



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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STAFF COMMENTS

25Z00017

Linde Inc

A Conditional Use Permit (CUP) for Heavy Industrial, IU-1 for Chemical Manufacturing.

Tax Account Number: 2103214
Parcel I.D.: 21-35-09-00-511
Location: East side of Hammock Rd., 150 feet north of Wiley Ave.
(District 1)
Acreage: 10.46 acres

Planning and Zoning Board: 06/26/2025
Board of County Commissioners: 07/17/2025

Consistency with Land Use Regulations

- Current zoning can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal would maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	CURRENT	PROPOSED
Zoning	IU-1 with BDP	IU-1 with BDP & CUP for Heavy Industrial for chemical manufacturing
Potential*	FAR of 1.76	FAR of 1.76
Can be Considered under the Future Land Use Map	YES H/L IND	Yes H/L IND

* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations.

Background and Purpose of Request

The applicant is seeking a Conditional Use Permit (CUP) for the Heavy Industry use of chemical manufacturing on 10.46 acres of vacant land located on the northern portion of the site. The applicant proposes to expand the existing air separation plant to increase production capacity, which is located south of the subject property. The expansion will include a new cold box that is a specialized enclosure that houses key cryogenic equipment, such as heat exchangers, distillation columns, and other components necessary for the liquefaction and separation of gases, such as liquefied natural gas (LNG), liquid oxygen (LOX), and liquid nitrogen (LIN). Its

primary purpose is to maintain low temperatures while minimizing heat transfer from the external environment, ensuring optimal performance of the cryogenic processes. Chemical manufacturing is considered a Heavy Industry use as defined in Section 62-1102 and requires a CUP as identified in Section 62-1544. The entire site encompasses approximately 26 acres under two tax account numbers, which include the subject property.

The first parcel is approximately 2.13 acres, located on the south boundary of the site at the terminus of Wiley Ave. This portion was approved for a rezoning from IU to IU-1 with a Conditional Use Permit (CUP) and a FLU change from PIP (Planned Industrial Park) to IND (Heavy/Light Industrial), under action **Z-10572**, on May 24, 2001. The CUP permitted additional building height up to 125 feet and Heavy Industry to perform chemical manufacturing.

The second parcel can be described in three (3) portions.

The first portion is located between the subject property and the parcel to the south. This portion, containing approximately 4.16 acres, was also included in action **Z-10572**.

The second portion of the parcel is approximately 9.50 acres, is located along the eastern portion located between the FEC railway to the west, and the Indian River to the east. This portion was approved for a rezoning and FLU change under **PZ1800020** from AU (Agricultural Residential) to PIP (Planned Industrial Park) zoning classification and Planned Industrial (PI) Future Land Use (FLU) designation with a Binding Development (BDP) on August 16, 2018. The BDP stipulated that this portion of the parcel will remain in its natural state.

The last portion is the subject property being considered in this request. Under zoning action **24Z00062**, a request to change the zoning from IU to IU-1 was approved with a BDP on May 21, 2025. The BDP was to restrict Live Local projects. A companion application, **24SS00016**, approved amending the FLU designation from PI and RES2 to Heavy/Light Industrial (IND) on February 6, 2025.

AU was the original zoning on the entire 26 acres, more or less. The change in zoning to IU was approved on April 6, 1961.

Staff has determined that the subject property contains wetlands, hydric soils, and aquifer recharge soils. The subject property is also located in the Coastal High Hazard Area and the Indian River Lagoon Nitrogen Reduction Septic Overlay. The parcel may be susceptible to nuisance flooding. It is also located within an area mapped as FEMA Special Flood Hazard Area (SFHA) AE. The subject property is located on the Indian River Lagoon, designated as a Class II Water in this location. A 50-foot Surface Water Protection Buffer is required. Federally and/or state-protected species may be present on the property. The subject property will need to comply with the Brevard County land development regulations. Further analysis will be done during the site plan stage.

Due to the habitats on-site, it is possible that protected species could utilize habitats on-site. The estimated wetland impacts are 5.6 acres of direct impact. With consideration of the qualities of the wetlands, it is estimated that 3.413 credits from a wetland mitigation bank within the surface water basin could offset the potential wetland impacts. These credits would have to be Federal forested credits and a portion of them would have to be estuarine forested credits.

