

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-DV3-023 (Amended)
Address: 6160 East 38th Street (approximate address)
Location: Lawrence Township, Council District #13
Zoning: C-S (TOD)
Petitioner: Indy Fresh Market Enterprises, LLC, by Tammy Rice
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the erection of a pylon sign including a 28.2-square foot digital display (not permitted) within 218 feet of a protected district (digital display prohibited within 400 feet of a protected district).

RECOMMENDATIONS

Staff **recommends denial** of this request as amended.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

EXISTING ZONING AND LAND USE

C-S	Compact	Commercial
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SURROUNDING ZONING AND LAND USE

North	C-S	Commercial
South	C-5	Commercial
East	D-3	Residential (Single-family dwellings)
West	C-S	Commercial

COMPREHENSIVE PLAN	The Comprehensive Plan recommends community commercial development.
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- ◇ The 1.25-acre subject site is developed with a grocery store and associated parking lot.
- ◇ The site is surrounded by commercial uses to the north, west and south with residential dwellings to the east.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The initial request was for the erection of a pole sign including a 28.2-square foot digital display with a 23-foot front setback and within 218 feet of a protected district.

(Continued)

STAFF REPORT 2023-DV3-023 (Continued)

- ◇ The proposed sign would meet the definition of a pylon sign with a 22-inch pole instead of the 8-inch pole that staff originally used in the classification of sign type. Additionally, the petitioner revised the site plan to meet the 20-foot maximum front setback. This resulted in the elimination of the variance for a pole sign and excessive front yard setback.
- ◇ The grant of the amended request would allow for a pylon sign with a 28.2-square foot digital display with deficient separation from a protected district.
- ◇ Digital display components are only permitted on pylon signs within the C-4, C-5 and C-7 districts and cannot be located within 600 feet of any protected district unless visibly obstructed from view from within that district, but in no instance can they be located within 400 feet of a said district.
- ◇ As proposed, the digital display would be located 218 feet from the D-3 protected district to the east. Although visibly obstructed from the protected district, it would not have the sufficient separation necessary to meet the Ordinance.
- ◇ The submitted findings of fact state no practical difficulties in the use of the property. The items mentioned are that digital displays are not permitted and that the proposed sign would be furthest from the protected district and visibly obstructed. However, neither of these statements prove that the property could not be used as the proposed grocery store without the variance.
- ◇ Instead, appropriate signage could be located on site within the constraints of the Ordinance such as the installation of a pylon sign or wall sign without digital display components.
- ◇ Lastly, the subject site fronts along 38th Street which is a frequently traveled primary arterial street where the Bus Rapid Transit Purple Line is currently under construction. The business would be clearly identifiable from the street limiting the need for a quick changing digital display sign.
- ◇ For these reasons, staff is recommending denial of the request.

GENERAL INFORMATION

THOROUGHFARE PLAN

38th Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary arterial street, with an 82-foot existing right-of-way and a 88-foot proposed right-of-way.

THOROUGHFARE PLAN

Sheridan Avenue is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary arterial street, with a 41-foot existing right-of-way and a 48-foot proposed right-of-way.

SECONDARY DISTRICT

This site is in the Transit Oriented Development Secondary District.

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STAFF REPORT 2023-DV3-023 (Continued)

OVERLAY	This site is in a Transit-Oriented Development (TOD) overlay, specifically the Bus Rapid Transit Purple Line.
SITE PLAN	File-dated May 19, 2023.
AMENDED SITE PLAN	File-dated June 7, 2023.
ELEVATION	File-dated May 19, 2023.
FINDINGS OF FACT	File-dated May 19, 2023.

ZONING HISTORY – SITE

EXISTING VIOLATIONS

None.

PREVIOUS CASES

2021-HOV-027; 6190 East 38th Street (subject site), Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for reduced transparency on both street facades (40% transparency required within three and eight feet above grade within 50 feet of a local, collector or arterial street), **granted**.

