

EAST LONGMEADOW CONSERVATION COMMISSION

MEETING NOTICE

Date: May 8, 2019

Time: 6:00 PM

Place: School Committee Conference Room

East Longmeadow High School, 180 Maple Street, East Longmeadow, MA



MINUTES

Chairman Jernstrom opened the meeting at 6:01 pm and called the roll.

- Present:** Craig Jernstrom, Chair; Jeffrey Bosworth, Clerk; Anthony Zampiceni; Robert Sheets; Tom O'Brien; Mary Ellen Goodrow
- Staff Present:** Constance Brawders, Planning and Community Development Director; Bethany Yeo, Planning and Community Development Administrative Assistant
- Absent:** William Arment, Resigned

APPROVAL OF MINUTES

Motion to approve the March 13, 2019 minutes made by Commission member Jeffrey Bosworth; second by Commission member Robert Sheets by a vote of five (5)- zero (0). TOM O'BRIEN HAD LEFT THE ROOM BEFORE THE VOTE.

Motion to approve the April 10, 2019 minutes made by Commission member Robert Sheets; second by Commission member Anthony Zampiceni by a vote of five (5)- zero (0).

TOM O'BRIEN HAD LEFT THE ROOM BEFORE THE VOTE.

OLD BUSINESS:

1. **Review of Restoration Plan under WPA Enforcement Order for 53 Tanglewood Drive** (Assessor Parcel ID 72-7-11) for violation by Adriano and Giovanna Bocchino of 53 Tanglewood Drive in East Longmeadow, MA 01028 for removal of trees, alteration of terrain, and construction of a walls within the Riverfront Resource area adjacent to an unnamed tributary to the Mill River (Cont from March 13, 2019).

Property owner Adriano Bocchino was present for discussion represented by Kate Bednaz, registered Soil Scientist for Freshwater Wetland Services, also present for discussion.

Ms. Bednaz submitting the following documents for the record:

- Additional filing fee
- 3 additional copies of the plans
- 4 copies of the most recent report of the restoration plan

The Chair expressed his concerns with the height of the plantings at 12-24 inches as he stated it is too short to replace canopy. The Chair also noted his concern with the proximity of the proposed shed to the wetlands

Ms. Bednaz stated the goal of the restoration plan is to fix the violation as it is not feasible to restore the property to the original condition.

Mr. Bocchino expressed his desire to cooperate with the Commission and do what it takes to remedy the violation as soon as possible.

The Chair stated that all "dirty fill" would need to be removed.

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Ms. Bednaz questioned the reasoning for removing the "dirty fill" when one can see evidence that there is no fill within the Bordering Vegetated Wetlands (BVW) from standing in the BVW taking soil samples.

The Chair stated that the fill is in the River Front Buffer Zone is full of contaminates.

Ms. Bednaz asked for the clarification on the definition of the 'contaminates'. The Commission noted that they were referring to debris such as metal, cloth, plastic not contaminates.

Ms. Bednaz stated that the restoration plan includes plans to remove the majority of the inorganic debris from the fill. Mr. Bednaz stated that she is confident that the fill is not located in a wetland resource area and only in the River front resource area.

Mr. Bocchino stated his willingness to comply with the Chair's request to remove the entirety of the inorganic fill.

The Chair stated he was not comfortable with a 15-20 FT. limit of work line with the proposed shed being 20 +/- feet away.

Ms. Bednaz stated that there were two potential locations for the proposed shed noting that it is a tight lot of only .58 acres. One location would be between the two retaining walls, the other would be behind the garage which would be closer to the water course.

Discussion ensued.

Ms. Bednaz stated her belief that the proposed retaining wall will clearly mark the limit of the residential area and the conservation area. She also stated that retaining wall has been helping to mitigate flooding in the basement of the existing house and is therefore necessary to maintain the viability of the structure.

The Chair requested a detailed site plan illustrating the location of the plantings. Ms. Bednaz stated she did not want to nail down the number of the plantings as it is a field decision. T. O'Brien spoke in favor of the proposed restoration plan. Ms. Bednaz stated before the restoration plan had been developed she had checked with the Commission and Mark Stinson on the deliverables for the restoration plan and they had told her a GPS map coupled with on-the-ground supervision would be sufficient and a full site plan of the plantings would not be necessary.

