

CERTIFICATE OF NECESSITY OVERVIEW



Today's Agenda

- Welcoming Remarks and Introductions
Jennifer Carlson, Finance Director, Delaware Department of Education
- Certificate of Necessity Overview
James Pennewell, Former Education Associate, Delaware Department of Education
- Preliminary Land Use Service
David Edgell, Principal Planner, Delaware Office of State Planning Coordination
- DEMA Drawings Review
Nicole Shuler, Delaware Emergency Management Agency
Doug Scheer, Delaware Emergency Management Agency
- Question/Answer – Open Discussion

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Goals for Today

- Learn about the CN Process
- Learn about the PLUS Process
- Learn about the DEMA Review Process
- Update stakeholders on new construction formula
- Advise on CN applications and what is required
- Receive feedback for future sessions (good, bad, and what you would like to see)

Resources

Delaware Code

- 29 Del. C. § 75: School Construction Capital Improvements
- 29 Del. C. § 69: State Procurement
- 14 Del. C. § 20: Standard School Construction
- 14 Del. C. § 23: School Building Program
- Voluntary School Assessment (NCCo only)
 - 9 Del. C. § 2661: Information from state and local agencies and school districts
 - 14 Del. C. § 103: Powers, duties and functions of the Secretary
 - 22 Del. C. § 842: School capacity application for municipal corporations in New Castle County

Resources

Delaware's Administrative Code (Regulation):

Title 14 - Education

- 400 Construction
 - 401: Major Capital Improvement Programs
 - 405: Minor Capital Improvement Programs
 - 415: Voluntary School Assessments
- 700 Finance and Personnel
 - 729: School Custodians

Resources

DDOE Website

State of Delaware School Construction Technical Assistance Manual

Path: <https://www.doe.k12.de.us> > Supports > Finance Office > Facilities and Operations > Technical Assistance Manual

Construction Formula Memo

Path: <https://www.doe.k12.de.us> > Supports > Finance Office > Facilities and Operations > Additional Resources

Certificate of Necessity Applications

Path: <https://www.doe.k12.de.us> > Supports > Finance Office > Facilities and Operations > Additional Resources

Certificate of Necessity

- A Certificate of Necessity is the legal document that allows a requesting district to go to referendum for a Major Capital Project
- Sets scope and cost limits
- Requires DOE Approval
- Good for 12 months from date of issuance
- Based on the Department's Capital Budget request

CN Timeline

- Prior to August 31st districts create Certificate of Necessity (CN) application and secure board approval in a public meeting to apply
- August 31: Completed CN Application must be provided to DOE
- September/October : DOE analyzes submissions for consideration and solicits additional information as needed
- October 15th: Capital Budget Request submitted to OMB and CN decisions communicated to districts
- November: Budget hearings
- January: Governor's Recommended Budget presented
- February - May: Bond Bill Committee hearings
- May/June: Markup and Legislative action
- July: If requested/approved, district works with Treasurers Office and OMB to receive funding

Certificate of Necessity Application Items

- Completed CN application
- Board approved minutes
- Equity Statement on District Letterhead
- Supporting documentation (i.e. building assessments from A/E firm, justification for extraordinary site conditions, etc.)
- Enrollment history and projections, by grade to include projection methodology
- Detailed cost breakdown
- Site approved through Preliminary Land Use Service (PLUS), if applicable

Priority Legend

- Priority 1: Capacity and future enrollment issues
- Priority 2: Life, Health, and Safety issues
- Priority 3: Aesthetics and Programming

*Priority Classification Subject to Change

FY 22 Construction Formula

- Elementary School is \$393.59/SF
- Middle School is \$420.33/SF
- High School is \$448.54/SF
- Construction formula will be reviewed annually
- Items not included in Construction Formula
 - Land acquisition and associated costs
 - Extraordinary site conditions (justified)

Construction Formula

Facilities included:

- Kindergarten Centers
- Elementary Schools
- Intermediate Schools
- Middle Schools
- High Schools
- 100% State funded special needs schools (listed in 29 Del. C. § 7503)
- Square footage is determined in School Construction Technical Assistance Manual, Section 3, School Construction Formula

Facilities not included:

- Pre-k facilities
- Adult education facilities
- District Offices

Construction Formula continued

State and local cost share

Calculated annually and includes:

- Construction formula - Generates average student cost
- District Ability Index
- Local share ranges between 20% - 40%

Districts may apply for 100% locally funded projects

Escalation Procedures

- Escalation will be 5% beginning year in the second year of funding
- Escalation will continue to be reviewed annually

Certificate of Necessity Applications

Certificate of Necessity Applications (available on DOE's website)

- Land Purchase
- New Construction
- Renovation

Funding Worksheet Includes:

- Escalation calculation
- Extraordinary site conditions
- State/local share
- Enrollment history/projections



Review and Approval of New Schools



David L. Edgell, AICP
Principal Planner
Delaware Office of State Planning Coordination
May 24, 2019



Delaware
Department of Education

Agenda

- Timeframe for Reviews
- Site Selection
 - Assistance from OSPC (optional)
- Preliminary Land Use Service (PLUS) Review of school site
- School Site Approval Process (29 **Del. C.** § 7525)
- PLUS Review of school buildings and additions
- Quiz

Timeline

- Fall of the year before CN submission
 - Site search to identify suitable parcels for new school construction
- April
 - Latest suggested date for **PLUS review** of proposed school sites
- May
 - PLUS Comments received by District
- May-June
 - Send letter requesting approval to DOE
 - Appraisals of selected sites

Timeline

- June – August
 - Follow up meetings with agencies / service providers (if necessary)
 - OSPC prepares School Site Approval Report
 - School site approval letter must be issued before CN is submitted
 - District finalizes CN request
 - Due to DOE by August 31

Site Selection

- Must comply with *Strategies for State Policies and Spending*
 - Schools not permitted in Investment Level 4 (rural areas)
 - <http://stateplanning.delaware.gov/strategies/>
- Conform to local government comprehensive plans and zoning
- Adequate infrastructure
 - Transportation
 - Sewer & Water
 - Gas and other utilities
- Location in walkable community setting

