

PC RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF POMONA APPROVING CONDITIONAL USE PERMIT (CUP 3967-2016) FOR TWO ATTACHED SINGLE-FAMILY RESIDENTIAL UNITS ON PROPERTY LOCATED AT 1028 W. FERNLEAF AVENUE IN THE R-2-S (LOW DENSITY MULTIPLE FAMILY WITH SUPPLEMENTAL OVERLAY) ZONE.

WHEREAS, the applicant, Tim Law, has submitted an application for Conditional Use Permit (CUP 3967-2016) to allow the development of two attached single-family residential units. The subject site is located at 1028 W. Fernleaf Ave., zoned R-2-S, Low Density Multiple-Family Residential with Supplemental Use Overlay.

WHEREAS, a conditional use permit is required for any development on property with a “S” overlay projects, pursuant to Section .440 of the Pomona Zoning Ordinance;

WHEREAS, the applicant has submitted a Variance (VAR 6759-2017) in conjunction with Conditional Use Permit 3967-2016;

WHEREAS, the subject property is on a parcel designated as "Residential Neighborhood" on the General Plan Land Use Map;

WHEREAS, the proposed development meets all the development standards of the R-2-S (Low Density Multiple-Family with Supplemental Overlay) zone;

WHEREAS, the Planning Commission of the City of Pomona has, after giving notice thereof as required by law, held a public hearing on March 8, 2017, concerning the requested Conditional Use Permit (CUP 3967-2016); and

WHEREAS, the Planning Commission has carefully considered all pertinent testimony and the staff report offered in the case as presented at the public hearing.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Planning Commission of the City of Pomona, California as follows:

SECTION 1. The Planning Commission exercising independent judgment finds that the proposed project will not have a significant effect on the environment. Pursuant to the Guidelines for Implementation of the California Environmental Quality Act (CEQA), the project is categorically exempt under Section 15332 of the California Public Resources Code, which exempts in-fill developments located in urbanized settings. The Planning Commission finds that the project meets the following criteria listed in the exemption: 1) the proposed project is consistent with the General Plan and Zoning Ordinance of the City; 2) the parcel is smaller than five acres; 3) the project site has no value as habitat for endangered, rare or threatened species; 4) the project will not have significant effects upon the environment; and 5) the site can adequately be served by utilities and public services.

SECTION 2. In accordance with Section .580.B of the Zoning Ordinance, the Planning Commission must make five (5) findings in order to approve Conditional Use Permit (CUP 3967-2016). Based on consideration of the whole record before it, including but not limited to, the staff report, public testimony received at the public hearing on this matter, and evidence made part of the public record, the Planning Commission hereby finds as follows:

1. *That the proposed use at the particular location will contribute to the general well being of the neighborhood or community.*

The proposed use of the subject site for residential development, specifically, the development of two new residences at this particular location will contribute to the general well being of the neighborhood and the community by expanding housing opportunities for residents by enhancing the appearance of the general area.

2. *That such use will not, under the circumstances of the particular case be detrimental to the health, safety, peace, or general welfare of persons residing or working in the vicinity or detrimental to the use, valuation or enjoyment of property or improvements in the vicinity.*

The project will not be detrimental to the health, safety, peace, or general welfare of persons residing or working in the vicinity since the project is in full conformance with the development standards and use requirements of the R-2 zone. The project will not be detrimental to the use, valuation, and enjoyment of property and improvements in the vicinity since the subject site is consistent with the surrounding properties which are zoned and planned for residential uses by the General Plan. The project, as designed, will enhance the neighborhood.

3. *That the site of the proposed use is of adequate topography, size and shaped to accommodate said use as well as all yards spaces, walls, fences, parking, loading, landscaping and any other features necessary to allow said use with the land and uses in the neighborhood and make it compatible thereto.*

The subject sit, is relatively flat and large-sized at approximately 7,843 square feet in size. Therefore, the site has the adequate topography, size and shape to accommodate the proposed residential development project.

4. *That the site abuts streets and highways are adequate in width and improvements to carry traffic generations typical of the proposed use.*

The subject site has street access directly to Fernleaf Avenue, which is a local street. Local access to the site is provided via Hamilton Blvd., a collector and Phillips Blvd., a minor arterial, located to the west and south, respectively, of the subject site. Fernleaf Avenue,

Hamilton Boulevard, and Phillips Boulevard are all of adequate width and improvement to carry traffic generations typical of residential development projects.