A. Zampiceni inquired of a start date if and when the plan is approved and if the owner could notify the Commission when work begins.

Mr. Bocchino agreed and stated the work would begin as soon as possible.

Ms. Bednaz explained she would also be providing email updates to the Commission and staff as part of her inspections.

The Chair stated that Mark Stinson had some concerns regarding numbers 2 and 3 in the restoration plan. Discussion ensued.

Ms. Bednaz explained the property is too small to meet redevelopment standards and petitioned for saving the funds that would be spent on a surveyed site plan to put towards restoring the resource area.

Motion made by Tom O'Brien to accept the plan as is with the specifications that all debris in fill is removed; the wall is brought back 12 feet, and the plantings be 3-5 feet in height and spaced evenly throughout the areas specified on the plan; second made by Anthony Zampiceni.

Discussion:

M. Goodrow spoke in favor of the proposed restoration plan. J. Bosworth also spoke in favor of the proposed restoration plan.

The Chair spoke not in favor of the restoration plan and explained he would like to see a more thorough site plan and 12-16 foot trees. M. Goodrow spoke to the financial burden of the violation

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and subsequent restoration plan for the home owner and stated she did not want to request a plan that would unreasonably increase that burden.

A. Zampiceni spoke in favor of the restoration plan and supported the suggestion that funds should be saved to put toward more mature trees rather than a surveyed plan.

Ms. Bednaz advocated for the restoration plan, stating the restoration plan would be improving vegetation on the lot compared to original conditions before the violation had occurred.

The Chair expressed his concern that the project did not adhere to the criteria of 310 CMR 10.58 Section 5C, D, and E. Concerned the mitigation is not equal to the alteration.

Ms. Bednaz stated they are not a re-development project as there is not enough land to meet those standards therefore, the criteria does not apply.

Ms. Bednaz shared her opinion that the project aims to maintain the protection of the resource area as it cannot improve the area without foresting in the house.

Discussion ensued.

Anthony Zampiceni proposed phasing the project. The Chair spoke not in favor of the shed. T. O'Brien spoke in favor of the shed as the proposed location for it was previously lawn area and would remain lawn area.

Motion to amend the motion to remove the shed from the approval of the proposed plan made by Mary Ellen Goodrow; second by Anthony Zampiceni by a vote of six (6)- zero (0).

Motion to amend the motion to change the red maple height from 3-5 feet to 5-8 feet by Anthony Zampiceni; second Robert Sheets by a vote of six (6)- zero (0).

Motion made by Tom with amendments; second made by Anthony Zampiceni by a vote of five (5)- one (1). Chair Craig Jernstrom voted nay.

2. Continued Public Hearing for Case #NOI 2019-01-Notice of Intent (WE 150-439): Purves Street (Assessor's Parcels 13-9-1, 13-8-3, 13-7-5 and 13-6-6) filed by Laplante Construction of 61R North Main Street in East Longmeadow, MA for a Commercial/Industrial project within a Buffer Zone of a Bordering Vegetated Wetland. Prepared by: Daniel Nitzsche, GZA GeoEnvironmental, Inc., 1350 Main Street, Ste. 1400, Springfield, MA 01103. (Cont. from 01-30 -2019 & 04-10-2019).

Daniel Nitzsche representing Bill Laplant for Purves Street property and Bill Laplant, property owner were present for discussion.

Mr. Nitzsche summarized the project as a wetland delineation of a Bordering Vegetative Wetland partially on the property. The proposed plan for the property is to install a 3-4 foot high retaining wall 25 feet from the resource area that will not interfere with the slope currently protecting the wetland or disturb the mature trees on the slope.

T. O'Brien inquired if the wall was physically laid out yet. Mr. Nitzsche replied it was not laid out yet.

The Chair stated that there was a motion at the April 10, 2019 meeting to request the applicant to get a peer review for the delineation which the applicant has since requested it to be rescinded.

The Chair stated his approval of the delineation and belief that a peer review is no longer necessary. Discussion ensued.

