



## License and Variance Board Meeting - Final

May 08, 2024  
10:00 AM

- 
- K. **V24-028** Public Hearing - Variance Request - V24-028 - Allow encroachment into the City's 50-foot undisturbed stream buffer - Land Lot 627 - 3430 Creatwood Trail - Arabia Chawa



# City of Smyrna

## Issue Sheet

A Max Bacon  
City Hall  
2800 King Street  
Smyrna, GA 30080

File Number: V24-046

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**Agenda Date:** 5/8/2024

**In Control:** License and Variance Board

**File Type:** Variance Item

**Agenda Section:**  
Formal Business

**Agenda Number:** K

**Department:** Community Development

**Agenda Title:**

Public Hearing - Variance Request - V24-028 - Allow encroachment into the City's 50-foot undisturbed stream buffer - Land Lot 627 - 3430 Creatwood Trail - Arabia Chawa

***Ward 6 Mayor Pro Tem / Councilmember - Tim Gould***

**ISSUE AND BACKGROUND:**

The applicant is requesting two variances to allow encroachment into the City's 50-foot undisturbed buffer and 75-foot impervious surface setback to allow for the construction of a deck at 3430 Creatwood Trail. The City's stream buffers are controlled by Chapter 46, Article VI.

**RECOMMENDATION / REQUESTED ACTION:**

The applicant is requesting relief from the City's 75-foot impervious surface setback and City's 50-foot undisturbed stream buffer to install a deck in the rear yard. According to Section 46-160 of the Stream Buffer Protection Ordinance, variances must be reviewed under the following standards: (1) The shape, size, topography, slope, soils, vegetation and other physical characteristics of the property; (2) The locations of all streams on the property, including along property boundaries; (3) The location and extent of the proposed buffer or setback intrusion; (4) Whether alternative designs are possible which require less intrusion or no intrusion; (5) The long-term and construction water-quality impacts of the proposed variance; (6) Whether as a result of an exchange of buffer area the net buffer area is not reduced; and (7) Whether issuance of the variance is at least as protective of natural resources and the environment. After a review of the standards above, Community Development and the City Engineer believe that the encroachment will not adversely affect surrounding residents nor the existing stream; therefore, staff recommends approval of the requested variances with the following conditions:

1. Approval of the requested variance shall be conditioned upon substantial compliance with the mitigation plan submitted with the variance application.
2. A plat shall be submitted to the City for approval and recorded with the Cobb County Superior Court to show the extension of the impervious surface setback prior to issuance of the building permit.

# **CITY OF SMYRNA COMMUNITY DEVELOPMENT MEMORANDUM**

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To: License and Variance Board

From: Rusty Martin, AICP, Community Development Director  
Caitlin Crowe, Planner I

Date: April 23, 2024

**RE: VARIANCE CASE V24-028**  
**3430 Creatwood Trail – Allow encroachment into the City’s 50-foot undisturbed stream buffer**

**VARIANCE CASE V24-029**  
**3430 Creatwood Trail – Allow encroachment into the City’s 75-foot impervious surface setback**

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## **BACKGROUND**

The applicant is requesting two variances to allow encroachment into the City’s 50-foot undisturbed buffer and 75-foot impervious surface setback to allow for the construction of a deck at 3430 Creatwood Trail. The City’s stream buffers are controlled by Chapter 46, Article VI.

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## **ANALYSIS**

The subject parcel is a 0.32-acre lot located on the south side of Creatwood Trail in the Creatwood Forrest subdivision (see Figure 1). A stream runs through the rear of the property and continues through the adjacent properties to the east and west. The subject parcel and all adjoining parcels are zoned R-15 and are all occupied by single-family detached residences.

In February 2024, Code Enforcement issued a notice of violation to the subject property for working without a permit. Once alerted, the applicant moved forward with building permits for an interior renovation and deck addition. Upon completion of the plan review, the applicant was notified that a variance would be required prior to permit issuance and a variance application was subsequently submitted later that month.

