

ZONING CHANGE REVIEW SHEET

CASE: **C14-2024-0031 – 2105 South Congress Avenue** DISTRICT: **9**

ADDRESS: 2101, 2105, 2109 South Congress Avenue, 110 East Live Oak Street, 2113 Nickerson Street

ZONING FROM: CS-MU-V-NP & GR-MU-V-NP TO: CS-MU-V-DB90-NP &
GR-MU-V-DB90-NP

SITE AREA: 2.834 acres

PROPERTY OWNER: SOCO Development, LLC (Brad Stein)

AGENT: Drenner Group (Drew Raffaele)

CASE MANAGER: Marcelle Boudreaux (512-974-8094,
marcelle.boudreaux@austintexas.gov)

STAFF RECOMMENDATION:

The Staff recommendation is to grant general commercial services – mixed use - vertical mixed use building – density bonus 90 - neighborhood plan (CS-MU-V-DB90-NP) combining district zoning for Tract 1 and community commercial – mixed use – vertical mixed use – density bonus 90 – neighborhood plan (GR-MU-V-DB90 -NP) combining district zoning for Tract 2.

For a summary of the basis of Staff's recommendation, please see pages 2 – 4.

PLANNING COMMISSION ACTION / RECOMMENDATION:

April 23, 2024

CITY COUNCIL ACTION:

May 30, 2024

ORDINANCE NUMBER:

ISSUES:

In December 2023, Ordinance No. 20220609-080, Ordinance No. 20221201-056 and Ordinance No. 20221201-055 were invalidated. On March 11, 2024, Ordinance No.

20240229-073, was enacted to create the “DB90” combining district, which amended City Code Title 25 (Land Development) to create a new zoning district for a density bonus program that grants 30 feet in height above the base zone, to a maximum of 90 feet, and modifies site development regulations including compatibility standards. Subsequently, the applicant submitted a rezoning application to request the -DB90 combining district, in order for the City to continue review of site plan.

CASE MANAGER COMMENTS:

The subject rezoning area consists of 2.834 acres and is located at the northeast corner of South Congress Avenue and East Live Oak Street. The property is currently developed with retirement housing and auto repair service uses. The portion currently zoned base district CS is Tract 1 and Tract 2 encompasses the portion zoned with base district GR.

The property is located within the Greater South River City Combined Neighborhood Plan area. To the north across Leland Street is Lively Middle School (P-NP). To the east are apartments and single family residences (SF-3-NP; GR-MU-CO-NP). Across from the site to the south, with frontage on East Live Oak Street, includes restaurants, food trucks, and the Travis County Public Defender’s office (CS-MU-NP; CS-MU-V-NP; P-NP; MF-3-NP). Across from the site to the west, with frontage on South Congress Avenue, are restaurants, small retail shops, and food trucks, and single family residences beyond (CS-V-CO-NP; SF-3-NP). *Please refer to Exhibits A (Zoning Map), A-1 (Aerial View).*

The property is located within the Greater South City Combined Neighborhood Plan Area, and is located within an area that was initiated by the City to zone certain tracts within the Neighborhood Plan area to accommodate the -V combining district in 2007 (Ordinance No. 20071213-089).

The applicant is requesting general commercial services – vertical mixed use - density bonus 90 – neighborhood plan (CS-V-DB90-NP) combining district and community commercial – mixed use – vertical mixed use – density bonus 90 – neighborhood plan (GR-MU-V-DB90 - NP) combining district zoning for a proposed development that would include multi-family units requiring an affordable component. A building constructed under density bonus 90 (– DB90) standards allows for a mix of residential uses and commercial uses, and the result is typically retail, restaurants and offices on the ground floor, and residential units on upper levels. The overall project would consist of 279 residential units, in a combination of multifamily units and townhomes, approximately 11,000 square feet retail use, and approximately 11,000 square feet restaurant use.

A development utilizing the “density bonus 90” incentives is permitted with a base CS district and with base GR district, and must include an affordability component for residential use in order to obtain incentives, including height maximum of 90 feet in the CS district and in the GR district (60 feet base plus 30 feet incentive) and relaxation of development and compatibility standards, such as FAR, setbacks and building coverage. There are several

methods of satisfying DB90 development affordability requirements. There are two options for projects including rental units:

- 1) a minimum of 12% of the rental units in a building are affordable for a 40-year period for households earning 60% or less than the Austin-Round Rock Metropolitan Statistical Area MFI; or
- 2) a minimum of 10% of the rental units are affordable for a 40-year period as described above for households earning 50% or less MFI.