Tom O'Brien made a motion to rescind the peer review requirement; second by Jeffrey Bosworth by a vote of six (6) - zero (0).

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The Chair spoke in favor of the revised proposal. T. O'Brien asked how far the wall would be from the wetland. Mr. Nitzsche replied that in all but a few points it would be 25 feet, in a few areas it would stand at 20 ft.

Motion to approve the revised notice of intent made by Jeffrey Bosworth; second by Anthony Zampiceni by a vote of six (6) - zero (0).

3. **Case #NOI 2019-05-Notice of Intent: Lot 18 Hidden Ponds Estates** (Assessor's Parcel ID 23-77-0) filed by Al Joyce, Redstone Ponds, LLC, P.O. Box 79, East Longmeadow, MA 01028 for a single family home project within a Buffer Zone of a Bordering Vegetated Wetland. Prepared by: Al Joyce, Redstone Ponds, LLC, P.O. Box 79, East Longmeadow, MA 01028. (Cont. from 02-13-2019, 03-12-2019 & 04-10-2019).

Applicant Al Joyce was present for discussion. Mr. Joyce summarized where discussion of the NOI had left off: the Commission wanted to see a certain percentage of the trees remain. Mr. Joyce suggested cutting trees greater than 6 inches in diameter but leave the tree stumps to prevent erosion. Discussion ensued.

J. Bosworth spoke not in favor of the suggestion, noting that if the tall trees are removed it will increase direct sunlight to the resource area.

M. Goodrow agreed with J. Bosworth and suggested leaving all none pine trees. The Chair stated there might be a half dozen that are 6 inches or less.

T. O'Brien pointed out that the Commission had just approved a plan from the previous case that allowed for 15 +/- feet on a southerly face which would affect the temperature of the wetland much more than removing the trees as Mr. Joyce had proposed in his case. He also noted that the quarry is spring fed with an easterly facing bank—removal of the trees would not significantly alter the temperature of the resource area.

The Chair rebutted stating the previous case was not as densely forested as the property under review currently.

The Chair expressed concern over the wetland being clearly flagging and requested the applicant re-flag.

Motion for approval of the Notice of Intent for Hidden Ponds Estates Lot 18 with the conditions that the wetland reflagging and remaining tree identification subject to final inspection by the Conservation Commission made by Tom O'Brien; second by Anthony Zampiceni by a vote of six (6)- zero(0).

4. **Case #NOI 2019-06-Notice of Intent: 244 Shaker Rd** (Assessor's Parcel ID 18-35-0) filed by SIVAD Development Partners LP, 1 Monarch Place, Suite 1300, Springfield, MA 01144 for the construction of a proposed bank and commercial building within the Buffer Zone to Bordering Vegetated Wetlands and Isolated Vegetative Wetlands. Prepared by Robert Levesque Associates, Inc., 40 School Street, Westfield, MA 01085.

Case continued to May 22, 2019 upon request by applicant.

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NEW BUSINESS:

5. **RDA 2019-05: Request for Determination of Applicability for 43 Pease Road** (Assessor's Parcel ID: 67-9-0) for work related to a single family home project on a .82 acre site subject to the Wetlands Protection Act. Applicant: Marco Scibelli, 3 Birch Avenue, East Longmeadow, MA 01028.

The Clerk read the legal notice into the record. Applicant/Property owner, Marco Scibelli was present for discussion.

Mr. Scibelli summarized the situation stating there is a ditch on the property line which appeared to be man-made but as he is doing demolition work on the house he wanted to be sure before starting the demolition.

Tom O'Brien stated his opinion that the ditch is not a wetland and is defiantly a man-made from storm water run-off.

J. Bosworth agreed and explained how the drainage piping in the area is laid out.

The Chair stated that the property is not under the jurisdiction of the Conservation Commission as the ditch is man-made and not a wetland.

Motion for a Negative #1 Determination made by Commission member Tom O'Brien; second by Commission member Anthony Zampiceni by a vote of six (6)- zero (0).

6. **RDA 2019-05: Request for Determination of Applicability for 77 Indian Spring Road** (Assessor's Parcel ID: 38-42-31) for the removal of two trees on a .94 acre site subject to the Wetlands Protection Act. Applicant: Nicholas Stafford, 77 Indian Spring Road, East Longmeadow, MA 01028.