The applicant is proposing to retain the newly erected 196 square foot deck and accompanying stairs in its current location. The rear yard and a portion of the home itself is greatly encumbered by the State’s 25-foot undisturbed buffer, the City’s 50-foot undisturbed stream buffer, and the City’s 75-foot impervious surface setback, with no section of the rear yard untouched by stream buffers. Since the property was platted in 1960, prior to the Stream Buffer Protection Ordinance in 2005, the hardship is not self-created outside of starting the work without a permit. No other variances are needed as the property is below their impervious coverage maximum of 35%.

## VARIANCE CASE V24-028 & 029

April 23, 2024

Page 2 of 6

The applicant will require relief from the City's stream buffer ordinance in order to retain the improvements in the rear yard. The applicant will mitigate the rear yard disturbance by creating extending the impervious setback on either side of the home to offset the total 249.75 square foot encroachment (148.4 square feet to the west and 102.4 square feet to the east). The new impervious area will be contiguous with the existing setback area and will require an update to and recording of the parcel plat to delineate the new impervious setback limits. The City Engineer has reviewed the application and accompanying mitigation plan and supports the method used for buffer mitigation per Georgia Stormwater Management Manual requirements.

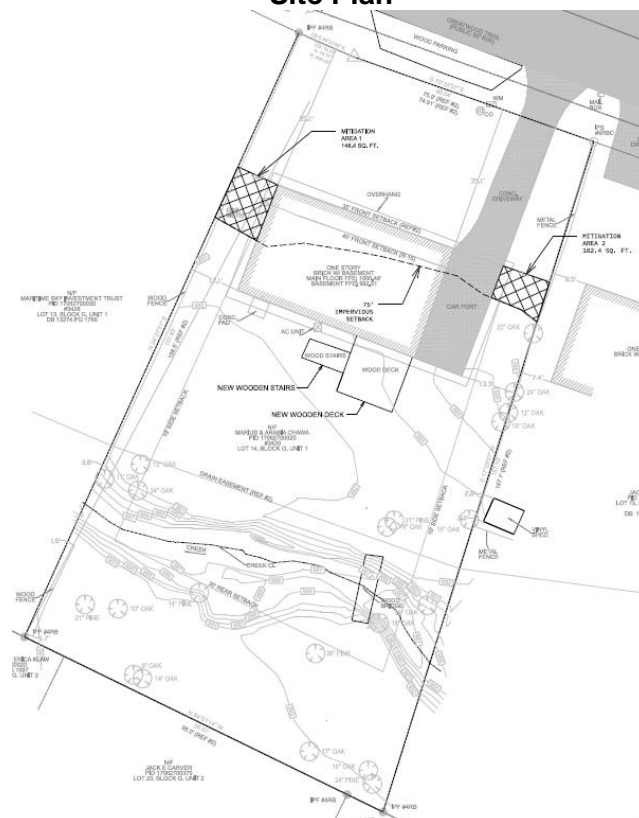
Due to the existing stream buffers encumbering the entirety of the rear yard and the existing home, Community Development believes these are the minimum variances needed to allow for any outdoor amenity. Strict application of the ordinance would require the existing home to be removed and shifted north due to the existing stream buffers. Similar variances have been approved throughout the city when an appropriate mitigation method has been included. At the time of this report, Community Development has not received any calls in opposition to the request.

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### STAFF COMMENTS

The applicant is requesting relief from the City's 75-foot impervious surface setback and City's 50-foot undisturbed stream buffer to install a deck in the rear yard. According to Section 46-160 of the Stream Buffer Protection Ordinance, variances must be reviewed under the following standards: (1) The shape, size, topography, slope, soils, vegetation and other physical characteristics of the property; (2) The locations of all streams on the property, including along property boundaries; (3) The location and extent of the proposed buffer or setback intrusion; (4) Whether alternative designs are possible which require less intrusion or no intrusion; (5) The long-term and construction water-quality impacts of the proposed variance; (6) Whether as a result of an exchange of buffer area the net buffer area is not reduced; and (7) Whether issuance of the variance is at least as protective of natural resources and the environment. After a review of the standards above, Community Development and the City Engineer believe that the encroachment will not adversely affect surrounding residents nor the existing stream; therefore, staff recommends **approval** of the requested variances with the following conditions:

1. Approval of the requested variance shall be conditioned upon substantial compliance with the mitigation plan submitted with the variance application.
2. A plat shall be submitted to the City for approval and recorded with the Cobb County Superior Court to show the extension of the impervious surface setback prior to issuance of the building permit.





