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PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
CRAIG DOSSEY, EXECUTIVE DIRECTOR

Planning Commission Meeting
Thursday, December 3, 2020
El Paso County Planning and Community Development Department
200 S. Cascade Ave – Centennial Hall Hearing Room
Colorado Springs, Colorado

REGULAR HEARING
1:00 p.m.

PRESENT AND VOTING: BRIAN RISLEY, TOM BAILEY, SARAH BRITAIN JACK, TIM TROWBRIDGE, JAY CARLSON, BECKY FULLER, AND ERIC MORAES

PRESENT VIA ELECTRONIC MEANS AND VOTING: GRACE BLEA-NUNEZ AND THOMAS GREER

PRESENT AND NOT VOTING: NONE

ABSENT: JAY CARLSON AND JOAN LUCIA-TREESE

STAFF PRESENT: CRAIG DOSSEY, NINA RUIZ, RYAN HOWSER, LINDSAY DARDEN (VIA REMOTE ACCESS), DANIEL TORRES, EL PASO COUNTY ATTORNEY COLE EMMONS

OTHERS SPEAKING AT THE HEARING: KEVIN CURRY, JON ROMERO, DAVID AND CINDY SMALLIDGE, BRENT NEISER, DAVID WHITEHEAD, DANIEL COMBS

Report Items

1. A. Report Items -- Planning and Community Development Department – Mr. Dossey -- The following information was discussed:

- a) The next scheduled Planning Commission meeting is for **Thursday, December 17, 2020 at 1:00 p.m.**

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- b) **Mr. Dossey** gave an update of the Planning Commission agenda items and action taken by the Board of County Commissioners since the last Planning Commission meeting.
- c) **Mr. Dossey** also gave the November Total Single Family Building Permits numbers. He further gave major development application numbers for the PCD department for the year. The numbers are at all time highs.
- d) **Mr. Dossey** gave a report on the Master Plan process and timeline. The draft plan is still in review by staff.

B. Public Input on Items Not Listed on the Agenda - NONE

2. Pulled Consent Items to Regular

A. Approval of the Minutes – November 19, 2020

The minutes were unanimously approved as presented. (8-0)

B. PUDSP-20-004

HOWSER

**PLANNED UNIT DEVELOPMENT/PRELIMINARY PLAN
THE ESTATES AT ROLLING HILLS FILING NO. 2**

A request by Meridian Ranch Investments, Inc., for approval of a map amendment (rezoning) from a conceptual PUD (Planned Unit Development) to a site-specific PUD (Planned Unit Development) and approval of a preliminary plan for 98 single-family residential lots. The 117.21-acre property is located west of Eastonville Road at the easternmost terminus of Rex Road and within Sections 19 and 20, Township 12 South, Range 64 West of the 6th P.M. (Parcel No.42000-00-407) (Commissioner District No. 2)

Mr. Trowbridge requested it be pulled to review the deviations and the ECM modifications. An abbreviated presentation to address these concerns will be done. **Mr. Curry** would also like to offer opposition, attending remotely.

Mr. Ryan Howser and **Mr. Daniel Torres** gave the presentation on behalf of PCD planning and engineering staff.

Mr. Trowbridge – When is the extension of Rex Road projected to be developed? **Mr. Torres** – It’s a minor arterial roadway in the 2040 MTCP. As these developments come in, it will continue to be extended first to Eastonville, but ultimately to Highway 24. The traffic studies that were collected support the collector roadway. If the County feels it necessary, the County could upgrade.

Mr. Trowbridge – I have an issue with the cul de sac extension being 50% greater than allowed. I understand that the fire department signed off on it, but that is still a concern. **Mr. Torres** – We only support it because the fire department gave their approval.