5. *That granting of such conditional use permit will not adversely affect the General Plan of the city and conforms to the provisions of the zoning ordinance.*

The granting of the conditional use permit will not adversely affect the General Plan and conforms to the provisions of the Pomona Zoning Ordinance. The proposed residential use is consistent with the "Residential Neighborhood" place type as designated on the General Plan Land Use Map. The project furthers the goals and objectives of the General Plan by allowing a development that would ensure safe, family-oriented, human-scaled, walkable and livable residential neighborhoods (goal 6G.P3). The project will develop a site that is currently underutilized into an aesthetically pleasing development that contributes to the City's housing stock which the General Plan identifies as being under supplied.

SECTION 4. Based upon the above findings, the Planning Commission hereby approves Conditional Use Permit (CUP 3967-2016), subject to the following conditions:

PLANNING DIVISION

General Conditions

1. The subject property shall be developed and/or used in a manner consistent with the project plans reviewed and approved by the Planning Commission on March 8, 2017, and as illustrated in the stamped approved plans dated March 8, 2017. Any major modifications to the approved project plans shall be reviewed and approved by the Planning Commission as part of a modification to the approved plans. Any minor modifications that do not affect the overall intent of the approved project, may be reviewed and approved by the Development Services Manager.
2. The approved Conditional Use Permit (CUP 3967-2016) shall lapse and become void if the use authorized is not utilized or where some form of construction pursuant to issuance of a building permit has not commenced by March 7, 2018. The Planning Commission may extend this period for one (1) year upon receipt of a written request by the applicant at least thirty (30) days before the expiration date of this approval
3. The applicant shall make reductions of all approved resolutions related to the project, which shall be placed on the title sheet of construction plans prior to the Plan Check submittal.
4. The project shall be subject to an appeal period of twenty (20) days. Written appeals may be filed with the City Clerk by one or more City Council members, the applicant, or any person owning property within four hundred feet of the exterior boundary of the applicant's

property.

5. The applicant shall indemnify, protect, defend, and hold harmless, the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, from any and all claims, demands, law suits, writs of mandamus, and other actions and proceedings (whether legal, equitable, declaratory, administrative or adjudicatory in nature), and alternative dispute resolutions procedures (including, but not limited to arbitrations, mediations, and other such procedures), (collectively "Actions"), brought against the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, that challenge, attack, or seek to modify, set aside, void, or annul, the any action of, or any permit or approval issued by, the City and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof (including actions approved by the voters of the City), for or concerning the project, whether such Actions are brought under the California Environmental Quality Act, the Planning and Zoning Law, the Subdivisions Map Act, Code of Civil Procedure Section 1085 or 1094.5, or any other state, federal, or local statute, law, ordinance, rule, regulation, or any decision of a court of competent jurisdiction. It is expressly agreed that the City shall have the right to approve, which approval will not be unreasonably withheld, the legal counsel providing the City's defense, and that applicant shall reimburse City for any costs and expenses directly and necessarily incurred by the City in the course of the defense. City shall promptly notify the applicant of any Action brought and City shall cooperate with applicant in the defense of the Action.
6. In case of a violation of any of the conditions of approval and/or City law, the property owner and tenant will be issued a Notice of Correction. If said violation is not remedied within a reasonable period of time and/or a subsequent violations of the conditions of approval and/or City law occurs within ninety (90) days of any Notice of Correction, the property owner shall be held responsible to reimburse the City for all staff time directly attributable to enforcement of the conditions of approval and/or City law, including, but not limited to, revocation of the herein Conditional Use Permit.

Conditional Use Permit Conditions

7. Any future substantial changes in the approved plans, except as allowed for by the following conditions, shall require a modification to the Conditional Use Permit.
8. The property shall be maintained free of weeds and debris prior, during and after the construction period.
9. Landscaping is to include a variation of trees, shrubs, vines and ground covers, shall be installed and permanently maintained in all common areas of the project site. All landscape areas shall be provided with an automated underground irrigation system. Prior to receiving building permit final, the applicant shall obtain the approval from the Planning Division of a precise landscape

and irrigation plan prepared by a licensed Landscape Architect, which meets the most current State of California Drought Executive Order Model Water Efficiency Landscape Ordinance (MWELo) and any modification as adopted by the City of Pomona.