**Figure – 3  
Newly Built Deck**



**Figure – 3  
Subject Property**





**Figure – 4**  
**Adjacent Property to the East**



**Figure – 5**  
**Adjacent Property to the West**



**Figure – 5**  
**Adjacent Property across Creatwood Trail**







Variance Application

VAR-24-17

Submitted On: Feb 21, 2024

Applicant

Arabia Chawa  
404-819-4391  
@ arabia.umrani@gmail.com

Primary Location

3430 CREATWOOD TRL SE  
SMYRNA, GA 30080

Applicant Information

First Name	Last Name
Arabia	Chawa
Street Address	City
3430 Creatwood Trl	Smyrna
State	Zip Code
GA	30080
Email	Phone Number
arabia.umrani@gmail.com	4048194391

Are you the titleholder of the subject property?  
Yes

Property Information

Property Address  
3430 Creatwood Trl, Smyrna GA 30080

Description of Requested Variances  
Per our GIS aerials, the new deck appears to be built in both the 50-foot undisturbed stream buffer and the 75-foot impervious surface area setback and will require variances prior to permit approval.

Comprehensive Narrative

In rendering its decisions, the License and Variance Board shall consider the following factors:

- Whether there are extraordinary and exceptional conditions applying to the property in question, or to the intended use of the property, that do not apply generally to other properties in the same district.
- Whether any alleged hardship which is self-created by any person having an interest in the property or is not the result of mere disregard for or ignorance of the provisions from which relief is sought.
- Whether strict application of the relevant provisions of the zoning code would deprive the applicant of reasonable use of the property for which the variance is sought.
- Whether the variance proposed is the minimum variance which makes possible the reasonable use of the property.

A comprehensive narrative detailing the extraordinary and exceptional conditions which will necessitate a nonconforming use.  
We built a new deck but didn't know we need a variance since there's a stream behind the house.

**Acknowledgement**

Applicant further affirms they are aware that any knowingly false statement made in the permit application may subject said applicant to prosecution for violation of Georgia Criminal Code, Section 16-10-20 (False Swearing) and a possible fine of not more than \$1,000.00 or imprisonment for not less than one (1) nor more than five (5) years, or both.

**Applicant Signature:**

true

9589 0710 5270 1281 8226 09

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<input type="checkbox"/> Return Receipt (electronic)	\$0.00	
<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00	
<input type="checkbox"/> Adult Signature Required	\$0.00	
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00	
Postage	\$0.68	
Total Postage and Fees	\$5.08	

Sent To Neighbor  
Street and Apt. No., or PO Box No.  
3429 Creatwood Trail  
City, State, ZIP+4®  
Smyrna, GA 30080

PS Form 3800, January 2023 PSN 7530-02-000-9047 See Reverse for Instructions

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<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00	
Postage	\$0.68	
Total Postage and Fees	\$5.08	

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<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00	
Postage	\$0.68	
Total Postage and Fees	\$5.08	

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Postage	\$0.68	
Total Postage and Fees	\$5.08	

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<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00	
Postage	\$9.85	
Total Postage and Fees	\$14.25	

Sent To Neighbor  
Street and Apt. No., or PO Box No.  
3426 Creatwood Trl  
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PS Form 3800, January 2023 PSN 7530-02-000-9047 See Reverse for Instructions



