



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

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H.5.

4/15/2021

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### Subject:

Robert Van Horn and Gerald K. Houck request a change of zoning classification from RU-1-9 to BU-2. (21Z00004) (Tax Account 2501307) (District 2)

### Fiscal Impact:

None

### Dept/Office:

Planning and Development

### Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing to consider a request for a change of zoning classification from RU-1-9 (Single-Family Residential) to BU-2 (Retail, Warehousing, and Wholesale Commercial).

### Summary Explanation and Background:

The applicant is requesting a change of zoning classification from RU-1-9 (Single-Family Residential) to BU-2 (Retail, Warehousing, and Wholesale Commercial) on a 0.53-acre lot. The applicant currently has no plans to develop the site, but wishes to change the zoning and FLU (Future Land Use) to match the surrounding area. The surrounding area is primarily BU-2 zoning with the CC FLU designation. The site is located within the Merritt Island Redevelopment Area (MIRA) and approximately 500 feet north of the Merritt Island Airport.

BU-2 zoning allows for intensive retail and wholesale businesses, as well as heavy repair services and warehousing activities. Conditional uses in BU-2 include overnight commercial parking and automobile sales and storage (under one acre in MIRA). The applicant has indicated medical offices/clinic, retail, or light manufacturing as potential uses. The subject parcel is currently developed with a single-family residence built in 1954 that is not currently in use, and would be removed in the event the site is redeveloped.

The abutting parcels to the west are zoned BU-2 and are developed with a 3,492 square-foot warehouse/flex space on the northwestern parcel and a 13,456 square-foot office building on the southwestern parcel. The abutting parcel to the south is an undeveloped BU-2 parcel. The parcel is abutted by roads on the north and east sides.

On March 8, 2021, the Planning and Zoning Board heard the request and unanimously recommended approval.

The Board may wish to consider if this request is consistent with the Comprehensive Plan and compatible with the surrounding area.

**Clerk to the Board Instructions:**

Once resolution is received, please execute and return to Planning and Development.

## **ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT**

Administrative Policies in the Future Land Use Element establish the expertise of staff with regard to zoning land use issues and set forth criteria when considering a rezoning action or request for Conditional Use Permit, as follows:

### **Administrative Policy 1**

The Brevard County zoning official, planners and the director of the Planning and Development staff, however designated, are recognized as expert witnesses for the purposes of Comprehensive Plan amendments as well as zoning, conditional use, special exception, and variance applications.

### **Administrative Policy 2**

Upon Board request, members of the Brevard County Planning and Development staff shall be required to present written analysis and a recommendation, which shall constitute an expert opinion, on all applications for development approval that come before the Board of County Commissioners for quasi-judicial review and action. The Board may table an item if additional time is required to obtain the analysis requested or to hire an expert witness if the Board deems such action appropriate. Staff input may include the following:

#### **Criteria:**

- A. Staff shall analyze an application for consistency or compliance with comprehensive plan policies, zoning approval criteria and other applicable written standards.
- B. Staff shall conduct site visits of property which are the subject of analysis and recommendation. As part of the site visit, the staff shall take a videotape or photographs where helpful to the analysis and conduct an inventory of surrounding existing uses. Aerial photographs shall also be used where they would aid in an understanding of the issues of the case.
- C. In cases where staff analysis is required, both the applicant and the staff shall present proposed findings of fact for consideration by the Board.
- D. For re-zoning applications where a specific use has not been proposed, the worst case adverse impacts of potential uses available under the applicable land use classification shall be evaluated by the staff.

### **Administrative Policy 3**

Compatibility with existing or proposed land uses shall be a factor in determining where a rezoning or any application involving a specific proposed use is being considered. Compatibility shall be evaluated by considering the following factors, at a minimum:

#### **Criteria:**

- A. Whether the proposed use(s) would have hours of operation, lighting, odor, noise levels, traffic, or site activity that would significantly diminish the enjoyment of, safety or quality of life in existing neighborhoods within the area which could foreseeably be affected by the proposed use.
- B. Whether the proposed use(s) would cause a material reduction (five percent or more) in the value of existing abutting lands or approved development.
- C. Whether the proposed use(s) is/are consistent with an emerging or existing pattern of surrounding development as determined through analysis of:

1. historical land use patterns;
2. actual development over the immediately preceding three years; and
3. development approved within the past three years but not yet constructed.

D. Whether the proposed use(s) would result in a material violation of relevant policies in any elements of the Comprehensive Plan.

#### **Administrative Policy 4**

Character of a neighborhood or area shall be a factor for consideration whenever a rezoning or any application involving a specific proposed use is reviewed. The character of the area must not be materially or adversely affected by the proposed rezoning or land use application. In evaluating the character of an area, the following factors shall be considered:

##### **Criteria:**

- A. The proposed use must not materially and adversely impact an established residential neighborhood by introducing types of intensity of traffic (including but not limited to volume, time of day of traffic activity, type of vehicles, et cetera), parking, trip generation, commercial activity or industrial activity that is not already present within the identified boundaries of the neighborhood.
- B. In determining whether an established residential neighborhood exists, the following factors must be present:
  1. The area must have clearly established boundaries, such as roads, open spaces, rivers, lakes, lagoons, or similar features.
  2. Sporadic or occasional neighborhood commercial uses shall not preclude the existence of an existing residential neighborhood, particularly if the commercial use is non-conforming or pre-dates the surrounding residential use.
  3. An area shall be presumed not to be primarily residential but shall be deemed transitional where multiple commercial, industrial or other non-residential uses have been applied for and approved during the previous five (5) years.

#### **Administrative Policy 5**

In addition to the factors specified in Administrative Policies 2, 3, and 4, in reviewing a rezoning, conditional use permit or other application for development approval, the impact of the proposed use or uses on transportation facilities either serving the site or impacted by the use(s) shall be considered. In evaluating whether substantial and adverse transportation impacts are likely to result if an application is approved, the staff shall consider the following criteria:

##### **Criteria:**

- A. Whether adopted levels of services will be compromised;
- B. Whether the physical quality of the existing road system that will serve the proposed use(s) is sufficient to support the use(s) without significant deterioration;

- C. Whether the surrounding existing road system is of sufficient width and construction quality to serve the proposed use(s) without the need for substantial public improvements;
- D. Whether the surrounding existing road system is of such width and construction quality that the proposed use(s) would realistically pose a potential for material danger to public safety in the surrounding area;
- E. Whether the proposed use(s) would be likely to result in such a material and adverse change in traffic capacity of a road or roads in the surrounding area such that either design capacities would be significantly exceeded or a de facto change in functional classification would result;
- F. Whether the proposed use(s) would cause such material and adverse changes in the types of traffic that would be generated on the surrounding road system, that physical deterioration of the surrounding road system would be likely;
- G. Whether projected traffic impacts of the proposed use(s) would materially and adversely impact the safety or welfare of residents in existing residential neighborhoods.

