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## Report to Mayor and City Council

Tuesday, May 21, 2019

Discussion

### SUBJECT:

### CONSIDER AN UPDATE ON THE INLAND STAR PROJECT

#### I. SUMMARY

This report is intended to provide the City Council with a background and chronological history of the CUP permitting process and business activities of the Inland Star Distribution Centers (Inland Star), a warehouse operation that stores regulated and non-regulated packaged chemicals and industrial materials for third party manufacturers and distributors at 2132 East Dominguez Street in Carson. Prior to occupancy by the applicant, the project site was improved with a warehouse facility, associated office/administrative facilities, loading docks and surface parking constructed in 1986. Inland Star moved into this facility and started their operations without seeking or receiving a proper Conditional Use Permit (CUP) from the City. Inland Star has admitted to making several mistakes, including ignoring the proper sequence of the City's permit process and subsequently providing incomplete information and documents to the City.

In 2016, the City commenced an enforcement action to require Inland Star to cease its operations. Inland Star agreed to remove all California Accidental Release Prevention Program (CalARP) regulated chemicals - which were the questionable hazardous materials it stored; to enter into a hold harmless and indemnification agreement with the City; and, to commence a proper entitlement process with the City. They brought on a new

management team, consultants and attorneys.

Simultaneously, the City issued a temporary urgency moratorium on truck yards, warehouses and logistics facilities, hazardous materials storage and container yards to allow adequate time to formulate processes and create land use and zoning standards regarding logistics uses and the storage of hazardous materials. As a result of the moratorium, City has now revised its business license applications to require explicit information on the type and quantity of hazardous materials being stored at the site. In addition, the City initiated a comprehensive update of the General Plan and the Zoning Code to address issues related to storage of hazardous material and other relevant issues.

With respect to Inland Star, after the company Star finally hired the correct team and commenced a true entitlement process, the City then hired experts in the field, Environmental Science Associates (ESA) to perform the CEQA compliance documentation for the City. The City has worked diligently with ESA to gather data, review and analyze technical studies, and determine the most appropriate CEQA compliance for the project and to impose the best protections for the residents of Carson.

The results of all analysis were such that all potential impacts could be mitigated to a level of less than significance, and the appropriate CEQA compliance document is a Mitigated Negative Declaration (MND). The Draft MND was circulated for public review from February 22 to March 26, 2019, and was also sent to several outside agencies. Planning Staff was contacted by the State Department of Justice (DOJ) during the MND public circulation period in March, 2019. The DOJ requested additional information regarding the project and project history, as well as a 30-day public review extension.

The DOJ submitted a comment letter stating that an MND was not the appropriate level of analysis and that City should instead conduct an Environmental Impact Report (EIR). The City is currently working in earnest to provide the DOJ with all requested materials and is meticulously reviewing all comments made in their letter. The City is honored at the opportunity to work collaboratively with the DOJ and welcomes their comments and resources. Staff has already met with the DOJ and will also be meeting with the DOJ's office again sometime in the coming weeks to strengthen the CEQA process and to develop the ultimate protections for Carson's residents.

## **II. RECOMMENDATION**

Receive and File.

## **III. ALTERNATIVES**

None.

## **IV. BACKGROUND**

The project history is as follows:

- In December, 2014, the City received a letter from Inland Star describing their intent to relocate from Rancho Dominguez into an existing warehouse in the City of Carson. The letter acknowledged that the facility would undergo improvements to legally store hazardous materials and would most likely require a Conditional Use Permit (CUP) due to the storage of such materials. The letter also indicated that the facility would store non-hazardous materials as a by-right use prior to the issuance of a CUP.
- The applicant moved into the facility in approximately March of 2015 without seeking or receiving a CUP despite understanding that a CUP was required. The City had no method of knowing this move had occurred. It is not clear when Inland Star started making interior modifications to the building since they did not obtain proper permits. But sometime in 2015-2016, Inland Star, working through the County and the County Fire Department (excluding the City) made substantial improvements to their building to accommodate their current use. The estimated cost of improvements is said to be over \$3,000,000.
- Inland Star formally applied for a CUP in late April 2015. The project description in the CUP application made it clear that the warehouse would be used for storage, shipping and receiving both hazardous and non-hazardous materials. There would be no mixing, disposal, blending, formulating or transferring of materials.
- In May 2015, staff determined the application to be incomplete due to lack of CEQA compliance documentation (Initial Study) and a Hazardous Materials Business Plan.
- The Los Angeles County Fire Department signed off on building permits for new H3 (flammables and oxidizers) and H4 (corrosives and poisons) occupancy areas within the existing warehouse in October, 2015.
- Inland Star applied for a Business License and one was issued by the City sometime in October, 2015. However, as stated above, the applicant failed to state in the business license application that they would be storing hazardous materials. Later, the business license was revoked by the City when it was discovered that Inland Star was, in fact, storing hazardous materials. The realization came about after a transportation company requested a business license to transport hazardous materials to Inland Star. Since storage of hazardous materials requires a CUP, and Inland Star did not possess a CUP, the business license was revoked.

