

Meeting Date: November 13, 2023

Item Number: 1

ADMINISTRATIVE HEARING AGENDA REPORT

SUBJECT: Request for a Minor Use Permit to allow the replacement of a prior nonconforming heavy manufacturing use with a nonconforming light manufacturing use in the Medium-Density Residential (R-2) Zone. The project is categorically exempt from environmental review under Section 15301 (Existing Facilities) of the CEQA Guidelines.

PROJECT ADDRESS: 3428 Bullock Lane **BY:** Hannah Hanh, Associate Planner

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FILE NUMBER: USE-0433-2023

RECOMMENDATION: Approve the request for a Minor Use Permit to allow the replacement of a prior nonconforming heavy manufacturing use with a nonconforming light manufacturing use in the Medium-Density Residential (R-2) Zone, based on the findings and subject to the conditions of approval.

SITE DATA

Applicant	Newterra	
Representative	Benjamin Corcoran	
Zone	Medium-Density Residential (R-2)	
Land Use Designation	Medium Density Residential	
Site Area	1.16 acres	
Project Building	20,000 square feet	
Environmental Determination	Categorically exempt under Section 15301 (Existing Facilities) of the CEQA Guidelines	



Figure 1 – Project Site

1.0 SUMMARY

Newterra (Applicant) has applied for a Minor Use Permit to replace a prior nonconforming heavy manufacturing use with a nonconforming light manufacturing use in an existing industrial building located at 3428 Bullock Lane in the R-2 Zone. The project includes the design, engineering, manufacturing, and service of environmental, and water and wastewater treatment solutions for drinking water, industrial process water, environmental remediation, and stormwater treatment. Proposed design engineering, production and equipment testing, and administrative operations would occur within select timeframes between 7:00 a.m. and 7:00 p.m. during the week and between 7:00 a.m. and 2:00 p.m. on the weekend, including occasional extended hours for overtime.

2.0 PROJECT INFORMATION

Site Information

Present Use & Development	Developed property with existing industrial building and site improvements such as access and parking.	
Topography	Upwards slope towards property, relatively flat overall	
Access	Bullock Lane	
Zones & Surrounding Uses North: R-2, R-3-S; mobile home park, multiunit residences South: R-2-PD, M; multiunit residences, manufacturing, whole commercial recreation East: R-2-PD, R-2; multiunit residences, mobile home park West: M; business services, manufacturing, wholesaling, distributions.		

Project Background

The project site contains an existing, approximate 20,000 square foot industrial building and site improvements, which have been utilized for a variety of nonconforming uses, including heavy and light manufacturing, warehousing, etc., since 1978. On <u>September 27, 2017</u>, the Planning Commission reviewed and approved a Minor Use Permit (USE-0879-2017) to allow the continuation of a nonconforming heavy manufacturing use for the prior tenant (Global Machinery Group, Inc.) (Minutes, Resolution).

Project Description

The Applicant has applied for a Minor Use Permit to allow the replacement of a prior nonconforming heavy manufacturing use with a nonconforming light manufacturing use in an existing industrial building located at 3428 Bullock Lane in the R-2 Zone (Attachments A – Project Description and B – Project Plans). The project includes the design, engineering, manufacturing, and service of environmental, and water and wastewater treatment solutions for drinking water, industrial process water, environmental remediation, and stormwater treatment.

Proposed design engineering, production and equipment testing, and administrative operations would occur within select timeframes between 7:00 a.m. and 7:00 p.m. during the week and between 7:00 a.m. and 2:00 p.m. on the weekend, including occasional extended hours for overtime. To facilitate the use, tenant improvements would be implemented to an existing building. The project does not include construction of a new building or additional building square footage.

3.0 PROJECT ANALYSIS

Per Section 17.94.020(B)(2) (Nonconforming Uses – Regulations), replacement of a nonconforming use with another nonconforming use requires a Director's Hearing process (i.e., Minor Use Permit application) and approval may be granted if the new use has similar or less severe impacts on its surroundings in terms of noise, traffic, parking demand, hours of operation, and visual compatibility. Staff has evaluated the project against these preceding factors and found it to be in compliance as discussed in the following analysis.