#### **Administrative Policy 6**

The use(s) proposed under the rezoning, conditional use or other application for development approval must be consistent with, (a), all written land development policies set forth in these administrative policies; and (b), the future land use element, coastal management element, conservation element, potable water element, sanitary sewer element, solid waste management element, capital improvements element, recreation and open space element, surface water element, and transportation elements of the comprehensive plan.

#### **Administrative Policy 7**

Proposed use(s) shall not cause or substantially aggravate any, (a), substantial drainage problem on surrounding properties; or (b), significant, adverse and unmitigatable impact on significant natural wetlands, water bodies or habitat for listed species.

#### **Administrative Policy 8**

These policies, the staff analysis based upon these policies, and the applicant's written analysis, if any, shall be incorporated into the record of every quasi-judicial review application for development approval presented to the Board including rezoning, conditional use permits, and vested rights determinations.

Section 62-1151(c) of the Code of Ordinances of Brevard County directs, "The planning and zoning board shall recommend to the board of county commissioners the denial or approval of each application for amendment to the official zoning maps based upon a consideration of the following factors:

- (1) The character of the land use of the property surrounding the property being considered.
- (2) The change in conditions of the land use of the property being considered and the surrounding property since the establishment of the current applicable zoning classification, special use or conditional use.

- (3) The impact of the proposed zoning classification or conditional use on available and projected traffic patterns, water and sewer systems, other public facilities and utilities and the established character of the surrounding property.
- (4) The compatibility of the proposed zoning classification or conditional use with existing land use plans for the affected area.
- (5) The appropriateness of the proposed zoning classification or conditional use based upon a consideration of the applicable provisions and conditions contained in this article and other applicable laws, ordinances and regulations relating to zoning and land use regulations and based upon a consideration of the public health, safety and welfare.

The minutes of the planning and zoning board shall specify the reasons for the recommendation of approval or denial of each application."

#### **CONDITIONAL USE PERMITS (CUPs)**

In addition to the specific requirements for each Conditional Use Permit (CUP), Section 62-1901 provides that the following approval procedure and general standards of review are to be applied to all CUP requests, as applicable.

- (b) Approval procedure. An application for a specific conditional use within the applicable zoning classification shall be submitted and considered in the same manner and according to the same procedure as an amendment to the official zoning map as specified in Section 62-1151. The approval of a conditional use shall authorize an additional use for the affected parcel of real property in addition to those permitted in the applicable zoning classification. The initial burden is on the applicant to demonstrate that all applicable standards and criteria are met. Applications which do not satisfy this burden cannot be approved. If the applicant meets its initial burden, then the Board has the burden to show, by substantial and competent evidence, that the applicant has failed to meet such standards and the request is adverse to the public interest. As part of the approval of the conditional use permit, the Board may prescribe appropriate and reasonable conditions and safeguards to reduce the impact of the proposed use on adjacent and nearby properties or the neighborhood. A nearby property, for the purpose of this section, is defined as any property which, because of the character of the proposed use, lies within the area which may be substantially and adversely impacted by such use. In stating grounds in support of an application for a conditional use permit, it is necessary to show how the request fulfills both the general and specific standards for review. The applicant must show the effect the granting of the conditional use permit will have on adjacent and nearby properties, including, but not limited to traffic and pedestrian flow and safety, curb-cuts, off-street loading and parking, off-street pickup of passengers, odors, glare and noise, particulates, smoke, fumes, and other emissions, refuse and service areas, drainage, screening and buffering for protection of adjacent and nearby properties, and open space and economic impact on nearby properties. The applicant, at his discretion, may choose to present expert testimony where necessary to show the effect of granting the conditional use permit.

- (c) General Standards of Review.

- (1) The planning and zoning board and the board of county commissioners shall base the denial or approval of each application for a conditional use based upon

a consideration of the factors specified in Section 62-1151(c) plus a determination whether an application meets the intent of this section.

- a. The proposed conditional use will not result in a substantial and adverse impact on adjacent and nearby properties due to: (1), the number of persons anticipated to be using, residing or working under the conditional use; (2), noise, odor, particulates, smoke, fumes and other emissions, or other nuisance activities generated by the conditional use; or (3), the increase of traffic within the vicinity caused by the proposed conditional use.
  - b. The proposed use will be compatible with the character of adjacent and nearby properties with regard to use, function, operation, hours of operation, type and amount of traffic generated, building size and setback, and parking availability.
  - c. The proposed use will not cause a substantial diminution in value of abutting residential property. A substantial diminution shall be irrebuttably presumed to have occurred if abutting property suffers a 15% reduction in value as a result of the proposed conditional use. A reduction of 10% of the value of abutting property shall create a rebuttable presumption that a substantial diminution has occurred. The Board of County Commissioners carries the burden to show, as evidenced by either testimony from or an appraisal conducted by an M A I certified appraiser, that a substantial diminution in value would occur. The applicant may rebut the findings with his own expert witnesses.
- (2) The following specific standards shall be considered, when applicable, in making a determination that the general standards specified in subsection (1) of this section are satisfied:
- a. Ingress and egress to the property and proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire and catastrophe, shall be: (1), adequate to serve the proposed use without burdening adjacent and nearby uses, and (2), built to applicable county standards, if any. Burdening adjacent and nearby uses means increasing existing traffic on the closest collector or arterial road by more than 20%, or 10% if the new traffic is primarily comprised of heavy vehicles, except where the affected road is at Level of Service A or B. New traffic generated by the proposed use shall not cause the adopted level of service for transportation on applicable roadways, as determined by applicable Brevard County standards, to be exceeded. Where the design of a public road to be used by the proposed use is physically inadequate to handle the numbers, types or weights of vehicles expected to be generated by the proposed use without damage to the road, the conditional use permit cannot be approved without a commitment to improve the road to a standard adequate to handle the proposed traffic, or to maintain the road through a maintenance bond or other means as required by the Board of County Commissioners.
  - b. The noise, glare, odor, particulates, smoke, fumes or other emissions from the conditional use shall not substantially interfere with the use or enjoyment of the adjacent and nearby property.
  - c. Noise levels for a conditional use are governed by Section 62-2271.