The Clerk read the legal notice into the record. Applicant/Property owner, Nicholas Stafford was present for discussion. Mr. Stafford explained the trees are rotting at the base and pose a risk to falling on his property. Mr. Stafford also expressed his concern that the trees pose risk to his children who play in the backyard.

The Chair stated that while he had not been able to conduct a site visit prior to the meeting Jeffrey Bosworth was able to do a site visit and take pictures to document the condition of the trees.

The Chair stated there was an existing Notice of Intent for the property and advised Mr. Stafford that any work would need to go before the Conservation Commission however; he did not see an issue with removing the trees.

T. O'Brien agreed that the trees should be removed as the trees are in the lawn and are a hazard. M. Goodrow inquired on the distance from the trees to the wetland. J. Bosworth stated the trees are roughly 12-15 feet from the wetland and recommended to the applicant that he make sure the tree company protects the wetland area when they remove the trees.

The Chair asked if the applicant planned on removing the stumps as well. Mr. Stafford stated he would like to if possible. The Chair stated in that case, they should install a silt fence during the removal to prevent run off. No further comment from the Commission.

Motion for a negative #3 determination made by Commission member Robert Sheets; second by Commission member Tom O'Brien by a vote of six (6) - zero (0).

7. **Case #NOI 2019-07-Notice of Intent: Lots 2,19,20 Hidden Ponds Estates (Assessor's Parcel 23-77-0)** filed by Al Joyce, Redstone Ponds, LLC, P.O. Box 79, East Longmeadow, MA 01028 for construction of three single-family homes on three lots and work related to one single-family

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home on one lot within a Buffer Zone of a Bordering Vegetated Wetland. Prepared by: Al Joyce, Redstone Ponds, LLC, P.O. Box 79, East Longmeadow, MA 01028

The Clerk read the legal notice into the record. Applicant Al Joyce was present for discussion. Discussion began with Lot #2. Mr. Joyce described he would like to do some re-grading on Lot #2 as the plans show. The Chair stated that some of Lot #2 is within the 100 foot buffer. Mr. Joyce explained the re-grading is partially due to steep grades created when the quarry was active as well as the need to redistribute the rubble left over from the quarry activities.

The Chair questioned if the fence line is the lot line. Mr. Joyce stated in this lot that is correct, however the fence line does not always match up with the lot line in other lots.

Discussion continued to Lot #19. The Chair expressed his concern that the flagging for the proposed limit of work line was unclear. T. O'Brien stated he thought the flags were appropriately spaced.

M. Goodrow noted the limit of work line zig-zags on this lot do to the topography of the land. The Chair stated his concern with the removal of the canopy and noted concerns from abutters regarding that concern as well. The Chair also stated his discomfort with only a 25 foot limit of work line.

T. O'Brien stated that there would still be sufficient canopy to protect the ponds from receiving too much sunlight and noted that the removal of canopy Mr. Joyce was proposing was less than they had approved for the development on Purves St.

Mr. Joyce pointed out the existing structures on the plan such as the causeway created by the previous owner to access the land.

T. O'Brien confirmed.

The Chair reiterated his opinion that these lots are densely forested with the bank of the resource area is the buffer zone and he did not stand in favor of a 25 foot limit of work line.

T. O'Brien stated his opinion that Lot 19 has a sand vein that would help prevent erosion. The Chair stated his biggest concern was with the removal of the canopy.

Mr. Joyce suggested leaving the limit of work line as is but cutting down only a percentage of the trees like they had agreed upon on a previous lot so there would be trees in the yard area.

Discussion ensued.

The Chair requested more flagging be installed to clearly show the limit of work line. J. Bosworth agreed that more flagged is necessary.

M. Goodrow stated she would like to see the limit of work line as a parallel line from the proposed house to avoid confusion in the future. She also clarified that the land beyond the limit of work line can still be used as passive recreational space for the future home owner.

Mr. Joyce stated that would be an acceptable condition.

Discussion of Lot 20: M. Goodrow stated she was in favor of lot 20 as there were less changes proposed. T. O'Brien agreed.

