



REPORT to the MAYOR and MEMBERS of the CITY COUNCIL
From the CITY MANAGER

DATE: May 9, 2023

SUBJECT: An appeal of the Planning Commission's determination to deny an application for a Rezoning Proposal Known as the Alvarado Specific Plan (Project 2018-08)

DESCRIPTION: Consideration of an appeal of the Planning Commission's determination to deny an application for a Rezoning Proposal known as the Alvarado Specific Plan (Project 2018-08) for the development of approximately 900 dwelling units in four apartment buildings, which may include student housing and commercial uses, on an approximate 12-acre site located at 7407 Alvarado Road (APN 469-021-20-00 to -25-00, 469-130-43-00 and -44-00) in the CM-F-D (Light Industrial and Commercial Service / Floodway Overlay / Urban Design Overlay) Zone

ISSUING DEPARTMENT: Community Development

SUMMARY:

Issues:

Should the City Council uphold the Planning Commission determination and adopt a resolution to deny the application for a rezoning proposal known as the Alvarado Specific Plan and thus deny the appeal?

Recommendation:

Adopt a Resolution (**Attachment A**) denying the application for a rezoning application known as the Alvarado Specific Plan, thus denying the appeal.

Fiscal Impact:

New residential development results in long-term fiscal impacts related to the provision of police services, fire protection, public works services, and parks and recreation services to new residents.

City's Strategic Goals:

- Maintain a financially sound and affordable city government
- Ensure safe and affordable homes for La Mesa's current and future residents
- Revitalize neighborhoods and corridors

Regional Housing Needs Assessment (RHNA):

Units proposed in the Alvarado Specific Plan would contribute toward the City's RHNA targets in the above moderate category.

Environmental Review:

In compliance with the California Environmental Quality Act (CEQA), the City has prepared a Program Environmental Impact Report (PEIR) for the proposed specific plan. The PEIR was circulated for a 45-day public review period from September 9, 2020, to October 26, 2020. The PEIR concluded that the specific plan would not have an adverse impact on the environment due to mitigation measures which reduce potential impacts to below a level of significance. No changes have resulted to the impact of the PEIR to date.

BACKGROUND:



The Alvarado Specific Plan ("Plan") area encompasses an approximately 12-acre site along the south side of Alvarado Road generally between 70th Street on the west and Guava Avenue on the east in the western portion of the City. The applicant proposes a zoning amendment to establish the Plan as a zoning overlay for the Plan area. The Plan entails a master development plan for a phased transit-oriented development and

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associated public improvements that would include four development parcels to be constructed in two phases. Each parcel would be developed with a multi-family residential building, which may include ground-floor commercial uses and/or student housing, with a total of approximately 900 dwelling units.



Under current zoning, multi-family residential units as proposed are not permitted and the Plan would not comply with the allowed uses, standards, and requirements established by the City of La Mesa Zoning Ordinance for the subject property. The Plan is proposed to establish the planning goals, policies, and objectives, and design guidelines and development standards for the development of the site. Building design and site development would be established through a form-based approach of the Plan, intended to guide design with text and diagrams to illustrate ultimate development of the site. The site and the Plan are described and discussed in more detail in the August 17, 2022 staff report to the Planning Commission (**Attachment B**).

The Planning Commission considered the proposed Plan and took testimony at a noticed public hearing on August 17, 2022. The applicant provided a response to the staff report that was provided to Planning Commission prior to the hearing (**Attachment C**). During the Planning Commission review, issues raised included the lack of public outreach, the absence of affordable housing within the plan, the lack of detailed and illustrative design guidelines and development standards for the plan, and concerns relating to the plan's proposed height and density. Following public testimony and interactive discussion with the applicant as well as the applicant's team and staff, and following the applicant's statement of no interest to continue to work with staff at the direction of the Planning Commission, the Planning Commission voted unanimously to bring back a Resolution of denial for the Plan. At the September 7, 2022 Planning Commission meeting, the Planning Commission voted unanimously to adopt Resolution No. PC 2022-07 (**Attachment D**), to deny

the proposed Alvarado Specific Plan. Prior to meeting, the applicant provided a letter opposing adoption of the resolution (**Attachment E**).

A Planning Commission recommendation that an amendment is inconsistent with the Land Use Element and the General Plan results in an automatic denial unless appealed to the City Council within five (5) calendar days. An appeal of the Planning Commission's denial of the Plan was filed on September 12, 2022, by the Law Office of Allen Matkins Leck Gamble Mallory & Natsis, LLP on behalf of the applicant (**Attachment F**).

The proposed Specific Plan is included as **Attachment G** of this report. **Attachment H** includes an updated and revised Chapter III and development and design standards. The final PEIR for the Plan is included as **Attachment I**.