IN FAVOR: NONE

IN OPPOSITION:

Mr. Curry - My concern is for the future. At some point, the road will need to be built out to the full standard and it will be the county's responsibility to do that. If the final plat is approved after 1 January, then no problem - the fees will have been paid to the County to pay for that expansion. But if the final plat is approved before the end of the year, the fees go to the Metro District, which means the County would have to build out the road without having been paid for it. A simple condition stating the final plat cannot be approved in 2020 solves the issue - it lets the application proceed exactly as submitted and ensures the County is paid for the work it will eventually have to do at some point in the future. **Mr. Torres** – It is staff's opinion that the application meets the criteria. There is an IGA between Woodmen Road Metro District and County in place to ensure that developers within the district pay their fair and equitable share of the regional roads. **Mr. Dossey** – In regard to the scenario where a developer would construct half of a principal arterial, we do that because we can't legally require them to build a road that exceeds the impact of their development. Fees that could be collected could pay for this section of road does not add up. It would be a drop in a bucket of what is required to construct that road.

Mr. Moraes – What was it their (Meridian Ranch) responsibility to go to the Rex Road boundary when they started building that out? **Mr. Torres** – They will be constructing Rex Road. The buildout to the south is comprised of three filings. It's currently a stub out but will be constructed in Filing 3.

DISCUSSION:

Mr. Emmons – It looks like the applicant is available online as well if they want to speak. I want to underscore what Mr. Dossey said. So, what you have before you is a PUD and preliminary plan. The PUD is a negotiation between the applicant and the County. In straight zoning, there isn't much flexibility, but in a PUD there is more flexibility. They could ask for dedication of ROW or more open space. However, the County has to be careful of what they want. The development will come with impacts, so the County makes exactions that are in proportion to the development. The impacts from the traffic to Rex Road would not be proportional if the requirement was to build the full road out, so therefore the deviation must be approved. As far as the fees, my understanding is that this is an IGA that was entered into by the

City of Colorado Springs and Woodmen Road Metro District. There is \$17 million that the County will put into the developments, so therefore the those are paid pack through road impact funds. If this final plat gets approved after the first of the year, then the County has to pay those impact funds to the metro district. I would recommend against placing a condition on as Mr. Curry stated.

Mr. Jon Romero, NES, wanted to speak on behalf of the applicants. We wanted to reiterate the improvements that will be completed during the three filings. We echo what the County spoke on and agree with their presentation.

PC ACTION: MORAES MOVED/BRITAIN JACK SECONDED FOR APPROVAL OF CONSENT ITEM NUMBER 2B, PUDSP-20-004, FOR A PLANNED UNIT DEVELOPMENT AND PRELIMINARY PLAN FOR THE ESTATES AT ROLLING HILLS FILING NO. 2, UTILIZING RESOLUTION PAGE NOS. 29 AND 25, CITING 20-055 WITH SIX (6) CONDITIONS AND SIX (6) NOTATIONS, AND FIVE (5) MODIFICATIONS WITH A FINDING OF WATER SUFFICIENCY FOR WATER QUALITY, QUANTITY, AND DEPENDABILITY, AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION WAS APPROVED UNANIMOUSLY (8-0).

C. PUD-20-003

DARDEN

**PLANNED UNIT DEVELOPMENT
ROLLING THUNDER BUSINESS PARK PUD AMENDMENT**

A request by Brewing Ground Investments for approval of a map amendment (rezoning) from PUD (Planned Unit Development) to PUD (Planned Unit Development) to amend those permitted uses in the industrial portion of the PUD. The 12.36 acre property is located at the southeast corner of the East Woodmen Road and Golden Sage Road intersection and within Section 11, Township 13 South, Range 65 West of the 6th P.M. (Parcel Nos. 53111-01-001, 53111-01-002, 53111-01-003, 53111-01-004, 53111-01-005, 53111-01-006, 53111-01-007, 53111-01-008, 53111-01-014, 53111-01-013, 53111-01-012, 53111-01-011, 53111-01-015) (Commissioner District No. 2)

PC ACTION: FULLER MOVED/BAILEY SECONDED APPROVAL OF CONSENT ITEM 2C FOR PUD-20-003 FOR A PLANNED UNIT DEVELOPMENT FOR ROLLING THUNDER BUSINESS PARK PUD AMENDMENT UTILIZING RESOLUTION PAGE NO. 29, CITING 20-056, WITH SEVEN (7) CONDITIONS, AND SEVEN (7) NOTATIONS, AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY

COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION WAS APPROVED UNANIMOUSLY (8-0).

