

IN THE MATTER OF
THE APPLICATION OF
CARL E. SCHAUMANN
(Special Exception - SAR)

BEFORE THE CECIL COUNTY
BOARD OF APPEALS
CASE NO.: 3612

OPINION

Application of Carl E. Schaumann (“Schaumann” or the “Applicant”), for a special exception to operate a home occupation business at property located at 1119 Cecilton Warwick Road, Warwick, Maryland 21912, which is designated as Parcel 69 on Tax Map 63, in the First Election District of Cecil County (the “Property”), in an area presently zoned Southern Agricultural Residential (“SAR”). The property is owned by Carl E. Schumann and Beth Renzulli.

This application is brought under the provisions of Article V, Part III, Section 79 and Section 54.4 Table of Permissible Uses 3.05.000 of the Ordinance, which permits a home occupation as a Special Exception in the SAR zone provided that: (1) Home occupations are in the same building as the residence, and do not change the residential character and appearance of the dwelling; (2) No type of advertisement for the home occupations shall be carried out on the property, except one (1) unlighted sign identifying the home occupation, limited to three (3) square feet in size; (3) No goods for sale or rent shall be stored on the property in a manner as to be seen from off the premises; (4) Parking is provided in accordance with Article XIV of the Ordinance; and, (5) No equipment or process shall be used which creates noise, vibration, glare, fumes, odors, or electrical interference detectable outside of the dwelling unit.

Article XVII, Part II, Section 311 of the Ordinance specifies that no special exception shall be approved by the Board of Appeals after considering all facts in the case unless the following findings are made:

1. Such use or any operations thereto will not be detrimental to or endanger the public health, safety, or general welfare.

2. The use will not be unduly injurious to the peaceful use and enjoyment of other property in the neighborhood, nor substantially diminish or impair property values in the neighborhood.

3. The establishment of the use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the zone.

4. The use will not, with respect to existing development in the area and development permitted under existing zoning, overburden existing public facilities, including schools, police and fire protection, water and sewer, public road, storm drainage, and other public improvements.

5. The use shall not adversely affect critical natural areas or areas of ecological importance.

6. The use shall, in all other respects, conform to the applicable regulations of the zone in which it is located.

7. That the particular use proposed at the particular location proposed, would not have any adverse effect above and beyond those inherently associated with such special exception use irrespective of its location in the zone. (*Schultz v. Pritts*, 291 MD. 1)

8. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.

9. That the proposed special exception is not contrary to the objectives of the current Comprehensive Plan for the County.

Applicant requests a special exception on the Property in order to operate a small home baking business. The Applicant testified that he has been a stay-at-home dad for the past thirteen (13) years, and that he would like to now bake two to three times per week. The Applicant testified that the product line will be mostly hearth baked breads, but may also include muffins, scones, pies and seasonal baked goods. The Applicant testified that his home would not be a storefront operation; rather, he would have a distributions system whereby the Applicant delivers to customers and sells the baked goods at farmer's markets. The Applicant would like to construct an out-building/bake house for his operation; the bake house will compliment the existing dwelling on the Property. The Applicant entered into evidence a binder, which states that because this is not a "store front" operation, there will be no customer traffic to or from the bake house, and occasional delivery trucks bringing baking supplies such as flour. The Applicant stated that he would like to have an occasional cooking class one time per month for a maximum of eight people, but that would not occur immediately. The Applicant's packet indicates that he may have a small sign at the end of his driveway for delivery purposes, in accordance with existing regulations. The Applicant also testified that he was previously granted a special exception for this use at this Property, however, the timing wasn't right for the Applicant to proceed with implementation of his business plan at that time.

There was no testimony in opposition to, or in favor of, the Application.

Clifford Houston, Cecil County Department of Planning and Zoning, testified that the Planning Commission recommended approval of the application for two (2) years.

From the evidence, the Board makes the following findings of facts pursuant to the requirements of Section 311:

1. That the proposed use or any operations thereto will not be detrimental to or endanger the public health, safety, or general welfare. The home occupation will consist of the baking baked good items for sale off-premises, and the home occupation will entail virtually no traffic to or from the Property.

2. That the use will not be unduly injurious to the peaceful use and enjoyment of other property in the neighborhood, nor will the home occupation substantially diminish or impair property values in the neighborhood. The Board finds that the Applicant's business will be conducted entirely within the bake house, will be quiet and virtually indiscernible from the exterior of the premises, and will require little traffic to and from the Property, including deliveries which will be occasional and consist of small quantities of baking ingredients. The Applicant will operate only three days per week, and in addition offer a small cooking class once per month. The proposed use is clean and discrete, and generally compatible with surrounding properties and the character of the neighborhood.