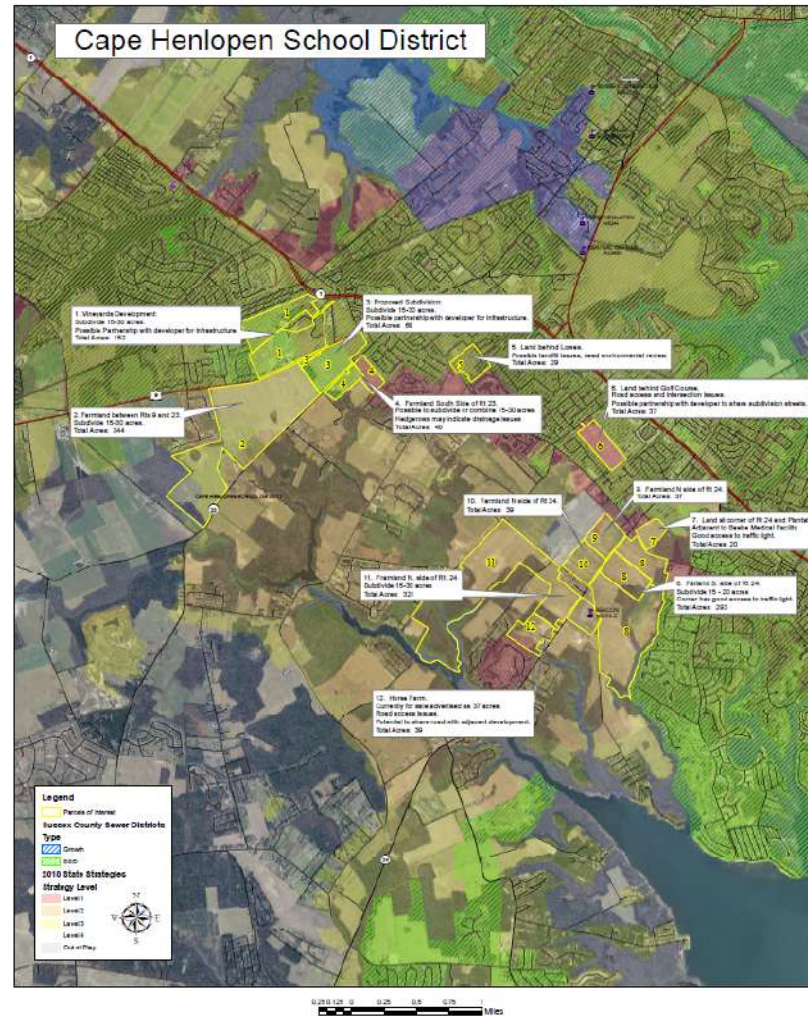
Site Selection

- Environmental considerations: make sure site is buildable and protect the environment
 - Stormwater & drainage
 - Wetlands
 - Streams
 - Natural features
- Efficient use of State and District fiscal resources
 - Initial cost as well as ongoing operating expenses
 - Least expensive land is not always most efficient use of fiscal resources

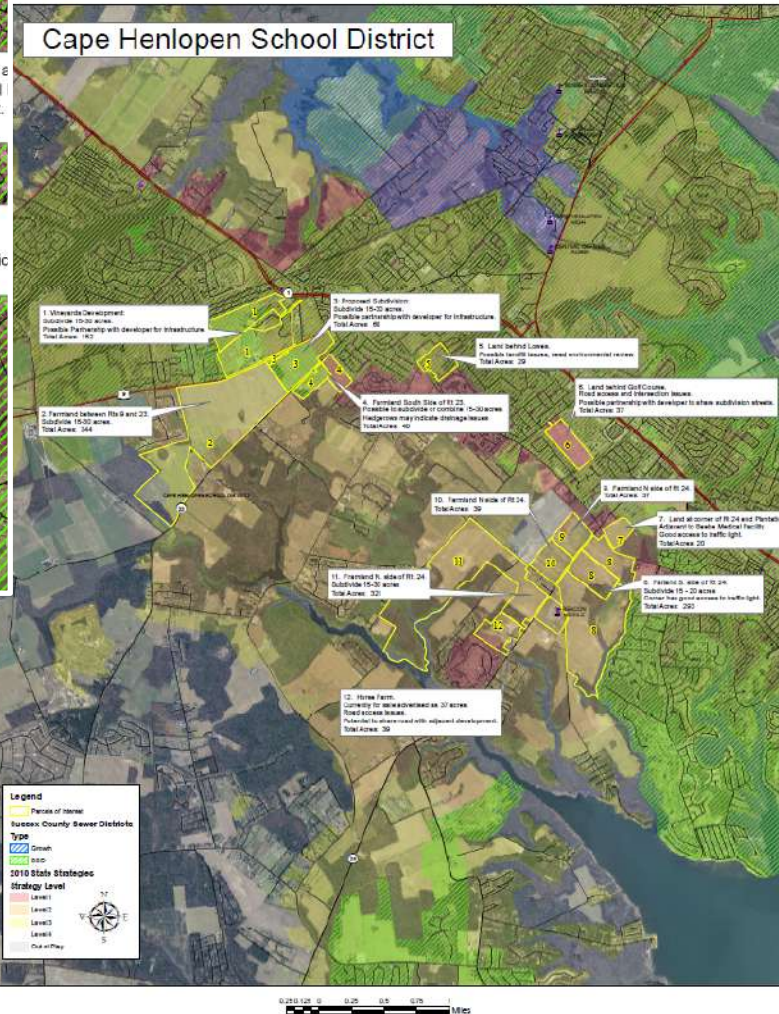
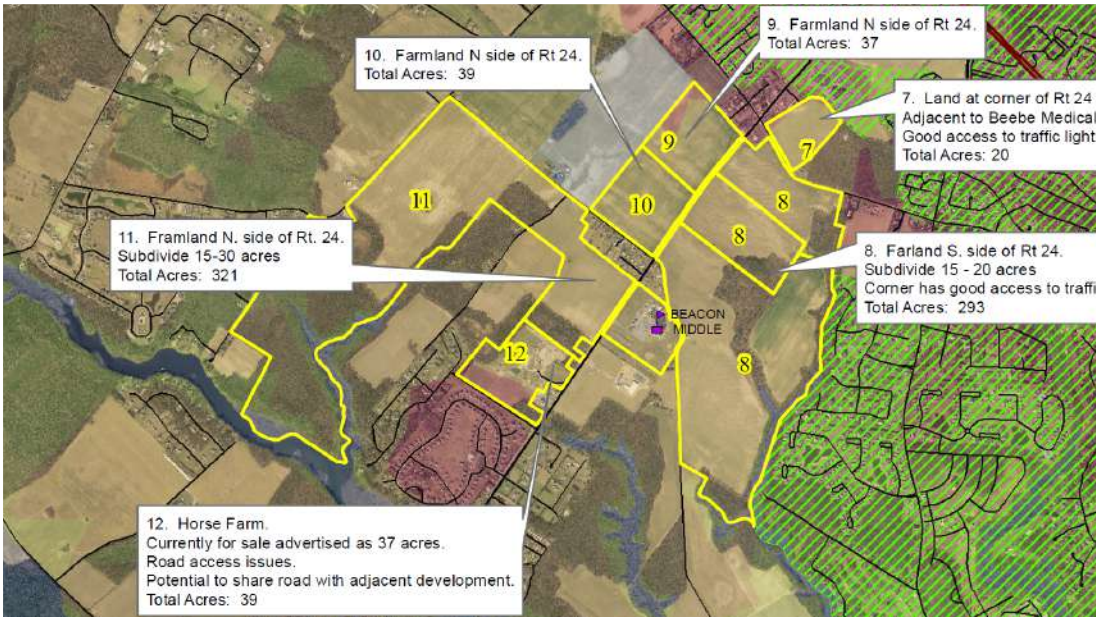
OSPC Assistance