- d. The proposed conditional use shall not cause the adopted level of service for solid waste disposal applicable to the property or area covered by such level of service, to be exceeded.
- e. The proposed conditional use shall not cause the adopted level of service for potable water or wastewater applicable to the property or the area covered by such level of service, to be exceeded by the proposed use.
- f. The proposed conditional use must have existing or proposed screening or buffering, with reference to type, dimensions and character to eliminate or reduce substantial, adverse nuisance, sight, or noise impacts on adjacent and nearby properties containing less intensive uses.
- g. Proposed signs and exterior lighting shall not cause unreasonable glare or hazard to traffic safety, or interference with the use or enjoyment of adjacent and nearby properties.
- h. Hours of operation of the proposed use shall be consistent with the use and enjoyment of the properties in the surrounding residential community, if any. For commercial and industrial uses adjacent to or near residential uses, the hours of operation shall not adversely affect the use and enjoyment of the residential character of the area.
- i. The height of the proposed use shall be compatible with the character of the area, and the maximum height of any habitable structure shall be not more than 35 feet higher than the highest residence within 1,000 feet of the property line.
- j. Off-street parking and loading areas, where required, shall not be created or maintained in a manner which adversely impacts or impairs the use and enjoyment of adjacent and nearby properties. For existing structures, the applicant shall provide competent, substantial evidence to demonstrate that actual or anticipated parking shall not be greater than that which is approved as part of the site plan under applicable county standards.

#### **FACTORS TO CONSIDER FOR A REZONING REQUEST**

Section 62-1151(c) sets forth factors to consider in connection with a rezoning request, as follows:

"The planning and zoning board shall recommend to the board of county commissioners the denial or approval of each application for amendment to the official zoning maps based upon a consideration of the following factors:

- (1) The character of the land use of the property surrounding the property being considered.
- (2) The change in conditions of the land use of the property being considered and the surrounding property since the establishment of the current applicable zoning classification, special use or conditional use.
- (3) The impact of the proposed zoning classification or conditional use on available and projected traffic patterns, water and sewer systems, other public facilities and utilities and the established character of the surrounding property.



- (4) The compatibility of the proposed zoning classification or conditional use with existing land use plans for the affected area.
- (5) The appropriateness of the proposed zoning classification or conditional use based upon a consideration of the applicable provisions and conditions contained in this article and other applicable laws, ordinances and regulations relating to zoning and land use regulations and based upon a consideration of the public health, safety and welfare."

These staff comments contain references to zoning classifications found in the Brevard County Zoning Regulations, Chapter 62, Article VI, Code of Ordinances of Brevard County. These references include brief summaries of some of the characteristics of that zoning classification. Reference to each zoning classification shall be deemed to incorporate the full text of the section or sections defining and regulating that classification into the Zoning file and Public Record for that item.

These staff comments contain references to sections of the Code of Ordinances of Brevard County. Reference to each code section shall be deemed to incorporate this section into the Zoning file and Public Record for that item.

These staff comments contain references to Policies of the Brevard County Comprehensive Plan. Reference to each Policy shall be deemed to incorporate the entire Policy into the Zoning file and Public Record for that item.

These staff comments refer to previous zoning actions which are part of the Public Records of Brevard County, Florida. These records will be referred to by reference to the file number. Reference to zoning files are intended to make the entire contents of the cited file a part of the Zoning file and Public Record for that item.

## DEFINITIONS OF CONCURRENCY TERMS

**Maximum Acceptable Volume (MAV):** Maximum acceptable daily volume that a roadway can carry at the adopted Level of Service (LOS).

**Current Volume:** Building permit related trips added to the latest TPO (Transportation Planning Organization) traffic counts.

**Volume with Development (VOL W/DEV):** Equals Current Volume plus trip generation projected for the proposed development.

**Volume/Maximum Acceptable Volume (VOL/MAV):** Equals the ratio of current traffic volume to the maximum acceptable roadway volume.

**Volume/Maximum Acceptable Volume with Development (VOL/MAV W/DEV):** Ratio of volume with development to the Maximum Acceptable Volume.

**Acceptable Level of Service (CURRENT LOS):** The Level of Service at which a roadway is currently operating.

**Level of Service with Development (LOS W/DEV):** The Level of Service that a proposed development may generate on a roadway.



BOARD OF COUNTY COMMISSIONERS

**Planning and Development Department**

2725 Judge Fran Jamieson Way

Building A, Room 114

Viera, Florida 32940

(321)633-2070 Phone / (321)633-2074 Fax

<https://www.brevardfl.gov/PlanningDev>

**STAFF COMMENTS**

**21Z00004**

**Robert Van Horn and Gerald K. Houck**

**RU-1-9 (Single-Family Agricultural) to BU-2 (Retail, Warehousing, and Wholesale Commercial)**

Tax Account Number: 2501307  
Parcel I.D.: 25-36-02-CM-2-18  
Location: South side of Cone Road, approximately 898 feet west of S Plumosa Street  
in the North Cocoa area (District 1)  
Acreage: 0.53 acre

Planning and Zoning Board: 03/08/2021

Board of County Commissioners: 04/15/2021

**Consistency with Land Use Regulations**

- Current zoning can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal cannot be considered under the Future Land Use Designation, Section 62-1255.\*\*
- The proposal would maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	<b>CURRENT</b>	<b>PROPOSED</b>
<b>Zoning</b>	RU-1-9	BU-2
<b>Potential*</b>	2 single-family units	23,087 sq. ft. based on FAR
<b>Can be Considered under the Future Land Use Map</b>	YES NC	NO NC**

\* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations. \*\* The applicant has submitted a companion Small Scale Comprehensive Plan Amendment (**21PZ00001**) to change the FLU from NC to CC.