There are two methods of satisfying DB90 development affordability requirements which include ownership units:

- 1) a minimum of 12% of the rental units in a building are affordable for a 40-year period for households earning 80% or less than the Austin-Round Rock Metropolitan Statistical Area MFI; or
- 2) an in-lieu-fee payment to the Housing Trust Fund, equivalent to the required percentage of the total residential units, including the mix of bedrooms required, at the rate set in the fee schedule at the time of final site plan submission.

The project was submitted in two phases for site plan review. One phase has been approved and released, and the other phase is currently under review, both pursuant to the “VMU2” ordinance, which was subsequently invalidated by Court ruling. Therefore, in order to validate the previously approved site plan (Phase 1) and to allow review and release of the Phase 2 site plan, a rezoning must be enacted. The City previously undertook zoning of this property with the -V combining district during the Neighborhood Plan process. This current request for the -DB90 combining district continues to align with City objectives to increase density and affordability in exchange for relaxed development standards.

BASIS OF RECOMMENDATION:

1. *The rezoning should be consistent with the policies and principles adopted by the City Council.*

City Council has provided policy and direction for having more residential density and increased affordability, as well as incentivizing vertical mixed use buildings throughout the City. City Council previously approved rezoning this property to allow for vertical mixed-use buildings. This request is consistent with the “VMU2” option and Ordinance No. 20240229-073, which replaced the invalidated “VMU2” option.

2. *The proposed zoning should be consistent with the purpose statement of the district sought.*

The general commercial services (CS) district zoning is intended for commercial or industrial uses that typically have operating characteristics or traffic service requirements generally incompatible with residential environments.

Community commercial district (GR) is intended for office and commercial uses serving neighborhood and community needs, including both unified shopping centers and

individually developed commercial sites, and typically requiring locations accessible from major traffic ways.

Mixed Use combining district (MU) is intended for combination with selected base districts, in order to permit any combination of office, retail, commercial, and residential uses within a single development.

Vertical Mixed Use Building (V) combining district may be applied in combination with any commercial base zoning district and allows for a combination of office, retail, commercial and residential uses within a vertical mixed use building.

The proposed density bonus 90 (DB90) combining district, in exchange for providing affordable housing units and in combination with commercial base zoning districts, allows a mixture of office, retail, commercial, and residential uses with modifications of compatibility standards and site development regulations including increased building height.

The neighborhood plan (NP) district denotes a tract located within the boundaries of an adopted Neighborhood Plan.

3. *Zoning should promote clearly-identified community goals, such as creating employment opportunities or providing for affordable housing.*

This rezoning authorizes a property to participate in a voluntary density bonus or incentive program that provides modifications to development regulations or other regulatory-related benefits in exchange for community benefits. In exchange for increased development potential, the development is required to comply with affordable housing requirements.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
<i>Site</i>	CS-MU-V-NP, GR-MU-V-NP	Retirement housing; Auto repair service station
<i>North</i>	P-NP	AISD Lively Middle School
<i>South</i>	CS-MU-NP; CS-MU-V-NP; P-NP; MF-3-NP	Restaurant (Limited and General); Cocktail lounge; Apartments; Travis County Public Defender office
<i>East</i>	GR-MU-CO-NP; SF-3-NP	Apartments; Single family residential
<i>West</i>	CS-V-CO-NP; SF-3-NP	Restaurant (Limited and General); Retail sales (General); Single family residential

NEIGHBORHOOD PLANNING AREA: Greater South City Combined

WATERSHED: East Bouldin Creek - Urban

CAPITOL VIEW CORRIDOR: Yes (South Congress Avenue) SCENIC ROADWAY: No

SCHOOLS: Austin Independent School District

Travis Heights Elementary

Lively Middle School

Travis High

COMMUNITY REGISTRY LIST:

AISD

Bouldin Creek Zoning Committee

South River City Citizens Association

Austin Neighborhoods Council

South River City Citizens Planning & Zoning Committee

South Central Coalition

Homeless Neighborhood Association

Greater South City Combined NP Contact Team

Friends of Austin Neighborhoods

Neighborhood Empowerment Foundation

Bouldin Creek Neighborhood Association

South River City Homes Condo Association

Preservation Austin

Bouldin Creek NP Contact Team

AREA CASE HISTORIES:

NUMBER	REQUEST	COMMISSION	CITY COUNCIL
C14-2017-0026 - Bouldin Creek NP Garage Placement	Modify NP to add Garage design tool	To Grant modification (7-5 vote) (6/13/2017)	Postponed indefinitely (9/28/2017)
C14-2014 -0032 – 209 Project	From SF-3-NP to GR-MU-NP	Withdrawn	N/A
C14H-2014-0003 – Calcasieu Cottages	From SF-3-NP to SF-3-NP-H	HLC denied (~June 2014)	N/A
C14-2007-0224 – Greater South City NP Vertical Mixed Use rezonings	From L-NP, GO-MU-NP, GR-MU-NP, CS-NP, CS-MU-NP, CS-MU-CO-NP, CS-CO-NP, CS-NCCD-NP, CS-1-NP, CS-1-MU-NP, CS-1-NCCD-NP, CS-1-MU-NCCD-NP to L-V-NP, GO-MU-V-NP, GR-MU-V-NP, CS-V-NP, CS-MU-V-NP, CS-MU-V-CO-NP, CS-V-CO-NP,		Apvd 12/13/2007

	CS-V-NCCD-NP, CS-1-V-NP, CS-1- MU-V-NP, CS-1-V- NCCD-NP, CS-1- MU-V-NCCD-NP		
C14-2007-0220 - Bouldin Creek NP Vertical Mixed Use rezonings	From LO-MU-NP, GR-MU-CO-NP, L- NP, CS-NP, CS- MU-CO-NP, CS- CO-NP, CS-1-CO- NP, CS-1-MU-CO- NP to LO-MU-V- NP, GR-MU-V-CO- NP, L-V-NP, CS-V- NP, CS-MU-V-CO- NP, CS-V-CO-NP, CS-1-V-CO-NP, CS-1-MU-V-CO-NP		Apvd 12/13/2007
C14-05-0139 - Greater South City Combined Neighborhood Plan			Apvd 9/29/2005
C14-02-0031- Bouldin Creek Neighborhood Plan			Apvd 5/23/2002

RELATED CASES:

Site Plan (SP-2022-0578C.F1) – Phase 1- approved and released September 7, 2023

Site Plan (SP-2022-0578C.F2) – Phase 2 - submitted September 15, 2023 and under review

ADDITIONAL STAFF COMMENTS:

Comprehensive Planning

2105 S CONGRESS AVENUE. C14-2024-0031. Greater South River City Neighborhood Plan. FLUM: Mixed Use. 2.84 acres from CS-MU-V-NP, CS-MU-V-NP & GR-MU-V-NP and CS-M-V-NP to CS-MU-V-DB90-NP. Existing: retirement housing and auto repair services. Proposed: 279 residential units indicated as multifamily and townhomes, with ground floor restaurant and retail. Proposal seeks Density Bonus 90 Combining District (Ordinance No. 20240229-073), which will set affordability minimums on ownership units to 12 percent of residential units at 80 percent or less of the area's MFI. Density Bonus 90 (DB90) allows for an increase of up to 30 ft above the base zone's height with a maximum limit of 90 feet in total height, and releases the site from some base zoning district

development standards, including maximum floor area ratio. Demolition of site has not yet been determined.