- OSPC planners and GIS staff are available to assist in site search if requested
- OSPC will work with the District to identify vacant parcels that meet the above criteria
 - We often identify multiple viable parcels to give District options
- OSPC will engage State Agencies as needed to address questions and issues with particular sites before and after the PLUS process

OSPC Assistance



OSPC Assistance



Preliminary Land Use Service (PLUS)

- Monthly review of comprehensive plans and development projects by State agencies (OSPC, DeIDOT, DTC, DNREC, SHPO, DSHA, Fire Marshal, others)
- Review occurs prior to local government planning approval
 - Intended to be early “concept plan” review to identify and resolve issues before projects get too far into the approval process.
- State funded capital projects are reviewed through PLUS, including:
 - **New school sites proposed for purchase**
 - **New school buildings**
 - **School additions, regardless of size**

PLUS Timeframe

- Applications due on the first working day of the month
- PLUS meeting occurs on the fourth Wednesday of the same month
 - Adjustments made for State holidays
- Written comment letter sent no later than 20 working days after the PLUS meeting

PLUS Review of School Sites

- District may submit multiple potential school sites for review
- Goal is to find out potential issues and benefits of the various sites to select the best one for the District's project
- Agencies provide regulatory comments as well as recommendations
 - Permits needed
 - Capital projects that may impact school construction
 - Environmental constraints
 - Design recommendations to accommodate school as well as agency programs

After PLUS Review

- Written comments issued within 20 working days from the meeting
 - No need to wait to receive written comments to begin addressing issues discussed at the meeting
- Select school site to pursue
- Send letter requesting school site approval to DOE
 - Education Associate responsible for capital program

School Site Approval Report

- 29 Del. C. § 7525 requires that three agencies approve school site purchases. All three have to agree.
 - OSPC – Director of the State Planning Office
 - OMB – Director of Office of Management and Budget
 - DOE – Secretary of Education

School Site Approval Report

- OSPC Principal Planners take the lead in drafting the report, which culminates in a recommendation to the three agencies
- A “due diligence” style report which evaluates the benefits of purchasing the site as well as any issues that need to be addressed for a successful school construction project.

School Site Approval Report

- Districts should expect to provide:
 - Appraisal which conforms to Title 29, § 9505 of **Del. C.**
 - Evaluation of utility availability and cost to extend and connect
 - From local government and possibly from District's consulting engineer
 - Final configuration of site to be purchased if subdivision required
 - Address all PLUS comments
 - Additional study may be necessary in some cases
 - Local government letters confirming compliance with comprehensive plan and zoning

School Site Approval - Recommendation

- The report will conclude with a recommendation, which will be circulated to the two Directors and the Secretary for their consideration
 - Approval – if approved all three sign an approval letter, which is then sent to the District
 - This must occur prior to August 31
 - Denial – letter with reasons for denial will be sent to the District
 - Rare, but it has happened

CN Request to DOE

- At least one **approved school site** must be submitted to DOE along with the CN request

Additional PLUS Reviews

- The site plan for the new school must be reviewed by PLUS
 - Conceptual layout of new school buildings, transportation access, open space etc.
 - This can be combined with the initial PLUS meeting for the school site if the District is certain about the site and far enough along to have a conceptual site layout available
- Any school addition, regardless of size

Quiz Time!