It is anticipated that the site will be under the jurisdiction of the Florida Department of Environmental Protection (FDEP) and the U.S. Army Corps of Engineers (ACOE). A Federal dredge and fill permit will also have to be obtained from ACOE.

The subject parcel is located on the east side of Hammock Road, a county-maintained roadway. At this time, there are no active code enforcement issues associated with the subject property.

Sec. 62-1102. – Definitions define Heavy Industry to mean the manufacture of goods under NAICS – code 325-Chemical Manufacturing. Chemical Manufacturing is a subsector code involving the transformation of organic and inorganic raw materials by a chemical process and the formulation of products. Staff determined NAICS code – 325120 appropriately related to the applicant's intended use of the property. Operations under this code are primarily engaged in industrial gas manufacturing. Specifically, the manufacturing of industrial organic and inorganic gases compressed into liquid and solid forms.

The applicant has submitted a conceptual plan that has not been reviewed by all departments.

The Board may consider applying approval conditions that mitigate any potential impacts of the CUP.

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	3 vacant parcels. 1 developed single family residential lot	RR-1, AU, RRMH-1	RES 2
South	Air separation plant (owned by the same owner)	IU-1	IND
East	FEC Railway, vacant property (owned by the same owner)	PIP	PI
West	Vacant	RR-1	RES 2

North of the subject property are 3 vacant parcels, 10 acres with AU zoning, 1.88 acres with AU zoning, 22 acres of vacant land with RR-1 zoning, and a 1 acre parcel developed as a flag lot with RRMH-1 zoning, all parcels have RES 2 FLU.

South, is a portion of the parent parcel for the subject property, 4.16 acres with IU-1 zoning and IND FLU designation.

East of the subject property is a portion of the parent parcel for the subject property, approximately 9.50 acres with PIP zoning with PI FLU designation.

West of the subject property are two parcels, 16.5 acres and 8 acres of vacant land with RR-1 zoning and RES 2 FLU designation.

AU zoning classification encompasses lands devoted to agricultural pursuits and single-family residential development of spacious character on 2.5 acre lots, with a minimum lot width and depth of 150 feet. The minimum house size in AU is 750 square feet. The AU classification also permits the raising/grazing of animals, fowl and beekeeping.

The RR-1 classification encompasses lands devoted to single-family residential development of spacious character, together with such accessory uses as may be necessary or are normally compatible with residential surroundings on minimum one acre lots with a minimum lot width and depth of 125 feet. The RR-1 classification permits horses, barns and horticulture as accessory uses to a single-family residence. The minimum house size is 1,200 square feet. Keeping of horses and agricultural uses are accessory to a principal residence within the RR-1 zoning district.

RRMH-1 classification permits single-family mobile homes and detached single-family residential land uses on minimum one acre lots, with a minimum width and depth of 125 feet. This classification permits horses, barns and horticulture as accessory uses. The minimum house size is 600 square feet.

PIP is the second lightest industrial classification, allowing light manufacturing within enclosed buildings with strict buffering, storage and other requirements

IU-1 is the heaviest industrial zoning classification in the Code. It permits heavy manufacturing, including outside activities such as livestock yards and commercial incinerators. The minimum lot size is 40,000 square feet with a minimum width and depth of 200 feet.

Future Land Use

The subject property's IU-1 zoning classification can be considered consistent with the IND Future Land Use designation provided on the FLUM series contained within Chapter XI – Future Land Use Element of Brevard County's Comprehensive Plan.

FLUE Policy 3.2 – Role of Zoning Regulations in the Designation of Industrial Lands.

The zoning process regulates the types and intensities of uses. Criteria which aid in assessing zoning compatibility, shall include consideration of the following standards:

Criteria:

A. Permitted/prohibited uses;

Staff analysis: The applicant proposes a CUP for Heavy Industry to permit chemical manufacturing. IU-1 is the heaviest industrial zoning classification in the Code. It permits heavy manufacturing, including outside activities such as livestock yards and commercial incinerators. The minimum lot size is 40,000 square feet with a minimum width and depth of 200 feet.