Noise

Indoor Activities

Manufacturing activities would primarily occur indoors and include the assembly, modification, and repair of small secondary parts into water treatment products that utilize hand tools (e.g., wrenches, pliers, crimpers, wire strippers, measuring tapes, etc.), portable electric hand tools (e.g., cordless drills, saws, grinders, etc.), and stationary electric tools (e.g., drill press, bandsaw, etc.). Activities or use of tools that may produce significant noise (equivalent to gardening tools) would be infrequent and limited to between 8:00 a.m. and 5:00 p.m. on Mondays and Fridays, which is consistent with hours of operation for the previous use. Upon completion of assembly, finished equipment would undergo operational testing, which consists of water circulation from a tank in a closed loop, prior to being prepared for distribution. Other indoor activities include warehousing of secondary parts and offices for design and administrative tasks that result in minimal noise.

In comparison, operations of the prior use included the modification, assembly, inspection, and shipment of aerial work platforms (e.g., manlifts) and earth-moving equipment (e.g., excavators, loaders, drills, etc.), which require regular use of heavy machinery that produce more noise than that generated by regular use of small hand tools and water tanks. Other similar indoor activities included warehousing of materials and offices for administrative tasks.

As proposed, indoor activities for this project would result in less noise in comparison to the prior use.

Outdoor Activities

Outdoor activities for the project primarily consist of loading/unloading and temporary staging of materials for incoming deliveries and outgoing shipments, which are consistent with the prior use. In addition, testing may infrequently occur outside and usually within a trailer. Since equipment testing is limited to water circulation from a tank in a closed loop, the noise produced would be similar to running pumps for a residential pool system or tire air pumps at a bicycle shop. Therefore, noise generated by outdoor equipment testing would not exceed noise generated by adjacent loading/unloading and staging activities.

As proposed, outdoor activities for this project would result in a similar level of noise to the prior use.

Traffic

Since the project is a request to replace a prior heavy manufacturing use with a light manufacturing use, the minimal differences in operational characteristics would not produce a substantial change in traffic for the site. Similar to the prior use, deliveries and shipments would occur during standard hours in the week for most instances and on the weekends for limited circumstances.

As proposed, the project would result in a similar level of traffic to the prior use.

Parking Demand

Per <u>Table 3-4</u> (Parking Requirement per Use), the parking requirement for both heavy and light manufacturing uses is one (1) space per 1,000 square feet, plus any required spaces for dedicated office area. The project includes 15,800 square feet of manufacturing area and 4,200 square feet of office space, which requires 29.8 or 30 parking spaces rounded up.

As proposed, the project would result in a similar parking demand to the prior use and be sufficiently served by the 39 parking spaces provided onsite.

Hours of Operation

The project is requesting to operate between 7:00 a.m. and 7:00 p.m. on Mondays through Fridays and between 7:00 a.m. and 2:00 p.m. on occasional weekends to allow for different work shifts and the potential of overtime work. Employees would be categorized into two (2) groups and participate in manufacturing-related (i.e., production and testing) or office-related (i.e., design and administrative work) tasks. Any manufacturing-related activities that may generate significant noise (equivalent to gardening tools) would be infrequent and limited to Mondays through Fridays from 8:00 a.m. and 5:00 p.m. As proposed, work shifts typically start at 7:00 a.m. or 8:00 a.m. and conclude by 4:00 p.m. or 5:00 p.m. However, to account for instances where overtime may be required, work shifts may at times extend an additional two (2) hours until 7:00 p.m. during the weekday and to between 7:00 a.m. and 2:00 p.m. on the weekend. Occasional weekend work would occur no more than two (2) days per month.

In comparison, the prior use was permitted to regularly operate from Mondays through Fridays from 8:00 a.m. to 5:00 p.m. and on Saturdays from 8:00 a.m. to 5:00 p.m. Although the requested range of hours of operation is more extended for the project, proposed manufacturing activities that would produce significant noise are infrequent, not as noisy, and occur at the same hours of operations as the prior use. Impacts of noise within time of the day would therefore be similar between the prior and proposed uses. While some employees may regularly begin an hour earlier at 7:00 a.m., these employees are limited to work that does not generate noise in the early morning and would conclude their shift earlier at 4:00 p.m. As a result, noise and traffic in the early morning and late afternoon hours would be managed through the staggered arrival and departure times of employees. Lastly, the request for extended hours during the week would result in minimal change as the need for overtime would be on an infrequent basis, not increase the number of employees, and does not alter when noise generating activities may occur. The request to work no more than two weekend days a month would also be less than the weekend hours that were regularly permitted for the prior use.