Yes	Imagine Austin Decision Guidelines
	Complete Community Measures *
Y	Imagine Austin Growth Concept Map: Located within or adjacent to an Imagine Austin Activity Center, Imagine Austin Activity Corridor, or Imagine Austin Job Center as identified the Growth Concept Map. Names of Activity Centers/Activity Corridors/Job Centers *: <ul style="list-style-type: none"> • Adjacent to South Congress Activity Corridor
Y	Mobility and Public Transit *: Located within 0.25 miles of public transit stop and/or light rail station. <ul style="list-style-type: none"> • S Congress Avenue provides multiple bus stops immediately adjacent to the site, and a rapid bus route 0.17 miles to the south
Y	Mobility and Bike/Ped Access *: Adjoins a public sidewalk, shared path, and/or bike lane. <ul style="list-style-type: none"> • TIA resulted in requirement for the installation of a protected bicycle lane on E Live Oak Street and S Congress Avenue, with three pedestrian ramps.
Y	Connectivity, Good and Services, Employment *: Provides or is located within 0.50 miles to goods and services, and/or employment center. <ul style="list-style-type: none"> • S Congress Ave provides a variety of goods and services, and employment opportunity
Y	Connectivity and Food Access *: Provides or is located within 0.50 miles of a grocery store/farmers market. <ul style="list-style-type: none"> • HEB located 0.2 miles south • Tiny Grover 0.2 miles north
Y	Connectivity and Education *: Located within 0.50 miles from a public school or university. <ul style="list-style-type: none"> • Near adjacency to Lively Middle School
Y	Connectivity and Healthy Living *: Provides or is located within 0.50 miles from a recreation area, park or walking trail. <ul style="list-style-type: none"> • Big Stacy Neighborhood Park located 0.5 miles to the south-east
Y	Connectivity and Health *: Provides or is located within 0.50 miles of health facility (ex: hospital, urgent care, doctor's office, drugstore clinic, and/or specialized outpatient care.) <ul style="list-style-type: none"> • Doctor Ash Medical Clinic 0.4 miles south
Y	Housing Choice *: Expands the number of units and housing choice that suits a variety of household sizes, incomes, and lifestyle needs of a diverse population (ex: apartments, triplex, granny flat, live/work units, cottage homes, and townhomes) in support of Imagine Austin and the Strategic Housing Blueprint.
Y	Housing Affordability *: Provides a minimum of 10% of units for workforce housing (80% MFI or less) and/or fee in lieu for affordable housing.
Y	Mixed use *: Provides a mix of residential and non-industrial uses.
	Culture and Creative Economy *: Provides or is located within 0.50 miles of a cultural resource (ex: library, theater, museum, cultural center).
	Culture and Historic Preservation: Preserves or enhances a historically and/or culturally significant site.
	Creative Economy: Expands Austin's creative economy (ex: live music venue, art studio, film, digital, theater.)
	Workforce Development, the Economy and Education: Expands the economic base by creating permanent jobs, especially in industries that are currently not represented in a particular area or that promotes a new technology, and/or promotes educational opportunities and workforce development training.
	Industrial Land: Preserves or enhances industrial land.

Y	Not located over Edwards Aquifer Contributing Zone or Edwards Aquifer Recharge Zone
12	Number of “Yes’s”

Drainage

The developer is required to submit a pre- and post-development drainage analysis at the subdivision and site plan stage of the development process. The City’s Land Development Code and Drainage Criteria Manual require that the Applicant demonstrate through engineering analysis that the proposed development will have no identifiable adverse impact on surrounding properties.

Environmental

The site is not located over the Edwards Aquifer Recharge Zone. The site is located in the East Bouldin Creek Watershed of the Colorado River Basin, which is classified as an Urban Watershed by Chapter 25-8 of the City's Land Development Code. It is in the Desired Development Zone.

Zoning district impervious cover limits apply in the Urban Watershed classification.

According to floodplain maps there is no floodplain within or adjacent to the project location.

Standard landscaping and tree protection will be required in accordance with LDC 25-2 and 25-8 for all development and/or redevelopment.

At this time, site specific information is unavailable regarding vegetation, areas of steep slope, or other environmental features such as bluffs, springs, canyon rimrock, caves, sinkholes, and wetlands.

This site is required to provide on-site water quality controls (or payment in lieu of) for all development and/or redevelopment when 8,000 s.f. cumulative is exceeded, and on site control for the two-year storm.

At this time, no information has been provided as to whether this property has any preexisting approvals that preempt current water quality or Code requirements.

PARD – Planning & Design Review

Parkland dedication will be required at the time of subdivision or site plan application for new residential units, per City Code § 25-1-601, as amended. The proposed development meets the criteria for land dedication in City Code Title 25, Article 14. As such, a partial land dedication may be required, as well as any remaining fees in-lieu.