3. There is no evidence that normal and orderly development and improvement of the surrounding properties will be impeded by the proposed use. Rather, the Board finds that the home occupation will be confined to the interior of the bake house, will entail little if any increased traffic, a small sign, if any in fact is installed, and no additional exterior lighting.

4. That there was no evidence indicating that the use will, with respect to existing development in the area and development permitted under existing zoning, overburden existing public facilities, including schools, police and fire protection, water and sewer, public road, storm drainage, and other public improvements. As set forth above, the proposed use will be confined to the interior of the bake house, will have little if any effect on existing traffic, and will serve no clients on-site. The home occupation will utilize existing water and sewer, with little increased use, and the goods offered for sale are non-hazardous, stored within the interior of the bake house, and offered for sale off premises.

5. That there is no evidence that the proposed use will adversely affect critical natural areas or areas of ecological importance. The Board finds that the Property is not in the critical area, the 100 year flood plain, or the Critical Area Buffer and, as set forth above, that the existing water and sewer is adequate for the proposed use.

6. That the proposed use will, in all other respects, conform to the applicable regulations of the zone in which it is located.

7. That there is no evidence that the particular use proposed at the particular location proposed, will have any adverse effect above and beyond those inherently associated with such special exception use irrespective of its location in the zone. (*Schultz v. Pritts*, 291 MD. 1). The home occupation will not increase traffic, will not involve hazardous goods, will emit no noises discernible from the exterior of the premises, and will from evidence and testimony before the Board, be generally indistinguishable from wholly residential uses in this location of the zone. As such, the operation of a home occupation appears to be generally suitable for this Property.

8. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets. The Applicant will be offering merchandise for sale off premises, will not serve customers on the Property, and will have occasional deliveries for which there is adequate means of ingress and egress.

9. That the special exception is consistent with the objectives of the current Comprehensive Plan for the County. The proposed use is permitted as a special exception, with conditions, in the SAR zone. The Applicant meets all supplemental requirements under Section 79 of the Ordinance; specifically, the Board finds from the evidence and testimony set forth above that:

(a) The proposed home occupation is in the same building as the residence, and does not change the residential character and appearance of the dwelling;

(b) There is no exterior signage or advertising on the premises;

(c) No goods for sale or rent shall be stored on the property in a manner as to be seen from off the premises;

(d) Customers will not be served on the Property, and there is adequate parking area for a small eight person cooking class to be offered once per month; and,

(e) There is no evidence that equipment or processes used in the business will create noise, vibration, glare, fumes, odors, or electrical interference detectable outside of the dwelling unit. Rather, the business will be conducted entirely within the bake house, and if any odor is emitted, it will be the flavorful aroma of fresh baked goods.

For the reasons stated, by unanimous vote, the Board is satisfied that the requirements of Sections 79, 54.4 sub-part 3.05.000, and 311, along with *Schultz v.*

Pritts, 291 Md. 1 (1981) have been met, and the application is, therefore, APPROVED
for a period of two (2) years.

9/25/2012
Date

David Willis, Jr
David Willis, Chairperson

BOARD OF APPEALS APPLICATION
CECIL COUNTY, MARYLAND

MEET. MONTH: AUG '12
 FILE NO. 36120

THIS REQUEST IS FOR:

- SPECIAL EXCEPTION RENEWAL ()
- SPECIAL EXCEPTION (✓)
- VARIANCE ()
- APPEAL ()

RECEIVED

DATE FILED: 7/11/12
 AMOUNT PD: \$ 250.00 CM # 1051
 ACCEPTED BY: AB

JUL 11 2012

A. APPLICANT INFORMATION

Carl E. Schaumann

APPLICANT NAME - PLEASE PRINT CLEARLY

119 Cecilton Warwick road

ADDRESS

Warwick, MD

CITY

21912

STATE

ZIP CODE

Carl E. Schaumann

APPLICANT SIGNATURE

(443) 907-7899

PHONE NUMBER

B. PROPERTY OWNER INFORMATION

Carl E. Schaumann / Beth Renzulli

PROPERTY OWNER NAME - PLEASE PRINT CLEARLY

119 Cecilton Warwick road

ADDRESS

Warwick, MD

CITY

21912

STATE

ZIP CODE

Carl E. Schaumann

PROPERTY OWNER SIGNATURE

(443) 907-7899

PHONE NUMBER

C. PROPERTY INFORMATION

119 Cecilton Warwick road

PROPERTY ADDRESS

01-066894

ELECTION DIST. ACCT. NUMBER

63

TAX MAP #

3

BLOCK

69

PARCEL

1

LOT #

1.599

#ACRES

SAR

ZONE

D. PURPOSE OF APPLICATION - Indicate reasons why this application should be granted. (attach separate sheet if necessary)

This application should be granted so I can employ myself by starting a small home baking business. It would also fill a niche in our community by making available for sale, locally produced, artisan style baked goods of excellent quality.