Floor Area Ratio (FAR) for a heavy industrial land use project should not exceed 1.76.

The Board should consider the compatibility of the proposed CUP with the surrounding area.

B. Existing industrial zoning trends in the area;

Staff analysis: The initial IU zoning classification was established in the area on the subject property in 1961. IU-1 zoning classification was approved in 1971, less than a half mile to the south. The most recent industrial rezoning, IU-1 zoning classification, was approved in 2001, which established the classification on the southern part of the site and the area. On February 6, 2024, a FLUM designation change was approved under 24SS00016, for a change from PI and RES2 to Heavy/Light Industrial (IND). Zoning action 24Z00062, the companion application to zoning, approved IU to IU-1 on May 21, 2025.

C. Compatibility of the proposed use with the area, pursuant to Administrative Policy 3;

Staff analysis: The area within half a mile of the subject property is primarily zoned for residential use. However, it remains mostly vacant, with only about ten developed residential lots, the nearest of which is located approximately 400 feet away. The last development in this area occurred in 2018 when a manufactured home was added. To the east lies the Florida East Coast Railway.

The subject property needs to comply with the Brevard County Performance Standard defined by Sections 62-2251 through 62-2272 for hours of operations, lighting, noise levels, traffic, and site activity to not cause any violations with the residential areas. In addition, the development must also comply with the requirements of Section 62-1544.

The Board shall determine whether this CUP request can be considered compatible based on the subject property for a heavy industry use. Based on staff analysis, the requested addition of 10.46 acres of a heavy industrial conditional use could be considered compatible with the character of the adjacent properties, as the area is mostly undeveloped land.

- D. Impact upon Level of Service (LOS) standards for roads, potable water service, sanitary sewer service and solid waste disposal;**

Staff analysis: Based on a preliminary concurrency review, it did not indicate that the proposed development has the potential to cause a deficiency in the transportation adopted level of service.

The subject property has access to potable water through Brevard County Mims utility service for potable water. The impact on potable water service will be reviewed during the site plan stage. No sewer service is available in the area. The LOS for Solid waste disposal is not anticipated to impact service standards.

- E. Impact upon natural resources, including wetlands, floodplains, and endangered species; and**

Prior to site plan approval, the applicant will need to address the following environmental issues that have been identified:

Wetlands and Hydric Soils. A majority of the subject parcel contains mapped National Wetlands Inventory (NWI) and St. Johns River Water Management District (SJRWMD) wetlands and hydric soils; indicators that wetlands may be present on the property.

Aquifer Recharge Soils. This property contains aquifer recharge soil. Canaveral-Urban land complex may also function as aquifer recharge soils. Soils may consist of Type 3 Aquifer Recharge soils that have impervious area restrictions.

Coastal High Hazard Area. A majority of this property is located within the Coastal High Hazard Area (CHHA). The parcel may be susceptible to nuisance flooding.

Floodplain Protection. This property is located within an area mapped as FEMA Special Flood Hazard Area (SFHA) AE. The parcel is subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance, including compensatory storage. Chapter 62, Article X, Division 6 states, "No site alteration shall adversely affect the existing surface water flow pattern." Chapter 62, Article X, Division 5, Section 62-3723 (2) states, "Development within floodplain areas shall not have adverse impacts upon adjoining properties."

Indian River Lagoon Nitrogen Reduction Septic Overlay. A portion of this property is mapped within the Indian River Lagoon Nitrogen Reduction Overlay.

Surface Waters of the State. The subject property is located on the Indian River Lagoon, designated as a Class II Water in this location. A 50-foot Surface Water Protection Buffer is required.

Protected Species. Federally and/or state protected species may be present on the property.

The applicant submitted an environmental report. The proposed construction area was reviewed for the presence of wetland habitat, protected species, delineation of any wetland habitat, and if there were any additional constraints to development.

It is Harnden Environmental's opinion that the portion of the project area would be considered industrial facilities, and thus be considered upland.

Due to the habitats on-site, it is possible that protected species could utilize habitats on-site. There are wildlife trails in the project area. No evidence of a wading bird rookery was observed. The utilization of these habitats by protected species is likely low because of the dense Brazilian pepper stands on-site. Because of the conditions on-site, the site is not ideal habitat for protected species. The site is too wet for gopher tortoises to occur. Since the surface waters are connected to the Indian River Lagoon, there were fisheries species located within the project area. Species such as tarpon (*Megalops atlanticus*) were observed within the project area.