**Background and Purpose of Request**

The applicant is requesting a change of zoning classification from RU-1-9 (Single-Family Residential) to BU-2 (Retail, Warehousing, and Wholesale Commercial) on a 0.53 acre lot. The applicant currently has no plans to develop the site, but wishes to change the zoning and FLU to match the surrounding area. The surrounding area is primarily BU-2 zoning with CC FLU designation. The site is located within the Merritt Island Redevelopment Area (MIRA) and approximately 500 feet north of the Merritt Island Airport.

BU-2 zoning allows for intensive retail and wholesale businesses, as well as heavy repair services and warehousing activities. Conditional uses in BU-2 include overnight commercial parking and automobile sales and storage (under one acre in MIRA). The applicant has stated medical offices/clinic, retail, or light manufacturing as potential uses.

The original zoning for the parcel was RU-1 as established by Brevard County in 1958. Zoning action **Z-2980** replaced RU-1 zoning with new zoning classifications, changing this parcel to RU-1-9 on June 1, 1972.

### **Land Use**

The subject property retains the NC (Neighborhood Commercial) FLU designation. The current zoning of RU-1-9 on the subject property is consistent with the NC FLU per 62-1255 (2). The proposed zoning of BU-2 is not consistent with the NC FLU designation per 62-1255 (2). The companion application, a Small Scale Comprehensive Plan Amendment changing the FLUM from NC to CC (**20PZ00001**), must be approved in order for this zoning to be considered.

### **Applicable Land Use Policies**

The Board should evaluate the compatibility of this application within the context of the Board's Administrative Policies 1 through 8 of the Future Land Use Element, outlined in the Administrative Policies.

### **Analysis of Administrative Policy #3 - Compatibility between this site and the existing or proposed land uses in the area.**

The abutting parcels to the west and south have the FLU designation of CC (Community Commercial). Abutting the parcel to the north and east are Cone Road and Oleander Drive, respectively. The proposed zoning change from RU-1-9 to BU-2 is not consistent with the NC FLU designation. The companion application, a Small Scale Comprehensive Plan Amendment changing the FLUM from NC to CC (**21PZ00001**), must pass in order for this zoning request to be considered.

### **Analysis of Administrative Policy #4 - Character of a neighborhood or area.**

The subject parcel is currently developed with a single-family residence built in 1954 that is not currently in use. The home would be removed in the event the site is redeveloped.

The abutting parcels to the west are zoned BU-2 and are developed with a 3,492 sq. ft. warehouse/flex space on the northwestern parcel and a 13,456 sq. ft. office building on the southwestern parcel. The abutting parcel to the south is an undeveloped BU-2 parcel. The parcel is abutted by roads on the north and east sides.

The current RU-1-9 zoning classification permits a single-family residence on 6,600 sq. ft. lots, with a minimum lot width of 66 feet and a minimum lot depth of 100 feet. The minimum house size in RU-1-9 is 900 square feet.

The proposed BU-2 classification permits intensive retail and wholesale businesses, as well as heavy repair services and warehousing activities. Conditional uses in BU-2 include overnight commercial parking and automobile sales and storage (under one acre in MIRA). Contractors' offices, plants, and

storage yards are permitted with the condition that storage yards must be enclosed with a six-foot opaque wall or fence. Automobile repairs must be done in an enclosed structure with no bay door openings located in the front face of the building. At this time, the applicant has not indicated a proposed use for the property.

### **Surrounding Properties**

There have been no zoning actions within a half-mile of the subject property within the last three years.

The Merritt Island Airport is located approximately 500 feet to the south of the property. The most common uses on the BU-2 parcels in the area are warehouse/flex space, multi-tenant office buildings, and automobile repair. Across Cone Road to the north is a subdivision zoned RU-1-9. Generally, the parcels to the north of Cone Road are residential while the parcels on the south side are commercial. This lot is one of only two residential lots in the area.

### **Environmental Constraints**

No noteworthy land use issues were identified. NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

### **Preliminary Concurrency**

The closest concurrency management segment to the subject property is Cone Road, between S Courtenay and Plumosa, which has a Maximum Acceptable Volume (MAV) of 15,600 trips per day, a Level of Service (LOS) of E, and currently operates at 38.46% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.52%. With the maximum development potential from the proposed rezoning, the corridor is anticipated to operate at 38.98% of capacity daily (LOS D). The proposal is not anticipated to create a deficiency in LOS.

The parcel is serviced by Brevard County sewer.

The parcel is serviced by City of Cocoa water.

### **For Board Consideration**

The Board may wish to consider the existing development trends of the surrounding area, as this lot is one of only two residential lots in the area, which is primarily zoned BU-2.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT  
Zoning Review & Summary**

**Item # 21Z00004**

**Applicant:** Van Horn - Houck

**Zoning Request:** RU-1-9 to BU-2

**Note:** Applicant wants BU-2

**P&Z Hearing Date:** 03/08/21; **BCC Hearing Date:** 04/15/21

**Tax ID Nos:** 2501307

- This is a preliminary review based on best available data maps reviewed by the Natural Resources Management Department (NRM) and does not include a site inspection to verify the accuracy of the mapped information.
- In that the rezoning process is not the appropriate venue for site plan review, specific site designs submitted with the rezoning request will be deemed conceptual. Board comments relative to specific site design do not provide vested rights or waivers from Federal, State or County regulations.
- **This review does not guarantee whether or not the proposed use, specific site design, or development of the property can be permitted under current Federal, State, or County Regulations.**

**Summary of Mapped Resources and Noteworthy Land Use Issues:**

- Indian River Lagoon Nitrogen Reduction Overlay
- Protected and Specimen Trees
- Protected Species

No noteworthy land use issues were identified. NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

**Land Use Comments:**

**Indian River Lagoon Nitrogen Reduction Overlay**

The entire parcel is mapped within the Indian River Lagoon Nitrogen Reduction Overlay per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay. If adequate sewer for the development is not available, then the use of an alternative septic system designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes shall be required. NRM requires a Septic Maintenance Notice be filed with the Brevard Clerk of Courts.