DISCUSSION:

The General Plan is a policy document adopted by City Council Resolution. In order to implement its policies, other plans and programs must be adopted. A variety of these plans and programs have been used in La Mesa to implement Land Use Policy; including, but not limited to, Specific Plans, redevelopment project areas, etc. Specific Plans are used to establish a link between implementing policies of the General Plan and the individual development proposals in a defined area. The content of a Specific Plan must remain consistent with the General Plan, and will usually include an examination of current conditions, a forecast of future conditions, a list of goals and policies, needed public improvements, and a set of development regulations tailored to the unique characteristics and planning issues in an area.

A Specific Plan should be a concise, efficient, well-organized, regulatory document that presents policies, rules, and regulations in a format that is readily understandable and navigable. It is important that a Specific Plan provide clear regulation and guidance to current and future staff as well as to the property owner for development of the property and construction of future projects. Since it is a regulatory document, clarity and precision are paramount for successful enforcement in court, the same as any other zoning ordinance.

Staff review suggests that the Plan does not reflect the desired attributes of a Specific Plan and exhibits many inconsistencies with the objectives, goals, and policies of the General Plan. Staff provided direction to the applicant in two review letters (**Attachments J and K**) with the intent of ensuring that the Plan would be a functional document that serves the City and the property owner as a future development tool, as well as a viable tool for enforcement purposes, if necessary, and ensuring consistency with the General Plan. The applicant did not address the majority of the concerns presented in the review letters.

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The proposed Plan contains extensive background discussion and support and rationale for the Plan. In several instances, the Plan discusses the process by which it will be adopted and/or reviews, consultations, or other interactions necessary from other agencies to adopt the Plan. A Specific Plan does not typically include lengthy discussions of background or support for its adoption or the processes that would be completed prior to adoption of the Plan, which are more suited for the staff reports and supporting materials presented to decision makers during the adoption process. The excessive background discussion and processing narrative would not provide guidance or serve a function in the implementation of the Plan.

The Plan states that only objective standards may be adopted and applied in compliance with state law. The Plan also states that future projects would be subject to a finding of substantial conformance with the Plan. A finding of substantial conformance relies on the discretion of decision makers, who decide based on their opinions. The plan also references being subject to the Urban Design Program, which establishes a subjective, discretionary process for consideration of projects. The Plan is internally inconsistent and contradictory in indicating both that subjective standards apply and that only objective standards may be applied.

Development and design standards initially requested of the applicant in May 2019 were provided to staff in June 2022 (**Attachment H**). The proposed objective design standards provide insufficient guidance for design of the site and buildings and describe design that is far less articulated and varied than shown in the illustrations in the Plan. Site and building improvements with much less detail than shown could be found to be consistent with the proposed development standards and design guidelines. The Plan inaccurately portrays a level of architectural detail in the provided drawings compared to the text to the extent that it could mislead decision makers and the public to expect future construction to be similar to what is shown.

The Plan states that the intent would be to enter into a Development Agreement with the City related to its implementation. A subcommittee of the City Council was created for the purpose of negotiating a Development Agreement, however, negotiations were unsuccessful. The applicant stated in a letter dated December 29, 2021 (included as part of **Attachment L**) that they decided to discontinue pursuit of a Development Agreement.

Staff requested several times that the applicant perform community outreach to introduce the Plan to La Mesa residents and business owners. The only notification to the community was the legally required notification for the draft PEIR. The applicant stated that the Plan area has no significant adjacency to other neighborhoods.

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As noted in the staff reviews of the Plan, there are other concerns with the document in its current state. These include exhibits with text or graphics too small to be readily legible, poor organization, extraneous and/or repetitive text, and lack of needed detail. Together these issues make the Plan a poor regulatory tool for guidance of future development for the property owner, decision makers, and the residents of the City. The applicant has declined to make further changes to the document.

The Plan does address many requirements and is consistent with many General Plan policies relating to the provision of housing and transit-oriented development. However, staff is concerned that many other important General Plan policies are not adequately addressed or supportive of the Plan as discussed in detail in the August 17, 2022 Planning Commission staff report (**Attachment B**). Policies of concern include those related to whether the project is in the best interest of the City, if the development proposed in the Plan fits in the context of the existing neighborhood, the provision of affordable housing, community engagement, and the scale and form of the proposed buildings.

The City of La Mesa has had a long-standing commitment to excellence of design and the City's Urban Design Program (UDP) states that the City of La Mesa enjoys a beautiful natural setting. This commitment concerns not only the appearance of specific buildings, but also to the community as a whole and is expressed through the establishment of various land use and design policies within the UDP. As proposed, staff suggests that the Plan is not consistent with the UDP as discussed in more detail in The August 17, 2022 Planning Commission staff report (**Attachment B**). Policies and guidelines of concern include those that address the visual quality and continuity of the community including hills and vegetation as dominant physical features and preserving unbroken views of the skyline of hills. Other policies and guidelines of concern relate to high quality design of buildings, building variety, and consistency or proposed development with existing development and character. The UDP does encourage specific guidelines for specific areas, but very little detail and graphics have been incorporated in the Plan to ensure high quality design will result.

