

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4421
(619) 767-2370



January 21, 2016

Th14a**TO: COMMISSIONERS AND INTERESTED PERSONS****FROM: SHERILYN SARB, DEPUTY DIRECTOR, SD COAST DISTRICT
GABRIEL BUHR, COASTAL PROGRAM MANAGER, SD COAST DISTRICT
ERIN PRAHLER, COASTAL PLANNER, SD COAST DISTRICT****SUBJECT: STAFF RECOMMENDATION ON CITY OF CARLSBAD LOCAL COASTAL
PROGRAM AMENDMENT NO. LCP-6-CII-15-0027-3 (438 Tamarack Avenue
Rezone) for Commission Meeting of February 10-12, 2016**

SYNOPSIS

The subject LCP implementation plan amendment was submitted on September 23, 2015 and filed as complete on January 7, 2016. The amendment request modifies the City's Implementation Plan only. As such, the date by which the Commission must take action, absent an extension of the time limits by the Commission, is March 7, 2016. The amendment was submitted as a part of an LCP amendment package that also contained a Land Use Plan amendment to the Agua Hedionda Segment of the City's LCP, LCP-6-CAH-15-0026-4. The Agua Hedionda South Shore Specific Plan amendment was filed as incomplete on October 5, 2015 and remains incomplete, and will be scheduled for Commission review at a later date.

SUMMARY OF AMENDMENT REQUEST

The subject amendment request revises the certified Mello II segment Implementation Plan. The City of Carlsbad is proposing to rezone a 0.38 acre parcel located at 438 Tamarack Avenue (APN: 204-280-23) from One-Family Residential (R-1) to Residential Density-Multiple (RD-M). The subject site is located adjacent to the rail corridor along Tamarack Avenue and is developed with two dwellings. No development is currently proposed associated with this rezoning request.

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending the Commission approve the amendment as submitted. The Commission can only reject Implementation Plan amendments where it can be shown that the amendment would be inconsistent with the certified Land Use Plan (LUP) and/or render the Implementation Plan (IP) inadequate to carry out the LUP. In this case, the City's proposed rezoning can be found consistent with the certified LUP as proposed. While the proposed rezoning will allow increased density of development at the subject site, that increased density is consistent with the existing land use designation for the

property and with the surrounding neighborhood. The existing land use designation for the subject parcel is Residential Medium-High (RMH). The proposed rezoning from One-Family Residential (R-1) to Residential Density-Multiple (RD-M) will better implement the existing RMH land use designation and is therefore consistent with and adequate to carry out the Mello II component of the City's LUP. In addition, the proposed amendment will have no significant adverse impacts to coastal resources or access.

The appropriate resolution and motion begins on page 3. The findings for approval of the Implementation Plan Amendment as submitted begin on page 4.

ADDITIONAL INFORMATION

Further information on the City of Carlsbad LCP Amendment #LCP-6-CII-15-0027-3 may be obtained from Erin Prahler, Coastal Planner, at (619) 767-2370.

PART I. OVERVIEW

A. LCP HISTORY

The City of Carlsbad's certified LCP contains six geographic segments as follows: Agua Hedionda, Mello I, Mello II, West Batiquitos Lagoon/Sammis Properties, East Batiquitos Lagoon/Hunt Properties, and Village Area. Pursuant to Sections 30170(f) and 30171 of the Public Resources Code, the Coastal Commission prepared and approved two portions of the LCP, the Mello I and II segments in 1980 and 1981, respectively. The West Batiquitos Lagoon/ Sammis Properties segment was certified in 1985. The East Batiquitos Lagoon/Hunt Properties segment was certified in 1988. The Village Redevelopment Area LCP was certified in 1988; the City has been issuing coastal development permits there since that time. On October 21, 1997, the City assumed permit jurisdiction and has been issuing coastal development permits for all segments except Agua Hedionda. The Agua Hedionda Lagoon LCP segment is a deferred certification area until an implementation plan for that segment is certified. This amendment modifies the City's Implementation Plan only. The policies of the Mello II Land Use Plan apply to this particular site.

