



## Legislation Details (With Text)

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**File created:** 1/6/2020      **In control:** City Council  
**On agenda:** 1/22/2020      **Final action:**  
**Title:** Ordinance No. 03-2020/ 1st Reading: Approval of a ZONING MAP AMENDMENT consistent with Appendix A, Zoning, Article XXII, to change the Zoning Map designation of one (1) parcel totaling 246.45 acres from Brevard County GU (General Use) to City of Cocoa RU-1-7 (Single Family Residential). (Community Services Director)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Ord. 3-2020 Rezoning Virgin Trains GU to RU-1-7.pdf, 2. Exhibit A - Location Map and Legal Description.pdf, 3. Concept Plan (320 lots) - Lakes at Canaveral Groves.pdf, 4. Concept Plan (350 lots).pdf, 5. Legal Ad Proof (revised).pdf

Date	Ver.	Action By	Action	Result
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## CITY COUNCIL AGENDA ITEM

**Memo Date:** January 6, 2020  
**Agenda Date:** January 22, 2020  
**Prepared By:** Dodie Selig, Planning & Zoning Manager  
**Through:** Nancy A. Bunt, Community Services Director  
**Requested Action:**

Ordinance No. 03-2020/ 1<sup>st</sup> Reading: Approval of a ZONING MAP AMENDMENT consistent with Appendix A, Zoning, Article XXII, to change the Zoning Map designation of one (1) parcel totaling 246.45 acres from Brevard County GU (General Use) to City of Cocoa RU-1-7 (Single Family Residential).

### BACKGROUND:

#### **I. Project Information**

Virgin Trains USA Florida, LLC is requesting to amend the Zoning Map designation of one (1) parcel of land totaling approximately 246.45 acres from Brevard County GU (General Use) to City of Cocoa RU-1-7 (Single Family Residential) as depicted on Exhibit A. The applicant intends to construct a single-family subdivision on this parcel. It should be noted that the original concept plan attached to the approved Implementation Development Agreement (discussed below) was for the creation of 320 lots and the following staff analysis was based on that number. At the Planning & Zoning Board meeting on January 7<sup>th</sup> the applicant indicated that they would like to increase the number of lots to 350 and provided a new concept plan in their presentation depicting that total (see attached).

The subject property was annexed into the City of Cocoa in 2004 by Ordinance #31-2004 along with a multitude of other surrounding unincorporated properties totaling 757.29 acres which was adopted

through City Council action in October 2004. The property has a Brevard County GU(General Use) Zone. The City has not rezoned the property. Prior to the annexation, the City entered into a Preceding Development Agreement, dated August 24, 2004, with Florida Space Needle, LLC, a predecessor of the current property owner. Through the Preceding Development Agreement, the property owner expressed its willingness to annex into the City of Cocoa with certain conditions. These conditions included: (1) the City would process applications for either an RU-1-7 rezone or a PUD; and (2) the Developer would purchase water and wastewater services exclusively from the City. The City agreed to design, permit and construct the extension of water and wastewater utilities in sufficient capacity to serve the property up to the points of connection or to reimburse the Developer for such services, though certain deadlines existed for these obligations. At the time of the Preceding Development Agreement, the parties agreed that a minimum of one thousand (1,000) residential dwelling units would be constructed.

In September 2004, Brevard County filed a Petition for Writ of Certiorari challenging the City's annexation. Numerous issues were litigated with the County and were ultimately resolved after the City prevailed on appeal before the 5<sup>th</sup> District Court of Appeal via the Stipulated Settlement Agreement entered into in Brevard County v. City of Cocoa, Case No. 05-2005-018141, recorded on January 9, 2008 in Official Record Book 5837, Page 2226 of Brevard County, Florida. This Stipulated Settlement Agreement provided that the future development of the subject parcel include perimeter lots on the North and East perimeter of the parcel be no less than 70 feet by 140 feet, with the rear 15 feet of the lot dedicated as a natural buffer. The City also agreed to limit development on the parcel to between 300 and 500 total residential units, with the gross density being approximately 2.03 residential units per acre.

In addition, the City entered into that certain Settlement Implementation Agreement, dated July 10, 2019, with the current property owner, Virgin Trains USA Florida, LLC recorded on October 16, 2019 in Official Record Book 8564, Page 2243 of Brevard County, Florida. This Agreement limits the number of potential residential lots to approximately 320, with homes with a minimum living area under air of 1,500 square feet and an average living area of 1,800 square feet. The Settlement Implementation Agreement further provides that the eventual residential subdivision shall include ample private recreational common area green space and amenities, including a private Amenity Center and a proposed 38-acre lake. Through the Settlement Implementation Agreement, the Developer agreed to seek a City zoning designation of RU-1-7, consistent with the Very Low Density Residential Future Land Use Map Designation.