As proposed, the hours of operation for the project would result in similar impacts as the prior use.

Visual Compatibility

Similar to the prior use, the project would utilize the existing industrial building and tenant improvements would be limited to the interior of the building. No new building construction or building addition is proposed. Manufacturing activities would occur within the building and areas screened from public view. In addition, loading and unloading activities would occur at existing

loading doors, and any temporary staging areas would take place at the rear of the property and be located outside of required setbacks and parking areas.

As proposed, the project would result in a similar visual compatibility as the prior use.

4.0 CONCURRENCE

The project has been reviewed by the Planning Division, Building Division, Fire Department, and Utilities Department. Any conditions or informational notes provided by each department or division have been incorporated into the approval of this Minor Use Permit.

5.0 ENVIRONMENTAL REVIEW

The project is categorically exempt from provisions of the California Environmental Quality Act (CEQA) described in Section 15301 (Existing Facilities) of the CEQA Guidelines because it consists of the operation, permitting, leasing, licensing, and minor alteration of an existing private structure that involves no expansion of a building previously used for manufacturing operations. The project is limited to minor tenant improvements to accommodate the proposed use, and no addition to the building is proposed.

6.0 ATTACHMENTS

- A. Project Description
- B. Project Plans

7.0 ACTION

	and subject to conditions listed below on findings and subject to conditions listed	below
□ Deny	C v	
☐ Continue to:	to allow	
☐ Continue indefinitely to allo	ow:	
Tyler Corey, Deputy Director of Hearing Officer	of Community Development	

Findings

Minor Use Permit

- 1. The design, location, size, and operating characteristics of the project will be compatible with existing and future residential uses in the vicinity because the nonconforming light manufacturing use would operate in a manner that does not result in increased noise, traffic, parking demand, and visual compatibility.
- 2. As conditioned, the site is physically suitable in terms of (a) its design, location, shape, size, and operating characteristics of the proposed use, (b) traffic generation and provision of public and emergency vehicle (e.g., fire and medical) access, (c) public protection services (e.g., fire protection, police protection, etc.), and (d) the provision of utilities (e.g., potable water, schools, solid waste collection and disposal, storm drainage, wastewater collection, treatment, and disposal). The project site is surrounded by other developed properties, has access to the City's circulation system, and will be served by existing utility services. Additionally, the project is sufficiently served by parking onsite and does not include activities that generate service or utility demands beyond those of previously allowed manufacturing uses.
- 3. As conditioned, the establishment and subsequent operation or conduct of the use will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety, or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property of improvements in the vicinity of the use because the project was evaluated for compliance with the Building Code and Fire Code, and will operate in a manner that addresses potential noise-, traffic-, and parking-related conflicts with adjacent uses.
- 4. The project is consistent with the intent of the Zoning Regulations because the prior nonconforming use was established with an approved Minor Use Permit (USE-0879-2017). Nonconforming status may be continued within twelve months from termination of the prior use, and application for a replacement nonconforming use was made within twelve months of an active business license.
- 5. As conditioned, the project is consistent with the character of the neighborhood because it has similar or less severe impacts on its surroundings than the prior use in terms of noise, traffic, parking demand, hours of operation, and visual compatibility because the use will not involve activities or use of tools that generate more noise, result in increased vehicle trips, increase the parking requirement for the site, extend hours of operation in a manner that extends the duration of noise generating activities or increase traffic, or alter the existing development.

Environmental Determination

6. The project is categorically exempt from provisions of the California Environmental Quality Act (CEQA) described in Section 15301 (Existing Facilities) of the CEQA Guidelines because it consists of the operation, permitting, leasing, licensing, and minor alteration of an existing private structure that involves no expansion of a building previously used for manufacturing operations. The project is limited to minor tenant improvements to accommodate the proposed

use, and no addition to the building is proposed.

Conditions of Approval

The conditions of approval do not include mandatory code requirements. Code compliance shall be verified during the building permit review, which may include additional requirements applicable to the project.

