



City of Seattle

Gregory J. Nickels, Mayor  
Department of Planning and Development  
D. M. Sugimura, Director

**CITY OF SEATTLE  
ANALYSIS AND DECISION OF THE DIRECTOR  
OF THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

**Application Number:** 3007234  
**Applicant Name:** Andre Wise  
**Address of Proposal:** 2406 East Pine Street

**SUMMARY OF PROPOSED ACTION**

Land Use Application for the removal of an existing duplex and the future construction of a new three-story, 3,700 square foot single-family residence with an attached two-story, 1,000 square foot accessory dwelling unit. The proposed construction will also include a two-car attached garage underneath the house.

The following approvals are required:

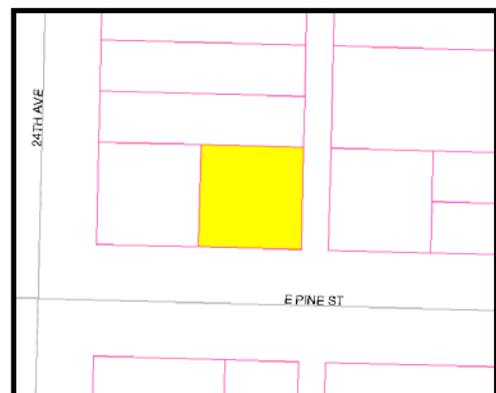
**Variance** - to allow construction of a new single-family residence with a five-foot (5') front yard rather than the code required distance pursuant to SMC 23.44.014A.

**SEPA DETERMINATION:**  Exempt  DNS  DNS with conditions  
 DNS involving non-exempt grading or demolition or involving another agency with jurisdiction.

**BACKGROUND DATA**

**Site Location and Zoning Designation**

The subject property is approximately sixty feet (60') wide by sixty feet (60') deep and 3,600 square feet in size. Zoning overlaying the lot is single-family residential with a minimum lot size of 5,000 square feet (SF 5000). Properties to the north, south, east, and west are also zoned SF 5000. The property has approximately sixty feet (60') of frontage to the south with East Pine Street and approximately sixty feet (60') of frontage to the east with a vehicular-access alley.



This alley is developed with an asphalt surface and East Pine Street is developed with curbs, gutters, and sidewalks on both sides of the street at this location. There is no mapped or observed City of Seattle designated Environmental Critical Area (ECA) on the property.

Location of the Existing Structure

The subject property is developed with an existing duplex and two off-street parking spaces, which take direct access from East Pine Street.

The exterior walls of this existing residential structure are located approximately thirty feet (30') from the northern (rear) property line, two feet (2') from the southern (front) property line, five feet (5') from the western (side) property line, and three feet three inches (3'3") from the eastern (side) property line.

Applicable Development Standards

Given the location of the existing residential structure and the application of the yard standards of SMC 23.44.014, the south property line is the front lot line, the north property line is the rear lot line and the east and west property lines are side lot lines.

The front yard is generally required to be twenty feet (20') from the front lot line or the front yard average for the single family structures to each side (whichever is less), the rear yard is required to be twenty percent (20%) of the lot depth, and the side yards are generally required to be five feet (5'). The actual distances as shown on the applicant's submitted plans indicate that the existing residential structure is nonconforming to the required front yard standard noted above. **Table 1** below, outlines the required yards and maximum lot coverage (their conformities or non-conformities) for this proposal.