B. STANDARD OF REVIEW

Pursuant to Section 30513 of the Coastal Act, the Commission may only reject zoning ordinances or other implementing actions, as well as their amendments, on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan. The Commission shall take action by a majority vote of the Commissioners present.

C. PUBLIC PARTICIPATION

Section 30503 of the Coastal Act requires local governments to provide the public with maximum opportunities to participate in the development of the LCP amendment prior to its submittal to the Commission for review. The City has held Planning Commission and City Council meetings with regard to the subject amendment request. All of those local hearings were duly noticed to the public. Notice of the subject amendment has been distributed to all known interested parties.

PART II. LOCAL COASTAL PROGRAM SUBMITTAL - RESOLUTION

Following a public hearing, staff recommends the Commission adopt the following resolution and findings. The appropriate motion to introduce the resolution and a staff recommendation are provided just prior to the resolution.

- I. MOTION:** *I move that the Commission reject the Implementation Program Amendment No. LCP-6-CII-15-0027-3 for the City of Carlsbad LCP as submitted.*

STAFF RECOMMENDATION OF CERTIFICATION AS SUBMITTED:

Staff recommends a **NO** vote. Failure of this motion will result in certification of the Implementation Program Amendment as submitted and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

RESOLUTION TO CERTIFY IMPLEMENTATION PROGRAM AMENDMENT AS SUBMITTED:

The Commission hereby certifies the Implementation Program Amendment for the City of Carlsbad as submitted and adopts the findings set forth below on grounds that the Implementation Program Amendment conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan, and certification of the Implementation Program Amendment will meet the requirements of the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Program Amendment on the environment, or 2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the Implementation Program.

PART III. FINDINGS FOR APPROVAL OF THE CITY OF CARLSBAD IMPLEMENTATION PROGRAM AMENDMENT, AS SUBMITTED

A. AMENDMENT DESCRIPTION

The City is proposing to rezone 438 Tamarack Avenue from One-Family Residential (R-1) to Residential Density-Multiple (RD-M). No other changes to the IP are proposed.

B. FINDINGS FOR APPROVAL

a) Purpose and Intent of the Ordinance. The purpose and intent of the zoning amendment is to allow a change from R-1 (One-Family Residential) to RD-M (Residential Density – Multiple) at 438 Tamarack Avenue to ensure consistency of the zoning with the existing land use designation.

b) Major Provisions of the Ordinance. Ordinance No. CS-284 provides for the rezoning of the identified parcel from R-1 to RD-M on the certified LCP Zoning Map. The RD-M zone allows one-family, two-family, and multiple-family homes and associated structures, sets a 35 foot height limit, and establishes development standards for setbacks, placement of building, and minimum lot area (10,000 sq.ft.).

c) Adequacy of the Ordinance to Implement the Certified LUP Segments. The standard of review for LCP implementation submittals or amendments is their consistency with and ability to carry out the provisions of the certified LUP. As

previously described, the City is proposing to rezone the subject property from R-1 to RD-M. The certified LUP for the Mello II segment of the City contains a number of policies relevant to the proposed amendment:

Policy 1-1. Allowable Land Uses

Allowable uses are those that are consistent with both the General Plan and the Local Coastal Program.

Policy 1-2. Maximum Density of Development

Residential densities shall be permitted and based on the underlying LCP land use designation. The residential land use designations shall represent the maximum density permitted subject to application of requested density bonuses pursuant to Chapter 21.86 of the Carlsbad Municipal Code and the applicable resource protection provisions of the certified LCP.

Policy 7-10. Parking

Parking standards set forth within the City of Carlsbad Zoning Ordinance are appropriate for the future development of various land uses.

Policy 8-3. Infill Development Design Review

While the Scenic Preservation Overlay Zone can be used to enhance the character of new development, the City of Carlsbad should adopt a policy whereby the unique characteristics of older communities...can be protected through their redevelopment scheme. This policy should reflect design standards which are in accordance with the flavor of the existing neighborhood.