### **Protected and Specimen Trees**

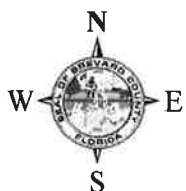
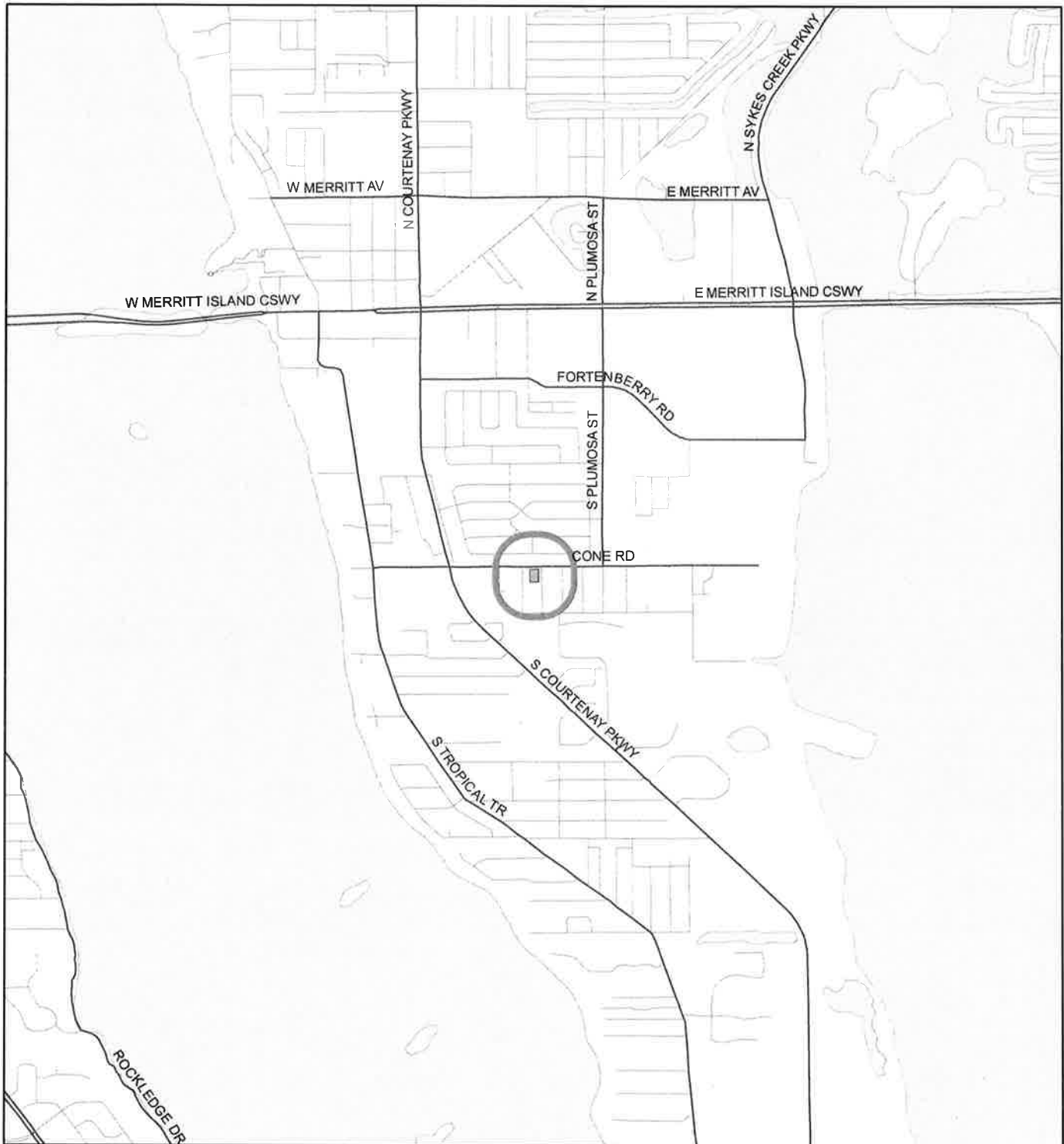
Aerials indicate that Protected (greater than or equal to 10 inches in diameter) and Specimen Trees (greater than or equal to 24 inches in diameter) may exist on subject property. Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4341(18), Protected and Specimen Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Per Section 62-4332, Definitions, Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for tree preservation and canopy coverage requirements. The applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities. Land clearing is not permitted without prior authorization by NRM. Applicant should contact Merritt Island Redevelopment Agency (MIRA) at 321-454-6610 for other landscape requirements.

### **Protected Species**

Information available to NRM indicates that federally and/or state protected species may be present on the property. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should obtain any necessary permits or clearance letters from the Florida Fish and Wildlife Conservation Commission and/or U.S. Fish and Wildlife Service, as applicable.

# LOCATION MAP

VAN HORN, ROBERT AND HOUCK, GERALD K.  
21Z00004



1:24,000 or 1 inch = 2,000 feet

Buffer Distance: 500 feet

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

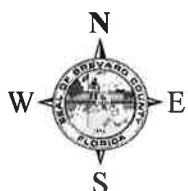
Produced by BoCC - GIS Date: 1/22/2021

— Buffer  
■ Subject Property

# ZONING MAP

VAN HORN, ROBERT AND HOUCK, GERALD K.

21Z00004



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/22/2021

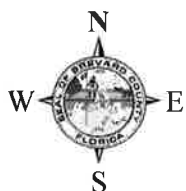
- Subject Property
- Parcels
- Zoning



# FUTURE LAND USE MAP

VAN HORN, ROBERT AND HOUCK, GERALD K.

21Z00004



1:4,800 or 1 inch = 400 feet

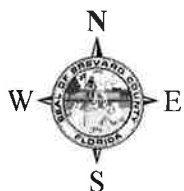
— Subject Property  
 □ Parcels

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Produced by BoCC - GIS Date: 1/22/2021

# AERIAL MAP

VAN HORN, ROBERT AND HOUCK, GERALD K.  
21Z00004



1:2,400 or 1 inch = 200 feet

PHOTO YEAR: 2020

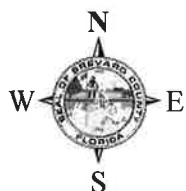
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Produced by BoCC - GIS Date: 1/22/2021

— Subject Property  
□ Parcels

# NWI WETLANDS MAP

VAN HORN, ROBERT AND HOUCK, GERALD K.  
21Z00004



1:4,800 or 1 inch = 400 feet

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 1/22/2021

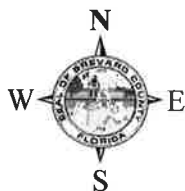
## National Wetlands Inventory (NWI)

	Estuarine and Marine Deepwater		Freshwater Pond
	Estuarine and Marine Wetland		Lake
	Freshwater Emergent Wetland		Other
	Freshwater Forested/Shrub Wetland		Riverine
	Subject Property		Parcels

# SJRWMD FLUCCS WETLANDS - 6000 Series MAP

VAN HORN, ROBERT AND HOUCK, GERALD K.