D. SF-19-010

RUIZ

**FINAL PLAT
MAYBERRY, COLORADO SPRINGS FILING NO. 2**

A request by Colorado Springs Mayberry, LLC, for approval of a final plat to create three (3) commercial lots. The 38.89 acre property is zoned CS (Commercial Service) and is located south of Highway 94, approximately 1.3 miles west of the Highway 94 and North Ellicott Highway intersection and within Section 14, Township 14, Range 63 West of the 6th P.M. (Parcel No. 34000-00-440) (Commissioner District No. 4)

PC ACTION: BAILEY MOVED/MORAES SECONDED APPROVAL OF CONSENT ITEM 2D FOR SF-19-010 FOR A FINAL PLAT FOR MAYBERRY, COLORADO SPRINGS FILING NO. 2, UTILIZING RESOLUTION PAGE NO. 19, CITING 20-057, WITH ELEVEN (11) CONDITIONS, AND TWO (2) NOTATIONS, WITH A FINDING OF WATER SUFFICIENCY FOR WATER QUALITY, QUANTITY, AND DEPENDABILITY, AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION WAS APPROVED UNANIMOUSLY (8-0).

E. VA-20-003

HOWSER

**VARIANCE OF USE
11955 FALCON HWY EVENT CENTER**

A request by David & Cynthia Smallidge for approval of a variance of use for a business event center. The 41.92-acre property is zoned RR-5 (Residential Rural) and is located at the southeast corner of the Meridian Road and Falcon Highway intersection and within Section 18, Township 13 South, Range 64 West of the 6th P.M. (Parcel No. 43180-00-028) (Commissioner District No. 2)

It was requested by an adjacent property owner to pull the item and heard as a Regular item. **Mr. Trowbridge** also wanted the item pulled and heard as Regular.

Mr. Howser gave a brief overview and asked **Mr. Emmons** to go over the review criteria for a variance of use.

Mr. Emmons – A variance of use is a zoning action. You will look at a proposed use that is not allowed in a particular zoning district, so it doesn't comply with master plan components. You have to look at why or why not you

are allowing this use when otherwise not allowed. You are dealing with trying to mitigate the impacts to a surrounding area giving you greater flexibility in denying it or imposing additional conditions that would further address the impacts to the surrounding area.

Mr. Howser then introduced the applicants, **Mr. and Mrs. Smallidge**, to go over their presentation.

Mr. Trowbridge – I am familiar with this area. (Went over familiar businesses in the area for identification purposes)

Ms. Jack – Did you speak with school District 49 to see if they had any concerns? **Ms. Smallidge** -- We did not speak with them, but they did receive a letter.

Mr. Trowbridge – Do you have a diagram of your plans? Could staff bring up the layout of the lot to show the building layout? My question is more about the orientation of the site and why you chose to bring traffic in. Why did you not put it closer to the highway to keep from visual impact to the other neighbors? **Ms. Smallidge** – The other property owners can't even see this area where the parking will be located. **Mr. Smallidge** – The septic location also had a part to play in the decision of where to locate the building.

Ms. Fuller – Did you look at rezoning to A-35 instead of the variance? I don't see this as a hardship to say you can't find another piece of land. Does this stay with the land forever? **Mr. Smallidge** – We got permission to use our existing well to go to the other building. **Mr. Howser** – The use allows the use as a business event center, up to 75 people. A for profit business whose purpose is to provide a place for people to assemble for events in the nature of, but not limited to, recreational, social, cultural, political uses. Looking at the surrounding zoning, it's primarily RR-5 with a small lot subdivision. Commercial didn't appear to be a viable option to match the surrounding area.

Mr. Moraes – Twice you said 75-80 people, but please realize the condition states no more than 75 people along with other conditions.

Mr. Howser gave his full presentation to the Planning Commission.

Mr. Trowbridge – Could you point out the elementary school? (**Mr. Howser** showed on map) So this would be directly across from the school? **Mr. Howser** – That is correct.

Mr. Risley -- It states three-days a week, so who decides what days that is? I think it could use some clarification. **Mr. Howser** – It states three days, so

it's not determined specific days. We could clarify further in the condition, maybe say holidays and weekends.