2020-CZN-840 / 2020-CVR-840; 6190 East 38th Street and 3850 North Sheridan Avenue (subject site), Rezoning of 6.6 acres from the SU-1 and C-4 districts to the C-S district to provide for a medical device manufacturing facility, including warehousing, wholesaling and distribution as an accessory use; all C-1 uses; vocational, technical or industrial school or training facility; hospital; animal care and veterinary services; farmers' market; artisan food and beverage; business, home and personal services or repair (not including a tattoo parlor); eating establishment or food preparation; indoor recreation and entertainment; department store; grocery store; light and heavy general retail; transit center; recycling station; all accessory uses permitted by the C-4 district; and with all proposed signs meeting C-4 standards. Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a maximum building height of 65 feet and to eliminate the maximum setback requirement (38-foot height permitted and maximum 65-foot setback permitted), **approved and granted**.

ZONING HISTORY – VICINITY

2022-DV3-038: 6002, 6006 and 6106 East 38th Street (west of site), Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a health center facility without a primary entrance for every 100 feet of façade (one entry per 100' of building façade required), **granted**.

2021-CVR-857; 6205, 6215 and 6225 East 38th Street (southeast of site), Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a commercial contractor with outside storage of materials and equipment in excess of 25% of the square-footage of the buildings (maximum 25% of all buildings permitted), **granted**.

(Continued)

STAFF REPORT 2023-DV3-023 (Continued)

2011-UV3-024; 3805 North Sheridan Avenue (northeast of site), Variance of use to provide for a beauty salon and nail shop, **granted**.

2009-UV3-007; 6105 East 38th Street (southwest of site), Variance of use and development standards of the Commercial Zoning Ordinance to provide for a towing service and impound lot (not permitted) including the storage of inoperable vehicles (not permitted), and a zero-foot front landscaping strip along East 38th Street (minimum ten-foot front landscape strip required), **denied**.

99-V3-89; 6205 and 6209 East 38th Street (southeast of site), Variance of use of the Commercial Zoning Ordinance to provide for sales and storage of boats, **granted**.

87-UV2-139; 6225 East 38th Street (southeast of site), Variance of use to provide for boat sales and services and a variance of development standards to provide for a deficient front yard, **granted**.

83-SE1-2; 6125 East 38th Street (southwest of site), Commercial Special Exception to provide for the operation of an amusement arcade consisting of eleven machines within the existing bowling alley, later modified to seventeen machines, **granted**.