RU-1-7 is a low-density residential zoning designation which allows up to 7 single-family dwelling units per acre and designates minimum bulk regulations, most notably a minimum lot area of 7,500 square feet, minimum lot width of 75 feet, and minimum lot depth of 100 feet. The Concept Plans approved via the Settlement Implementation Agreement depict lots that meet these minimum bulk regulations or, in the case of the perimeter lots with a natural buffer, exceed those minimum bulk regulations. The RU-1-7 district allows only single-family dwellings as a principle use, with certain residential accessory structures.

### **Subject Property:**

**Future Land Use Designation:** Current: Very Low Density Residential

**Zoning District:** Current: Brevard County GU (General Use)  
Proposed: RU-1-7 (Single Family Residential)

**Existing Land Use:** Vacant land

**Council District:** District 3 - Councilmember Don Boisvert

**Overview of Surrounding Area:** The following table summarizes the current Future Land Use (FLU) and Zoning designations for the adjacent parcels.

	Future Land Use Designations	Zoning Districts	Land Uses
<b>North</b>	Brevard County RES 1:2.5	AU (County)	Single Family Residential and vacant land
<b>South</b>	Very Low Density Residential	GU (County)	Vacant land
<b>East</b>	Brevard County RES 1:2.5	GU and AU (County)	Single Family Residential and vacant land
<b>West</b>	Brevard County RES 1:2.5	AU (County)	Single Family Residential and vacant land

## II. Rezoning Analysis

Consistency with Code of the City of Cocoa

In accordance with Appendix A of the City of Cocoa, Article XXI, Section 1(G), the following criteria are to be considered in the review of an application for a rezoning:

- a. The proposed change is contrary to the established land use pattern.

**Staff Finding:** The proposed zoning change is consistent with the established land use pattern of adjacent properties less the agricultural use. The proposed use of single-family residential is harmonious with the established land use pattern in the vicinity.

- b. The proposed change would create an isolated district unrelated to adjacent and nearby districts.

**Staff Finding:** The proposed RU-1-7 zoning district will not create an isolated district. Instead, it will continue the single-family character of the parcels surrounding the subject property and will be in harmony with the adjoining properties' permitted uses and zoning districts, which are currently County GU (General Use) and AU (Agricultural Residential).

- c. The proposed change would materially alter the population density pattern and thereby increase or overtax the load on public facilities such as schools, utilities, streets, access, etc.

**Staff Finding:** The maximum density for the proposed rezone to RU-1-7 is approximately 7 units per acre, consistent with the Future Land Use Element of the Comprehensive Plan. However, as stated above, Brevard County and the City agreed that the maximum gross density the property could achieve would be 2.03 residential units per acre. The proposed project includes 6 lakes and wetland areas which are not developable and therefore reducing the density calculation to 1.2 units per acre, far less than the maximum allowable density. Although the current County GU zoning designation requires a minimum lot size of five acres and the County AU zoning designation of certain surrounding properties requires a minimum lot size of 2.5 acres, the lots in Canaveral Groves are very consistently one acre in size. The minimum lot size in City RU-1-7 is smaller, i.e.,

7,500 square feet; however, as stated above, the large amount of open space and maximum number of lots that is established via the Settlement Implementation Agreement reduces the gross density to a very compatible 1.2 units per acre. Essentially, lot sizes will be smaller when the subject parcel is subdivided than is established in the vicinity, but the existing population density pattern will be maintained overall due to the large amounts of open space required. The submittal is consistent with the City's future plans and thus staff does not believe that the proposed change will materially alter the population density pattern in the area.

Staff Finding (g) addresses schools, and Staff Finding (h) addresses streets and traffic. It is not anticipated that the density pattern will increase or overtax the load on utilities. As stated above, as part of the initial Preceding Development Agreement, the City accepted an obligation to design and construct the extension of water and wastewater utilities to the property for connection. This obligation was reaffirmed via the 2019 Settlement Implementation Agreement. Significantly, the Developer has agreed to complete construction of the residential subdivision within five (5) years from the date the utilities are completed by the City. The Developer is responsible for the design, permitting and construction of all on-site utility infrastructure required to serve the property.

- d. Existing district boundaries are illogically drawn in relation to existing conditions on the property proposed for change.