10. The property owner shall remove any graffiti on the project site within 24 hours of discovery. The paint utilized to cover the graffiti must substantially match the existing structure. In the event that the paint finish of the abated area is noticeably distinguishable from the rest of the structure, the property owner shall paint additional portions of the building to minimize the disparity, subject to the approval of the Development Services Manager. Original surface materials installed and designed to not accept paint material such as stone, metal, brick, faux stone, veneers, etc. shall be restored to original finish with methods accepted and agreed to by the Development Services Manager.
11. All plumbing fixtures shall utilize low flow or low water usage appliances (toilets, sinks, water hose, etc.).
12. Any proposed fencing on the subject site shall be in compliance with Section .503-I of the Pomona Zoning Ordinance and subject to review and approval of a Fence and Wall Permit by the Planning Division prior to receiving a final sign-off on building permits.
13. Window and wall trim shall be provided with durable treatment material subject to the review and approval of the Development Services Manager. No foam trim shall be installed on the first floor portions of any structures.
14. The project driveway shall not be used for the repair of vehicles.
15. The provided "Common Open Space" shall be available to all residents of the project and their guests.
16. The applicant shall conform to Section .5809-24 of the Pomona Zoning Ordinance pertaining to public art requirements for private development by complying with one of the following two options:
 - a) Placement of an approved Public Art on the Project site.
 - i) The Applicant may decide to place an approved Public Art on a private development site. The Public Art, and all eligible expenditures associated with installation of the Public Art (as described in the Manual), shall be in an amount equal to or in excess of the Public Art Allocation.
 - ii) A Final Design Plan of the Public Art to be installed on Project site shall be approved by the Commission before issuance of a building or grading permit for the Project.

- iii) The Public Art shall be installed on the Project site before issuance of a Certificate of Occupancy, including any temporary Certificate of Occupancy, for the Project. In cases where the Public Art cannot be installed on the Project site before issuance of a Certificate of Occupancy, the Applicant may post a cash bond to assure installation of the Public Art. The cash bond shall be in an amount equal to the Public Art Allocation or an amount based on any remaining, unexpended artwork budget as determined by the Community Development Director. The bond shall not be released until the Public Art has been completed and installed on the Project site in accordance with the approved Final Design Plan.
- b) Payment of an In-lieu Contribution.
- i) Rather than place an approved Public Art on the Project site, the Applicant may choose to pay an In-lieu Contribution. The In-lieu Contribution shall be submitted to the City and deposited into the Public Art Fund before issuance of any building or grading permit for the Project.
 - ii) Use of In-lieu Contributions shall comply with the following:
 - (1) In-lieu Contributions shall be used for the acquisition and installation of Public Art on public or private property in the City, except that up to 1/3 of the In-lieu Contribution may be used for maintenance of the proposed Public Art or an existing Public Art that is listed on the City's registry of Public Art.
 - (2) In-lieu Contributions may be aggregated with other funds contained in the Public Art Fund for the purpose of providing a single qualifying Public Art project.
17. Block wall/fencing plans (including a site plan, section drawings, and elevations depicting the height and material of all retaining walls, walls, and fences) consistent with the grading plan shall be submitted to and approved by the Planning Division. Double walls shall be avoided to the greatest extent feasible. Prior to construction of any new walls, a plan must be submitted identifying the removal of any existing walls located on the subject property. Any removal of walls on private residential property and construction of new common walls shall include approval by the property owners of adjacent property. The plans shall identify materials, seep holes and drainage.
18. Garage areas shall not be used for storage to the exclusion of parking of vehicles.

