



CITY OF

NEWPORT BEACH

City Council Staff Report

July 28, 2020
Agenda Item No. 4

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: Seimone Jurjis, Community Development Director - 949-644-3232,
sjurjis@newportbeachca.gov

PREPARED BY: Liz Westmoreland, Associate Planner,
lwestmoreland@newportbeachca.gov

PHONE: 949-644-3234

TITLE: Resolution No. 2020-71: Second Addendum to the Uptown Newport
EIR to Modify Mitigation Measures (PA2020-003)

ABSTRACT

The project applicant for the approved Uptown Newport Project located at 3211-4321 Jamboree Road has requested a proposed change to a mitigation measure related to hazardous materials. Instead of relocating an existing anhydrous ammonia tank to a location 200 feet from residential buildings, as currently required by Mitigation Measure No. 7-2, the applicant is requesting to enclose the existing anhydrous ammonia tank in its current location with additional safety features to protect future residents. Two additional non-substantive changes are proposed to clarify Mitigation Measures 7-3 and 7-4 (Attachment C). An addendum to the previously certified Environmental Impact Report (EIR) for the Uptown Newport project has been prepared to evaluate the proposed changes to the mitigation measures (Exhibit A of the Resolution). The revised mitigation measures have been determined to be equivalent or superior to the adopted mitigation measures identified in the certified EIR. No other changes are proposed. For City Council's consideration is a resolution modifying the Uptown Newport EIR mitigation measures.

RECOMMENDATION

- a) Adopt Resolution No. 2020-71, *A Resolution of the City Council of the City of Newport Beach, California, Certifying Second Addendum No. ER2020-001 to the Uptown Newport Environmental Impact Report (SCH No. 2010051094) Modifying Mitigation Measures and Approving a Mitigation Monitoring and Reporting Program for the Uptown Newport Planned Community Project Located at 4311-4321 Jamboree Road (PA2020-003).*

FUNDING REQUIREMENTS

There is no fiscal impact related to this item.

DISCUSSION

Background

In February of 2013, the City Council approved the zoning entitlements and certified an Environmental Impact Report (EIR) (SCH No. 2010051094) by adopting Resolution No. 2013-21 for the Uptown Newport Planned Community. The approved project consists of a mixed-use planned community of up to 1,244 residential units, 11,500 square feet of neighborhood-serving retail space, and two one-acre public parks (“Approved Project”). The project included adoption of the Uptown Newport Planned Community Development Plan (PCDP) that provides development standards, project phasing, and design guidelines.

The former TowerJazz Semiconductor Facility (“TowerJazz”) office building was demolished and the Phase 1 portion of the site was graded. Two of the residential apartment buildings along Jamboree Road (4201 and 4301 Jamboree Road) have been completed and have certificates of occupancy. The south building (4201) contains 227 units and the north building (4301) contains 231 units. The Phase 1 park (Uptown Park) has also been completed. The commercial component planned in the southern corner and one of the anticipated residential buildings behind the park have been submitted and are currently under review.

The certified EIR included a comprehensive review of regulatory requirements for hazardous materials and identified five extremely hazardous substances that are used by and stored at the existing TowerJazz for manufacturing, operating on the Phase 2 portion of the planned community. The certified EIR disclosed and evaluated the potential for these five substances to impact surrounding uses or the Phase 1 residential use of the Approved Project¹. An “off-site consequence assessment” was prepared to evaluate the potential risks, and only one of the substances, anhydrous ammonia, posed a health risk. Mitigation measures in the EIR included installation of a new (replacement) ammonia tank at a minimum distance of 200 feet from the nearest existing or proposed residential structure with mitigation safeguards. These mitigation measures reduced the potential impact to a less than significant level.

Proposed Changes

The existing anhydrous ammonia tank is still being utilized by TowerJazz, and no residential structures have been constructed within 200 feet of the tank. However, TowerJazz personnel have expressed concerns that a switchover to a new tank would entail a complex qualification process that could disrupt their manufacturing operations.

¹ The mitigation related to the anhydrous ammonia tank only applies to Phase I, as the TowerJazz facilities including the anhydrous ammonia tank, would be removed as part of Phase 2.

As a result, the applicant has proposed as an alternate solution to enclose the existing, 2,230-gallon, above-ground, pressurized, anhydrous ammonia tank at its current location. The enclosure structure would be airtight, and the interior of the building would be equipped with a water deluge system to neutralize the ammonia and allow it to drain into the existing sewer system. The ammonia tank would still be removed as part of Phase 2 demolition of the TowerJazz facility.

A revised ammonia risk analysis for the existing ammonia tank at TowerJazz and an Offsite Consequence Analysis Technical Review Report were prepared based on the updated plans to construct the ammonia tank enclosure/room (Appendix A of the Second EIR Addendum). The analysis was prepared to fulfill a request by the Newport Beach Fire Department to model the potential impact to the proposed adjacent Uptown Newport residential development in the event of a release from the existing anhydrous ammonia tank and to review the proposed design that could minimize disruption to TowerJazz from a switchover to a new tank.

The City Fire Marshal has reviewed the revised off-site consequence assessment and found the revised mitigation measures to be acceptable with incorporation of the recommended conditions identified therein. The proposed enclosure would reduce the potential release of ammonia in the event of a malfunction or failure of the ammonia tank, and ultimately reduce potential exposure from such a release to TowerJazz employees and contractors, adjacent commercial users, and existing and future residents within Uptown Newport. A memorandum has been prepared by the Fire Marshal accepting the revised mitigation measures (Attachment B). The other two minor changes are editorial in nature and are only included to provide additional clarity to the existing mitigation measure language.

ENVIRONMENTAL REVIEW

The environmental impacts of the approved project were analyzed under the existing EIR that was certified by the City Council on February 26, 2013 (SCH No. 2010051094). An addendum to the certified EIR was prepared ("First Addendum") to address relocation of the 11,500 square feet (SF) of retail space within the project site. Approved in March 2017, that analysis concluded that no changes to mitigation measures were required.

A second addendum to the certified EIR has been prepared in accordance with the provisions of CEQA, the State CEQA Guidelines, and City Council Policy K-3, to evaluate the modified project and change in mitigation measures related to the anhydrous ammonia tank. The Addendum is included as Exhibit A of the Resolution.

Section 15162 of the CEQA Guidelines states that when an EIR has been certified for a project no subsequent EIR shall be prepared unless one or more of conditions listed in Section 15162 of the CEQA Guidelines are met. The project does not meet the conditions listed in the aforementioned section because the proposed modifications to the Approved Project are limited to a revised design and refined mitigation for the anhydrous ammonia tank on-site.

The Addendum concludes that the impacts from the modified project would be similar to those analyzed under the Certified EIR and that no substantial changes to the project have been made, and there is no new information that would change the conclusions of the EIR or result in more severe impacts than identified in the EIR. The data presented in the EIR, as augmented by the Addendum, and the Mitigation Monitoring and Reporting Program are considered as part of the record. Copies of the Certified EIR and supporting documents are available for review online at: www.newportbeachca.gov/ceqa.

NOTICING

The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the City Council considers the item). A courtesy notice was also mailed to all owners of property within 300 feet of the boundaries of the site (excluding intervening rights-of-way and waterways).

ATTACHMENTS

Attachment A – Resolution No. 2020-71
Attachment B – Fire Department Memorandum
Attachment C – Modified Mitigation Measures