TABLE 1				
Analysis of Required Yards and Lot Coverage				
Front Yard (south)	Rear Yard (north)	Side Yard (east)	Side Yard (west)	Lot Coverage
<p><b>Requirement</b> is 20' from the front lot line pursuant to SMC 23.44.014A or average (5'6") neighboring setback and 20' (distance required by other neighboring lot yields front yard of 12'9").</p>	<p><b>Requirement</b> is 20% of approx. 60' (lot depth), which is 12' pursuant to SMC 23.44.014B &amp; 23.86.010C.</p>	<p><b>Requirement</b> is 5' pursuant to SMC 23.44.014C; however, when a side yard borders an alley, the single family home may be located in the required side yard.</p>	<p><b>Requirement</b> is 5' pursuant to SMC 23.44.014C</p>	<p><b>Permitted</b> maximum lot coverage for principal and accessory structures is <b>1,7500 sq.ft.</b> pursuant to SMC 23.44.010C and D.</p>
<p><b>Existing</b> ranges from 1.98' to 4.11' for the southern façade of the residential structure. See sheet 1 of 1 of submitted plans for details.</p> <p><b>Proposed by Variance</b> is 5' for the southern façade of the proposed structure. See sheet G-006 of submitted plans for details.</p>	<p><b>Existing</b> is approximately 30' for the northern façade. See sheet 1 of 1 of submitted plans for details (permitted pursuant to SMC 23.44.014B &amp; 23.86.010C).</p> <p><b>Proposed</b> minimum yard is 15'8.25" for the northern façade. See sheet G-006 of submitted plans for details.</p>	<p><b>Existing</b> is 3'3" for the eastern façade of the residential structure (permitted pursuant to SMC 23.44.014C.)</p> <p><b>Proposed</b> is 2'9" for the eastern façade. See sheet A-101 of submitted plans for details.</p>	<p><b>Existing</b> is 5' for the western façade of existing residential structure (permitted pursuant to SMC 23.44.014C).</p> <p><b>Proposed</b> is 6'9" for the western façade. See sheet G-006 of submitted plans for details.</p>	<p><b>Existing</b> lot coverage for principal structure is approximately <b>1,175.25 sq.ft.</b></p> <p><b>Proposed</b> lot coverage for principal structure and attached ADU is <b>1,7500 sq.ft.</b> See sheet G-006 of submitted plans for details.</p>

As illustrated above in Table 1, the proposed construction of the new Single-Family Residence (SFR) and attached Accessory Dwelling Unit (ADU) increases the front yard from existing conditions to five feet (5'); however, since the adjacent property to the west is a reversed corner lot the application of SMC 23.44.014A requires that the front yard be determined by averaging five feet six inches (5'6") (the front yard of the east neighbor) and twenty feet (20'), given the west neighbor's side yard configuration. This code application requires a conforming front yard of twelve feet nine inches (12'9"). The proposed rear yard of fifteen feet eight and one-quarter inch (15' 8.25") exceeds the minimum standard of twelve feet (12'), as provided in SMC 23.44.014B and 23.86.010C. The proposed west (side) yard is proposed to remain five feet (5') and is allowed pursuant to SMC 23.44.014C, which identifies the minimum side yard as five feet (5'). The proposed development decreases the east (side) yard from three feet five inches (3'5") to two feet (2'). This yard, however, is code compliant and allowed pursuant to an exception stated in SMC 23.44.014C, which provides that a single-family structure may be located in the required side yard when the side yard of a lot borders on an alley. The proposed construction increases the lot coverage on the lot to 1,750 square feet, the maximum allowed for this lot pursuant to SMC 23.44.010C and D. The proposed development is code compliant with the exception of the front yard, to which the applicant has requested a variance from this development standard.

### Proposal

The applicant is proposing the demolition of an existing duplex and construction of a new three-story SFR with an attached two-story ADU. A two-car attached garage within the proposed structure would provide the required off-street parking and gain access to the site from the existing alley to the east of the subject property.

As previously indicated in the Location of Existing Structures, the exterior walls of this existing structure are constructed approximately 30 feet (30') from the northern (rear) property line, two feet (2') from the southern (front) property line, five feet (5') from the western (side) property line, and three feet three inches (3'3") from the eastern (side) property line. Pursuant to the requirements of SMC 23.44.10, 23.44.14, and 23.86.010 the required front yard for the proposed development is twelve feet nine inches (12'9"), rear yard is twelve feet (12'), and the west (side) yard is five feet (5'). An exception for the east (side) yard permits that the single-family structure to be constructed within the side yard abutting an alley.

Vehicular access to the existing residential structure is achieved from two separate curb cuts which provide access from East Pine Street. The corresponding driveways provide off-street parking access to two, one-car garages located within the existing structure. The proposed development will utilize the improved alley adjacent to the east side of the property for vehicular access to the site and off-street parking, which will be provided via a two-car garage within the proposed structure. Pursuant to SMC 23.44.016.A, access to parking is permitted through a required yard abutting a street only if there is no alley improved to the standards of 23.53.030 C. The existing nonconforming vehicular and parking access will become conforming as provided by the proposed construction.