According to the proposed plan there will be wetland impacts. The entire wetland system encompassed on-site would be impacted. It is anticipated that impacts to surface waters could be considered temporary in nature. Any wetland impacts (direct and secondary will have to be offset by mitigation). The estimated wetland impacts are 5.6 acres of direct impact. With consideration of the qualities of the wetlands, it is estimated that 3.413 credits from a wetland mitigation bank within the surface water basin could offset the potential wetland impacts. These credits would have to be Federal forested credits and a portion of them would have to be estuarine forested credits.

It is anticipated that the site will be under the jurisdiction of the Florida Department of Environmental Protection (FDEP) and the U.S. Army Corps of Engineers (ACOE). There was a FDEP environmental permit issued for a small project on-site. It is believed that a new FDEP individual permit will have to be issued for the proposed construction. A Federal dredge and fill permit will also have to be obtained from ACOE.

The site will require substantial fill and possibly muck removal. Fill cost could be large. Potentially the 5.6 acres of wetland habitat could need 5 to 7 feet of fill. Civil engineering activities will determine these values.

- F. Other issues which may emerge specific to a particular property which may be addressed through performance-based zoning criteria.

This property will need to comply with Brevard County Performance Standards noted within Section 62-1544 along with Sections 62-2251 through 62-2272 of Brevard County Code.

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

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;

A proposed concept plan has been provided. Off-site impacts such as noise, light, and other potential nuisance factors associated with IU-1 activities should be considered. The proposed expansion will need to comply with Brevard County Performance Standards noted within Sections 62-1544 along with Sections 62-2251 through 62-2272 of the Brevard County Code.

- B. Whether the proposed use(s) would cause a material reduction (five per cent or more) in the value of existing abutting lands or approved development.

Only a certified MAI (Member Appraisal Institute) appraisal can determine if material reduction has or will occur due to the proposed request.

- C. Whether the proposed use(s) is/are consistent with an emerging or existing pattern of surrounding development as determined through an analysis of:

1. historical land use patterns;

There are three (3) FLU designations within 500 feet of the subject site: PI, RES 2, and IND. Within a half-mile of the subject property, RES 2 is the predominant FLUM designation.

The area is largely undeveloped, with approximately ten residential lots already in place, the nearest of which is within 400 feet of the subject property. Staff analysis indicates that there is an existing pattern of residential development in the vicinity. The most recent improvement in the area occurred in 2018, featuring a manufactured home.

There has been one FLUM amendment within one-half mile of the subject property in the past three years:

- **24SS00016: Approved FLUM change on the current subject property from PI and RES 2 to H/L IND on 2/06/2025 on 10.46 acres.**

2. actual development over the immediately preceding three years; and

It appears no changes in actual development have occurred in the immediate area within the last three years.

3. development approved within the past three years but not yet constructed.

There has not been any development approved but not yet constructed within this area in the preceding three (3) years.

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

No material violation of relevant policies has been identified.

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

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 or intensity of traffic, parking, trip generation, commercial activity or industrial activity that is not already present within the identified boundaries of the neighborhood.

The surrounding area contains a few small clusters of residentially developed properties.

Granting the request would allow the plant to expand, which may increase potential impacts such as noise, light, and traffic to the surrounding area.

A preliminary concurrency evaluation did not indicate that the proposal has the potential to cause a deficiency in the transportation adopted level of service. The maximum development potential from the proposed rezoning increases the percentage of MAV by 1.03%.

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.

Staff analysis indicates the subject property has clearly established boundaries separating the plant from the residential zoned properties.

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.

The proposed is not located in an existing residential neighborhood.

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.

There have been no requests applied for and approved in this area during the previous five (5) years.

Administrative Policy #5 - the impact of the proposed use or uses on transportation facilities either serving the site or impacted by the use(s) shall be considered.

