

ORDINANCE NO. 14-2024

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA, ADOPTING A LARGE SCALE COMPREHENSIVE PLAN TEXT AMENDMENT; AMENDING A POLICY IN THE FUTURE LAND USE ELEMENT RELATED TO THE MIXED-USE FUTURE LAND USE CATEGORY, ESTABLISHING THE AUTHORIZED USES PERMITTED ON THE GROUND FLOOR OF A MIXED USE BUILDING, SUCH MIXED-USE BUILDINGS BEING ELIGIBLE FOR RESIDENTIAL DENSITY BONUSES GENERALLY OF AN ADDITIONAL FIVE (5) DWELLING UNITS PER ACRE FOR VERTICAL MIXED-USE BUILDINGS AND UP TO 125 DWELLING UNITS PER ACRE FOR VERTICAL MIXED-USE PROJECTS IN THE VERY LIMITED GEOGRAPHICAL AREA IDENTIFIED IN POLICY 1.1.2.6 OF THE COMPREHENSIVE PLAN AND REQUIRING A DEVELOPMENT AGREEMENT BY THE CITY COUNCIL UNDER CERTAIN TERMS AND CONDITIONS DEEMED NECESSARY AND ACCEPTABLE TO THE CITY COUNCIL; FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, INCORPORATION INTO THE COMPREHENSIVE PLAN, SEVERABILITY, AND AN EFFECTIVE DATE, AND LEGAL STATUS OF THE PLAN AMENDMENT.

WHEREAS, Section 163.3161 et. seq., Florida Statutes, established the Community Planning Act, which was formerly known as the Local Government Comprehensive Planning and Land Development Regulation Act; and

WHEREAS, the Community Planning Act requires each municipality in the State of Florida to prepare, adopt, and update a Comprehensive Plan; and

WHEREAS, in accordance with the provisions of the Community Planning Act, the Local Planning Agency of the City of Cocoa held a duly noticed public hearing, in accordance with the procedures established in Chapter 163, Part II, Florida Statutes, on the proposed comprehensive plan amendment; and

WHEREAS, the City Council of the City of Cocoa held two duly noticed public hearings on the proposed amendment set forth hereunder and considered findings and advice of staff, citizens, and all interested parties submitting written and oral comments and supporting data and analysis, and after complete deliberation, hereby approves and adopts the Comprehensive Plan Amendment set forth hereunder; and

WHEREAS, in 2010, the City Council created a new future land use category, Mixed-Use (MU), which was intended to provide a mixture of residential, commercial, office, recreational, and institutional uses along the major transportation corridors in the City, such as SR 520 and US1, and in the Cocoa Village; and

WHEREAS, the adoption of the Mixed-Use future land use category was intended to strengthen support of redevelopment activities and place a stronger emphasis on quality, integrated development incorporating “smart growth” principles that would lead to compact development as opposed to conventional development standards and reduce urban sprawl; and

WHEREAS, the Mixed-Use future land use category was also intended to promote energy efficient land use patterns and assist in the reduction of greenhouse gas emissions by encouraging such integrated and compact development; and

WHEREAS, to encourage the compact, walkable, energy-efficient land development within the Mixed-Use future land use category, the Comprehensive Plan policies for such Mixed-Use category authorized a density bonus of up to five (5) dwelling units per acre, in addition to the twenty-five (25) dwelling unit per acre generally authorized, for vertical mixed use buildings; and

WHEREAS, Policy 1.1.2.6 of the City’s Comprehensive Plan, further establishing the intent of the Mixed-Use future land use category, provides that mixed use buildings within a single development will be “highly encouraged” in this category and;

WHEREAS, for a mixed-use building in the Mixed-Use future land use category, “only retail sales, offices and services and restaurants” are currently permitted on the ground floor; and

WHEREAS, attracting a limited number of new large, vertical mixed-use projects to certain limited areas within the Cocoa Village is consistent with the City’s and the Cocoa Community Redevelopment Agency’s redevelopment plans and will help ensure the long-term viability and vibrancy of the Cocoa Village as a distinct, attractive, and safe place to live, work, and visit; and