The proposed construction, while moving away from the existing nonconformance following the intent of the Code as stated in SMC 23.42.100B, does not comply with the standard front yard requirement pursuant to SMC 23.44.014A. As such, a variance is required to allow the construction on the proposed single family structure with a five-foot (5') front yard rather than the code compliant distance of twelve feet nine inches (12'9").

### Public Comments

During the extended public comment period which ended July 25, 2007, the City received five written comment responses all supporting this proposal. Comment letters received are available for review in the Master User Permit file at DPD's Public Resource Center.

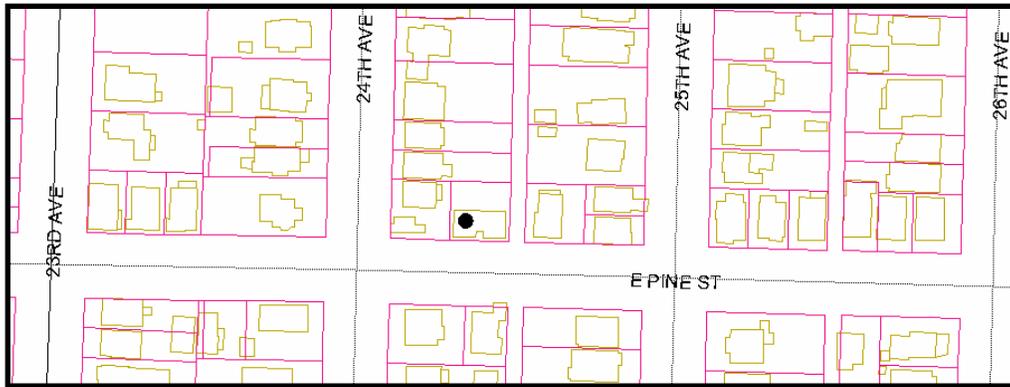
### ANALYSIS – VARIANCE

Pursuant to SMC 23.40.020.C, variances from the provisions or requirements of this Land Use Code shall be authorized when all the facts and conditions listed below (in the numbered paragraphs) are found to exist. Analysis for the variance requested follows each statement of required facts and conditions.

- 1. Because of unusual conditions applicable to the subject property, including size, shape, topography, location or surroundings, which were not created by the owner or applicant, the strict application of this Land Use Code would deprive the property of rights and privileges enjoyed by other properties in the same zone or vicinity;*

Although SMC 23.44.010 states that the minimum lot area in an SF 5000 zone shall be 5,000 square feet, the subject property is 3,600 square feet in size. The sixty-foot (60') by sixty-foot (60') lot was not created under the direction of the prevailing pattern of development which yielded adjacent lots which are narrower and deeper than the subject property. As identified in the applicant's narrative and confirmed during a DPD site visit, the conditions of the neighborhood provide an average front yard along East Pine Street (in the vicinity of the subject property) of approximately four feet nine inches (4'9"). Of note, the southern exterior wall of the existing single family structure is within two feet (2') of the southern (front) property line. The proposed construction would improve the front yard from the existing condition and maintain neighborhood uniformity with respect to the residential structures and street face along East Pine Street. As illustrated in the figure below, a code-compliant front yard would yield a development that is inconsistent with the vicinity and would create an anomaly on the block with respect to structure setbacks from East Pine Street.

The applicant has also proposed the construction of a tiered low retaining wall along East Pine Street to support the soil near the proposed building foundation. This wall would be constructed approximately two feet (2') south of the property line and only three feet (3') from the existing sidewalk, within the City's right-of-way (ROW) along the north side of East Pine Street. Seattle Department of Transportation (SDOT) shall review this request, which may be subject to permit requirements that are within SDOT's jurisdiction.



- The requested variance does not go beyond the minimum necessary to afford relief, and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the subject property is located;*

The requested front yard of five feet (5') provides the applicant with a developed lot coverage yield of 1,750 square feet. SMC 23.44.014A states that the front yard shall be twenty feet (20') or the average of the front yards for the properties immediately adjacent to the subject property. Due to the configuration of the subject property in relation to the adjacent properties, the code-compliant front yard shall be calculated by averaging the neighboring front yard of five feet six inches (5'6") and twenty feet (20'). Accordingly, pursuant to the requirements of SMC 23.44.10, 23.44.14, and 23.86.010, the code compliant front yard is twelve feet nine inches (12'9"). The requested variance seeks a five-foot (5') front yard, which is consistent with the prevailing development pattern of residential structures in the vicinity along East Pine Street.