The proposed CUP will access Highway 1 between S.R. 46 and Lionel Rd. The maximum development potential from the proposed CUP increases the percentage of MAV utilization by 1.03%. The Highway 1 corridor is anticipated to operate at 28.32% of capacity daily. The request is not anticipated to create a deficiency in LOS.

Preliminary Concurrency

The closest concurrency management segment to the subject property is Highway 1 from SR 46 to Lionel Rd, which has a Maximum Acceptable Volume (MAV) of 41,790 trips per day, a Level of Service (LOS) of D, and currently operates at 27.29% of capacity daily. The proposed development increases the percentage of MAV utilization by 1.03%. The corridor is anticipated to operate at 28.32% of capacity daily. The proposed development is not anticipated to create a deficiency in LOS. Specific concurrency issues will be address at the time of site plan review. This is only a preliminary review and is subject to change.

The concurrency analysis provided above is preliminary and represents an estimate of impacts resulting from the maximum permissible uses under the proposed Future Land Use designation. However, if a site plan for the property is submitted and the development proposal will cause a deficiency of the above mentioned levels of service, then the County reserves the right to exercise the following options: deny or defer the proposal; cause the proposal to be modified to achieve consistency with the minimum LOS; or process the proposal as a conditional development permit pursuant to Section 62-604 of the Brevard County Code of Ordinances.

No school concurrency information has been provided as the proposed project is a commercial development and not intended for residential uses.

The subject property has access to potable water through Brevard County utility service. No sewer service is available in the area. An approved Concurrency Application, including potable water service capacity, sanitary sewer service capacity or septic plan, and solid waste capacity, is required upon a formal site plan submission.

Special Considerations for CUP (Conditional Use Permit)

The Board should consider the compatibility of the proposed CUP pursuant to Section 62-1151(c) and Section 62-1901, as outlined on pages 6 – 8 of these comments. Section 62-1901 provides that 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.** The applicant's responses and staff observations, if any, are indicated below.

General Standards of Review

Section 62-1901(c)(1)(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.

Applicant's Response: There will limited new employees working at the site, approximately 9-14 at full capacity, but will be on site in shifts. No odor, particulates, smoke or fumes will emit from the Property. No nuisance activities will be generated by the proposed use. The noise level will be less or at the allowable levels for industrially zoned property. The traffic from the site will be low and mainly consist to period truck traffic to an from the site, similar to the existing plant on the south side of the Property. The use of the Property will comply with all performance standards of Sec. 62-2251 to 62-2272.

Staff analysis: The proposed CUP must comply with Brevard County's Performance Standards defined by Sections 62-2251 through 62-2272. The request is not anticipated to create a deficiency in Highway 1 traffic Level of Service (LOS).

Section 62-1901(c)(1)(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.

Applicant's Response: The use of this northern portion of the Property will be an expansion of the use currently existing on the southern portion of the Property, and of the parcel immediately adjacent to the south. The property to the north is a public park; the property to the east is the FEC railroad ROW; the property to the west is vacant residential, with substantial wetlands; and the property to the south of the Linde facility is vacant sliver of TR-2 and a large, vacant AU zoned property with wetlands. Parking for this expansion will be at the existing Linde facility.

Staff analysis: The parcel is located in a mostly residential zoned area. However, most of the residential lots are vacant, with approximately 10 developed residential properties in the area. None of the residential properties are adjacent to the subject property.

Section 62-1901(c)(1)(c): The proposed use will not cause a substantial diminution in value of abutting residential property. Note: A substantial diminution shall be irrebuttably presumed to have occurred if abutting property suffers a 15 percent reduction in value as a result of the proposed conditional use. A reduction of ten percent of the value of abutting property shall create a reputable 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 a MAI certified appraiser, that a substantial diminution in value would occur. The applicant may rebut the findings with his own expert witnesses.

Applicant's Response: There is no abutting residential property.

Staff analysis: Competent and substantial evidence by a MAI certified appraiser has not been provided by the applicant.

Section 62-1901(c)(2)(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.

Note: Burdening adjacent and nearby uses means increasing existing traffic on the closest collector or arterial road by more than 20 percent, or ten percent 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 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.