The Plan in its current form has inconsistencies with General Plan policies and Urban Design Objectives and Standards as expressed through the recommendations and guidelines of the Urban Design Program. The Plan does not present a concise, efficient, regulatory document of the policies, rules, and regulations applicable to the Plan area and would not provide the clear regulation and guidance desired for current and future staff, as well as the current and any future property owners, for development of the property and construction of the proposed buildings.

APPEAL OF PLANNING COMMISSION DECISION

Broad topics raised in the appeal followed by a summary of staff's responses, are provided in bullet point form below.

- The appeal letter asserts that the Planning Commission Resolution is not consistent with the Environmental Impact Report (EIR), including inconsistency with the City land use and design policies.

The Specific Plan in its current form has inconsistencies with General Plan policies and Urban Design Objectives and Standards as expressed through the recommendations and guidelines of the Urban Design Program. These matters can be reviewed separately from an environmental "assessment" document (in this case, an EIR) as a specific plan is a legislative action, not a project for development.

A legislative land use action is a policy action for the establishment of new development standards and guidelines based on legislative priorities established by the City Council. A discretionary land use action is the consideration of an application for a specific construction proposal for compliance with established development standards and guidelines. In this case, the application proposes a Specific Plan to establish policies and development standards for future development. There is no application for proposed development or a specific construction proposal under consideration. Furthermore, denial of a proposed specific plan does not need to be based on lack of consistency with the General Plan but may be based on more general policy considerations, such as the absence of any affordable housing, dissatisfaction with the proposed design, location of housing near the I-8 freeway, or other policy concerns. If the City Council decides to deny the Plan, its denial may be based on such policy concerns, separate from environmental analysis.

- The appeal letter challenges that the Planning Commission staff report does not acknowledge the relationship of the Plan relative to the City's Housing Element and RHNA. The appeal notes that the Plan is essential to the City's Housing Element and states that the Staff Report presented to the Planning Commission asked whether the subject property is "suitable for high-density residential development." The appellant states that decision was already made by the City Council and is reflected in the City's General Plan.

The Plan is not part of the Housing Element. The Housing Element has identified other sufficient sites within the City to meet RHNA needs. In addition, the General Plan presents suitability of sites in the Regional Serving Commercial

designation as a policy choice to be determined on site by site basis, which the Planning Commission did as part of their review and consideration of the proposed Plan. Therefore, the site is not essential to the Housing Element and is not pre-determined to be “suitable for high-density residential development.”

- The appeal letter also notes grounds cited in the Planning Commission Resolution as a basis for denial lacks “sufficient detail, standards and graphics to ensure high-quality design will be achieved...”. The appellant believes these vague statements are not supported by evidence and have been contradicted by documents presented in support of the Specific Plan and the applicant’s experts.

As previously discussed throughout this staff report, the proposed objective design standards provide insufficient guidance for design of future projects and describe design that is far less articulated and varied than shown in the illustrations in the Plan. Buildings and site improvements with much less detail than shown could be found to be consistent with the proposed development standards and design guidelines. The Plan does not present a clear, precise, efficient, regulatory document of the policies, rules, and regulations applicable to the Plan area. The Plan inaccurately portrays a level of architectural detail in the provided drawings compared to the text to the extent that it could mislead decision makers and the public to expect future construction to be similar to what is shown. The Plan would not provide the clear regulation and guidance desired for current and future staff, as well as the current and any future property owners, for development of the property.

PUBLIC NOTICE

Notification of the May 9, 2023, City Council public hearing to consider the appeal of the Planning Commission’s denial of the Plan was mailed to all property owners within 1000 feet of the subject property and interested parties on Thursday, April 27, 2023, and published in the San Diego Daily Transcript on Friday, April 28, 2023.

ENVIRONMENTAL REVIEW

In compliance with the California Environmental Quality Act (CEQA), the City has prepared a Program Environmental Impact Report (PEIR) for the proposed specific plan. The PEIR was circulated for a 45-day public review period from September 9, 2020, to October 26, 2020. The PEIR concluded that the specific plan would not have an adverse impact on the environment due to mitigation measures which reduce potential impacts to below a level of significance.

CONCLUSION:

Staff recommends that the City Council adopt a Resolution (**Attachment A**) denying the application for the Alvarado Specific Plan (Project 2018-08), thus denying the appeal.

Reviewed by:



Greg Humora
City Manager

Respectfully submitted by:



Kerry Kusiak
Director of Community Development

Attachments:

- A. Draft resolution denying the Alvarado Specific Plan
- B. Planning Commission Staff Report dated August 17, 2022
- C. Letter from the applicant dated August 15, 2022
- D. Planning Commission Resolution of Denial
- E. Letter from the applicant dated September 6, 2022
- F. Appeal of Planning Commission decision
- G. Alvarado Specific Plan
- H. Alvarado Specific Plan revised Chapter III and development and design standards
- I. Final Program Environmental Impact Report
- J. Staff review letter dated October 18, 2019
- K. Staff review letter dated August 10, 2020
- L. Correspondence from the applicant
- M. Public comments received
- N. Alvarado Specific Plan conceptual grading plans