The proposed front yard of five feet (5') would yield a post-developed rear yard of twenty-one feet two inches (21'2"). SMC 23.44.014.B provides that, for a lot having a depth of less than one-hundred twenty-five feet (125'), the rear yard shall be twenty percent (20%) of the lot depth and in no case less than ten feet (10'). A code compliant rear yard for the subject property would be twelve feet (12'). The structure proposed could be achieved as a code-compliant development on the subject property, yielding a front yard of twelve feet nine inches (12'9") and a rear yard of thirteen feet five inches (13'5"); however, a code compliant development would create an anomaly by yielding a development with a front yard far greater than those in the vicinity of the subject property.

Variances from the provisions of the Code are considered when the request, in part, does not go beyond the minimum necessary to afford relief and constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity. Table 2 details the prevailing development pattern of properties in the vicinity and serves as a basis from which grants of special privilege and inconsistent limitations can be analyzed, as related to the proposed development. The data provided in this table provides the lot sizes, principal and accessory use structure (if applicable) sizes for each lot, and the gross floor area ratio for these combined structures per the corresponding parent lot. These lots are located on the blocks immediately adjacent to the subject property, representing East Pine Street, 24<sup>th</sup> Avenue East, and 25<sup>th</sup> Avenue East. The analysis reveals the largest lot in the vicinity to be 7,200 square feet, the largest combined principal and accessory use structures on any given lot as 3,050 square feet, and the greatest gross floor area ratio (total area of structures on lot/total lot area) to be 93.4%.

Table 3 provides an analysis of the existing conditions and proposed development pertaining to the subject property, following the same analytical parameters as those in Table 2. This analysis identifies that the proposed collective development is 4,712 square feet and the subject property lot size is 3,600 square feet. Accordingly, the gross floor area ratio of the proposed development is 131% of the lot size, compared to an average gross floor area ratio for the study area of 34%. This quantitative analysis of the prevailing development pattern within the vicinity surrounding the subject property provides that the proposed development is significantly larger in scale and context than properties in the vicinity. SFR properties and proposals, however, are not subject to gross floor area limitations. The size and scale of this proposal are restricted by the development standards provided in the Code, rather than the relationship between the size of the developed structure and the size of the lot. Accordingly, the size of the proposed development is not central in analyzing the minimum necessary to afford relief from the required yards; however, lot coverage is a constraint in the development of a single-family lot. This proposal does not exceed the maximum lot coverage allowed for the subject property.

Address	Lot Size	Principal + Accessory Structures Size	Gross Floor Area Ratio
2302 East Pine Street	2,460 square feet	2,300 square feet	<b>93.4%</b>
2306 East Pine Street	2,418 square feet	1,290 square feet	53.3%
2310 East Pine Street	2,340 square feet	1,710 square feet	73.0%
2412 East Pine Street	3,600 square feet	2,800 square feet	77.7%
2311 East Pine Street	2,520 square feet	1,500 square feet	59.5%
2409 East Pine Street	2,580 square feet	1,610 square feet	62.4%
1601 24 <sup>th</sup> Avenue East	<b>7,500 square feet</b>	1,400 square feet	18.6%
1604 24 <sup>th</sup> Avenue East	3,600 square feet	1,150 square feet	31.9%
1532 24 <sup>th</sup> Avenue East	4,620 square feet	<b>3,050 square feet</b>	66.0%
1534 24 <sup>th</sup> Avenue East	3,510 square feet	1,340 square feet	38.1%
1535 24 <sup>th</sup> Avenue East	4,680 square feet	1,130 square feet	24.1%
1604 24 <sup>th</sup> Avenue East	3,600 square feet	1,150 square feet	31.9%
1606 24 <sup>th</sup> Avenue East	3,600 square feet	2,000 square feet	55.5%
1610 24 <sup>th</sup> Avenue East	3,600 square feet	1,340 square feet	37.2%
1614 24 <sup>th</sup> Avenue East	7,200 square feet	1,670 square feet	23.1%
1620 24 <sup>th</sup> Avenue East	5,400 square feet	1,020 square feet	18.8%
1601 25 <sup>th</sup> Avenue East	1,800 square feet	780 square feet	43.3%
1605 25 <sup>th</sup> Avenue East	1,800 square feet	790 square feet	43.8%
1609 25 <sup>th</sup> Avenue East	7,200 square feet	1,800 square feet	25.0%
1615 25 <sup>th</sup> Avenue East	7,200 square feet	1,810 square feet	25.1%
1621 25 <sup>th</sup> Avenue East	4,800 square feet	2,350 square feet	48.9%