The land use designation for this property is Residential Medium-High density (RMH). The proposed rezone will not affect the residential land use of the property; it simply changes from one type of residential zoning (R-1) to another type of residential zoning (RD-M), affecting the development standards that will be applied to future development on the subject property. The intent of the R-1 zone is to implement the Residential Low density (RL), Residential Low-Medium (RLM) and Residential Medium density (RM) land use designations, while the RD-M zone is intended to implement the Residential Medium density (RM) and Residential Medium-High density (RMH) land use designations. The subject property currently contains two dwelling units and surrounding properties to the north, east and west, including the site immediately adjacent to the subject parcel, are developed with existing condominiums and zoned RD-M. The proposed rezoning of this property from R-1 (One-Family Residential) to RD-M (Residential Density-Multiple) will better implement the existing RMH land use designation and is consistent with the surrounding neighborhood. This rezoning may facilitate residential intensification of this site., However, because the proposed zone change only applies to a single parcel, the amendment's impact on the City's Coastal

Zone is limited. The proposed zoning designation is consistent with and will better implement the existing RMH land use designation and will, therefore, comply with Policy 1-1 of the Mello II LCP.

The RMH designation allows up to 15 dwelling units per acre with a growth control point of 11.5 units per net acre. The subject property is 0.38 net acres, allowing a density of 4 dwelling units on this site, consistent with the Land Use Plan designation. Therefore, the proposed amendment will conform with Policy 1-2 of the Mello II LCP, which requires residential densities to be permitted and based on the underlying LCP land use designation.

The development standards (established in the City of Carlsbad Zoning Ordinance) applicable to the RD-M zone will remain unchanged, along with the applicable parking standards which are also set forth within the City's Zoning Ordinance. Additionally, any new development or redevelopment of the site would still be subject to a coastal development permit, pursuant to Chapter 21.201 of the Zoning Ordinance (which this amendment does not propose to change). This means that adequate parking, consistent with Policy 7-10 of the Mello II LCP segment, will be required in conjunction with any new development resulting from the proposed amendment (under current zoning regulations, parking for up to 10 vehicles would be required for development of this parcel with 4 dwelling units). Also, in adherence with Policy 8-3 of the Mello II LCP segment, residential development standards such as building height limits, setback requirements, and lot coverage restrictions will be maintained, which will ensure that any future development on the parcel will be compatible with the neighborhood.

Future development on the parcel will be thoroughly assessed for consistency with the certified Mello II LCP segment through the coastal development permitting process. In summary, because the proposed rezoning would implement the existing land use designation, the Commission finds that the proposed amendment to the IP is consistent with and adequate to carry out the policies of the certified LUP.

PART IV. CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 21080.9 of the California Environmental Quality Act (CEQA) exempts local governments from the requirement of preparing an environmental impact report (EIR) in connection with its local coastal program. Instead, the Coastal Commission acts as lead agency for the purposes of fulfilling CEQA. The Commission's LCP review and approval program has been found by the Resources Agency to be functionally equivalent to the EIR process. Thus, under CEQA Section 21080.5, the Commission is relieved of the responsibility to prepare an EIR for each LCP submission. Under the regulatory process, the Commission must respond to significant environmental points raised during the review process. This staff report addresses all significant environmental points raised during the City's and the Commission's review of the LCPA submittal.

An EIR (No. 93-01) was prepared and certified by the City on September 6, 1994 for the City's General Plan Update 1994. The City determined that no subsequent EIR or other environmental review document is needed for the proposed zoning map revision as all potential impacts were adequately addressed and disclosed in EIR No. 93-01.

Nevertheless, the Commission is required in an LCP submittal or, as in this case, an LCP amendment submittal, to find that the LCP, or LCP, as amended, does conform with CEQA provisions. The proposed amendment would not result in an intensification of land uses incompatible with the surrounding development or have adverse impacts on coastal resources. Further, the Commission finds that the proposed amendment is unlikely to have any significant adverse effect on the environment as a whole. Therefore, the Commission finds that the subject LCP implementation plan, as amended, conforms to the provisions of CEQA.

