

RESOLUTION NO. PZ 09-17
Series of 2017

A RESOLUTION BY THE PLANNING AND ZONING COMMISSION OF THE TOWN OF DILLON, COLORADO, APPROVING A LEVEL III DEVELOPMENT APPLICATION FOR A CONDITIONAL USE PERMIT FOR AN ACCESSORY APARTMENT AT 313 TENDERFOOT STREET, DILLON, COLORADO; AND, SETTING FORTH DETAILS IN RELATION THERETO.

WHEREAS, the Planning and Zoning Commission of the Town of Dillon has received a Class III development Application for a Conditional Use Permit for an Accessory Apartment at 313 Tenderfoot Street, Lot 13, Block K, New Town of Dillon, Dillon, Colorado; and

WHEREAS, following the required notice, a public hearing was held on August 2nd, 2017, before the Planning and Zoning Commission of the Town of Dillon on a Conditional Use Permit for an Accessory Apartment at 313 Tenderfoot Street, Lot 13, Block K, New Town of Dillon, Dillon, Colorado; and

WHEREAS, following the public hearing the Planning and Zoning Commission of the Town of Dillon has made certain findings of fact regarding a Conditional Use Permit for an Accessory Apartment at 313 Tenderfoot Street, Lot 13, Block K, New Town of Dillon, Dillon, Colorado; and

WHEREAS, the Planning and Zoning Commission of the Town of Dillon has determined that certain conditions which are reasonable and necessary to and relate to impacts created by the proposed development should attach to the approval of the Application for the Class III Conditional Use permit.

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING AND ZONING COMMISSION OF THE TOWN OF DILLON, COLORADO, AS FOLLOWS:

Section 1. That the Planning and Zoning Commission of the Town of Dillon, following the required notice, held a public hearing on August 2nd, 2017, on the Application for a Conditional Use permit for an Accessory Apartment at 313 Tenderfoot Street, Dillon, Colorado, and following said public hearing makes the following findings of fact:

A. That the Application for the Conditional Use permit for an Accessory Apartment is complete.

B. That the proposed Class III Application for a Conditional Use Permit for an Accessory Apartment complies with the specific requirements of Section 16-5-220 “Conditional Use criteria” of the Town of Dillon Municipal Code, as detailed as follows:

1. The use is listed as an allowed Conditional Use within the zone, or is otherwise identified as a Conditional Use and is consistent with the intent and purpose of the Comprehensive Plan and applicable zoning district.

The site is zoned Residential Low (RL), an Accessory Apartment is allowed in the Residential Low (RL) zoning district so long as certain provisions of the Dillon Municipal Code are met. The Accessory Apartment is consistent with the existing residential uses in this developed neighborhood, and Accessory Apartments exist in nearby properties.

2. The parcel is suitable for the proposed Conditional Use, considering such factors as size, shape, location, topography, soils, slope stability, drainage and natural features.

The proposed Accessory Apartment is an existing condition in the residence, and the space has been used as an Accessory Apartment since the home was built in 1977. The Application for the Conditional Use Permit for the Accessory Apartment is for the purposes of bringing the residence into compliance with the Dillon Municipal Code. The size, shape, location, topography, soils, slope stability, drainage, and natural features are not anticipated to be affected by the proposed garage and Accessory Apartment project. Adequate space exists within the current hardscapes on the property for the additional two parking spaces required as part of an accessory Apartment. The required snow storage area is also provided, as indicated on the site plan.

3. The proposed Conditional Use will not have significant adverse impacts on the air or water quality of the community.

The existing site is developed with appropriate drainage and vegetation. Town staff cannot identify any potential air quality concerns with the proposed continued use of the Accessory Apartment on this property.

4. The proposed Conditional Use will not substantially limit, impair or preclude the use of surrounding properties for the uses permitted in the applicable zoning district.

The existing developed site is adjacent to existing residences, several of which have Accessory Apartments. The proposed continued use of the existing Accessory Apartment will not substantially limit or impair the existing uses on the surrounding properties.

5. Adequate public utilities and services are available or will be made available to the site prior to the establishment of the Conditional Use.

The existing site is already served by gas, electric, water, and sanitary sewer facilities. The project requires the assessment of additional water and sewer tap fees, which the Applicant has agreed to pay. Such

payment shall be made prior to issuance the Conditional Use Permit for the Accessory Apartment.