**Staff Finding:** The existing boundaries are logically drawn in relation to the existing uses in the area and the natural boundary of the property. However, no City zoning district has been established for this property.

- e. The proposed change would be contrary to the Future Land Use Map and would have an adverse effect on the Comprehensive Plan.

**Staff Finding:** The FLU Map designation for the subject property is "Very Low Residential" which allows the proposed RU-1-7 zoning district designation.

The proposed change will not be contrary to the Future Land Use Map and Future Land Use Element of the Comprehensive Plan, which permits the proposed development. The Comprehensive Plan permits a maximum density of 7 units per acre. The proposed land uses shall be restricted to single-family detached housing. Staff finds the proposed rezoning to be consistent with the following sections of the Comprehensive Plan.

Policy 1.1.2 FUTURE LAND USE DESIGNATIONS ESTABLISHED - Land development regulations shall be based upon the following locational standards and criteria:

**RESIDENTIAL AREAS - GENERAL**

1. Provisions of new residential uses shall be adequately balanced with the availability of residential support services including community facilities, shopping, schools, parks and open space, and transportation services.
2. The City will encourage infill development in areas of existing viable housing, provide for redevelopment in blighted areas or areas in transition, and encourage new housing development in appropriate areas where community services exist or are programmed to occur.
3. The location and density of new residential development shall be compatible with historic and natural resources.
4. In setting residential density criteria, the City will provide for the highest densities in the Central Business District; will lower the density range outside the district, and will locate the lowest density in outlying areas.
5. Residential areas shall be buffered from major transportation arteries and from incompatible non-residential uses.
6. Residential areas should be served by sidewalks and, where practical, bikeways with convenient access to recreation, shopping, and schools.

**LOW DENSITY RESIDENTIAL AREAS**

1. Low-density residential areas are neighborhoods of single family detached housing and as set forth in Policy 1.1.2.2.5, multiple family attached housing.
2. Low-density residential areas shall be buffered from the nuisance effects of higher intensity uses and major traffic corridors.
3. A maximum density of 7 units per acre shall be permitted, except as provided in Paragraph 5

below.

4. Low density residential developments should be located in areas where more intensive development would be unwarranted due to environmental Constraints, would be incompatible with surrounding land uses, or where criteria set forth in Paragraph 5 below cannot be met.

- f. Changed or changing conditions make the passage of the proposed amendment necessary.

**Staff Finding:** Changed or changing conditions do not make the passage of the proposed amendment necessary. However, because the property is within the jurisdictional limits of the City, a City zoning district must eventually be established for the property consistent with the history of development agreements anticipating the property to be used for low density residential development.

- g. The proposed change will adversely influence living conditions in the neighborhood.

**Staff Finding:** The requested zoning change is not expected to negatively impact living conditions, however the addition of 320 single family homes will result in an increase in traffic counts as well as an increased number of children in the local school system. Brevard County schools serving the proposed project will be Fairglen Elementary School and Cocoa Jr./Sr. High School. A staff review of local school capacity availability indicates that both schools are presently below 100%; however a final capacity availability determination letter will need to be issued by the Brevard County School Board for this project prior to issuance of any development permits.

- h. The proposed change will create or excessively increase traffic congestion or otherwise affect public safety.

**Staff Finding:** As stated above, the density of the proposed development has drastically decreased over the years from an initial 1000 dwelling units to a current maximum of 320 dwelling units, which is less than the agreed-to density of 2.03 units per acre and maximum 500 dwelling units with Brevard County. The gross density for the project, when considering the open spaces required by the approved Concept Plans in the Settlement Implementation Agreement, will be 1.2 units per acre, which is very consistent with the surrounding development pattern of 1 acre lots. The proposed development project would add 320 new housing units which, in turn, would generate roughly 3,062 additional daily trips, based on an average of 9.57 vehicle trips per dwelling unit (on a weekday) as established by the Institute of Transportation Engineers (ITE) Trip Generation Manual (7<sup>th</sup> Edition). If assuming that the current GU minimum lot size of 5 acres would apply, the maximum potential dwelling units would be 49.29, which could generate roughly 468.93 additional daily trips under the current zoning. However, if we assume that the existing development pattern of the Canaveral Groves area of 1 acre lots were applied to the subject property, then the maximum potential dwelling units would be 246, which would generate roughly 2,354 additional daily trips. The rezoning to RU-1-7, with the maximum 320 dwelling units, would result in a 708 trip differential, which in staff's view would not excessively increase traffic congestion or otherwise affect public safety.