19. Red paint and “No Parking” indications shall be applied to curb areas along the project driveway. No vehicles shall be parked at any time within “no parking” areas and red curb areas.
20. The property owner shall provide regular maintenance and cleaning of all exterior walkways, patios, canopies, sidewalks, and landscaped parkways in compliance with Pomona City Code 62-351.
21. There shall be no activity conducted on the subject site that exceeds the noise and vibration parameters of Pomona City Code Section 18-301, et seq., and City Council Ordinance No. 3939 at any time, or such other ordinance enacted related to noise and vibration.
22. Prior to issuance of building permits, the applicant shall submit, concurrently with the Plan Check process, and obtain the approval from the Planning Division of a lighting plan (photometric) demonstrating a minimum one foot-candle of illumination of parking, driveway, walkways, and common areas. The lighting plan shall include a site plan showing the locations of ground-mounted and building-mounted light fixtures, design and photometric information on fixtures, and shielding to orient light away from adjacent properties and buildings.

CODE COMPLIANCE UNIT

23. All off-street parking spaces provided for guests on the subject site shall be limited to 72 hours in accordance with Pomona City Code (PCC) 58-234(c). Signs stating such shall be provided.
24. There shall be no parking of Recreational Vehicles (RV) within the subject site.
25. The trash enclosure shall be provided with self-closing doors.

BUILDING AND SAFETY DIVISION

26. The undergrounding of utility facilities is required. (PMC 62-31)
27. This project falls under section .5809-24 of the Zoning Code “Public Art requirement for private development – Public Art Allocations”. (Ordinance No. 4151)
28. The design must be reviewed and stamped by an architect or engineer licensed in the State of California – (Business and Professions code Sections 5537, 5538 and 6737.1)
29. A building permit shall be obtained for the proposed construction and site development. The design of the building shall comply with the 2016 California Building Codes.

30. All grading shall conform to the 2016 California Building Code, and all other relevant laws, ordinances and resolutions governing grading as adopted by the City of Pomona. The applicant shall obtain a grading permit from the Building & Safety Division prior to commencing any grading or site excavation.
31. Geotechnical and/or soils reports required in order to obtain a grading permit shall be submitted to the Building Official for review and approval prior to issuance of a grading permit. All grading shall be in conformance with the recommendations of the geotechnical/soils reports as approved by the City of Pomona.
32. All proposed work shall comply with the 2016 California Energy Code and all other relevant laws, ordinances and resolutions governing Energy conservation as adopted by the City of Pomona.
33. Proposed project shall comply with the 2016 California Green Building Standards Code and all other relevant laws, ordinances and resolutions governing sustainable design as adopted by the City of Pomona.
34. Proposed project shall be sprinklered and comply with all other relevant laws, ordinances and resolutions governing residential sprinklers as adopted by the City of Pomona.
35. Park and Recreation Improvement Fee shall be \$675 per dwelling unit for new construction. (Ordinance 3506)
36. Building Department comments and conditions are subject to plan check. Comments are based on information provided.
37. Demolition plan will be required for existing structures.
38. The 2016 California Codes are effective 1/1/17.

Water & Wastewater Operations Department

WATER

Main Line

39. There is currently an existing six-inch (6") ACP water main within Fernleaf Avenue. **The existing water infrastructure shall be shown on the site plan.**

40. The localized approximate static pressure for the proposed project area is 60-70 psi. If verification of static pressure is desired, it may be obtained by requesting a fire hydrant flow test from the Public Works Department.
41. Any private onsite water improvements are the owner's responsibility and not the City's.
42. Any public water facilities located on private property shall be installed within a City of Pomona easement, and shall be maintained by the City.

Domestic, Irrigation, and Fire Service Line

43. There is currently no service or meter serving the proposed site.
44. **The applicant/developer shall calculate the new water demand (based on fixture units) to verify that the proposed or existing service can provide the water demand given the size, pressure, and distance of these services from the proposed buildings.**
45. Contact the WWOD for information regarding the proposed meters and all applicable meter fees. The City will install meters less than or equal to two-inches (2") in size.
46. Effective January 1, 2016, the City has adopted new connection charges for water service. For further information on how charges are assessed contact the City's Public Works Business Services Division.
47. There are existing public fire hydrants directly adjacent to the proposed development, within 400 feet of the property frontage. Contact the Los Angeles County Fire Department to determine if additional fire hydrants are required for this site. If new fire hydrants are required, they shall be placed at least five feet (5') from proposed driveways and from parking spaces.
48. Approved low lead (0.25%) backflow devices (list the brand and model) are required for the following service lines to the site:
 - Reduced principal pressure assembly devices are required for all irrigation services.
 - A 1" dual check is required for backflow protection purposes for the domestic meters.
 - Double check detector assembly devices are required for all onsite fire requirements.
49. **Submit water development plans to the City for review and building approval showing water meters, service lines, approved backflow devices, and existing water mains. USD requests that these plans be sent in both hard copy and electronic (saved as AutoCAD v. 2010) format.**