21Z00004



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Produced by BoCC - GIS Date: 1/22/2021

## SJRWMD FLUCCS WETLANDS

- Wetland Hardwood Forests - Series 6100
- Wetland Coniferous Forest - Series 6200
- Wetland Forested Mixed - Series 6300
- Vegetated Non-Forested Wetlands - Series 6400
- Non-Vegetated Wetland - Series 6500

Subject Property

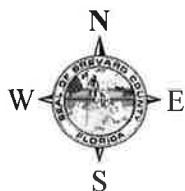
Parcels



# USDA SCSSS SOILS MAP

VAN HORN, ROBERT AND HOUCK, GERALD K.

21Z00004



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Produced by BoCC - GIS Date: 1/22/2021

## USDA SCSSS Soils

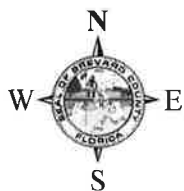
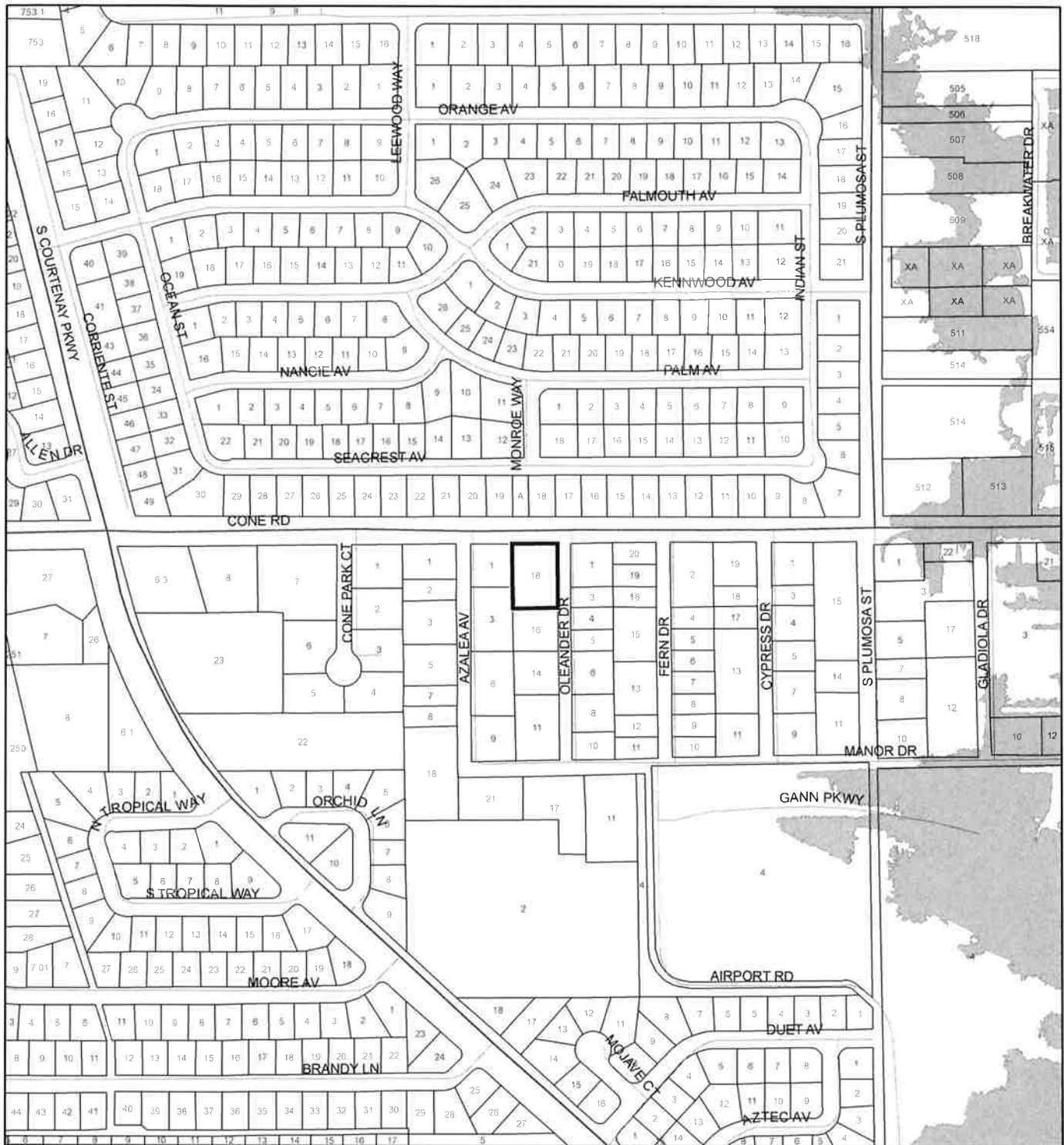
- Aquifer and Hydric
- Aquifer
- Hydric
- None

- Subject Property
- Parcels

# FEMA FLOOD ZONES MAP

VAN HORN, ROBERT AND HOUCK, GERALD K.

21Z00004



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Produced by BoCC - GIS Date: 1/22/2021

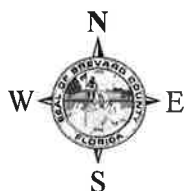
## FEMA Flood Zones

- |  |   |                      |
|--|---|----------------------|
| A                                      | AO  | X                    |
| AE                                     | Open Water  | X Protected By Levee |
| AH                                     | VE  |                      |
| 0.2 Percent Annual Chance Flood Hazard | 0.2 Percent Annual Chance Flood Hazard Contained in Channel |                      |
| Subject Property                       | Parcels   |                      |

# COASTAL HIGH HAZARD AREA MAP

VAN HORN, ROBERT AND HOUCK, GERALD K.