WHEREAS, consequently, the City Council previously adopted via Ordinances 07-2022 and 17-2023 amendments to Policy 1.1.2.6 to authorize up to 125 dwelling units per acre for certain very limited geographic areas in the Cocoa Waterfront Overlay District (“CWOD”), subject to approval of a development agreement in the discretion of the City Council after consideration of a number of factors, including but not limited to, economic and social benefits to the City and Community Redevelopment Agency, aesthetic quality and character, architectural design, and physical and visual scale; compatibility and harmony with the special and distinctive character of the Cocoa Village, including the South End Subdistrict, if applicable, and waterfront district; impact upon public facilities; and adequacy of on-site parking and impact of off-site parking; and

WHEREAS, the City Council desires to provide additional flexibility related to uses permitted on the ground floor of vertical mixed-use buildings eligible for density bonuses under the Comprehensive Plan to encourage the development of such buildings to fulfill the goals and objectives of the Mixed-Use future land use category; and

WHEREAS, revising the requirement that ground floor uses must consist entirely of retail sales, offices, services, and restaurants reflects the fact that market conditions may not support such commercial uses on every street frontage of a proposed mixed-use building; and

WHEREAS, providing for such flexibility may stimulate the development of mixed use buildings in the City of Cocoa while still ensuring that commercial uses are integrated into such buildings to create compact, walkable, and energy-efficient development that will benefit the citizens of the City of Cocoa; and

WHEREAS, allowing the construction of high-density residential mixed-use projects within the urban core of the Mixed-Use future land use area also provides for the economical use of City resources and infrastructure and provides opportunities for significant work, live, and recreation options that will allow residents to reduce their automobile dependence and live a more sustainable lifestyle; and

WHEREAS, the City Council finds that this Ordinance serves a legitimate government interest related to implementing the goals and objectives set forth in the Cocoa Waterfront Master Plan, Agency Redevelopment Plan, and promoting catalyst redevelopment opportunities that will improve the social and economic interests of the City of Cocoa; and

WHEREAS, the City Council of the City of Cocoa hereby finds this Ordinance is in the best interest of the public health, safety, and welfare of the citizens of Cocoa.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COCOA HEREBY ORDAINS, AS FOLLOWS:

Section 1. Recitals. The foregoing recitals are true and correct and are fully incorporated herein by this reference.

Section 2. Authority. This Ordinance is adopted in compliance with, and pursuant to, the Community Planning Act, sections 163.3161 et. seq., Florida Statutes.

Section 3. Purpose and Intent. It is hereby declared to be the purpose and intent of this Ordinance to adopt a comprehensive plan amendment incorporating the revisions stated herein as part of the City of Cocoa Comprehensive Plan.

Section 4. Adoption of Amendment to the Future Land Use Element. The City of Cocoa Comprehensive Plan, Future Land Use Element, is hereby amended as follows (underlined type indicates additions and ~~strikeout~~ type indicates deletions, while asterisks (* * *) indicate a deletion from this Ordinance of text existing in the Cocoa Comprehensive Plan, Future Land Use Element. It is intended that the text in the Future Land Use Element denoted by the asterisks and set forth in this Ordinance shall remain unchanged from the language existing prior to the adoption of this Ordinance):

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I - FUTURE LAND USE ELEMENT

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FIGURE FLU-1 STANDARD FOR FUTURE LAND USE CATEGORIES

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Commercial, Industrial, Open Space/Recreational, Institutional and Mixed-Use Future Land Use Categories

	Commercial	Neighborhood Commercial	Regional Activity Center	Industrial	Open Space Recreational	Institutional	Mixed Use
Maximum Intensity/Density	1.0 FAR, 25 du/acre ⁷	0.75 FAR, 25 du/acre ⁷	0.50 FAR, 25 du/acre, and 45 hotel rooms /acre	1.50 FAR	0.25 FAR	1.0 FAR 25 du/acre	25 du/acre ^{2,3&9} 1.0 FAR ³
Allowable Uses	Commercial, Office, Institutional, Residential ⁸ , and Open Space/ Recreational	Commercial, Residential, Office, Institutional, and Open Space/ Recreational	Commercial, Industrial, Hotel, office, Residential, Institutional , and Open Space/ Recreational	Industrial and Commercial ⁶	Not Applicable	Institutional	Commercial, Industrial, Hotel, Office, Residential, Institutional, and Open Space/ Recreational
Minimum Transportation Access	4 lane collector 2 lane arterial	2 lane collector	1 lane arterial that intersects SR 528 or I-95	2 lane collector 2 lane arterial	Not applicable	Not applicable	Not applicable
Applicable Zoning Districts	C-G, C-W, C-P, C-C, P-S, and PUD	C-N, C-R, R-P, P-S, and PUD	UMD	M-1 and M-2	All Districts	All Districts	CBD, CBD-CVO, C-C, C-N, C-R, P-S, PUD, R-P, UMD
Maximum Impervious Surface Ratio	0.90	0.80	0.95	0.75	0.25	0.65	0.95 1.0 in CBD