Planning Division - Community Development Department

- 1. The Minor Use Permit shall be reviewed by the Community Development Director for compliance with the conditions of approval, or to determine whether a modification of the Minor Use Permit is necessary upon significant change to the project description, approved plans, and other supporting documentation submitted with this application or in the event of a change in ownership which may result in deviation from the project description or approved plans. Minor changes to the project description or approved plans may be authorized by the Community Development Director and substantial modifications shall require modification of the Minor Use Permit.
- 2. The Minor Use Permit shall be reviewed by the Administrative Hearing Officer if the City receives substantiated written complaints from any citizen, Code Enforcement Officer, or regulatory agency, which contain information and/or evidence supporting a conclusion that a violation of this Use Permit, or of City Ordinances or regulations has occurred. At the time of Minor Use Permit review, conditions of approval may be added, modified, or removed, or the Use Permit may be revoked to ensure ongoing compatibility with nearby uses. The Administrative Hearing Officer may refer to the complaint to the Planning Commission at the Hearing Officer's discretion.
- 3. Standard hours of operation are permitted on Mondays through Fridays from 7:00 a.m. through 5:00 p.m. Extended hours of operation for overtime work are permitted until 7:00 p.m. on weekdays and between 7:00 a.m. and 2:00 p.m. on weekends. Extended operations on the weekends are limited to a maximum of two (2) weekend days within a month and shall be conducted with all doors and windows closed.
- 4. To manage noise and traffic associated with the arrival and departure of employees in the early morning and late afternoon, staggered work shifts shall be available for employees.
- 5. Manufacturing operations that utilize powered tools (e.g., grinders, drill presses, bandsaws, etc.) that may generate significant noise are limited to occur on Mondays through Fridays between 8:00 a.m. through 5:00 p.m.
- 6. Temporary outdoor staging for incoming deliveries and outgoing shipments is only allowed in areas that are screened from public view and located outside of the minimum required five-foot (5') side and rear setbacks and 30 parking spaces.

- 7. To ensure adequate parking is available to serve project operations, a minimum of 30 parking spaces shall be maintained. Temporary outdoor staging of materials shall not encroach into or hinder maneuverability of required parking spaces.
- 8. All deliveries shall occur onsite and not take place on Bullock Lane.
- 9. Any supporting work vehicles or equipment shall be parked onsite in appropriate parking spaces and not on the street.
- 10. The site shall be maintained in a clean and orderly manner at all times to the satisfaction of the Community Development Director.

Indemnification

11. The applicant shall defend, indemnify, and hold harmless the City and/or its agents, officers and employees from any claim, action or proceeding against the City and/or its agents, officers, or employees to attack, set aside, void or annul, the approval by the City of this project, and all actions relating thereto, including but not limited to environmental review ("Indemnified Claims"). The City shall promptly notify the applicant of any Indemnified Claim upon being presented with the Indemnified Claim and City shall fully cooperate in the defense against an Indemnified Claim.

Applicable Application or Code Requirements and Informational Notes

- 12. Exterior lighting improvements shall comply with applicable requirements outlined in Section 17.70.100 (Lighting and Night Sky Preservation) and utilize light fixtures that are shielded, oriented downwards, and minimize spillover.
- 13. A sign permit is required for any new signage. Please note that proposed signage must comply with all applicable requirements outlined in Chapter 15.40 (Sign Regulations).
- 14. A building permit is required for the removal and/or addition of walls, doors, and any other work that is to be done.
- 15. In order to be reused, any existing sewer laterals proposed to serve the project must pass a video inspection per Section 13.08.395 of the City's Municipal Code, including repair or replacement, as part of the project. The CCTV inspection shall be submitted during the Building Permit Review Process to Permit Technician, Community Development, Engineering Development Review for review and approval by the Utilities Department prior to issuance of a Building Permit. Existing laterals that are not proposed to be reused shall be abandoned at the City main consistent with City standards.

Proposed Use:

3428 Bullock Ln. San Luis Obispo, CA 93401

Previously used by: GMG (Global Machinery Group)

Newterra (formerly H2O Engineering) designs, assembles, and provides field service support for equipment used in the environmental, agricultural, and light manufacturing industries. Our designs support our customers' efforts to ensure environmental sustainability through resource preservation, to maximize unique process efficiencies, and to help abate environmental pollution. Newterra offers a broad portfolio of technologies and solutions for our customers across diverse applications, including drinking water, industrial process water, environmental remediation, and stormwater treatment.