E. On an attached sheet, PLEASE submit a sketch of the property indicating the proposed project. Show distances from the front, side and rear property lines and the dimensions of the project.

F. LAND USE DESIGNATION

Is property in the Critical Area? _____ YES _____ NO

If yes, Pertinent provision of the Chesapeake Bay Critical Area Program: _____

Is property in the 100 year Floodplain? _____ YES _____ NO

Is property an Agricultural Preservation District? _____ YES _____ NO

If property is located in the Critical Area, all provisions and requirements must be met as outlined in Article XVII, Part I, II & III of the Zoning Ordinance.

G. PROVISION OF ZONING ORDINANCE:

Section 79

H. SPECIAL EXCEPTION RENEWAL - PREVIOUS FILE NO. & CONDITIONS FOR APPROVAL: N/A

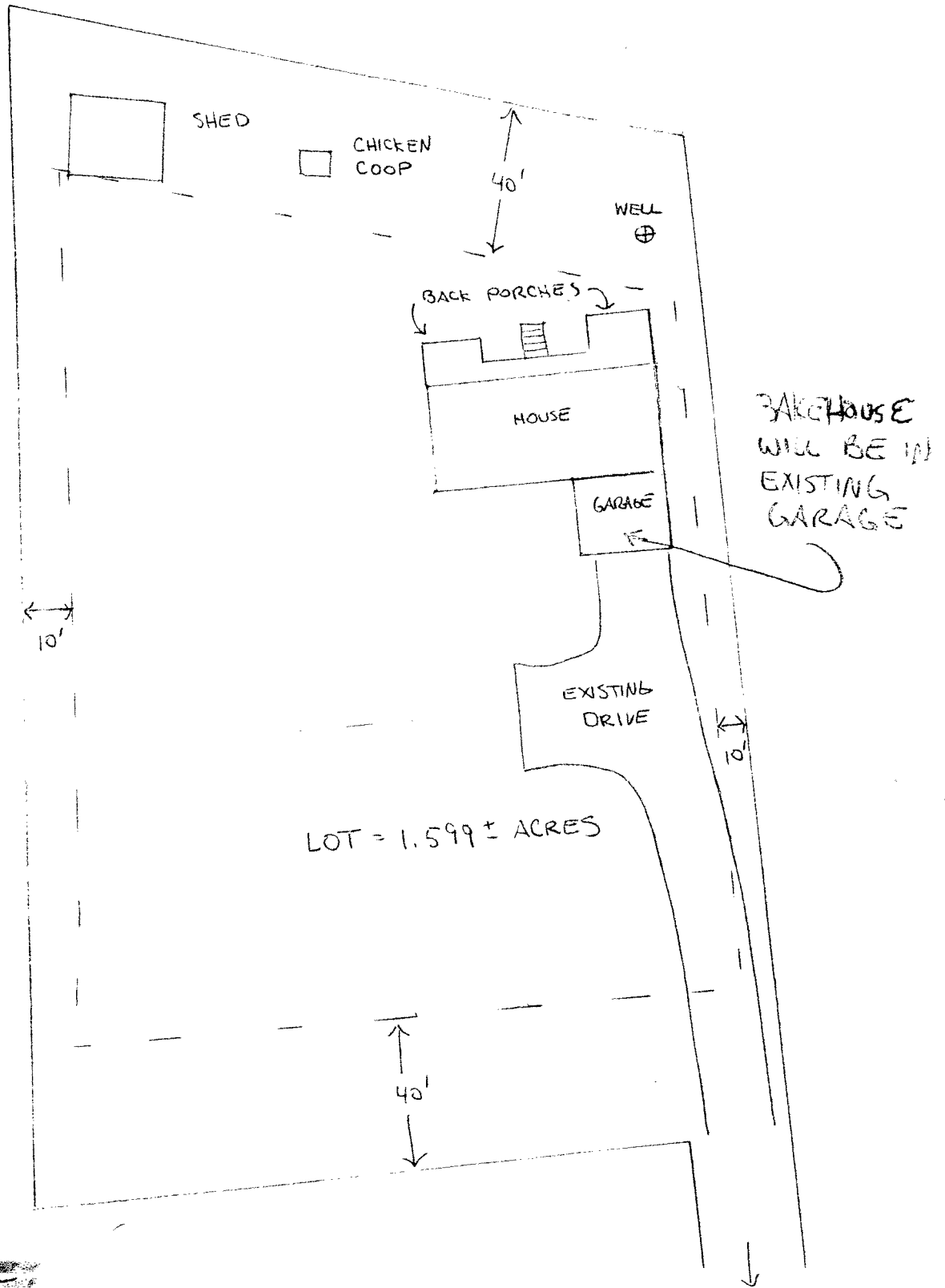
I. SPECIAL EXCEPTION FOR A MANUFACTURED HOME - Please fill out the following information:

Will unit be visible from the road? _____ If yes, distance: _____

Will unit be visible from adjoining properties? _____ If yes, distance: _____

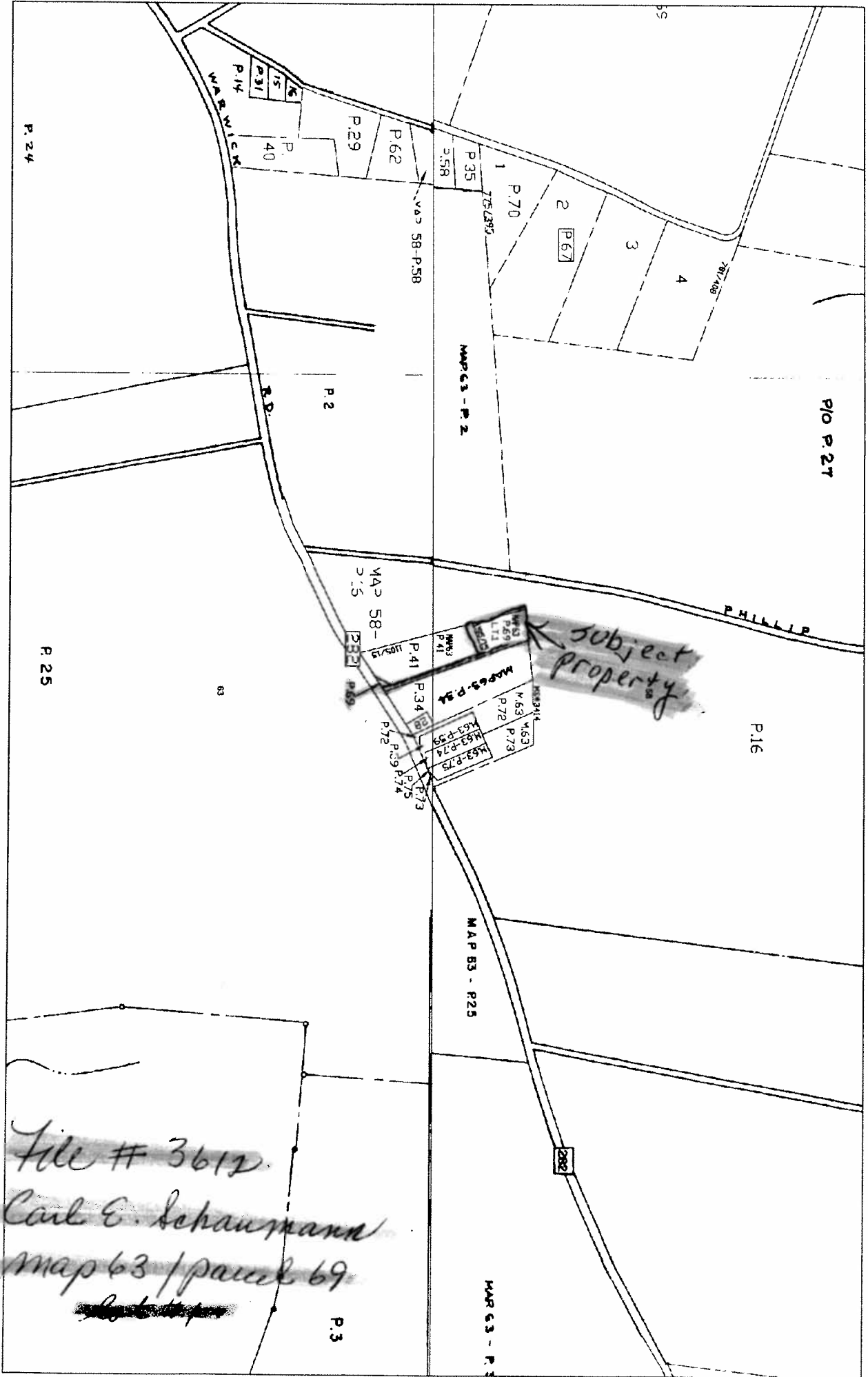
Distance to nearest manufactured home: _____ Size/Model/Year of Unit: _____

Number of units on property at present time: _____



~~File # 3612~~

BAKEHOUSE PROPOSAL
1119 CECILTON WARWICK RD



subject property

File # 3612
 Carl E. Schumann
 map 63 / parcel 69
 [Signature]

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