The latest date to submit proposed school sites to PLUS is July, since this is enough time to complete all other steps to make the CN submission by August 31st.

TRUE

FALSE

Quiz Time!

The latest date to submit proposed school sites to PLUS is July, since this is enough time to complete all other steps to make the CN submission by August 31st .

TRUE

FALSE

A: False – latest possible date for PLUS submission is the first working day of April

Quiz Time!

PLUS Review is the last step in obtaining approval to purchase a school site.

TRUE

FALSE

Quiz Time!

PLUS Review is the last step in obtaining approval to purchase a school site.

TRUE

FALSE

A: False – After PLUS District must select site, request approval from DOE, and OSPC must complete School Site Approval Report and Recommendation

Quiz Time!

The OSPC will work with my District to help identify vacant land that meets the planning criteria for new school sites.

TRUE

FALSE

Quiz Time!

The OSPC will work with my District to help identify vacant land that meets the planning criteria for new school sites.

TRUE

FALSE

A: True – OSPC Planners will assist districts with GIS mapping to identify potential sites, and will coordinate with agencies to explore infrastructure and resource issues

Bonus Question

They are making new land every day, and Delaware is growing very slowly so there will always be many sites available to acquire for school construction projects.

TRUE

FALSE

Bonus Question

They are making new land every day, and Delaware is growing very slowly so there will always be many sites available to acquire for school construction projects.

TRUE

FALSE

A: False – Delaware is growing, and well located land with access to utilities and services is in high demand. It is best to plan ahead for future new school construction needs.

Also, new land is not made every day. Volcanos make new land, and we don't want one of those in Delaware.

Thank you – Q&A?

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DEMA



HB 49 Requirements and Process

What is The Comprehensive School Safety Program (CSSP) @ DEMA?

Duties and responsibilities of the Department:

The Department, by and through the Secretary, shall have overall operational responsibility for the implementation of the act. In connection therewith, the Department's duties and responsibilities shall include but not be limited to:

- (1) Serving as the lead agency in the development of CSSPs (Comprehensive School Safety Plans) for each school and district;
- (2) Assisting schools and districts in conducting critical incident and tabletop exercises;
- (3) Adopting, publishing and updating Emergency Preparedness Guidelines;
- (4) Reviewing and certifying CSSPs submitted by schools and districts;
- (5) In consultation with the Department of Education, adopting such rules and regulations as shall be necessary or desirable to implement the provisions of the act;
- (6) Reviewing proposed revisions and updates to CSSPs

* About Doug and Nicole.

House Bill 49

- **What is House Bill 49:**
- Learn more about [House Bill 49](#)
- CSSP works in conjunction with the Office of Management and Budget (OMB) Division of Facilities Management (DFM) to review and approve House Bill 49 requirements for all new school construction, and all major capital renovations exceeding \$750,000.00, and post January 1, 2019 Certificates of Necessity. The House Bill requires construction that falls into any of the above listed categories to include the following requirements:
- A secured vestibule serving as the primary entrance to screen visitors, equipped with an intercom or voice call box and electronically released doors;
- Ballistic resistant glass or other ballistic resistant material in all vestibules, lobby, and office areas used to screen visitors;
- Classroom doors that can be locked from the outside using a key or magnetic card locking system. Classroom doors with double-sided locks must comply with State or national fire safety regulations; and
- Installation of a panic button or intruder alert system capable of being activated from the school office and a handheld device.

School Approval Process

For schools seeking approval for HB 49 requirements, CSSP approval is required before submitting to [DFM](#).

STEP 1

Department of Education (DOE) Process

Visit the DOE website for procedures to be followed by accessing the **School Construction Technical Assistance Manual**

School Approval Process, Continued

- **STEP 2**
CSSP Review Process
- To begin the review process, review the [HB 49 checklist](#) for schools.