21Z00004



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Produced by BoCC - GIS Date: 1/22/2021

— Subject Property

□ Parcels

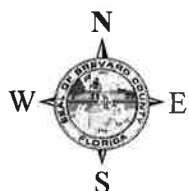
**Coastal High Hazard Area**

■ SurgeZoneCat1

# INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

VAN HORN, ROBERT AND HOUCK, GERALD K.

21Z00004



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/22/2021

— Subject Property

□ Parcels

**Septic Overlay**

■ 40 Meters

■ 60 Meters

■ All Distances



# EAGLE NESTS MAP

VAN HORN, ROBERT AND HOUCK, GERALD K.

21Z00004



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Produced by BoCC - GIS Date: 1/22/2021

 Subject Property

 Parcels

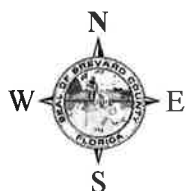


Eagle Nests  
FWS 2010

# SCRUB JAY OCCUPANCY MAP

VAN HORN, ROBERT AND HOUCK, GERALD K.




21Z00004



1:4,800 or 1 inch = 400 feet

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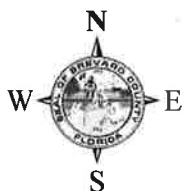
Produced by BoCC - GIS Date: 1/22/2021

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

# SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

VAN HORN, ROBERT AND HOUCK, GERALD K.

21Z00004



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/22/2021

## SJRWMD FLUCCS Upland Forests

- Upland Coniferous Forest - 4100 Series
- Upland Hardwood Forest - 4200 Series
- Upland Mixed Forest - 4300 Series
- Tree Plantations - 4400 Series

Subject Property Parcels



BOARD OF COUNTY COMMISSIONERS

**Planning and Development**

2725 Judge Fran Jamieson Way  
Building A, Room 114  
Viera, Florida 32940  
321-633-2070

**Application for Zoning Action, Comprehensive Plan Amendment, or  
Variance**

Applications must be submitted in person. Please call 321-633-2070 for an appointment at least 24 hours in advance. Mailed, emailed, or couriered applications will not be accepted.

PZ # 21200004

Existing FLU: Q1 NLC Existing Zoning: R-1-9 Ru-1-9

Proposed FLU: \_\_\_\_\_ Proposed Zoning: BU-2

**PROPERTY OWNER INFORMATION**

If the owner is an LLC, include a copy of the operating agreement.

Robert Van Horn \ Gerald K. Houck

Name(s)	Company		
<u>640 N. Tropical Tr.</u>	<u>Merritt Island</u>	<u>FL</u>	<u>32953</u>
Street	City	State	Zip Code
<u>bobandmarybeachside@yahoo.com</u>	<u>321-266-0291</u>	<u>321-266-0291</u>	
Email	Phone	Cell	

**APPLICANT INFORMATION IF DIFFERENT FROM OWNER:**

☐ Attorney ☐ Agent ☐ Contract Purchaser ☐ Other \_\_\_\_\_

Name(s)	Company		
Street	City	State	Zip Code
Email	Phone	Cell	

## APPLICATION NAME

- ☐ Large Scale Comprehensive Plan Amendment (CP) (greater than 10 acres)
- ☐ Small Scale Comprehensive Plan Amendment (CP) (less than 10 acres)
- ☐ Text Amendment (CP): Element \_\_\_\_\_
- ☐ Other Amendment (CP): \_\_\_\_\_
- ☒ Rezoning Without CUP (RWOC)
- ☐ Combination Rezoning and CUP (CORC)
- ☐ Conditional Use Permit (CUP)
- ☐ Binding Development Plan (BDP)
- ☐ Binding Development Plan (BDP) (Amendment)
- ☐ Binding Development Plan (BDP) (Removal)
- ☐ Variance(s) (V) (building permits will not be approved until 30 days after the date the order is signed)
- ☐ Administrative Approval of Setbacks, Lot Size, or Accessory Structures
- ☐ Administrative Approval of Flag Lot or Easement
- ☐ Administrative Approval of On-Premises Consumption of Alcoholic Beverages for Restaurants / Snack Bars
- ☐ Other Action: \_\_\_\_\_

Acreage of Request: .53

### Reason for Request:

The property has, to our knowledge, never been used for any other reason than a single-family residence. The current building is extremely functionally obsolete and dated. The amount of deferred maintenance is immense and likely precludes restoration of the residence. The property sits in an industrial area in which every parcel for 2-3 blocks on three sides are zoned BU-2. The north side is Cone Road and a wide grassy right-of-way. With the passing of the long-time owner, it would be far from the highest and best use of the property to remain a residence. The future possible uses include medical offices/clinic, retail, or light manufacturing. From a property tax standpoint, changing the zoning would be advantageous to the county.

The undersigned understands this application must be complete and accurate prior to advertising a public hearing:

- ☒ I am the owner of the subject property, or if corporation, I am the officer of the corporation authorized to act on this request.
- ☐ I am the legal representative of the owner of the subject property of this application. (Notarized Authorization to Act must be submitted with application)
- ☐ An approval of this application does not entitle the owner to a development permit.
- ☐ For Variances, I understand that building permits will not be approved until 30 days after the date the order is signed, in order to comply with the appeal procedure.
- ☒ I certify that the information in this application and all sketches and data attached to and made part hereof are true and accurate to the best of my knowledge.

Robert L. Horn Charles H. Harsh  
Signature of Property Owner or  
Authorized Representative

1/8/2021  
Date

State of FLORIDA

County of BREVARD

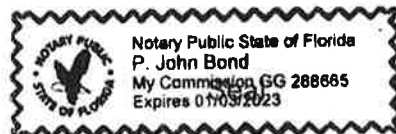
Subscribed and sworn before me, by 1 physical presence or \_\_\_\_\_ online notarization,

this 8 day of, JANUARY, 20 21, personally appeared

\_\_\_\_\_, who is personally known to me or produced

\_\_\_\_\_ as identification, and who did / did not take an oath.