H2O Engineering has been operating in the city of San Luis Obispo and a contributing part of our community since the year 2000. Newterra recognized H2O's capabilities as valuable to the organization and in October of 2022, completed the acquisition process. For the past year, Newterra has been operating in two separate facilities in San Luis Obispo and is looking to consolidate these operations into one larger facility. However, the daily operations of our San Luis Obispo team remain unchanged and classified as Warehousing & Manufacturing.

Newterra - H2O Engineering not only offers desirable jobs to the community, helping Cal Poly students to remain in the area, but also supports the local economy by partnering with our local network of vendors. Newterra actively engages with the community through volunteering with the Downtown Association, sponsorship opportunities and other local fundraising efforts.

- 1. Number of Employees: 15-25
 - a. The range of 15 to 25 employees may include a mixture of both full-time and part-time employees. Currently, Newterra employs (16) full-time employees. Some employee work schedules provide for remote and/or field work. The majority of our employees work in the office providing administrative or engineering design services, holding meetings, etc.
 - i. 10 employees Office work
 - ii. 3 employees Field Service
 - iii. 3 employees Production Assembly

Newterra's growth plan accounts for the additional employees that may be hired over the course of the 3-5yr tenancy. The type of new positions is expected to follow our current ratio of employee makeup, with engineering design work being our focus.

- 2. Hours of Operation:
 - a. Standard Business Operations Hours: Monday Friday: 7:00am –
 5:00pm.

Newterra embraces the importance of schedule flexibility for our employees and tries to be accommodating, when possible, within the frameworks of the overall operating hours window. Below is an example of the current schedules.

Admin/Engineering – 7:00am – 4:00pm or 8:00am – 5:00pm, M-F. This designation includes design and clerical duties and requires office work only, so there's no significant impact on the neighboring community.

Production and Equipment Testing – 7am – 5pm, M-F (8hr shift within this timeframe). This designation includes parts warehousing and product assembly and testing. Activities that generate significant noise (equivalent of gardening tools like lawn mowers and leaf blowers), are limited and infrequent and such activities could be scheduled for operation between 8am – 5pm, M-F.

Note: This usage is similar to GMG's previous agreement under the existing use permit.

b. Administrative Office Hours: 7:00am – 7:00pm, M-F.

Administrative Hours include operations and employee activities limited to office design work, clerical duties, etc.

Note: This usage is similar to GMG's previous agreement under the existing use permit.

c. Non-Standard Business Operations Hours: Extended shifts and Weekend work.

Historically, Newterra's overtime needs have been infrequent, but under rare circumstances, overtime hours may be offered to our employees in order to meet schedule expectations. Periodic weekend work will not average more than 2 days per month on an annual basis and will be compliant with all SLO City noise ordinances. Extended shifts would remain within the 'Hours of Operation' window, while weekend work is typically limited to a 7:00am – 2:00pm operational window. Weekend work could be conducted with closed doors and windows.

Note: This usage is similar to GMG's previous weekend agreement under the existing use permit.

3. Type of Use:

a. Manufacturing: Modifying small parts into assemblies utilizing equipment that may include hand tools (wrenches, pliers, crimpers, wire strippers, measuring tapes, etc.), portable electric hand tools (cordless drills, saws, grinders, etc.), stationary electric tools (drill press, bandsaw). All tools used are available at local hardware stores and can be found in any home garage/shop.

- b. Some manufacturing activities include modification of an existing product. This may include cutting or grinding using portable hand tools such as jigsaws or angle grinders, also commonly found in the home garage environment. Welding is currently outsourced to local vendors. No odor, waste, or byproduct is produced in our manufacturing processes.
- c. Warehousing activities include stock organization and allocation of parts & materials to our Production Department for project staging and assembly or to our Shipping Department for direct order fulfillment. Materials include electrical & mechanical components as well as water filtration media. These materials do not require special containment. Media related activities may include mixing and measuring.