## Parcel Find

PARCEL: 17-0627-0-0020  
LOCATION: 3430 CREATWOOD TRL  
NAME: \*\* VARIOUS \*\*  
EFF DATE: 02/23/2024

YEAR	CAT	BILL	#SC	REFERENCE	BILLED/ADJ	UNPAID BAL	DUE NOW
2023	RE-R	6641	Y	3430 CREATWOOD TRL	425.84	0.00	0.00
2022	RE-R	6540	Y	3430 CREATWOOD TRL	425.84	0.00	0.00
2021	RE-R	6416	Y	3430 CREATWOOD TRL	425.84	0.00	0.00
2020	RE-R	6341	Y	3430 CREATWOOD TRL	383.84	0.00	0.00
2019	RE-R	6336	Y	3430 CREATWOOD TRL	383.84	0.00	0.00
2018	RE-R	6216	Y	3430 CREATWOOD TRL	383.84	0.00	0.00
2017	RE-R	6274	Y	3430 CREATWOOD TRL	383.84	0.00	0.00
2016	RE-R	6075	Y	3430 CREATWOOD TRL	383.84	0.00	0.00
2015	RE-R	6007	Y	3430 CREATWOOD TRL	383.84	0.00	0.00
2014	RE-R	5938	Y	3430 CREATWOOD TRL	383.84	0.00	0.00
2013	RE-R	5869	Y	3430 CREATWOOD TRL	345.86	0.00	0.00
2012	RE-R	1161952	Y	3430 CREATWOOD TRL	383.84	0.00	0.00
2011	RE-R	1144450	Y	3430 CREATWOOD TRL	383.84	0.00	0.00
2010	RE-R	1126892	Y	3430 CREATWOOD TRL	383.84	0.00	0.00
2009	RE-R	1109319	Y	3430 CREATWOOD TRL	311.92	0.00	0.00
2008	RE-R	1091785	Y	3430 CREATWOOD TRL	311.92	0.00	0.00
2007	RE-R	1074067	Y	3430 CREATWOOD TRL	409.86	0.00	0.00
2006	RE-R	1056868	Y	3430 CREATWOOD TRL	427.74	0.00	0.00
2005	RE-R	1040369	Y	3430 CREATWOOD TRL	431.32	0.00	0.00
2004	RE-R	1024739	Y	3430 CREATWOOD TRL	433.55	0.00	0.00
2003	RE-R	1009246	Y	3430 CREATWOOD TRL			
TOTAL DUE NOW						0.00	0.00
TOTAL UNPAID						0.00	0.00

\*\* END OF REPORT - Generated by Mike Hickenbottom \*\*



Printed: 4/10/2024

## Cobb County Online Tax Receipt

Thank you for your payment!

**CARLA JACKSON** TAX COMMISSIONER  
**HEATHER WALKER** CHIEF DEPUTY  
Phone: 770-528-8600  
Fax: 770-528-8679

Payer:  
Eleanor Grayson

**GRAYSON ELEANOR D**

**Payment Date: 3/11/2024**

Tax Year	Parcel ID	Due Date	Appeal Amount			Taxes Due
2023	17062700020	4/15/2024	Pay:	N/A	or	\$0.00
Interest	Penalty	Fees	Total Due	Amount Paid	Balance	
\$0.00	\$0.00	\$0.00	\$0.00	\$208.93	\$0.00	