P. John Bond  
Notary Public Signature



**Office Use Only:**

Accela No. 21200004 Fee: 1484.00 Date Filed: 1/8/21 District No. 2

Tax Account No. (list all that apply) 2501307

Parcel I.D. No.

25 36 02 CM 2 18  
Twp Rng Sec Sub Block Lot/Parcel

Planner: KH Sign Issued by: KH Notification Radius: 500'

**MEETINGS**

**DATE**

**TIME**

<input checked="" type="checkbox"/> P&Z	<u>3/8/2021</u>	<u>3:00pm</u>
<input type="checkbox"/> PSJ Board	_____	_____
<input type="checkbox"/> NMI Board	_____	_____
<input type="checkbox"/> LPA	_____	_____
<input type="checkbox"/> BOA	_____	_____
<input checked="" type="checkbox"/> BCC	<u>4/15/21</u>	<u>5:00pm</u>

Wetland survey required by Natural Resources ☐ Yes ☒ No Initials KH

Is the subject property located in a JPA, MIRA, or 500 feet of the Palm Bay Extension?

☒ Yes ☐ No If yes, list MIRA

Location of subject property:

South side of Cone Rd, approx. 896 feet west of  
S. Plumosa St.

Description of Request:

Rezone RU-1-9 → BU-2

Robert Van Horn  
Owner's Name: Amerald Houck  
Hearing Date: March 8, 2021

21200004

**THIS AFFIDAVIT IS TO BE PRESENTED AT THE PUBLIC HEARING**

**AFFIDAVIT**

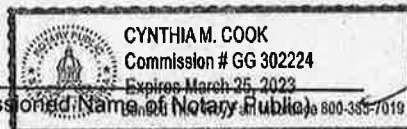
STATE OF FLORIDA  
COUNTY OF BREVARD

Before me, this undersigned authority, personally appeared, Denny Long,  
to me well known and known to me to be the person described in and who executed the foregoing  
affidavit, after being first duly sworn, says:

1. That the affiant posted the notice provided by the Brevard County Planning & Zoning Office, which contains the time(s) and date(s) of the Public Hearing(s) involved.
2. Said posted notice contains the name of the applicant, the total acreage of the property in question, the existing land use classification, special use classification or conditional use designation, and the requested amendment to the official zoning maps. Said notice also contains the time and place of the public hearing on the consideration of said application by the Board of County Commissioners of Brevard County, if applicable.
3. The said notice has been posted in a conspicuous place on the subject property not more than twenty-five (25) days, nor less than fifteen (15) days prior to the first public hearing before the applicable board (as indicated on notice). If the property abuts a public road right-of-way, the notice has been posted within ten (10) feet of the road right-of-way in such a manner as to be visible from the road right-of-way.
4. The affiant understands that this affidavit is intended to be submitted as a requirement for a public hearing, and as such, will be officially filed with the Government of Brevard County, Florida.

Signature

Sworn and Subscribed before me, this 19<sup>th</sup> day of February, 2021.



(Print, Type, or Stamp Commissioned Name of Notary Public)

Notary Public, State of Florida

Personally known OR Produced Identification

Type of I.D. Produced: n/a

**THIS AFFIDAVIT IS TO BE PRESENTED AT THE PUBLIC HEARING**



# REZONING NOTICE

212000004

The Brevard County Planning and Zoning Board will hold a public hearing at 3:00 P.M. on March 8, 2021, at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, FL, to consider the proposed zoning action on this property as indicated below:

Owner: Robert Van Horn & Gerald K. Huck

Present Zoning: RU-1-9 Acreage: 0.53

Requested Action(s): RU-2

The recommendations from the aforementioned public hearing will be presented to the County Commission at 5:00 P.M. on April 15, 2021, at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera. All interested parties are invited to appear and be heard. Written comments filed with the Brevard County Zoning Official, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, FL, 32940 will be considered.

Removal of this sign prior to April 15, 2021, is illegal and subject to prosecution.

## **PLANNING AND ZONING BOARD MINUTES**

The Brevard County Planning & Zoning Board met in regular session on **Monday, March 8, 2021**, at **3:00 p.m.**, in the Florida Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

The meeting was called to order at 3:00 p.m.

Board members present were: Ron Bartcher; Harry Carswell; Brian Hodgers; Ben Glover; Mark Wadsworth, Chair; and Joe Buchanan.

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; George Ritchie, Planner III; Paul Body, Planner II; Abigail Jorandby, Assistant County Attorney; and Jennifer Jones, Special Projects Coordinator.

### **Excerpt of Complete Minutes**

#### **Robert Van Horn and Gerald K. Houck**

A Small Scale Comprehensive Plan Amendment (21S.01) to change the Future Land Use designation from NC (Neighborhood Commercial) to CC (Community Commercial). The property is 0.53 acres, located on the northwest corner of Cone Rd. and Oleander Dr. (605 Oleander Dr., Merritt Island) (21PZ00001) (Tax Account 2501307) (District 2)

#### **Robert Van Horn and Gerald K. Houck**

A change of zoning classification from RU-1-9 (Single-Family Residential) to BU-2 (Retail, Warehousing, and Wholesale Commercial). The property is 0.53 acres, located on the northwest corner of Cone Rd. and Oleander Dr. (605 Oleander Dr., Merritt Island) (21Z00004) (Tax Account 2501307) (District 2)

Gerald Houck, 640 N. Tropical Trail, stated he would like to let his representative speak on his behalf.

John Bond, 8931 Lake Drive, Cape Canaveral, stated he is friends with the applicants and also their real estate broker. He said the applicants own several buildings in the area, and the house on the subject property has been there for 60 years and it's the only one in the area; it is completely surrounded by BU-2. He stated Mr. Van Horn and Mr. Houck produce world class antique automobiles, and they would like to upgrade, so the plan at this point is to consolidate into one facility that would be commensurate to the area and up to code.

Mark Wadsworth asked if the plan is to construct a new building. Mr. Bond replied yes.

No public comment.

Motion by Bruce Moia, seconded by Joe Buchanan, to approve the Small Scale Plan Amendment change from NC to CC. The motion passed unanimously.

Motion by Bruce Moia, seconded by Joe Buchanan, to approve the change of zoning classification from RU-1-9 to BU-2. The motion passed unanimously.