<b>TABLE 3</b>	
<b>Floor Area Ratio Analysis</b>	
<b>Analysis of Properties in the Vicinity<sup>2</sup></b>	
Average size of principal structure on each lot	1,530 square feet
Average size of all structures on each lot	1,592 square feet
Average lot size	4,111 square feet
Average gross floor area ratio (principal structure on each lot)	37%
Average gross floor area ratio (all structures on each lot)	39%
Maximum size of any principal structure on any given lot	3,050 square feet
Maximum combined size of all structures on any given lot	3,050 square feet
Maximum gross floor area ratio for all structure on any given lot	93.4%
<b>Analysis of the Subject Property</b>	
Existing all structures on lot	1,240 square feet
Existing gross floor area ratio (all structures per lot)	34%
Proposed size of principal structure on lot	3,716 square feet
Proposed gross floor area ratio (principal structure per lot)	103%
Proposed size of accessory dwelling unit (ADU) on lot	996 square feet
Proposed gross floor area ratio (ADU per lot)	28%
Proposed size all structures on lot	4,712 square feet
Proposed gross floor area for all structures on lot	131%

1- Source: GIS and data provided by applicant

2- Study area comprised of properties along block faces of East Pine Street, 24<sup>th</sup> Avenue, and 25<sup>th</sup> Avenue in closest proximity to the subject property

The orientation of the proposed structure is essential in order to maintain consistency within the neighborhood and minimize the impacts of this proposal on adjacent properties. Properties to the west and northwest of the subject property exist in close proximity to the northwest corner of the subject lot. As identified on the shadow study submitted by the applicant as sheet G-104 of the site plan sheet set, construction of the proposal in a code-compliant manner would cast significant shadows on the adjacent properties and limit the site lines currently available to these neighbors. Granting a five-foot (5') front yard would reduce these impacts while also maintaining a consistent street face along the block. Granting a variance to the yard development standards as provided by the Code does not exceed the minimum necessary to afford relief, which in the case of this proposal minimizes impacts to adjacent properties while maintaining consistency with the street façade.

As noted, the proposed development is out of scale with other properties in the vicinity given the large size of the proposal and the small size of the subject property. Even considering the scale and size of the structure, the proposal could be achieved and code-compliant with respect to the yards previously identified. In this instance, a code-compliant development would create an anomaly on the block, as the structure would be setback from East Pine Street at distance far greater than the neighboring properties. The variance request to allow a 5-foot (5') front yard would promote a consistent street face with respect to yards along East Pine Street

3. *The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zone or vicinity in which the subject property is located;*

The applicant has proposed the construction of a retaining wall along East Pine Street to support the soil near the proposed building foundation. As proposed, this wall would be constructed approximately two feet (2') south of the property line and only three feet (3') from the existing sidewalk, within the City right-of-way, along the north side of East Pine Street. The City of Seattle recognizes street rights-of-way as great public resources which accommodate multiple modes of travel, provide universal access as well as access to private property, enhance a place's character, and allow for safe and efficient delivery of utility services. Obstructions located in the City's right-of-way, such as the proposed retaining wall associated with this development, could pose significant impacts to future right-of-way improvements undertaken by the City. This retaining wall, as detailed, also essentially extends the development's massing across the property line and into the public ROW, creating a significant aesthetic impediment to pedestrians utilizing the existing sidewalk. The proposal for this retaining wall will require the appropriate approvals from SDOT through a separate review process.