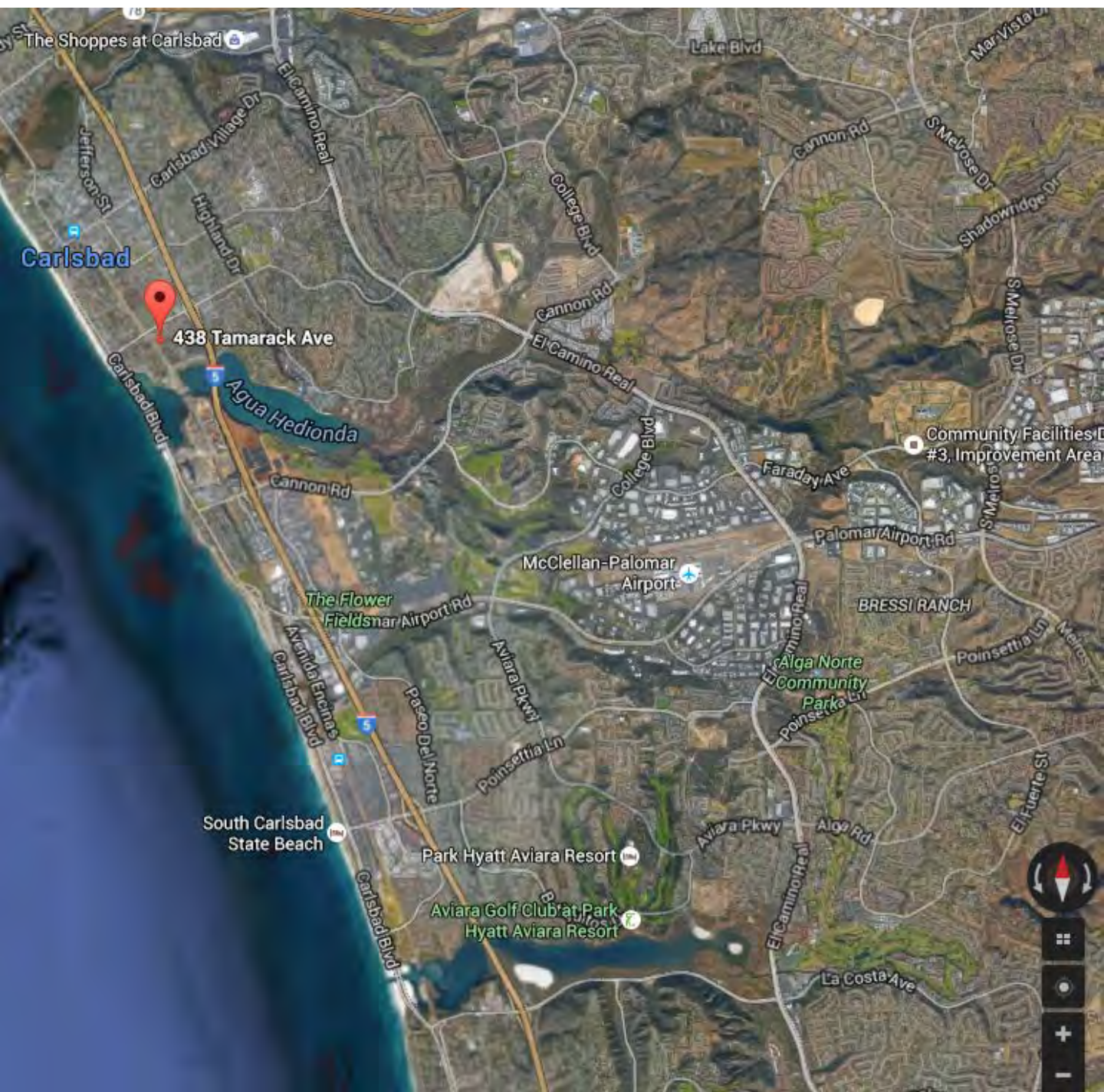


EXHIBIT NO. 1
Vicinity Map
LCP-6-CII-15-0027-3 (438 Tamarack Rezone)
 California Coastal Commission

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RESOLUTION NO. 2015-229

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, APPROVING: 1) A DETERMINATION PER CEQA THAT THE PROJECT IS CONSISTENT WITH THE GENERAL PLAN EIR AND 2) A LOCAL COASTAL PROGRAM AMENDMENT TO CHANGE THE ZONING FROM R-1 TO RD-M ON A PARCEL LOCATED AT 438 TAMARACK AVENUE.