No further comment from the Commission.

Motion to approve the Notice of Intent for lot 2,19, and 20 with the altered lot line on Lot 19 made by Commission member Tom O'Brien; second by Commission member Anthony Zampiceni by a vote of five (5)- one (1). Chair Craig Jernstrom voted nay.

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- 8. Case #NOI 2019-08-Notice of Intent: Lots 12,13,14,15 Hidden Ponds Estates (Assessor's Parcel 23-77-0)** filed by Al Joyce, Redstone Ponds, LLC, P.O. Box 79, East Longmeadow, MA 01028 for construction of a two single-family home on two lots and work related to two single-family homes on two lots within a Buffer Zone of a Bordering Vegetated Wetland. Prepared by: Al Joyce, Redstone Ponds, LLC, P.O. Box 79, East Longmeadow, MA 01028

The Clerk read the legal notice into the record. Applicant Al Joyce was present for discussion. Mr. Joyce stated there is a modest amount of grading proposed for Lot 12 and Lot #13. The Chair stated he understands the lots are small however; he is not in favor of the 25 foot limit of work line. He also noted that the lot lines do not follow the contour of the water line.

Discussion ensued regarding the flagging of the lot lines proximity to the bank of the resource area. J. Bosworth and the Chair commented that as it was currently flagged the limit of work line was too close. The Chair requested re-flagging. Mr. Joyce suggested the limit of work line be no closer than 25 feet from the water, explaining that the flags were installed based off of the site plan not the contour of the water line as the height of the water is subject to change based on the weather and seasons.

Motion to approve the Notice of Intent with re-flagging of the lot lines for Lots 12,13,14 and 15 made by Commission member Tom O'Brien; second by Commission member Anthony Zampiceni by a vote of five (5)- one (1). Chair Craig Jernstrom voted nay.

- 9. Case #NOI 2019-09-Notice of Intent: Lots 4,5,6,7,8,11 Hidden Ponds Estates (Assessor's Parcel 23-77-0)** filed by Al Joyce, Redstone Ponds, LLC, P.O. Box 79, East Longmeadow, MA 01028 for construction of three single-family homes on three lots and work related to a single-family home on three additional lots within a Buffer Zone of a Bordering Vegetated Wetland. Prepared by: Al Joyce, Redstone Ponds, LLC, P.O. Box 79, East Longmeadow, MA 01028

The Clerk read the legal notice into the record. Applicant Al Joyce was present for discussion. Mr. Joyce explained that the proposed grading on Lot #4 is to make the lot level with the adjacent retention pond. Mr. Joyce stated that generally, they are trying to work with the existing grades with slight grade changes on lots # 4, 5, and 6. The Chair summarized the proposed grade changes stating that existing conditions on the western side of lot #6 show an elevation of 207 ft. and 75 feet away from the wetlands while the proposed conditions show 30 feet away from the wetlands. The Chair expressed his concern of erosion issues occurring from the proposed fill being deposited on the westerly side of lot #6. Mr. Joyce proposed a silt fence and hay bale barrier to protect the adjacent wetland.

M. Goodrow commented that she would like to see a straight limit of work line on lot #11 to run roughly parallel to the house. No further comment from the board was heard.

Motion to approve the Notice of Intent for 4,5,6,7,8, and 11 with the stipulation that the limit of work line on lot #11 be extended in a straight line made by Commission member Tom O'Brien; second by Commission member Robert Sheets by a vote of five (5)- zero (0).

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- 10. Vote and Ratification of WPA Enforcement Order: 101 Old Farm Road (a/k/a Lot 26)** (Assessor Parcel ID 42-38-26) for violation by William Ngaruiya and Salome Njoroge of 101 Old Farm Road in East Longmeadow, MA 01028 for removal of trees adjacent to an intermittent stream on a site located near a vernal pool and priority protection habitat.