There is no evidence that the proposed single family structure and attached accessory dwelling unit would be materially detrimental to public welfare or injurious to the property or improvements in the zone or vicinity in which the subject property is located. The requested five-foot (5') front yard will allow the proposal to utilize the existing building footprint and minimize the amount of additional soil disturbance that would result from the proposed development. The applicant's proposal is focused on advancing a sustainable design, which is represented in the orientation of the proposal on the subject property. Granting a variance for the front yard standard is not materially detrimental to the public welfares or injurious to the property or improvements in the vicinity, provided that the applicants pursue any and all necessary approvals from SDOT with regards to the location of the proposed retaining wall in the City's ROW.

4. *The literal interpretation and strict application of the applicable provisions or requirements of this Land Use Code would cause undue hardship or practical difficulties;*

The relief from the provisions of the Code are sometimes available to property owner's where unique situations exist which justify a divergence from Code requirements. The requested front yard of five feet (5') provides the applicant with a design yielding lot coverage of 1,750 square feet and a rear yard which averages twenty-one feet two inches (21'2"). As noted, the code-compliant front yard standard for the subject property is twelve feet nine inches (12'9") while the rear yard standard is twelve feet (12'). Literal interpretation and strict adherence of the Code would allow the residential structure and attached accessory dwelling unit to be constructed on the subject property without undue hardships or practical difficulties; however, the resulting development would be anomalous to the neighborhood and inconsistent with the existing block face if held to the code-complying front yard.

5. *The requested variance would be consistent with the spirit and purpose of the Land Use Code regulations for the area.*

The spirit and purpose of the Land Use Code identifies flexibility as an important directive to allow the residents of single-family residential areas maximum use and enjoyment of their homes. The Code elaborates by providing the types of uses and activities associated with single-family residential areas shall be regulated primarily by performance standards and City ordinances protecting privacy, health, safety, and the general welfare of the citizens.

Variations from the provisions or requirements of this Code may be sought when strict adherence and literal interpretation of the Code prevent a landowner from utilizing their properties in a manner consistent with the spirit and purpose of the Code. Granting the variance from the front yard standards will yield a development, with respect to the orientation of the lot, which is consistent with the development conditions of the neighborhood.

### **DECISION – VARIANCE**

The Land Use Code provides that variances from the provisions and requirements may be authorized, in part, to provide the applicant with consistent privileges and rights enjoyed by property owners in the vicinity.

The proposed variance to allow a new single family residence with an attached accessory dwelling unit to be constructed, in part, within the required front yard of the subject property (SMC 24.44.014A) is **CONDITIONALLY APPROVED**.

### **CONDITIONS OF APPROVAL**

#### *Prior to Issuance of a Master Use Permit*

1. The proposed green roof needs to be separated from the proposed roof deck by some sort of railing or substantial plantings that will not permit the extension or use of the deck into the required side yard. Please provide a landscaping plan identifying the types of plantings to be provided in that portion of the green roof that will prevent the use of the area as an extension of the proposed roof deck or provide a railing that will prevent the area to be used as a deck. SMC 23.44.014.D.11 does not permit decks eighteen inches (18”) above grade to encroach into any required yard.
2. The proposed ADU parking space does not meet the minimum parking space requirements for a parallel parking space (0 degree parking angle) for a medium sized car. The space must be eight feet (8’) wide by twenty feet (20’) long with an aisle width of ten feet (10’) (see Exhibit SMC 23.54.030.D Parking Aisle Dimensions). The alley is more than ten feet (10’) wide. The parking space needs to be twenty feet (20’) long.

3. The backing distance out of the garage must also be twenty-two feet (22') from the garage entrance (90 degree parking angle, see Exhibit SMC 23.54.030.D Parking Aisle Dimensions). Currently, the applicant is providing only nineteen feet (19'). The turning radius shown on the provided site plan does not apply to the alley, rather it applies only to driveways that more than a 35 degree turning radius (SMC 23.54.030.D.1.a).
  
4. The submitted site plan identifies a proposed retaining wall to be constructed approximately two-feet (2') from the existing sidewalk parallel to the front property line. Since this proposed retaining wall is located in the City's right-of-way (ROW), SDOT will need to complete a review of the site plan and approve the proposed retaining wall prior to the issuance of a Master Use Permit.

Signature: \_\_\_\_\_ (signature on file) Date: September 24, 2007  
Mike Reid, Land Use Planner  
Department of Planning and Development

MR:lc

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