SEWER

50. There is currently an existing eight-inch (8") VCP sewer main in Fernleaf Avenue. **The existing sewer infrastructure shall be shown on the site plan.**
51. There are no existing sewer laterals for this proposed project site.
52. The sewer laterals from the public main to the site are private and shall be maintained by site owners.
53. **The applicant/developer shall calculate the expected wastewater generated by the building to properly size the sewer lateral(s) to serve the new site.**
54. New sewer laterals shall be constructed per Standard No. B-8-61 per *City of Pomona Public Works Department Standard Drawings March 2006* (Public Works Standards). Construction shall also comply with Standard No. A-26-02 per the Public Works Standards.
55. **The sewer lateral separation distances, relative to water mains, shall comply with California Code of Regulations, Title 22.**
56. Effective January 1, 2016, the City has adopted new service charges for sewer service. For further information on how charges are assessed, contact the City's Public Works Business Services Division.
57. Construction Notes:
 - The Contractor shall provide all temporary seals enclosures, forced ventilation or other devices as maybe necessary to prevent odor nuisance and solid objects from entering the existing sewer line during construction.
58. **Submit sewer development plans to the City for review and approval prior to the building permit approval showing all existing and proposed sewer mains, laterals, and manholes. WWOD requests that these plans be sent in both hard copy and electronic (saved as AutoCAD v. 2010) format.**

PUBLIC WORKS DEPARTMENT

59. The following conditions and public improvements, as well as all applicable plan check fees, permit fees and bond deposits shall be complied with, completed and paid for by the Developer in accordance with the City standards, fee schedules and applicable laws¹.

60. All the required plans, studies and calculations shall be performed by a registered civil engineer or other registered/licensed professional as required, and submitted for review and approval of the City Engineer.

Improvement Plans Requirements

61. Applicant/Developer shall submit the **grading, drainage and erosion control plans** for review and approval by the Public Works, Planning and Building and Safety Divisions.
- a. The scale used for the plans needs to be large enough (1"= 10' is preferred) to clearly show all the details; the plans shall be submitted on 24" x 36" sheet size with a standard City title block.
 - b. One-foot topographic contours of the site must extend a minimum of 15 feet beyond the boundary lines.
 - c. The plans shall include sufficient cross sections to show all block wall locations, parkway width and all permanent facilities that might require maintenance and access easements.
 - d. Drainage configurations on the existing adjacent properties shall not be altered, redirected or modified in any way. No sheet flow over the driveway approach is allowed. The runoff generated by the proposed development shall be directed to the street gutter via parkway drains constructed per City standards.
62. Prior to issuance of the grading permit the Applicant/Developer shall submit written notifications of adjacent property owners regarding the direct and indirect impact associated with the proposed construction. The notification shall include a statement confirming that the existing public services (sewer, water, storm drain) to adjacent property owners will not be affected by the proposed development. The proposed development shall accept the conveyance of the existing offsite drainage.
63. Prior to the issuance of the grading permit the Applicant/Developer shall provide non-interference letters from all applicable utility agencies for all utility easements located within the areas subject to grading activities. All such documents shall be subject to review and approval by the City Engineer.
64. Applicant/Developer shall submit **public street improvement plans** to include the following:
- a. New driveway approach in conformity with the City standards and the ADA requirements.
 - b. New sidewalk, curb and gutter.
 - c. Street paving:
 - Full depth paving of the currently unpaved area, and

