those areas where original material must be disturbed, original material shall be retained to the maximum extent possible.*

Finding: The proposed alterations within the recessed entry and at the rear of the Electric Building will not disturb any original material. The installation of the new CO2 box is within the existing non-original storefront door frame. The proposed eating enclosure will abut the rear of the building, and the proposed roll down awnings will be attached to the non-historic metal canopies. Staff finds that SRC 230.040(f)(1)(D) has been met.

(2) Design.

(A) *Additions shall be located at the rear, or on an inconspicuous side, of the building.*

Finding: The applicant is proposing minor alterations within the non-original recessed storefront entry, an inconspicuous location on the Electric Building. Additionally, the applicant is proposing a new eating enclosure at the rear of the resource fronting the alley. Staff finds that SRC 230.040(f)(2)(A) has been met.

(B) *Be designed and constructed to minimize changes to the building.*

Finding: The applicant has designed both the alterations at the front of the Electric Building and the rear fronting the alley to minimize changes to any character defining features of the resource. Staff finds that SRC 230.040(f)(2)(B) has been met.

(C) *Be limited in size and scale such that a harmonious relationship is created in relationship to the original building.*

Finding: The applicant's proposed alterations are small in size and scale both within the recessed front entry as well as at the rear of the building fronting the alley. Staff finds that SRC 230.040(f)(2)(C) has been met.

(D) *Be designed and constructed in a manner that significant historical, architectural or cultural features of the building are not obscured, damaged, or destroyed.*

Finding: The installation of the new CO2 fill box within the existing recessed door front impacts the non-original door frame, and no character defining features will be destroyed or obscured. The applicant's proposed eating enclosure is located at the rear of the resource fronting the alley, and no original character defining features of the resource will be impacted. Staff finds that SRC 230.040(f)(2)(D) has been met.

(E) *Be designed to be compatible with the size, scale, material, and character of the building, and the district generally.*

Finding: Overall, the applicants proposed alterations to both the front and rear of the Electric Building are small in scale and compatible in material and design with the resource and the Salem Downtown Historic District. Staff finds that SRC 230.040(f)(2)(E) has been met.

(F) *Not destroy or adversely impact existing distinctive materials, features, finishes and construction techniques or examples of craftsmanship that are part of the building.*

Finding: No original distinctive materials or character defining features will be destroyed by either the alterations proposed within the recessed front entry or the proposed addition of the new enclosed eating area at the rear of the resource. Staff finds that SRC 230.040(f)(2)(F) has been met.

(G) *Be constructed with the least possible loss of historic materials*

Finding: No original historic materials will be lost as a result of the proposed alterations. Staff finds that SRC 230.040(f)(2)(G) has been met.

(H) *Not create a false sense of historical development by including features that would appear to have been part of the building during the period of significance but whose existence is not supported by historical evidence.*

Finding: The applicant's proposal, while compatible in design and material is clearly new and

does not create a false sense of history. Staff finds that SRC 230.040(f)(2)(H) has been met.

(I) *Be designed in a manner that makes it clear what is original to the building and what is new.*

Finding: The applicant's proposed new eating enclosure fronting the alley is designed to be attached to the 2013 metal storefront fronting the alley. The materials and design reflect this newer design, making it clear that this portion of the building did not originally have this type of outdoor eating use. Additionally, the proposed alterations within the front entry are to accommodate the modern restaurant use by the tenant. Staff finds that SRC 230.040(f)(2)(I) has been met.

(J) *Be designed to reflect, but not replicate, the architectural styles of the period of significance.*

Finding: The applicant's proposed new eating enclosure at the rear of the resource fronting the alley is compatible with the historic resource, and reflects the design of the 2013 storefront, and does not replicate the style of the historic Electric Building. Staff finds that SRC 230.040(f)(2)(J) has been met.

(K) *Preserve features of the building that has occurred over time and has attained significance in its own right.*

Finding: No character defining features of the Electric Building that have acquired significance over time are proposed for alteration. Staff finds that SRC 230.040(f)(2)(K) has been met.

(L) *Preserve distinguishing original qualities of the building and its site.*

Finding: The applicant's proposal ensures that the distinguishing original qualities of the Electric Building are preserved because no original material is proposed for alteration. Staff finds that SRC 230.040(f)(2)(L) has been met.

(M) *Not increase the height of a building to more than four stories.*

Finding: The applicant is not proposing to increase the height of the Electric Building. Staff finds that SRC 230.040(f)(2)(M) has been met.

DECISION

Based upon the application materials deemed complete on October 13, 2021 and the findings as presented in this report, the application for HIS21-21 is **APPROVED**.



Kimberli Fitzgerald, AICP
Historic Preservation Officer
Planning Administrator Designee