Joseph Ngaruiya, William Ngaruiya's brother and Salome's son was present for discussion. The Chair explained that work had been done in violation of the Wetlands Protect Act and the Deed restriction on the house thus an enforcement order that was issued by the Conservation Commission and a restoration plan will likely be required. The Chair noted that erosion controls needed to be installed as soon as possible. Joseph Ngaruiya stated temporary erosion controls had been installed and submitted pictures of the erosion controls to the Commission. Joseph Ngaruiya asked if he could continue to renovation work on the existing deck. J. Bosworth stated that from his reading of the plan the limit of work line was sufficiently far enough from the deck to allow reconstruction of the deck to continue. The Chair and T. O'Brien agreed and confirmed that work on the deck may continue.

The Chair stated that further discussion would occur on May 22, 2019 when the petitioner's representative would present a restoration plan.

Motion to ratify the enforcement order made by Robert Sheets; second by Anthony Zampiceni by a vote of six (6) - zero (0).

- 11. Vote and Ratification of WPA Enforcement Order: 101 Old Farm Road (a/k/a Lot 26)** (Assessor Parcel ID 42-38-26) for violation by David Murphy of Western Mass Tree Care; P.O. Box 81001, Springfield, MA 01138 for removal of trees adjacent to an intermittent stream on a site located near a vernal pool and priority protection habitat.

David Murphy was present for discussion. Mr. Murphy stated that the home owner had told him he had the appropriate permit allowing the felling of the trees although Mr. Murphy had not asked to see the permit. Mr. Murphy stated when he arrived at the property to complete the work the property had been surveyed and there were already machines in there that had removed the deck and the fence. He stated his contract with the home owner was to fell the trees and remove the trunks leaving the limb wood. He stated he would not have taken the job if he had known permission from the Conservation Commission had not been granted.

T. O'Brien spoke in support of Mr. Murphy's statements.

The Chair stated at this point the Commission stated they had two options: two rescind the enforcement order based on Mr. Murphy's account of the events or vote and continue it until after they hear from the home owner on May 22, 2019.

T. O'Brien spoke in favor of rescinding the enforcement order. M. Goodrow inquired if the trunks have been removed from the property per the contract with the home owner. J. Bosworth recounted that he during his site visit of the property he had noted the lot had been staked out for surveying purposes for the perimeter of the property lines.

Motion made to rescind the enforcement order made by Commission member Tom O'Brien; second by Jeffrey Bosworth.

Discussion: The Chair stated his concern with rescinding the enforcement order before hearing the home owner's account of the situation.

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The motion was not approved by a vote of one (1) to five (5). Tom O'Brien voted yay.

PROJECT MONITORING

• **Bella Vista Estates**

The Chair commented on 54 Capri Drive erosion issues. Daniel Plotkin, home owner 54 Capri Drive was present for discussion and explained he had been working with the developer of Bella Vista Estates on remedying the erosion issues he has been experiencing on his property. Mr. Plotkin stated he is planning on submitting a Request for Determination of Applicability to the Conservation Commission for the installation of yard drains to mitigate the standing water on his property. Discussion ensued.

Anthony Carnevale and Brian Fitzgerald were present for discussion. Mr. Carnevale asked the Chair if he could remove the straw bales as they may be harming more than helping with regard to water run-off and put another row of green silt bags to protect the bank of the wetland. The Chair gave him permission. Discussion ensued.

- Other projects as listed on spread sheet.
 - 11 Young Ave

Staff shared that 11 Young Ave had submitted a Request for Determination of Applicability and was scheduled to the May 22, 2019 meeting.

The Chair asked for a letter to be sent to 99 Mapleshade Ave requesting re-installation of their erosion controls. The Chair also asked for a letter to be sent to 108 Old Farm Rd requesting they post their DEP sign as required in the Order of Conditions. Discussion ensued of past approved NOIs who gave no response to the Commission's request that they submit a Certificate of Compliance as required in the Order of Conditions.

OTHER BUSINESS

- Review and Comments for Planning Board from the Conservation Commission
- MUNICIPAL TAX VERIFICATION

ADMINISTRATIVE

- Policies and Procedures of Commission

ADJOURN Motion to adjourn the meeting made by Commission member Tom O'Brien; second by Commission member Anthony Zampiceni by a vote of six (6) - zero (0) at 9:24 PM.

DATE OF NEXT MEETING: May 22, 2019



Jeffrey Bosworth, Clerk

6/12/19

Date

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