In addition, a limited amount of chemicals such as anti-scalants, sulfuric, and citric acid (equivalent to chemicals used in pool or spa maintenance) are also stored using secondary containment as they are in liquid forms. The chemicals are stored at our facility prior to being delivered to customers. They are not used at our facility and there are no hazardous waste streams.

d. General office use (accounting, scheduling, payroll, purchasing, meetings, administration)

4. Outside Use:

- a. Delivery and shipping activities occur during standard business hours. The loading dock on the west side of building adjacent to Bullock Lane will be the primary shipping/receiving point for both inbound materials prior to assembly and outbound finished goods awaiting shipment. The outside activity would be limited to the delivery trucks pulling up to the dock and being loaded/unloaded. Flatbed deliveries and shipments will be staged, loaded/unloaded within the gated area of the property.
- b. Equipment testing is primarily conducted inside the facility. Such processes include operational testing of equipment which may generate limited noise due to running pumps which is equivalent to the noises generated by a residential pool system. Water used during equipment testing is recirculated through a tank in a closed loop. Outdoor equipment testing is very infrequent and is usually completed inside of a trailer. This type of testing utilizes a small air compressor that generates noise equivalent to a tire air pump that you may find at a bike shop. Please refer

to the additional plans showing where this would occur. Compliancy to 5' setbacks and limiting visibility from the street would be followed.

Note: GMG's manufactured scissor lifts and their testing activities often utilized this same eastern part of the storage yard without incident.

5. Shipping & Receiving Expectations:

- a. Standard shipments and deliveries occur during "Standard business hours".
 - i. Small Parcel (UPS) Delivers small parcels in the morning and picks up outbound shipments between 2:30-3:30pm. They are on site for approximately 5 minutes at a time. Newterra averages about 5 small parcel outbound shipments per week.
 - ii. Freight Shipments (FedEx or XPO) Manage our palletized shipments. Deliveries typically are conducted in the mornings and the outbound shipments are picked up in the afternoons. Newterra averages 2-3 days of outbound shipments per month.
- b. Outbound shipments conducted on the weekend are very rare and are typically associated with extenuating circumstances. Weekend shipments average 1-2 per year or less and would be conducted in compliance with section 2c. above.

6. Project Plans:

- a. Construction activities will be required to support the proposed Newterra operation. The proposed upgrades will be limited to the office space portion of the building. Newterra is working with a local architect to define and finalize the new design and initiate the permitting process for the proposed changes, outlined below. Please refer to additional floor plan drawings for proposed uses.
- b. Hatched areas indicate a proposed elimination of dividing walls. Existing mezzanines (shown in attached drawings) will remain but are unlikely to be used.
- c. Outlines of outdoor staging areas are shown in the attached site plans.
- d. According to the SLO City municipal code chart 17.72.030 manufacturing/warehousing requires 1 parking spot per 1,000-1,500 sq/ft of space. The building is 20,000 sq/ft and there are 39 parking spaces currently located on the property. There are also an additional 8 parking spaces available on Bullock Ln. directly in front of the building. If additional parking spaces are required, we are willing to add bicycle parking (5 bike

racks = 1 additional parking space) to be compliant with SLO City regulations.

7. Additional Information:

a. Per Section 17.94.020(B)(2), a nonconforming use may be continued and replaced with another nonconforming use provided that there is evidence demonstrating that the new use has similar impacts regarding noise, traffic, parking demand, hours of operation, and visual incompatibility.

Newterra's project plans are very similar to the previous tenant regarding operations, noise generation, traffic impact and parking demands. There are minor adjustments proposed regarding hours and days of operation to provide some flexibility for our staff.

Flexible work schedules will promote staggered arrival and departure times for our employees, limiting the impact on existing traffic congestion. Some employees are expected to commute via bicycle using the nearby city bike path.

8. Fire Department:

- a. Please refer to 3.c. above regarding manufacturing, storage, hazardous materials and waste streams.
- b. The building does not currently have fire sprinklers nor is there a proposal to add them. After meeting with Fire Marshal Rodger Maggio he has confirmed that adding sprinklers is not required because the facility use will not be changing.

9. Building Division – CDD:

a. The new occupancy is classified as the same as it always has been, there is no change. There will be an application for a permit to complete a tenant improvement (TI) to the office area once a CUP for Newterra is approved.

10. Utilities Department:

a. A completed Class I Industrial Wastewater Discharge Permit Survey has been provided to the Utilities Department.