NOTES FOR FIGURE FLU-1:

1. Maximum density may be increased up to 12 du/acre as part of a planned residential development or planned redevelopment activities (*Policy 1.2.3.C*).
2. An additional 5 units per acre may be achieved if residential units are developed as part of a vertical mixed use project.
3. Maximum FAR in the Cocoa RDA is 2.0 and a bonus may permit up to an additional 2.5 FAR in the Central Business District outside the Cocoa Village Overlay sub-district. An additional 25 units per acre may be achieved in certain areas within the Cocoa RDA.
4. Four (4) acre maximum land area for new Neighborhood Commercial and one (1) acre maximum site land area.
5. Minimum land area of 50 acres and minimum cumulative gross floor area of 500,000 sq. ft. for all structures.
6. Commercial uses that are complementary to and support industrial development and operations.
7. Maximum residential density shall be 25 du/acre, except where reduced by the underlying zoning district regulations.
8. Residential uses shall be permitted only where allowed in the underlying zoning district.
9. Notwithstanding the base level maximum density stated in the above chart and Notes 2 & 3, the maximum density may be increased by the City Council for certain approved redevelopment projects on properties designated Cocoa Village and South End Subdistrict with a Commercial/Mixed Use Large (CL) building type on the Cocoa Waterfront Overlay District Regulating Plan pursuant to Policy 1.1.2.6.

* * *

Policy 1.1.2.6: Mixed-Use (MU).

(a). The Mixed-Use land use category is intended to provide a mixture of residential, commercial, office, recreational and institutional uses along the major transportation corridors (such as SR 520 and US 1). The mixed-use could be developed as single uses on separate parcels or as a mixture of uses within a single development. Based on current land use trends, the City estimates that the mix of uses in the mixed-use category will be 50 percent residential and 50 percent non-residential. The Floor Area Ratio (FAR) measure shall not be applied to residential developments, or the residential portion of a mixed-use building or development. The following criteria shall be used for determining appropriate locations for mixed-use land use areas.

- A. Areas within a quarter mile walking distances of public transit stations, transitional areas between high and low intensity uses, and areas adjacent to major corridors within the City are appropriate for Mixed-Use category.

- B. The land development regulations implementing this category shall encourage a compact and walkable environment to reduce vehicle miles of travel and encourage use of public transit.
- C. Development within mixed-use shall be encouraged to follow Transit Oriented Design (TOD) principles.
- D. Unified architectural and streetscape themes are encouraged for all developments within the Mixed-Use category.
- E. Mixed use buildings within a single development will be highly encouraged in this category.
- F. ~~For~~ Except as provided herein, for a vertical mixed-use building, density bonuses as provided in Figure FLU 1 and this Policy 1.1.2.6(b) shall only be permitted where at least 51% of the total building length of the ground floor street frontage is devoted to occupiable space for retail sales, offices and services available to the general public, and restaurants, or a combination thereof are permitted on the ground floor. The total building length of the ground floor street frontage shall be measured by determining the length of the vertical, mixed use building on the ground floor on all street frontages up to a maximum of two (2) street frontages which shall be the two longest sides of the building with street frontage. For purposes of this Policy, pedestrian and vehicle driveways and ingress and egress corridors may be subtracted from the building length on each street prior to calculating the required percentage of the building length that must be devoted to the ground floor commercial uses on such street frontage. The required 51% of the total building length of the ground floor street frontage that is devoted to occupiable space for the ground floor commercial uses listed in this Policy may be distributed among street frontages as deemed most advantageous by the applicant, which may include locating the ground floor commercial uses entirely on one street. Non-commercial uses, uses otherwise permitted by the underlying zoning district, and parking to serve the vertical, mixed use building or the general public may occur on the remainder of the street frontage or within the interior of the building.
- G. If residential housing units are developed as part of a vertical mixed use project a bonus of up to 5 units per acre may be achieved, excluding projects approved by city council pursuant to subsection (b).
- H. For the purposes of analyzing public facilities impacts of proposed Future Land Use Map amendments, a mix of 50% residential and 50% non-residential land area split shall be utilized.