Mr. Torres gave his engineering report/findings.

Mr. Bailey – Is the driveway across from the entrance to the school? **Mr. Smallidge** – Yes, it is.

Mr. Howser – We could modify Condition #5 to say that it is limited to weekends and holidays.

Mr. Emmons – The other thing you do is name the days that the use will be in place. **Mr. Risley** – Or if we do specify holidays state that it say federal holidays.

Mr. Trowbridge – Condition 1 says limited use applicable to the applicants' letter of intent. If there is a conflict, which trumps which, the LOI or the conditions? **Mr. Emmons** – The conditions would trump the letter of intent.

Ms. Fuller – Does a variance stay with the property or just with these owners? **Mr. Howser** – it would run with the property, but there is a condition to say if the use is abandoned for two years, it reverts back to the regular zoning.

IN FAVOR: NONE

IN OPPOSITION:

Mr. Brent Neiser – I am owner of 11 properties in the area. I am not the original developer, but I was one of several investors. I would like to see them find another piece of property that is zoned commercial. I imagine that there will be alcohol served at their events, I'm concerned about people leaving at 10 p.m. and driving intoxicated.

Ms. Smallidge – We are okay with the 75 people and only having events on Saturday and Sunday. **Mr. Smallidge** – We will be contracting with reputable vendors who will take responsibility for any alcohol-related issues that may occur.

Ms. Fuller – I don't see a big deal with it just saying weekends and not specifying particular dates. I don't see this as a big impact to the area; I will be in favor of this project.

Mr. Trowbridge – I agree with Ms. Fuller's comments. I don't think the school traffic will complicate this operation because generally they will be different times.

Mr. Moraes – I look at this large piece of property, and if we said no they could come back and rezone and get a special use in place. They aren't putting a large industrial use on the property. I feel it is in character with the surrounding area.

Mr. Bailey – I agree with all the comments. I think the trend will work away from the rural and go more urban. Rezoning to A-35 doesn't usually happen, it usually goes to smaller density. I think this is a good area and I will be in support of this.

Mr. Risley – I appreciate that the owners went through the appropriate channels to do this correctly. There are other large-scale structures already in the area, but you did this through the County. There is also a lot of commercial development already in the area. Condition 5 will be limited to Saturdays and Sundays and will commence at 10 p.m.

Ms. Brittain Jack – I thought it was suggested to include holidays and Fridays. Does the applicant want to change that?

Ms. Blea-Nunez – Think of it as a business. You could very well have some weddings that want to occur on Fridays and Mondays. I think you should go broader.

Ms. Smallidge – Friday noon to Sunday at 10 p.m. and 8 a.m. to 10 p.m. on federal holidays

Mr. Dossey – My suggestion would be to not say hours of the day and just say days of the week and federal holidays, with the exception of conclusion at 10 p.m.

Mr. Risley – So I understand the condition now should be "shall be limited to Fridays, Saturdays, and Sundays and federal holidays and all events shall conclude by 10 p.m.

PC ACTION: BRITTAI JACK MOVED/TROWBRIDGE SECONDED APPROVAL OF CONSENT ITEM 2E FOR VA-20-003 FOR A VARIANCE OF USE FOR 11955 FALCON HIGHWAY EVENT CENTER, UTILIZING RESOLUTION PAGE NO. 19, CITING 20-058, WITH SEVEN (7) CONDITIONS, AND THREE (3) NOTATIONS, WITH A CHANGE TO CONDITION NUMBER 5 AS STATED BY MR. RISLEY ABOVE, AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION WAS APPROVED UNANIMOUSLY (8-0).

Regular Items

3. VA-19-008

RUIZ

**VARIANCE OF USE
MOUNTAIN SPLENDOR, 2020 APPLICATION**

A request by Daniel Combs for approval of a variance of use for a contractor equipment yard. The variance of use was previously approved on February 27, 2018 and then revoked on September 10, 2019 due to noncompliance. The five (5) acre property is zoned A-5 (Agricultural) and is located on the west side of Main Lane, approximately 0.3 miles south of Woodmen Road and within Section 8, Township 13, Range 65 West of the 6th P.M. (Parcel No. 53080-00-048) (Commissioner District No. 2)

Mr. Greer left the hearing, there is still a quorum of seven voting members.