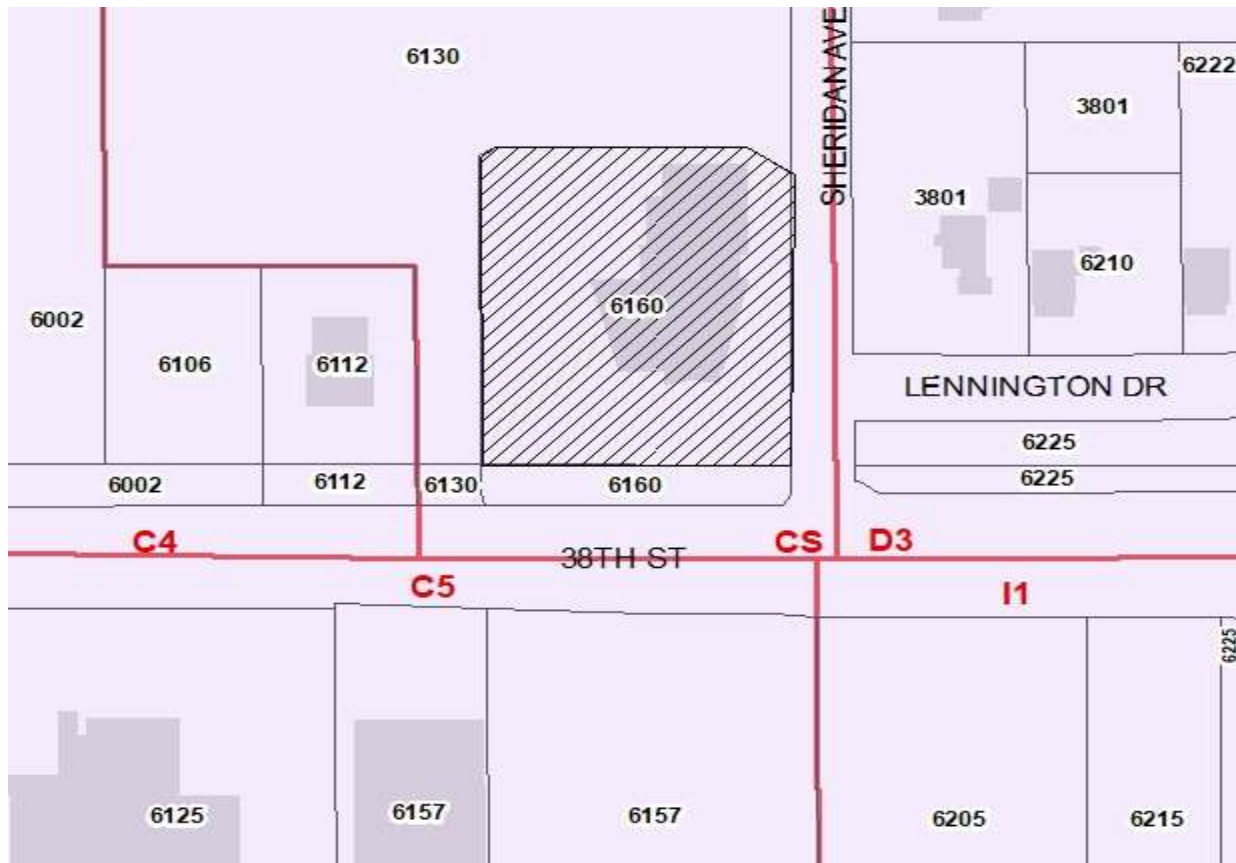
83-V1-58; 6125 East 38th Street (southwest of site), Variance of development standards to provide for the operation of an amusement arcade within 500 feet of a residential district, **granted**.

81-SE1-2; 2139 East Prospect Street (southwest of site), Commercial Special Exception to permit the continued operation of a pool hall, as per plans filed, off-street perming provided, **granted**.

81-UV3-58A; 3755 North Arlington Avenue (southwest of site), Variance of development standards of the Commercial Special Exception Ordinance 76-AO-2 to permit the installation of 25 amusement machines in the game room at Putt-Putt Golf Course within 500 feet of a residential district, **granted**.