(b). Notwithstanding the maximum density stated in Figure FLU 1, a maximum density of up to 125 dwelling units per acre may be permitted for a specific redevelopment project with residential housing units developed as part of a vertical mixed-use project, subject to the discretion of the City Council and following conditions:

A. The vertical mixed-use project is located in the downtown community redevelopment area and on property designated Cocoa Village Subdistrict or South End Subdistrict on the Cocoa Waterfront Overlay District Regulating Plan and located on real property designated (outlined) on the following map:

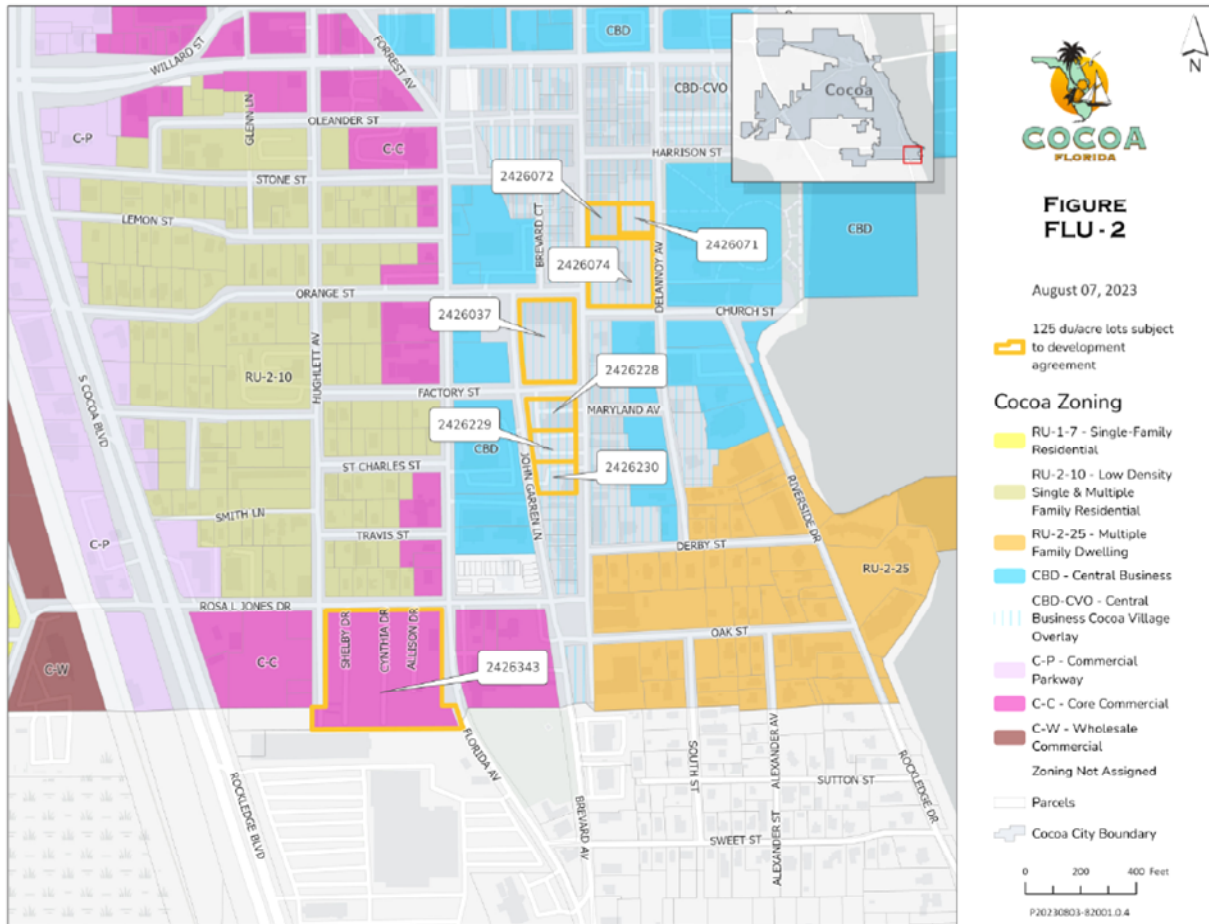


FIGURE FLU-2

B. The vertical mixed-use project is on property upon which a Commercial/Mixed Use Large (CL) building type is permitted on the Cocoa Waterfront Overlay District Regulating Plan; and

C. The maximum density for the project is approved by the City Council by a development agreement after considering the following factors:

- (i). Economic and social benefits to the City and Community Redevelopment Agency;
- (ii). Aesthetic quality and character, architectural design, and physical and visual scale;
- (iii). Any proposed enhancements that a developer will commit to completing by development agreement that will significantly bring the overall quality of the proposed development above and beyond the minimum requirements set forth in the City Code and will serve the public health, safety, and welfare of the citizens and visitors of Cocoa;
- (iv). Compatibility and harmony with the special and distinctive character of the Cocoa Village, including the South End Subdistrict, if applicable, and waterfront district;
- (v). Impact upon public facilities;
- (vi). Adequacy of on-site parking and impact of off-site parking;
- (vii). Consistency with the CRA Community Redevelopment Plan and Waterfront Master Plan;
- (viii). Proven first-hand experience of the developer to successfully complete one or more projects of such physical and visual scale and design, as evidenced by a written portfolio identifying and describing previously completed or substantially completed projects by the developer;
- (ix). The negotiated terms and conditions of the development agreement including a development schedule deemed acceptable to the City Council;
- (x). Impact on environmental concerns and incorporation of “green” community designs;