Section 2. That the proposed Class III Application for a Conditional Use permit for an Accessory Apartment complies with the specific requirements of Section 16-4-40 “Accessory Apartments and secondary units” of the Town of Dillon Municipal Code, as detailed as follows:

A secondary residential unit or Accessory Apartment may be permitted in the RE, RL, RM and RH zones in a single-family residence, subject to the following provisions:

1. The Planning and Zoning Commission shall review and approve, under the Level III process, a site plan showing the location of the unit.

The Applicant has applied for a Level III Development Permit for the continued use of an Accessory Apartment that was part of the home when it was constructed in 1977. The Application includes a site plan indicating the required two (2) parking spaces for vehicles associated with the Accessory Apartment. The Accessory Apartment is located on the lower level of the residence as shown on the lower level floor plan provided with the Application. The Applicant previously applied for a Development Permit to remodel the residence, at which time it was determined that the existing Accessory Apartment was a non-conforming use. This Level III Application is intended to bring the Accessory Apartment into conformance with the requirements of the Dillon Municipal Code.

2. The property owner shall pay all required water and sewer tap fees.

The property owner shall pay an additional 0.55 EQR water and sewer tap fee associated with the Accessory Apartment (Accessory Apartments are typically assessed 0.65 EQR's, but 1.1 EQR's are currently applied for a 4-bedroom, 3-bathroom home including the existing apartment). The fee shall be paid in full prior to issuance of the Conditional Use Permit.

3. The Accessory Apartment shall meet all building code requirements.

The Accessory Apartment shall conform to all Summit County Building Inspection Department requirements. The Accessory Apartment shall be inspected by the Summit County Building Inspection Department and approved for such use prior to issuance of the Certificate of Occupancy.

4. Two (2) parking spaces shall be provided per unit, and such parking area shall be landscaped to buffer parking from neighboring properties.

Two parking spaces for the Accessory Apartment are provided as part of the Application as indicated on the site plan.

5. The habitable portion of the Accessory Apartment is not greater than nine hundred (900) square feet in size, nor is it more than one-third ($\frac{1}{3}$) the size of the heated living area of the primary residential unit.

The habitable portion of the Accessory Apartment is approximately 720 square feet of the overall heated portion of the residence which is approximately 3310 square feet. This sub-section is satisfied with the Application.

6. A restrictive covenant is filed stating the unit will not be subdivided into a separate ownership unit from the primary unit.

The property owner shall execute the restrictive covenant to not subdivide into separate ownership, and must file said restrictive covenant as a condition of approval of this Resolution.

7. The unit is deed restricted against utilization as a short-term rental, which means it may not be rented for periods of time of less than six (6) months.

The property owner shall execute the deed restriction preventing the short term rental of the property and must file said deed restriction as a condition of approval of this Resolution.

8. The unit design is compatible with the neighborhood and the principal structure.

No addition is planned with this Development Permit Application; however, the entire residence is being remodeled, including exterior siding, roof, and deck remodeling under a separate Development Permit. The improvements appear to be compatible with the neighborhood.

9. The unit may be a separate building from the primary structure, when placed above a freestanding garage, or on lots greater than one (1) acre.

This sub-section does not apply.

Section 3. That the Planning and Zoning Commission of the Town of Dillon does hereby approve a Conditional Use permit for an Accessory Apartment at 313 Tenderfoot Street, Dillon, Colorado with the following conditions:

1. The Applicant shall pay the required water and sewer tap fees: 0.55 EQR's balance due. Said fees shall be paid prior to issuance of the Conditional Use Permit.

2. The Applicant shall file with the Town the required restrictive covenant preventing subdividing into separate ownership.

3. The Applicant shall file with the Town a deed restriction that prevents short term rentals of the Accessory Apartment.

4. The Applicant shall verify the functionality of the water service curbstop valve. The curbstop water service valve shall be observed and documented as functional by the Dillon Water Department. It is the owner's responsibility to maintain the curbstop valve in an operational condition in accordance with the Dillon Municipal Code.

5. The Applicant shall submit Summit County Building Inspection documentation approving the Accessory Apartment space to be utilized as such. Such documentation shall be submitted to the Town prior to issuance of the Certificate of Occupancy.

APPROVED AND ADOPTED THIS 2nd DAY OF AUGUST, 2017 BY THE PLANNING AND ZONING COMMISSION OF THE TOWN OF DILLON, COLORADO.