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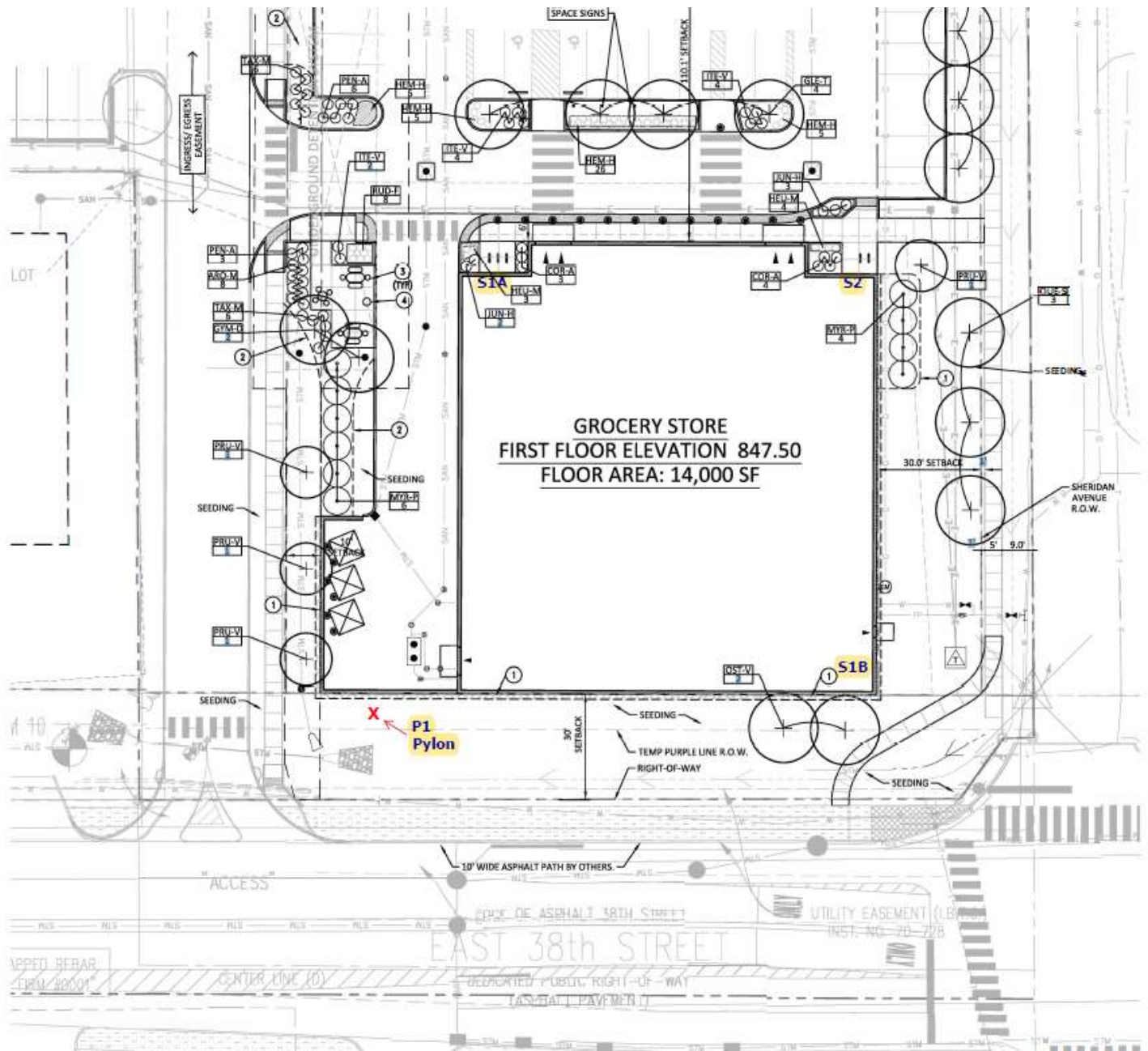
2023-DV3-023; Location Map