CASE NAME: HENKINS ZONE CHANGE

CASE NO.: LCPA 15-01

The City Council of the City of Carlsbad, California, does hereby resolve as follows:

WHEREAS, pursuant to the provisions of the Municipal Code, the Planning Commission did on June 17, 2015, hold a duly noticed public hearing as prescribed by law to consider Local Coastal Program Amendment 15-01, according to Exhibit "LCPA 15-01" attached to Planning Commission Resolution No. 7107, and to consider a determination per CEQA that the project is consistent with the General Plan EIR, according to finding 6 of Planning Commission Resolution No. 7107; and

WHEREAS, the Planning Commission recommended approval of a determination per CEQA that the project is consistent with the General Plan EIR and approval of Local Coastal Program Amendment 15-01, according to Planning Commission Resolution No. 7107; and

WHEREAS, the City Council of the City of Carlsbad on the 1st of September, 2015 held a duly noticed public hearing to consider the CEQA determination and Local Coastal Program Amendment; and

WHEREAS, at said public hearing, upon hearing and considering all testimony and arguments, if any, of all persons desiring to be heard, the City Council considered all factors related to the CEQA determination and Local Coastal Program Amendment.

NOW THEREFORE, BE IT HEREBY RESOLVED by the City Council of the City of Carlsbad, as follows:

EXHIBIT NO. 2
Resolution
LCP-6-CII-15-0027-3 (438 Tamarack Rezone)
California Coastal Commission

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NOW THEREFORE, BE IT HEREBY RESOLVED by the City Council of the City of Carlsbad, as follows:

1. That the foregoing recitations are true and correct.
2. That the project is consistent with the General Plan EIR, based on the findings of the Planning Commission contained in Planning Commission Resolution No. 7107, which are incorporated herein by reference, and are the findings of the City Council.
3. That Local Coastal Program Amendment 15-01, as shown in Planning Commission Resolution No. 7107, is approved and the findings and conditions of the Planning Commission contained in Planning Commission Resolution No. 7107, are incorporated herein by reference, and are the findings and conditions of the City Council.
4. That Local Coastal Program Amendment 15-01 shall not become effective until it is approved by the California Coastal Commission.
5. This action is final on the date this resolution is adopted by the City Council. The provisions of Chapter 1.16 of the Carlsbad Municipal Code, "Time Limits for Judicial Review" shall apply:

"NOTICE TO APPLICANT"

The time within which judicial review of this decision must be sought is governed by Code of Civil Procedure, Section 1094.6, which has been made applicable in the City of Carlsbad by Carlsbad Municipal Code Chapter 1.16. Any petition or other paper seeking review must be filed in the appropriate court not later than the ninetieth day following the date on which this decision becomes final; however, if within ten days after the decision becomes final a request for the record is filed with a deposit in an amount sufficient to cover the estimated cost or preparation of such record, the time within which such petition may be filed in court is extended to not later than the thirtieth day following the date on which the record is either personally delivered or mailed to the party, or his attorney of record, if he has one. A written request for the preparation of the record of the proceedings shall be filed with the City Clerk, City of Carlsbad, 1200 Carlsbad Village Drive, Carlsbad, CA, 92008.

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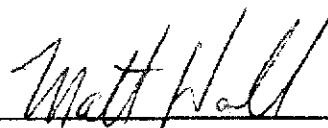
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PASSED, APPROVED AND ADOPTED at a Regular Meeting of the City Council of the City of Carlsbad on the 1st day of September, 2015, by the following vote to wit:

AYES: Council Members Hall, Packard, Schumacher, Wood, Packard.