**PLANNING AND ZONING COMMISSION,
TOWN OF DILLON**

By: _____
Amy Gaddis, Chairperson

ATTEST:

By: _____
Corrie Woloshan, Secretary to the Commission

**PLANNING AND ZONING COMMISSION ACTION ITEM
STAFF SUMMARY
AUGUST 2, 2017 PLANNING AND ZONING COMMISSION MEETING**

DATE: July 26, 2017

AGENDA ITEM NUMBER: 4

ACTION TO BE CONSIDERED:

Consideration of a Resolution No. PZ 09-17, Series of 2017:

A RESOLUTION BY THE PLANNING AND ZONING COMMISSION OF THE TOWN OF DILLON, COLORADO, APPROVING A LEVEL III DEVELOPMENT APPLICATION FOR A CONDITIONAL USE PERMIT FOR AN ACCESSORY APARTMENT AT 313 TENDERFOOT STREET, DILLON, COLORADO; AND, SETTING FORTH DETAILS IN RELATION THERETO.

PUBLIC HEARING

SUMMARY:

The Town received an application for a Conditional Use Permit for an Accessory Apartment at 313 Tenderfoot Street, Lot 13, Block K, New Town of Dillon Subdivision, Dillon, Colorado.

The proposed project involves converting a portion of the ground floor into an accessory apartment with a kitchen. The application demonstrates conformance to the Code Sections pertaining to Conditional Use Permits and Accessory Dwelling Units, Section 16-5-220 and Section 16-4-40, respectively.

Project: Dietl Accessory Apartment

Location: Lot 13, Block K, New Town of Dillon Subdivision

Address: 313 Tenderfoot Street

Owners: Gregory S. Dietl

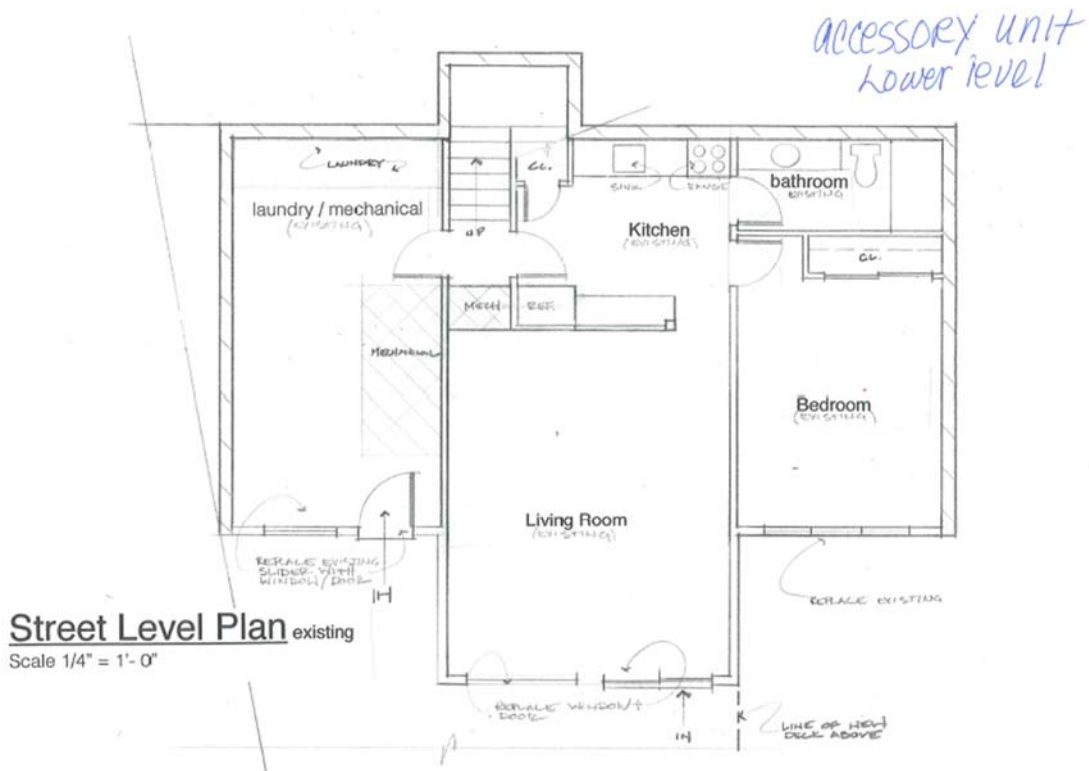
Architect: NA

Development Application: Level III Conditional Use Permit for an Accessory Apartment;
Residential Remodel Development Permit issued previously.

Application Date: July 17, 2017



Existing Residence at 313 Tenderfoot Street.



313 Tenderfoot street, Dillon, Colorado (existing lower level apartment)

Ground Level Accessory Apartment Floor Plan.