Delaware Emergency Management Agency Comprehensive School Safety Program

State of Delaware, Department of Safety and Homeland Security
165 Brick Store Landing Road Smyrna, DE 19977. 302-659-DEMA (3362)



Nicole Shuler-Geer @ nicole.shuler@delaware.gov ; Douglas Scheer @ douglas.scheer@delaware.gov

House Bill 49, Representative Joseph E. Miro School Safety Act Compliance Check List

Below you will find the procedures/check list for submission of documents to Comprehensive School Safety Program (CSSP) requesting approval for House Bill 49 requirements for all new school construction per **TITLE 14 § 2306. Safety features in new school construction or major renovations; [81 Del. Laws. c. 267. § 1](#)**; and all major capital renovations exceeding \$750,000.00, and post January 1, 2019 Certificate of Necessity [For applicability of this section, see [81 Del. Laws. c. 267. § 3](#)].

<https://legis.delaware.gov/SessionLaws/Chapter?id=15327>

<https://delcode.delaware.gov/title14/c023/index.html>

HB 49 Checklist

Process and documents to be submitted:

1. A meeting is to be scheduled by the individual representing and submitting on behalf of the school/district for review of documents. All final documents must be submitted within 3 days of meeting with The Comprehensive School Safety (CSSP) DEMA Team, The Architect and/or Project Manager, and school/district Facilities Manager. (Approval cannot be given without submission of these documents) The meeting will be held at the location of the major renovation and either at the district's location, or DEMA if new construction unless otherwise approved by CSSP.
2. Plans/official drawings, Bid Specs, cut sheets, all below documentation, and Finalized Building Specs emailed, and submitted in person within three business days **AFTER** meeting with The CSSP Team and applicable individuals. (Approval cannot be given without submission of these documents)
3. A complete description of how each requirement below of the HB49 is met to include #'s 4-6:

HB 49 Checklist, Cont.

3. A complete description of how each requirement below of the HB49 is met to include #'s 4-6:

- A. Secured vestibule, which serves as the primary entrance to screen visitors, equipped with an intercom or video call box and interior doors that can be electronically released by school staff.
- B. Ballistic resistant glass or other ballistic resistant materials in all vestibule, lobby, and office areas used to screen visitors.
- C. Classroom doors that can be locked from the outside using a key or magnetic card locking system.
Classroom doors that can be locked from both sides must comply with the requirements under the current edition of the Delaware State Fire Prevention Regulations or the current edition of the National Fire Protection Association, Life Safety Code 101.
- D. Installation of a panic button or intruder alert system that is capable of being activated from the school office and a handheld device.

HB 49 Checklist, Cont.

4. Photos of all item(s) to be used indicating on the photos how it meets HB49 requirements
5. Links to the company(s) website(s) for the items being used indicating where we can find information demonstrating how this item meets the House Bill requirements.
6. Written specifications extracted from any documentation (electronic or written) from the manufacturer indicating where it can be found, and how it meets the requirements of the House Bill (To include dimensions and/or levels)
7. A letter from The Fire Marshal from your county indicating the locks you are using comply with State or national fire safety regulations emailed, and submitted in person or via mail

HB 49 Checklist, Cont.

-----**Please Note**-----

- After the DEMA CSSP decision, documentation will be immediately sent to OMB Facilities Management Section for their records.
- Preliminary approvals will not be given prior to a final decision, and the official DEMA approval document is signed and presented to all applicable parties.
- Previous decisions do not dictate future approvals

Please allow for at least two months for meetings to be scheduled and decisions to be made.

HB 49 Checklist, Cont.

STEP 3

Approval

Once you receive approval, you will receive a copy of the **HB 49 Construction Approval Form** from the CSSP staff to be included in your submission to **DFM**.

Other Considerations.....

- Keeping everyone outside
- Areas used to “Screen”
- Bullet resistant fiberglass mesh & levels of resistance
- Letter from the Fire Marshall must contain name/model of locks
- Electronically released doors
- May require a letter from Principal and Superintendent no screening will be done outside of designated areas

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- Have an understanding of the CN Process
- Have an understanding of the PLUS Process
- Update stakeholders on new construction formula and applicable uses
- Update stakeholders on new CN Applications
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Thank you!!