- Grind and overlay paving of the remainder area, over the entire street width, corresponding at the minimum to the property frontage; additional paving may be necessary, based on the required dry utility cuts.
 - d. Existing sewer, water and storm drain infrastructure.
 - e. Unobstructed visibility at the property's driveway.
 - f. Undergrounding of all proposed utility lines per City of Pomona Municipal Code Section 62-31(b).
 - g. Sprinklered landscaped parkway along the property frontage. The parkway landscaped area shall be maintained by the property owner, as required by the City's Municipal Code Section 46-496.
 - h. Note: It is the owner's and the contractor's responsibility to repair all damage to the existing public improvements due to the proposed construction activities and to address all repairs requested by the Public Works Inspector based on the inspector's review of the current condition of the said public improvements.
 - i. The demolition or relocation of all public improvements (street lights, signs, trees, vaults, catch basins, hydrants, etc.) due to the proposed project construction must be coordinated and agreed upon by the appropriate City departments, shall be designed per City standards and applicable ADA requirements, and must be reviewed and approved by the Engineering Division of the Public Works Department.
65. Applicant/Developer shall identify the existence of all City utilities that may be in conflict with the development and submit protection measures to the City Engineer for those City utilities.
66. Applicant/Developer shall implement **stormwater** Good Housekeeping Best Management Practices (BMPs) for the site to ensure that pollutants are not discharged to the municipal storm drain system during construction and throughout occupancy.
67. Prior to issuance of the building permits Applicant/Developer is responsible for paying the project's **impact fees** for traffic signals and control devices, road and highway improvements, public safety improvements and parks, and the project's **water and sewer connection fees**.
68. Prior to issuance of the building permits Applicant/Developer is responsible for paying the **development tax** associated with the proposed project.
69. Property Owner is responsible for the compliance with any special annual levy assessment derived from the current inclusion of the project site into the City's **Street Lighting and Landscaping Maintenance District**. The Developer shall disclose to any future buyers that the property is within the City of Pomona Lighting and Landscaping District and is subject to annual special taxes (Assessor Parcel 8343-010-004).

70. The final improvement plans, as shown on the Mylar, shall be provided to the City in both hard copy and electronic in AutoCAD v. 2010. Following construction and prior to acceptance of the improvements by the City, the project engineer shall provide hand drafted "AS BUILT" corrections on the original approved Mylars of the final constructed improvements to the satisfaction of the City Engineer. A corrected "AS BUILT" plan shall also be provided to the City on disk in AutoCAD v. 2010 and .pdf formats.
71. The plans shall be submitted on 24" x 36" sheet size with a standard City title block, and must correctly identify the property owner, address, legal description, property lines, street centerline, curb-lines, existing and proposed utilities (water, sewer, and storm drain), utility easements, and the public right-of-way areas with dimensions.

Public Works Improvements Permit

All work in the public right-of-way and City easements is subject to review, approval, and permitting requirements of Public Works Department.

72. **Prior to the issuance of the building permit, Applicant/Developer shall post surety bonds for all public improvements, including but not limited to: streets, sewer, water and storm drains.**
73. Permittee shall procure and maintain throughout the period of the Permit the following policies of insurance:
 - a. Commercial General Liability;
 - b. Automobile Liability;
 - c. Worker's Compensation as required by the State of California;Note: The Commercial General Liability and the Automobile Liability policies shall include the City of Pomona as additional insured.
74. Permittee shall pay fees associated with and possess the City of Pomona Business License.
75. Changes and additions to the proposed work, including but not limited to detail plans for street improvement work, water plans and/or other work associated with this project and due to developer's or City's request shall require additional conditions to be completed by the applicant.

SECTION 5. The Secretary shall certify to the adoption of this Resolution and forward the original to the City Clerk.

APPROVED AND ADOPTED THIS 8TH DAY OF MARCH, 2017.

PC Resolution No.
Conditional Use Permit (CUP 3967-2016)
1028 W. Fernleaf Ave.
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CAROLYN HEMMING
PLANNING COMMISSION CHAIRPERSON

ATTEST:

BRAD JOHNSON
PLANNING COMMISSION SECRETARY

APPROVED AS TO FORM:

ANDREW JARED
ASSISTANT CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.
CITY OF POMONA)

AYES:
NOES:
ABSTAIN:
ABSENT:

Pursuant to Resolution No. 76-258 of the City of Pomona, the time in which judicial review of this action must be sought is governed by California Code of Civil Procedure Section 1094.6.