Code Analysis:

Zoning: Residential Low (RL). Accessory Apartments are permitted through a Level III Conditional Use Development Permit process. Two (2) parking spaces shall be provided for the accessory apartment, the apartment shall not exceed 900 SF nor be greater than 1/3 of the primary residence, the apartment shall be deed restricted to minimal six (6) month rental terms and the apartment may not be sold as a separate property. Additional water / sewer tap fees shall be paid.

An Accessory Dwelling Unit may be permitted in the RE, RL, RM, and RH zones in a single family residence (Sec. 16-4-40). The subject property is zoned Residential Low (RL). The provisions required in this Code section to satisfy this allowance are provided in detail, by subsection, in Resolution PZ 09-17, Series of 2017. This application does meet those provisions

Yards (Setbacks): The setbacks for the RL zone are 8' for the side yards, and 15' for the rear yard and 20' for the front yard (Sec. 16-3-130). No additions are proposed with the project, so the Application does not impact the setbacks.

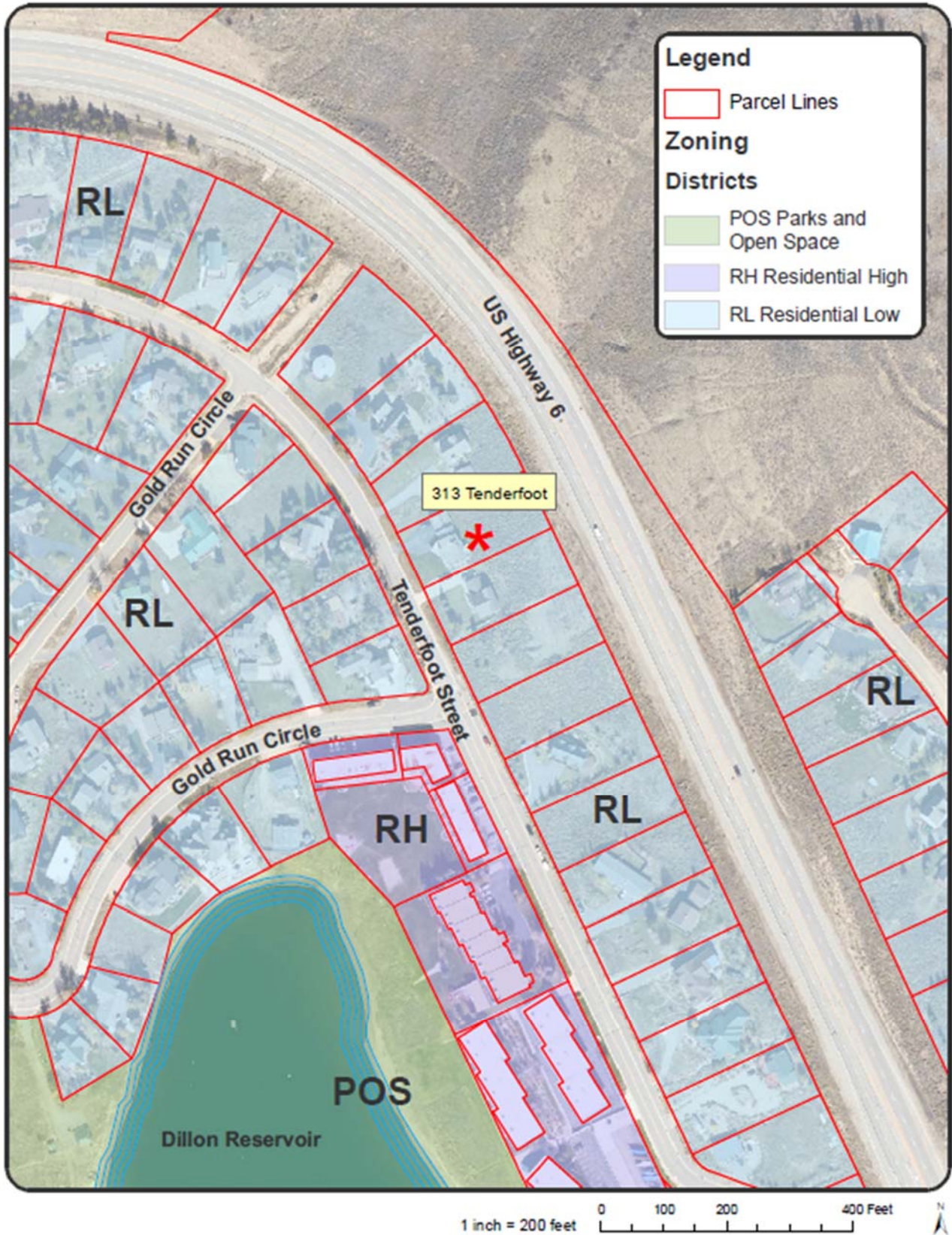
Easements: No additions are proposed with the project, so the Application does not impact any easements. (Sec. 16-9-10)

Parking: Two (2) dedicated parking spaces are required for the proposed continued use of the Accessory Apartment, and two (2) are indicated on the site plan submitted with the Application.