Ms. Ruiz gave a brief overview of the project and asked **Mr. Emmons** to go over the review criteria for a variance of use. She then asked the applicants' representative, **Mr. David Whitehead**, to give their presentation.

Ms. Ruiz then gave her full presentation, **Mr. Torres** gave his engineering report/findings, and they answered questions from the Planning Commission.

Mr. Trowbridge – Could you review the adjacent properties to the north? It appears there are already three other landscaping businesses in the area. **Ms. Ruiz** – Yes, that is correct. It's definitely a transition area. We are seeing some urban development applications coming in.

Ms. Fuller – Are the other three equipment yards like this one? **Ms. Ruiz** – There is outside storage according to the aerial.

Ms. Fuller – Why was this completely ignored and why are we looking at this two years later? I'd like to have that conversation.

Mr. Bailey – I understand that most of the conditions have been addressed even though it was revoked, is that correct? **Ms. Ruiz** – yes, that is correct. They have planted trees and filed the appropriate permits.

IN FAVOR: NONE

IN OPPOSITION:

Ms. Cathy Bell – (provided handouts prior to hearing) – This neighborhood should not have commercial business right next door to residential. His property is very loud, an eye sore, and trees that he planted does nothing for screening. He should have

never received a variance in the first place, and then he ignored it all, and now wants it all again. The pole barn that he finally got permitted is permitted as a commercial garage that he wants to use for his business. I don't think his business can meet noise and dust control. It's not safe with a barbed wire fence next to where children ride bikes. (showing pics to PC and public).

Mr. Trowbridge – Could you identify where your property is located in comparison to the subject property? **Ms. Bell** – I took these pictures from the walking trail, not from my property. (showed maps of 2015 and 2017).

The applicants' representative had an opportunity for rebuttal. **Mr. Whitehead** stated that the caller's view is sees the northwest portion of the site. The fence was supposed to be constructed further out which would have added to the visual impact. The owner struggles with trespassing, people cut the fence and use his property as a cut through. To the east across the open space, there are other landscaping businesses. To the west, there are two more landscaping businesses. To date, we have met all the conditions and have a building permit.

Ms. Fuller – Could you address why those conditions were never met two years ago? **Mr. Combs** – When we applied for this two years ago, we got the approval, got the package and said here you go. We had stipulations that storage tanks be removed. The tanks are 15,000 gallon tanks. They've since been sold and moved. I buy semi-truck loads of compost and rock. We stored that material in bulk around the property. I had to get structural engineers involved in the building design. That took months to get stamped trusses. I bring trucks in, I have material hauled in, and equipment is on site that I use for the business. I'm not a contractor, I'm a landscaper. The complaint of scrap pipe is a recycling area. I haul a semi load of that off once a year.

Ms. Fuller – Are you willing to actually fence this area or are you wanting just the trees be considered your screening? **Mr. Combs** – I'm not trying to get around anything. The reason that NES filed to get the trees as opposed to a fence, you have 6 ft fence on two sides as an unlit area. The town is crowding around us. I'm not opposed to a fence. If it has to be a fence, I'll do it. I met the criteria; I planted trees. I don't want it to look industrial. I think the trees offer a different look. **Ms. Fuller** – I think a fence would mitigate the visual impacts.

Mr. Moraes – Could you please show the pictures of the trees? (shown) Are these the pine trees that were approved? **Mr. Combs** – yes, I planted 15 trees about 4 years ago. **Mr. Moraes** – The trees don't screen much. I can look right through and see everything. You say that people keeping cutting your fence, wouldn't make sense to construct a solid fence that would be more secure? **Mr. Combs** – I think it was built in 1972, and never had a problem. Six months ago, people started going through my property. They were trespassing. **Mr. Moraes** – To me, it would make more sense to have the solid fence, and it's a liability to have people on your property if

they get hurt. As for having 2 six-foot fencing on two sides and it being unlit, that's not really your problem. I don't think the trees are doing what was intended, and they won't for 5, 10 or more years. **Mr. Combs** – I am agreeable to putting a fence up.