The site would benefit from additional connectivity to nearby parks. The development as proposed will require parkland dedication for the new residential units that will serve the surrounding neighborhood through the additional park investment. The Parks and Recreation Department (PARD) would consider a connection from Nickerson Street to E Live Oak Street, toward satisfying the requirement at time of permitting (whether subdivision or site

plan). Such a connection would improve neighborhood connectivity to nearby parks, a criterion for onsite parkland dedication.

Should there be any remaining fees in-lieu, those fees shall be used toward park investments in the form of land acquisition and/or park amenities within the surrounding area, per the Parkland Dedication Operating Procedures § 14.3.11 and City Code § 25-1-607 (B)(1) & (2).

Should the applicant wish to discuss parkland dedication requirements in advance of site plan or subdivision applications, please contact this reviewer: thomas.rowlinson@austintexas.gov.

Site Plan

Site plans will be required for any new development other than single-family or duplex residential.

Any new development is subject to Subchapter E. Design Standards and Mixed Use. Additional comments will be made when the site plan is submitted.

The proposed zoning area is located within the South River City Neighborhood Plan.

This tract is already developed, and the proposed zoning change is a footprint within the existing development.

Austin Transportation Department – Engineering Review

Assessment of required transportation mitigation, including the potential dedication of right of way and easements and participation in roadway and other multi-modal improvements, will occur at the time of site plan application. Transportation assessment/traffic impact analysis and transportation demand management plan shall be required at the time of site plan if triggered per LDC 25-6 and TCM 10.2.1.

The TIA was submitted with the Site Plan # SP-2022-0578C.F1

The Austin Strategic Mobility Plan (ASMP) calls for 130 feet of right-of-way for S CONGRESS AVE. It is recommended that 65 feet of right-of-way from the existing centerline should be dedicated for S CONGRESS AVE according to the Transportation Plan with the first subdivision or site plan application. [LDC 25-6-51 and 25-6-55].

The Austin Strategic Mobility Plan (ASMP) calls for 84 feet of right-of-way for E LIVE OAK ST. It is recommended that 42 feet of right-of-way from the existing centerline should be dedicated for E LIVE OAK ST according to the Transportation Plan with the first subdivision or site plan application. [LDC 25-6-51 and 25-6-55].

The adjacent street characteristics table is provided below:

Name	ASMP Classification	ASMP Required ROW	Existing ROW	Existing Pavement	Sidewalks	Bicycle Route	Capital Metro (within ¼ mile)

S CONGRESS AVE	Corridor Mobility - Level 3	130 feet	103 feet	90 feet	Existing 7 ft sidewalks	Shared lane (on- street)	Yes
E LIVE OAK ST	Local Mobility - Level 2	84 feet	68 feet	46 feet	Existing 4 feet sidewalks	Shared lane (on- street)	Yes

Austin Water Utility

The landowner intends to serve the site with existing City of Austin water utilities.

Based on current public infrastructure configurations, it appears that service extension requests (SER) will be required to provide service to this lot. For more information pertaining to the Service Extension Request process and submittal requirements contact the Austin Water SER team at ser@austintexas.gov.

Based upon change of use, a grease trap will be required. Contact Industrial Waste at (512)974-7293/ IndustrialWaste@austintexas.gov.

INDEX OF EXHIBITS AND ATTACHMENTS TO FOLLOW:

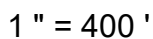
Exhibit A: Zoning Map
Exhibit A-1: Aerial Map

Applicant's Summary Letter

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Created: 3/22/2024





SOCO Development

-  SUBJECT TRACT
-  ZONING BOUNDARY
-  PENDING CASE
-  CREEK BUFFER

CASE#: C14-2024-0031
 LOCATION: 2101, 2105, 2109 S Congress Ave;
 110 E Live Oak St; 2113 Nickerson St
 SUBJECT AREA: 2.84 Acres
 GRID: H20
 MANAGER: Marcelle Boudreaux



Drew Raffaele
draffaele@drennergoup.com
512-807-2913



March 11, 2024

Ms. Lauren Middleton-Pratt
Planning Department
City of Austin
1000 E. 11th Street
Austin, TX 78702

Via Electronic Delivery

Re: 2105 South Congress Avenue – Rezoning application for 2.834-acre property located at 2101, 2105, and 2109 South Congress Avenue, 110 East Live Oak Street, and 2113 Nickerson Street, Austin, Texas 78704 (the "Property")

Dear Ms. Middleton-Pratt:

As representatives of the owners of the Property, we respectfully submit the enclosed rezoning application package. The project is titled 2105 South Congress Avenue and is 2.834 acres of land, located at the northeast corner of South Congress Avenue and East Live Oak Street. The Property is in the Full Purpose Jurisdiction of the City of Austin.