Comprehensive Plan Reference:

- Section 6, Part II “Land Use Guidelines” refers to the desire to create diversity in residential land uses in an effort to increase year-round residents in the community.
- Section 6, Part III “Residential / Mixed Use Zoning Classification” provides for up to six (6) units per acre in the Residential Low zoning district and states that accessory units are permitted in the zone.

Site Vicinity & Zoning of 313 Tenderfoot Street



Parking:

Parking spaces are provide in the garage for two (2) vehicles for the primary residence, along with exterior parking stacked in front of the garage. On one side of the driveway, two (2) exterior parking spaces are provided for the Accessory Apartment.

Water / Sewer Tap Fees (EQR's):

- Existing 4-Bed (includes Apartment) / 3-Bath home: 1.1 EQR assessed balance
- 0.55 EQR's additional assessed for 1-Bed / 1- Bath / Full Kitchen Apartment
 - 0.1 EQR credit for the Apartment bedroom already assessed = $0.65 - 0.1 = 0.55$
 - = $0.55 \text{ EQR} \times \$14,966.00 = \mathbf{\$9,727.90 \text{ due}}$

CONDITIONS OF APPROVAL:

1. The Applicant shall pay the required water and sewer tap fees: 0.55 EQR's balance due. Said fees shall be paid prior to issuance of the Conditional Use Permit.
2. The Applicant shall file with the Town the required restrictive covenant preventing subdividing into separate ownership.
3. The Applicant shall file with the Town a deed restriction that prevents short term rentals of the Accessory Apartment.
4. The Applicant shall verify the functionality of the water service curbstop valve. The curbstop water service valve shall be observed and documented as functional by the Dillon Water Department. It is the owner's responsibility to maintain the curbstop valve in an operational condition in accordance with the Dillon Municipal Code.
5. The Applicant shall submit Summit County Building Inspection documentation approving the Accessory Apartment space to be utilized as such. Such documentation shall be submitted to the Town prior to issuance of the Certificate of Occupancy.

STAFF RECOMMENDATION:

Staff recommends approval of Resolution PZ 09-17, Series of 2017.

ACTION REQUESTED:

Public Hearing.

Motion, Second, Roll Call Vote.

Resolutions require the affirmative vote of a majority of the members present.

Unless called up by / a decision petitioned to Town Council, the ruling of the Planning and Zoning Commission on this matter shall stand.

STAFF MEMBER RESPONSIBLE: Ned West, Town Planner

July 26, 2017

Town of Dillon
P O Box 8
Dillon, CO 80435

Attention: Dillon Planning and Zoning Commission

Re: Application for Conditional Use Permit
313 Tenderfoot St Dillon

Ladies & Gentlemen

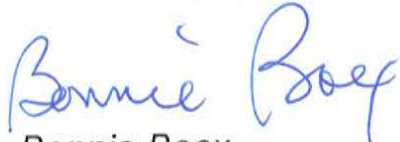
I am against granting the property owner a Conditional Use Permit for an Accessory Apartment at 313 Tenderfoot Street.

As a property owner at 312 Tenderfoot Street I do not look forward to the day when our neighborhood turns into a rental haven.

Further I am against allowing a homeowner to rent-out an entire household without residing at the home as the property owner, and I would suggest that Planning and Zoning change the rules to reflect same.

Greg is responsible for his renters and should be on-site,

Very truly yours,



Bonnie Boex
312 Tenderfoot St
Dillon, CO 80435

JoAnne Tyson

From: Dan Burroughs
Sent: Wednesday, July 26, 2017 3:45 PM
To: JoAnne Tyson
Subject: FW: 313 tenderfoot

Comment 313 tenderfoot

From: Karin Hoffmann [mailto:pml319@gmail.com]
Sent: Wednesday, July 26, 2017 12:59 PM
To: Dan Burroughs <dburroughs@townofdillon.com>
Subject: 313 tenderfoot

Hi Dan-

We just wanted you to know we are fine with the proposed changes to 313 Tenderfoot that Greg is asking for.

Karin and Paul Hoagland



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