- (xi). In the discretion of the City Council, a recommendation from the Cocoa Community Redevelopment Agency if the project could foreseeably affect or impact the Agency or the Agency’s Redevelopment Plan, or require an Agency contribution to support the project;
- (xii). Compliance with the applicable land development regulations and comprehensive plan policies;

(xiii). Any other factors as may be deemed relevant by the City Council.

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Section 5. **Repeal of Prior Inconsistent Ordinances and Resolutions.** All prior inconsistent ordinances and resolutions adopted by the City Council, or parts of prior ordinances and resolutions in conflict herewith, are hereby repealed to the extent of the conflict.

Section 6. **Severability.** If any section, subsection, sentence, clause, phrase, word or provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

Section 7. **Incorporation into Comprehensive Plan.** Upon the effective date of the Comprehensive Plan Amendment adopted by this Ordinance, said Amendment shall be incorporated into the City of Cocoa Comprehensive Plan and any section or paragraph number or letter and any heading may be changed or modified as necessary to effectuate the foregoing.

Section 8. **Effective Date.** The effective date of the Comprehensive Plan Amendment adopted by this Ordinance shall be thirty-one (31) days after the state land planning agency notifies the City that the plan amendment package is complete pursuant to section 163.3184(3)(c)(4.), Florida Statutes. If the plan amendment is timely challenged, the plan amendment shall not become effective until the state land planning agency or the Administration Commission enters a final order determining the adopted amendment to be in compliance. No development orders, development permits, or land use dependent on this plan amendment may be issued before it has become effective. After and from the effective date of this plan amendment, the Comprehensive Plan Amendment set forth herein shall amend the City of Cocoa Comprehensive Plan and become a part of that plan and the plan amendment shall have the legal status of the City of Cocoa Comprehensive Plan, as amended.

ADOPTED by the City Council of the City of Cocoa, Florida, in a regular meeting assembled on the ____ day of _____, 2024.

Michael C. Blake, Mayor

ATTEST:

Monica Arsenault, City Clerk

Legal Ad: _____

LPA/P&Z: _____

First Reading: _____

Legal Ad: _____

Second Reading: _____

Effective Date: _____