A two-phase site development permit was submitted to the City of Austin (the "City") on December 19, 2022 for the first phase of the development, assigned permit number SP-2022-0578C.F1. This site development permit was approved and released on September 7, 2023. The second phase was submitted on September 15, 2023, assigned permit number SP-2022-0578C.F2, and is currently in review (collectively, the "Project"), for the redevelopment of the Property with for-sale townhomes and a mixed use building with ground-floor restaurant and retail uses with a multifamily condominium use above. The Project intended to develop the Property with a VMU2 Building as part of the City's Vertical Mixed Use Building Program that was approved on June 9, 2022, via Ordinance No. 20220609-080 (the "VMU2 Ordinance").

Due to the outcome of the Travis County District Judge Jessica Mangrum's Order issued on December 8, 2023, relating to the litigation between the City and certain private plaintiffs, Acuña et al. v. City of Austin, Cause No. D-1-GN-19-008617, which invalidated the VMU2 Ordinance from its inception, we respectfully submit this rezoning application request for the Property.

The Property is currently zoned CS-MU-V-NP (General Commercial Services – Mixed Use – Vertical Mixed Use Building – Neighborhood Plan) and GR-MU-V-NP (Community Commercial – Mixed Use – Vertical Mixed Use Building – Neighborhood Plan). The requested rezoning is from CS-MU-V-NP and GR-MU-V-NP to CS-MU-V-DB90-NP (General Commercial Services – Mixed Use – Vertical Mixed Use Building – Density Bonus 90 – Neighborhood Plan) and GR-MU-V-DB90-NP (Community Commercial – Mixed Use – Vertical Mixed Use Building – Density Bonus 90 – Neighborhood Plan), the respective areas being known as "Tract 1" and "Tract 2". With this rezoning request, the Owner requests to add the DB90 (Density Bonus 90) combining district, which was recently approved by the Austin City Council on February 29, 2024, via Ordinance No. 20240229-073, (the "DB90 Ordinance"), attached herein, to the current zoning designation on the Property. The purpose of this rezoning is to validate the previously approved site development

March 11, 2024

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permit for the first phase of the Project, as well as to allow for the release of the second phase of the site development permit still in review. The DB90 combining zoning district requires the Project to reserve a minimum of 12% of the residential units as affordable for households earning no more than 80% of the area Median Family Income. The Property is currently developed with retirement housing and auto repair services uses.

The Property is located in the Greater South River City Combined Planning Area – South River City subdistrict and has a Future Land Use Map (“FLUM”) designation of Mixed Use. A Neighborhood Plan Amendment (“NPA”) is not required with this rezoning request, per a memo from Mark Walters dated March 11, 2024. The Property’s Mixed Use FLUM designation was adopted as part of the adoption of the neighborhood plan and the requested rezoning supports the plan’s Goal C, Recommendation C1, to “[i]dentify areas where mixed use would enhance the livability of the neighborhoods and rezone accordingly.”

A Transportation Impact Analysis (“TIA”) and Neighborhood Traffic Analysis (NTA) were required as part of the site development permit review and it was assessed that the Project is required to install a protected bicycle lane adjacent to the Property’s frontage on E Live Oak Street and S Congress Avenue as well as installing three tactile pedestrian ramps.

The phased site plans for the Project that were approved, and that are currently in review, previously relied upon the VMU2 Ordinance that was since invalidated; per Part 5 of the adopted DB90 ordinance, the City Council waives the fees related to this rezoning application submittal.

Please let me know if you or your team members require additional information or have any questions. Thank you for your time and attention to this project.

Sincerely,

A handwritten signature in black ink, appearing to read "Drew Raffaele". The signature is fluid and cursive, with the first name "Drew" and last name "Raffaele" clearly distinguishable.

Drew Raffaele

cc: Joi Harden, Planning Department (*via electronic delivery*)
Chris Sapuppo, Development Services Department (*via electronic delivery*)