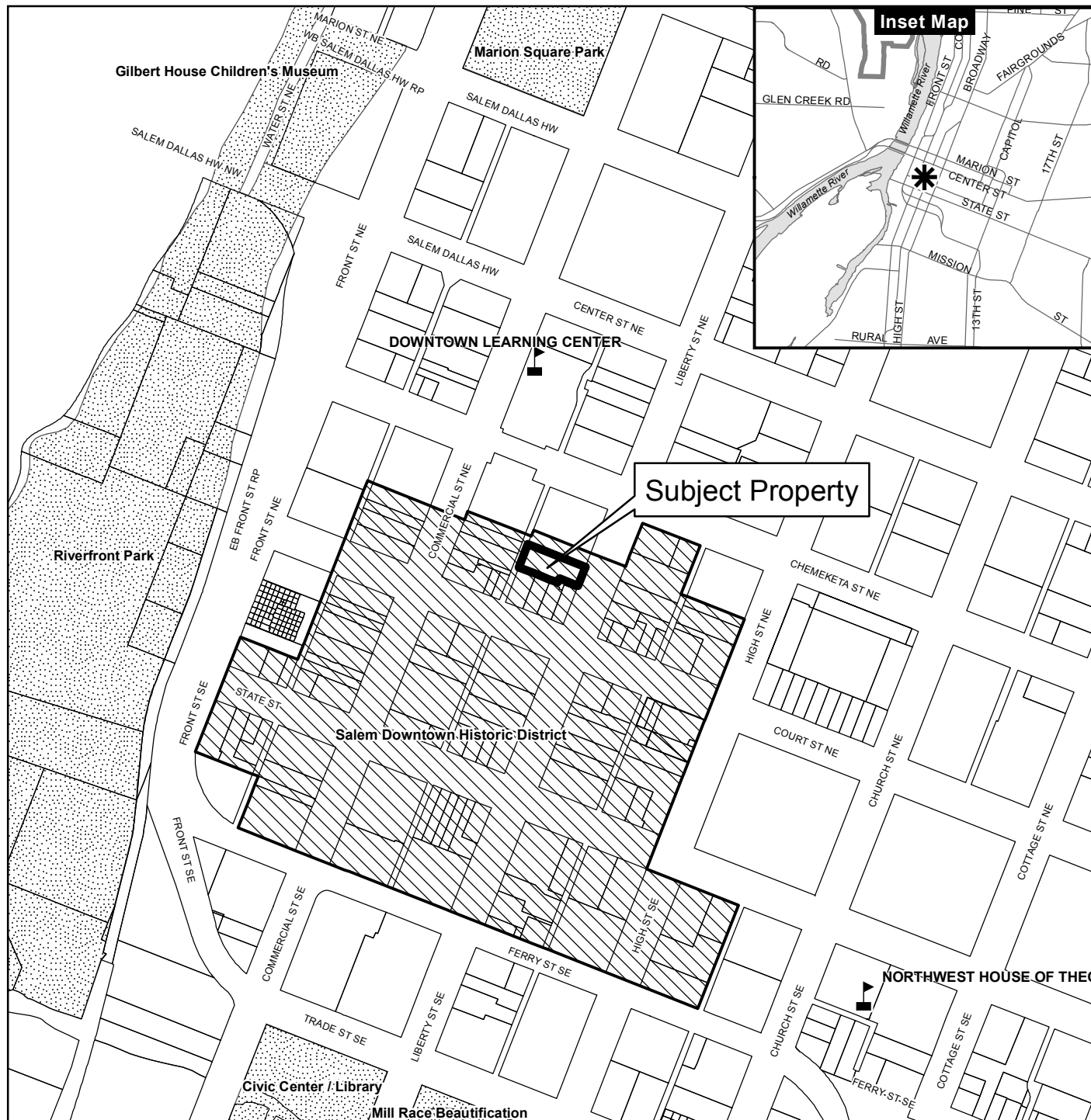
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Attachments: A. Vicinity Map
B. Applicant's Submittal Materials
C. Neighborhood Association Comments: CANDO

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Liberty Street NE .docx

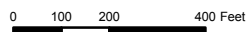
Vicinity Map

249 Liberty Street NE (073W22DC07301)



Legend

- Taxlots
- Urban Growth Boundary
- City Limits
- Outside Salem City Limits
- Historic District
- Schools
- Parks



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Liberty ST

Chemeketa ST

Court ST

The Cozy
Taberna

Electric Alley

Commercial ST



Electric Alley Façade-

Cozy Taberna

249 Liberty St. NE -







Proposed Vent -
WITHDRAWN from
Proposal

140

Electric Alley Entrance

Kimberli Fitzgerald

From: MICHAEL LIVINGSTON <michaellivingston1@comcast.net>
Sent: Wednesday, October 13, 2021 12:44 PM
To: Zachery Cardoso
Cc: Owens, Sarah; Kimberli Fitzgerald; Irma Dowd; Bryant Baird
Subject: Re: Notice of Filing / Request for Comments - Case No. HIS21-21 for 249 Liberty St NE

ZACHERY,

On behalf of CANDO, I am submitting this comment in response to your request below in Case No. HIS21-21 for 249 Liberty St NE :

CANDO does not oppose the proposal to add a new exterior enclosed eating area at the rear and a vent and CO2 fill box within the front entry of the Electric Building (1917). Given the design and location of these changes and the modifications to this part of the building already approved and carried out, the historical value and characteristics of the building will not be diminished in any way by this proposal.

Michael Livingston
CANDO Vice Chair

On 10/13/2021 9:26 AM Zachery Cardoso <zcardoso@cityofsalem.net> wrote:

Hello,

The Notice of Filing / Request for Comments for Minor Historic Design Review Case No. HIS21-21 for 249 Liberty St NE is attached for your information. Comments are due **October 27, 2021 by 5:00 p.m.** Hard copies go out in the mail today for those of you who are to receive one.

Application Summary: A proposal to add a new exterior enclosed eating area at the rear and a vent and CO2 fill box within the front entry of the Electric Building (1917).

Please direct questions or comments to the **CASE MANAGER:**

Kimberli Fitzgerald

kfitzgerald@cityofsalem.net

503-540-2397

Thank you,

Zachery Cardoso

Admin Analyst I

City of Salem | Community Development Department

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