- A public hearing was scheduled for the project in late 2015. However, as the case planner had made a CEQA exemption determination for the Project, the Planning Manager ordered a continuance in order to establish a more appropriate CEQA determination for this type of project. Subsequently, an initial study was prepared for the project.
- On February 10, 2016, the LA County Fire Department/Health Hazardous Materials Division issued two (2) violation citations to Inland Star. Citation No. 1 that Inland Star **failed** to adequately establish and implement a Hazardous Materials Business Plan while storing/handling hazardous materials at or above the thresholds quantities of 55 gallons/500 lbs./200 cubic feet. Citation No. 2 was that Inland Star failed to provide a Risk Management Plan, and that the Fire Department Inspector observed that the health and safety of public receptors could be adversely impacted by an accidental release of Methyltrichlorosilane into the ambient air from the Inland Star operation. The LA County Fire Department citation gave Inland Star until March, 2016 to submit the Risk Management Plan. Inland Star failed to submit the Risk Management Plan as required.
- Inland Star submitted a revised Hazardous Materials Business Plan and Risk Management Plan on June 1, 2016.
- On June 7, 2016, the City issued a cease and desist notice and was in the process of commencing an enforcement action to terminate Inland Star's operations.
- Staff met with Inland Star on June 14, 2016 to discuss deficiencies in their submittal.
- On June 29, 2016, the application remained incomplete.
- The City Prosecutor's office then sent a certified letter to Inland Star in August, 2016, mandating that the applicant reduce all stored materials to a level below the CalARP thresholds. The letter resulted in meetings where City was clear it would take all necessary actions to enforce this mandate. Inland Star immediately removed the materials below CalARP thresholds.
- City followed up with subsequent site inspections and confirmed that the applicant had

removed the subject CalARP chemicals the following month.

- Again, the City re-emphasized its intent to pursue an enforcement action to terminate the operations via certified letter due to lack of proper entitlements in the City.
- In August, 2016, LA County Fire issued an Annual Unified Program Facility Permit for CalARP materials, the Hazardous Materials Disclosure Program and the Hazardous Waste Generator Program.
- In October, 2016, Inland Star submitted a new CUP application and entered into a reimbursement agreement with the City.
- In January, 2017, the City hired ESA as its consultant to perform the CEQA analysis and documentation for the Inland Star project. ESA is a highly-qualified environmental planning firm and a recognized expert in potential impacts caused by hazardous materials.
- The City requested a risk-ranking of the hazardous materials to be stored on site. The risk-ranking required identification of the 5 (five) substances with the highest health risk and a protocol for methodology to prepare a risk assessment. The requested materials were provided to the City the following month.
- In March of 2017, the City recognized the need to develop a more stringent process for identifying and regulating warehouse businesses such as Inland Star, who were able to obtain a business license and commence operations without proper permits. In response, the City issued a temporary urgency moratorium on truck yards, warehouses and logistics facilities, hazardous materials storage and container yards to allow adequate time to formulate processes and create land use and zoning standards regarding logistics uses and the storage of hazardous materials.
- As a result of the moratorium, City has now revised its business license applications to require explicit information on the type and quantity of hazardous materials being stored at the site. In addition, the City initiated a comprehensive update of the General Plan and the zoning Code to address issues related to storage of hazardous materials and other related issues.

- Inland Star requested a formal exemption to the moratorium in April, 2017.
- Since the moratorium required staff to stop work on projects subject to the moratorium, staff, at a City Council closed session, requested that the Council allow staff to continue and complete the Inland Star CUP and CEQA process to enable the Planning Commission to determine the adequacy of proposed mitigation measures to protect the community and environment. City Council directed staff to continue with the CEQA process so that the best protections put in place for its residents in a timely manner.
- The City approved the submitted risk ranking in late March, 2018.
- Technical Studies were prepared and reviewed from March - April 2018.
- Partial Initial Study drafted March - April 2018. Hazardous Materials section was not completed, pending the risk assessment.
- The City reviewed the accidental release modeling/risk assessment protocol in June, 2018. The analysis included only one worst-case scenario. The City's Public Safety Division commented that the analysis should include the modeling of natural disasters such as fires caused by earthquakes (which is typically beyond the threshold of CEQA). A revised risk assessment was relayed back to applicant in July and August.
- November, 2018, Inland Star submitted the risk assessment. The City's Planning Division and Public Safety Division provided comments and the City's CEQA consultant performed a peer review. A revised risk assessment was received a few weeks later.
- Based on the results of the Initial Study's technical studies, including the risk assessment, the City determined that all impacts could be mitigated to a level below significance; therefore, the proper CEQA compliance documentation would be a Mitigated Negative Declaration.
- The first draft MND was completed in January, 2019. The administrative draft was

reviewed and approved for public circulation from February 22 to March 26, 2019. The document was filed with the California Governor's Office of Planning and Research (OPR) and the County Clerk. The document was also distributed to the following agencies: California Water Quality Control Board; California Dept. of Transportation District 7; California Department of Toxic Substances Control; Carson Sheriff Station; Los Angeles County Fire District; City of Carson Building & Safety Division; City of Carson Engineering Services Division, Engineering Services (Traffic), Public Safety Division, and Public Works Department; Professional Native American Cultural Resource Monitors - Gabrieleno Band of Mission Indians - Kizh Nation, Soboba Band of Luiseno Indians, Torres Martinez Desert Cahuilla Indians; and LA County MTA (Metro).

- Planning Staff was contacted by the State Department of Justice (DOJ) during the MND public circulation in March, 2019. The DOJ requested additional information regarding the project and a 30-day public review extension.
- Staff and City Attorney's office met with the DOJ and have worked diligently with DOJ staff. The City indicated that they will be a corporative partner and provide all information requested by the DOJ.
- Staff continued to receive comments during the course of the public review period, including comments from the City's Public Safety Division.
- Currently, staff and the City's CEQA consultant are reviewing all comment letters received and will be taking appropriate actions. The City will work very closely with the DOJ to hopefully address all their concerns. The City certainly welcomes this additional help. The City will take every effort to provide the best mitigation measures and enforcement mechanisms for the protection of its residents and the environment.

## **V. FISCAL IMPACT**

None at this time.

## **VI. EXHIBITS**

None

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