NOES: None.

ABSENT: None.



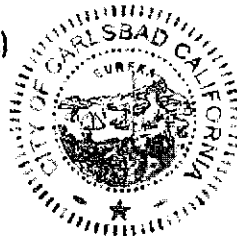
MATT HALL, Mayor

ATTEST:



BARBARA ENGLESON, City Clerk

(SEAL)



ORDINANCE NO. CS-284

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AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, AMENDING SECTION 21.05.030 OF THE CARLSBAD MUNICIPAL CODE BY AN AMENDMENT TO THE ZONING MAP TO GRANT A ZONE CHANGE FROM ONE FAMILY RESIDENTIAL (R-1) TO RESIDENTIAL DENSITY MULTIPLE (RD-M) FOR 0.38 ACRE PARCEL LOCATED AT 438 TAMARACK AVENUE, WITHIN LOCAL FACILITIES MANAGEMENT ZONE 1.

CASE NAME: HENKINS ZONE CHANGE
CASE NO.: ZC 15-01

The City Council of the City of Carlsbad, California, does ordain as follows:

WHEREAS, the City Council did on the 1st day of Sept. 2015, hold a duly noticed public hearing as prescribed by law to consider said request; and

WHEREAS, said application constitutes a request for a Zone Change as shown on Exhibit "ZC 15-01 – HENKINS ZONE CHANGE," dated June 17, 2015, attached hereto and made a part hereof; and

WHEREAS at said public hearing, upon hearing and considering all testimony and arguments, if any, of all persons desiring to be heard, said City Council considered all factors relating to the "ZC 15-01 – HENKINS ZONE CHANGE."

NOW, THEREFORE, the City Council of the City of Carlsbad does ordain as follows:

SECTION I: That section 21.05.030 of the Carlsbad Municipal Code, being the zoning map, is amended as shown on the map marked "ZC 15-01 – HENKINS ZONE CHANGE," dated June 17, 2015 attached hereto and made a part hereof.

SECTION II: That the findings and conditions of the Planning Commission in Planning Commission Resolution No. 7107 shall also constitute the findings and conditions of the City Council.

EXHIBIT NO. 3
Ordinance
LCP-6-CII-15-0027-3 (438 Tamarack Rezone)
 California Coastal Commission

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EFFECTIVE DATE: This ordinance shall be effective no sooner than thirty days after its adoption, and the City Clerk shall certify to the adoption of this ordinance and cause it to be published at least once in a publication of general circulation in the City of Carlsbad within fifteen days after its adoption. *(Notwithstanding the preceding, this ordinance shall not be effective until approved by the California Coastal Commission.)*

INTRODUCED AND FIRST READ at a regular meeting of the Carlsbad City Council on the 1st day of September 2015, and thereafter.

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PASSED AND ADOPTED at a regular meeting of the City Council of the City of Carlsbad on the 22nd day of September, 2015, by the following vote, to wit:


AYES: Council Members Hall, Blackburn, Schumacher, Wood, Packard.

NOES:

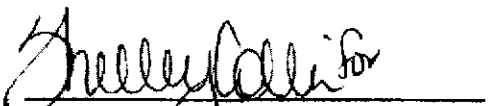
ABSENT:

APPROVED AS TO FORM AND LEGALITY:


CELIA A. BREWER, City Attorney


MATT HALL, Mayor

ATTEST:


BARBARA ENGELSON, City Clerk

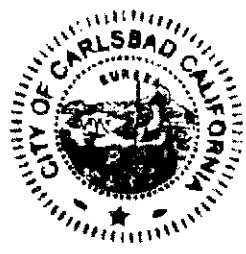
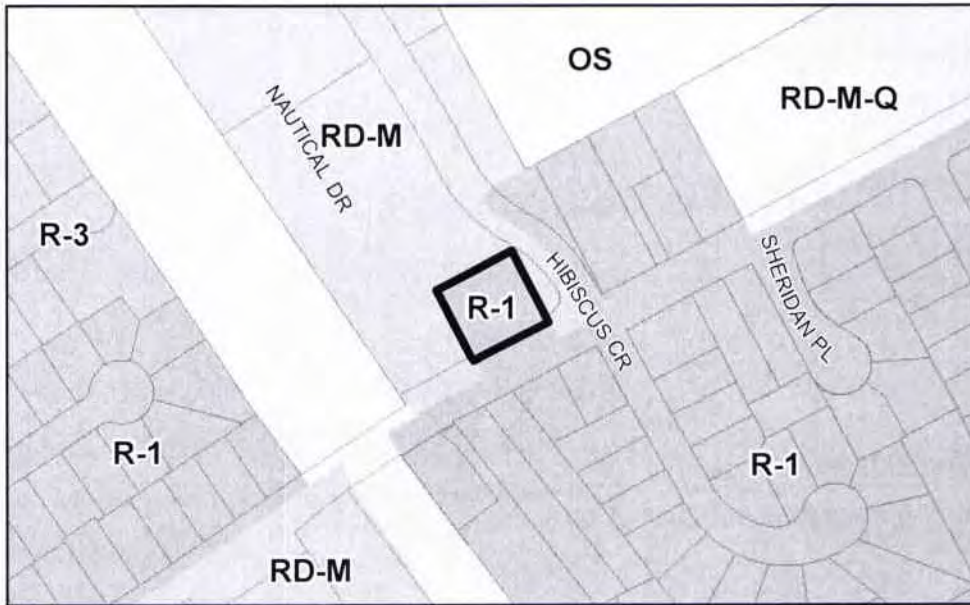


Exhibit "LCPA 15-01"

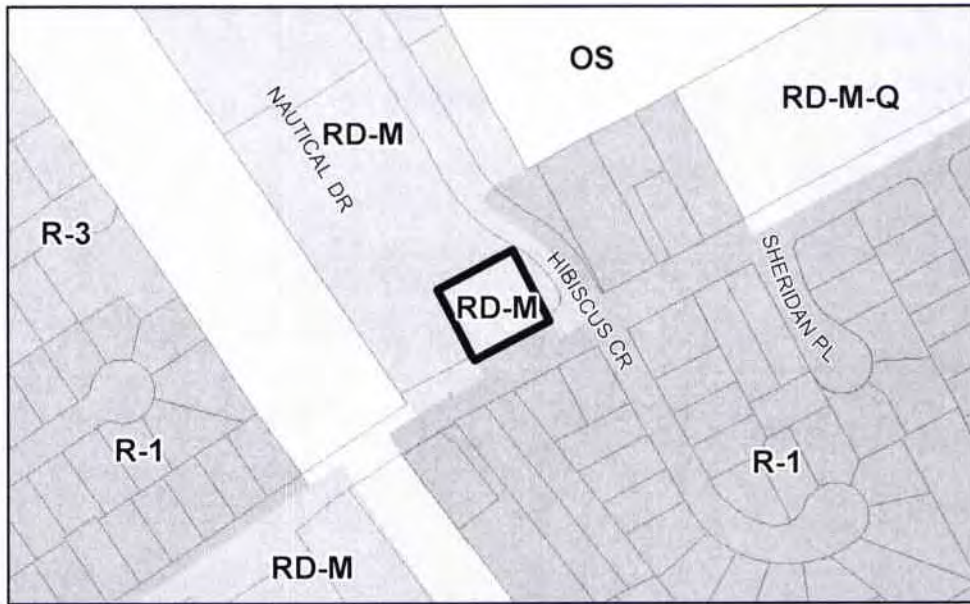
June 17, 2015

LCPA 15-01 (Zoning)

Henkins Zone Change



EXISTING



PROPOSED

Related Case File No(s): LCPA 15-01		
Zoning Designation Changes		
	Property	From: To:
A.	204-280-23	R-1 RD-M
B.		
C.		