It should be noted that, although a residential subdivision is not being proposed at this time for approval, pursuant to the Stipulated Settlement Agreement and Settlement Implementation Agreement, the future subdivision will have two public road access points. The northern access point shall be at the existing southern terminus of Bahia Street. Consistent with the Stipulated Settlement Agreement Brevard County must choose between two options for public road access at the southeastern corner of the project: (1) Osage/Angelica Street or (2) south along the 100-foot wide drainage canal right-of-way connecting to Grissom Parkway. The County has not yet formally notified the City of its choice. However, should the County choose Osage/Angelica Street, the Developer has indicated that they are proposing to create an intersection at Grissom Parkway and Angelica Street to handle the increased trip demand.

- i. The proposed change will create a drainage problem.

**Staff Finding:** No drainage problems are anticipated as a result of the rezoning. Any new construction would be required to comply with all applicable stormwater regulations and permitting requirements. Portions of the property are located within the A Zone, which are areas subject to inundation by the 1-percent-annual-chance flood event generally determined using approximate methodologies.

- j. The proposed change will seriously reduce light and air to adjacent areas.

**Staff Finding:** The proposed change is consistent with low-density land use which would not affect light and air

to adjacent areas. The maximum height allowed when constructing single-family dwellings under RU-1-7 standards is 35 feet.

- k. The proposed change will adversely affect property values in the adjacent areas.

**Staff Finding:** It is not anticipated that property values would be negatively affected by the proposed rezoning. The proposed rezoning will not materially change the uses allowed for the subject properties.

- l. The proposed change will be a deterrent to the improvement or development of adjacent property in accord with existing regulations.

**Staff Finding:** It is not anticipated that the proposed rezoning would be a deterrent to the improvement or development of adjacent property for the reasons stated above. The proposed changes should not adversely impact property values or adversely influence living conditions in the neighborhood.

- m. The proposed change will constitute a grant of special privilege to an individual owner as contrasted with the public welfare.

**Staff Finding:** The proposed change will not constitute a grant of special privilege to the property owners as the change of zoning is consistent with the existing uses of the properties involved. This is consistent with the public welfare.

- n. There are substantial reasons why the property cannot be used in accord with existing zoning.

**Staff Finding:** The property retained the former Brevard County zoning designation from the time of annexation to the City of Cocoa. As the current property owner wishes to move forward with development of the parcel, a City of Cocoa zoning district must be established for the property consistent with the current Future Land Use designation and with the previously mentioned development agreements.

- o. Whether the change suggested is out of scale with the needs of the neighborhood of the city.

**Staff Finding:** The proposed rezoning is not out of scale with the needs of the neighborhood of the City. This area of the City provides for single family residential.

- p. It is impossible to find other adequate sites in the city for the proposed use in districts already permitting such use.

**Staff Finding:** Other parcels with single family zoning already exist in the City. This rezoning is an expansion of the number of those parcels.

### **Consistency with Comprehensive Plan Policies and Objectives**

**GOAL 1.1:** The proposed RU-1-7 zoning designation is consistent with the allowable uses under the “Low- Density Residential” Future Land Use per the City of Cocoa Comprehensive Plan. Please see the discussion in Section e. above for further detail.

### **Concurrency Management/Adequate Public Facilities**

*Section 15-22 of the City Code provides for a concurrency management system to ensure public facilities and services needed to support development are available concurrent with the impacts of such development and that development orders and development permits are not issued in a manner that will not result in a reduction in the levels of service below the adopted level of service standards adopted by the City for public facilities and services, as contained in the City’s adopted Comprehensive Plan.*

Consistent with the requirements of Article IV (Concurrency Management System), Chapter 15 of the Code of the City of Cocoa, any future development of the subject parcels will be required to submit a final application for concurrency review prior to issuance of any City of Cocoa permits. If capacity issues relating to any public facilities or services regulated by the City of Cocoa adopted Comprehensive Plan are identified, necessary and appropriate mitigation will be required to be addressed prior to construction.

Based on Staff's findings, Staff recommends approval of the rezoning request.

**STRATEGIC PLAN CONNECTION:**

**BUDGETARY IMPACT:**

N/A

**PREVIOUS ACTION:**

The Planning & Zoning Board recommended approval of this item at its meeting on January 7, 2020.

**RECOMMENDED MOTION:**

Ordinance No. 03-2020/ 1<sup>st</sup> Reading: Approval of a ZONING MAP AMENDMENT consistent with Appendix A, Zoning, Article XXII, to change the Zoning Map designation of one (1) parcel totaling 246.45 acres from Brevard County GU (General Use) to City of Cocoa RU-1-7 (Single Family Residential).