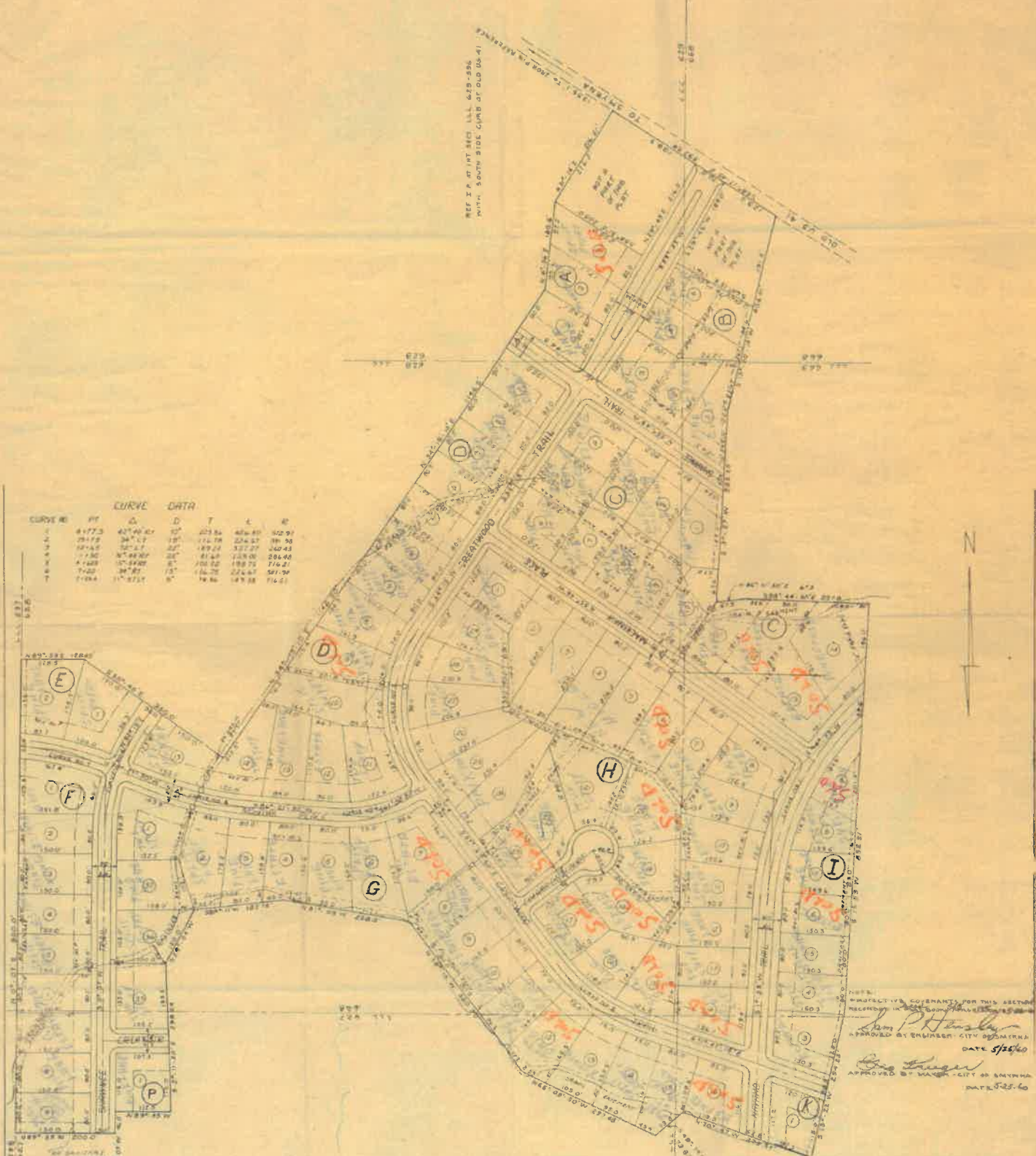


Scan this code with your  
mobile phone to view  
this bill!!

REF TO 1ST SEC 134, 629-586  
WITH SOUTH SIDE CORNER OF OLD D4-41

CURVE DATA

CURVE NO.	PT	Δ	D	T	L	R
1	8177.3	42°40'00"	107	223.84	426.80	502.91
2	7917.9	34°11'17"	119	114.78	224.57	191.50
3	12145.0	52°11'17"	227	189.24	327.27	242.43
4	11480	57°58'00"	287	81.49	128.00	216.48
5	11480	17°54'00"	87	100.50	198.75	116.21
6	7122	38°18'17"	151	154.75	224.67	181.59
7	7124	17°57'57"	87	100.50	198.75	116.21



NOTES: EASEMENTS FOR THIS SECTION  
RECORDED IN PLAT 629-586  
APPROVED BY ENGINEER CITY OF BETHLEHEM  
DATE 5/25/40  
APPROVED BY ENGINEER CITY OF BETHLEHEM  
DATE 5/25/40

By the State of North Carolina  
I, the Clerk of Superior Court  
do hereby certify that the above  
is a true and correct copy of the  
original as the same appears on file  
in my office.

James C. Hall  
Clerk of Superior Court

PLAT 629-586  
NORTH CAROLINA  
JUL 10 1940

RICE HALL ENGINEERING INC		LAND DEVELOPMENT ENGINEERS
10 PARK DRIVE, N.W. ATLANTA, GA		
SECTION 8 & 9 UNIT 1 CREATWOOD FOREST SUBDIVISION LYNN HORN & SONS, INC. & SONS 10 PARK DRIVE, ATLANTA, GEORGIA		SIGNED BY JAMES H. HALL JUL 10 1940
SCALE 1"=100'		DRAWING NO. M.B. 629-586
APPROVED BY J. C. HALL		

**C**reatwood **UNIT I**