Mr. Bailey – We need to remember that the trees are there in lieu of a 6 ft privacy fence. A fence won't offer any more screening. The developer of Quail Bush decided to put their fence on the wrong side and didn't offer the buffer that they should have initially. I do think that you made a good faith effort to finally comply. Unfortunately, lots look like this more and more, with houses butting right against other properties.

Ms. Ruiz – Our experience has been that when you have a dark narrow area fenced on either side, the area is not properly maintained, items begin to be illegally dumped, and it becomes a favorite location for unsavory activities. Regarding the outside storage and visual clutter, maybe instead of doing a solid fence along the property boundary, they fence the open storage areas A and E that would screen the immediate view of the neighbors. From a planning perspective, if there is an additional condition recommended that we'd offer this as an alternative to one large solid fence.

Mr. Trowbridge – If a fence were erected a fence where the barbed wire is, I don't think that would be visually appealing. I would point out that the County Commissioners approved the trees along with the Planning Commission. I would not be in favor of a tall privacy fence where the barbed wire fence is currently located. I like **Ms. Ruiz's** idea of fencing those storage areas.

Mr. Moraes – You've seen my correspondence with Ms. Ruiz in your packet. It was only after I saw the pictures from the opposition that I saw that the trees did nothing to screen.

Ms. Brittain Jack – The homeowners knew what they were facing when they built there. This was in existence long before they build.

Ms. Fuller – I would agree with that. A lot of homeowners build and think an area will stay open space. These houses did encroach, but the use is much more intense than it was when your brother had this property. There is an obligation to make it less horrible visually.

Mr. Combs – I don't think a 6-foot fence around the storage areas will work, but maybe more trees. I am a good neighbor; I maintain Maine Lane for all the residents. I don't want to create a force within the property.

Mr. Bailey – I think we might be overstating the nature of that trail. People tend to walk there and if they have to look at a contractor's equipment yard, they've made that choice.

Ms. Brittain Jack – There is three or four letters from businesses on that road complimenting Mr. Combs for maintaining that road and being a good neighbor.

Ms. Fuller – How big are the lots of the other landscaping businesses? **Mr. Whitehead** – They are approximately 3-4 acres. There's one that is 10 acres.

Mr. Moraes – If the general feeling is that we want him to put in more trees, then we should take a break to see how we need to word that to get the intent. If we don't want to change it, then we press on. **Mr. Bailey** – I am happy with what was approved before and what is being requested at this time. **Ms. Fuller** – I believe Mr. Combs will do what he says and continue to be a good neighbor. **Mr. Moraes** – I'm good with whatever the consensus is.

Mr. Trowbridge – I am somewhat sympathetic to the applicant of not understanding what was expected before, but I hope he recognizes that it is his responsibility to understand all the conditions that are before him. I've heard enough here today to move forward with this.

Mr. Risley – You have stated on record that you will continue to be a good neighbor and that you will adhere to the requirements set forth.

PC ACTION: BAILEY MOVED/MORAES SECONDED FOR APPROVAL REGULAR ITEM NUMBER 3, VA-19-008, FOR A VARIANCE OF USE FOR MOUNTAIN SPLENDOR, UTILIZING RESOLUTION PAGE NO. 51, CITING 20-059, WITH THREE (3) CONDITIONS, THREE (3) NOTATIONS, AND ONE (1) WAIVER, AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION WAS APPROVED (7-0)

- 4. El Paso County Master Plan – Information Update – No Action Needed – Mr. Dossey** gave an update of the Master Plan during report items. No further information provided.

NOTE: For information regarding the Agenda item the Planning Commission is considering, call the Planning and Community Development Department for information (719-520-6300). Visit our Web site at www.elpasoco.com to view the agenda and other information about El Paso County. Results of the action taken by the Planning Commission will be published following the meeting. (The name to the right of the title indicates the Project Manager/Planner processing the request.) If the meeting goes beyond noon, the Planning Commission may take a lunch break.

The minutes were approved as presented at the December 17, 2020 hearing.