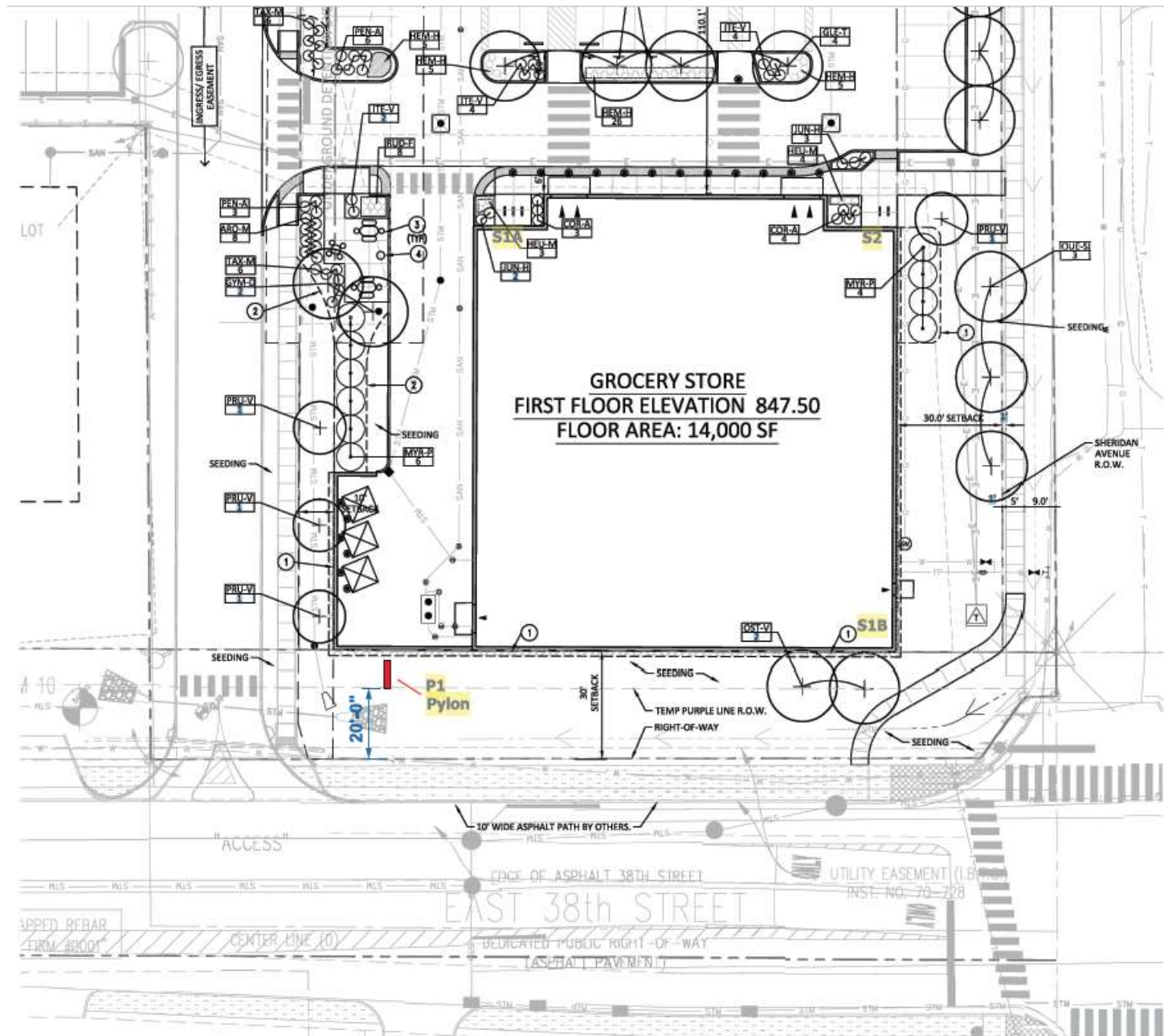
2023-DV3-023; Aerial Map



2023-DV3-023; Site Plan



2023-DV3-023; Amended Site Plan



Technical drawing of a sign structure showing dimensions and components:

- Sign Dimensions:**
 - Top sign panel: 99" wide, 72" high.
 - Bottom sign panel: 41" high.
 - Post height: 10'-7" (from ground to top of bottom sign panel).
 - Total height: 20'-0" (from ground to top of top sign panel).
- Sign Content:**
 - Top panel: "Indy Fresh Market" logo.
 - Bottom panel: "School snacks that pack in the savings." with images of snacks.
- Foundation Details:**
 - Concrete footer: 20" wide.
 - Rebar cage: 20" wide.
 - Power: 20" wide.
 - Height: T.B.D. (To Be Determined).



- Top Cabinet
Aluminum tube/angle framing
.080 Aluminum cladding - painted black
2" Retainers - painted black
Pan formed faces - clear polycarbonate with 2nd surface graphics
Illumination: AVL 6500k white LEDs

- Electronic Message Center**
16mm LED RGB
Front Ventilation
Cabinet Size: 41" x 8'-3" x 5"
Viewing Area: 36" x 8'-0"
Software: Ignite OP (PC-based)
Temperature sensor
Communication: 4G Wireless with cellular data plan
Electrical: 120v 14 amps (7.00 per face)

- 8"x8" Steel Pole - painted black
Direct bury install in grass/dirt area with concrete footer
Footer TBD

- Power Requirements
(1) 20Amp & (1) 30Amp circuits
Power to be brought to sign area by client/GC

2023-DV3-023; Photographs



Photo of the Subject Property: 6160 East 38th Street



Photo of the subject site to the right and the adjacent restaurant to the left.



Photo of the proposed location of the pylon sign.



Photo of the protected dwelling district to the east of the site.