Applicant's Response: The traffic from the site will be low and mainly consist of additional period truck traffic to and from the site (10-25 trips to the site per day), similar to the existing facility on the south side of the Property. The additions to the existing facility will have its own ingress/egress for truck traffic, delineated as "roadway" on the plot plan provided with this application. As Hammock Road north of Wiley Avenue is low traffic road, the additional employee trips and truck trips will not burden any nearby uses.

Staff analysis: This property has ingress and egress via Wiley Ave., which connects to Highway 1.

Section 62-1901(c)(2)(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.

Applicant's Response: No odor, particulates, smoke or fumes will emit from the Property. The noise level will be less or at the allowable levels for the industrially zoned property. The use and Property will comply with all performance standards of Sec.62-2251 to 62-2272.

Staff analysis: The CUP must be in compliance with Brevard County's Performance Standards defined by Sections 62-2251 through 62-2272. Any proposed outdoor lighting and noise standards should remain within code requirements, or a violation will be created.

Section 62-1901(c)(2)(c): Noise levels for a conditional use are governed by section 62-2271.

Applicant's Response: The noise level will be less or at the allowable levels for industrially zoned property at the Property line.

Staff analysis: The proposed CUP must comply with the noise ordinance for Industrial use.

Section 62-1901(c)(2)(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.

Applicant's Response: The additional solid waste disposal needs for the Property will be minimal and not exceed the level of service.

Staff analysis: The adopted level of service for solid waste disposal is not anticipated to be affected.

Section 62-1901(c)(2)(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.

Applicant's Response: The additional potable water and wastewater needs for the Property will be minimal and not exceed the levels of service.

Staff analysis: The CUP should not exceed the adopted level of service for potable water or wastewater.

Section 62-1901(c)(2)(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.

Applicant's Response: The property is being developed to incorporate significant existing natural buffers and proposes to create a planted buffer to reduce or eliminate any adverse impacts to the surrounding properties. The northern portion of the Property will be fenced with 6' chain link fencing with barbwire on top, as currently exists along the entire western boundary. To the south, this project abuts the existing industrial plant, so no substantial impact is realized. To the east, this site abuts the FEC Railway ROW and the wide natural vegetated wetland buffer is proposed to remain undisturbed. To the north, the site abuts an unimproved County ROW and the approximate 250' wide natural vegetated wetland buffer is proposed to remain undisturbed. To the west, the site abuts a proposed to be improved County ROW and a 15' Type B buffer is proposed to be constructed.

Staff analysis: The property must ensure it meets the Brevard County Performance Standards. The northern boundary of the property is shown on the proposed concept plan. The 15 foot landscape buffer along Hammock Road is proposed within the front setback, and the 250' natural vegetated wetland buffer will help to maintain the aesthetic continuity with the existing area.

The nearest developed residential property is north of the subject property across Jones Ave. approximately 400 feet.

Section 62-1901(c)(2)(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.

Applicant's Response: There will be limited directional signs for the truck "roadway", either adjacent to the fencing or one the fence and automatic gate to allow truck access.

Any exterior lighting will meet the standards of Sec. 62-2257 and will cause no interference with the use of adjacent or nearby properties. Interior site lighting will consist of lights for the distillation column as well as other equipment to allow for the site personnel to safely work on the site at night. There will be general site lighting in the zone used to fill the trucks. The focus of the lighting will be within the facility and it will be similar to the existing site.

Staff analysis: Any new signage and lighting would need to meet Brevard County Code. Shaded light sources shall be used to illuminate signs, facades, buildings, and parking and loading areas, shall be so arranged as to eliminate glare from roadways and streets, and shall be directed away from properties lying outside the site. Shaded light sources are lighting elements shielded with an opaque shade to direct the light. No neon lights, intermittent lights or flashing lights or such lighted signs shall be allowed.

Section 62-1901(c)(2)(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.

Applicant's Response: The hours of operation of the facility will be the same as the existing facility, 24 hours a day.

Staff analysis: The hours of operation appear to be in line with the historical use of the existing facility. The Board may determine that additional measures may be necessary.

Section 62-1901(c)(2)(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.

Applicant's Response: The maximum height of any habitable buildings will not be more than 35 feet higher than the highest residence within 1,000 feet of the property, as none of the buildings will be habitable as defined by Sec. 22-277(a). As such, no survey has been provided.

Staff analysis: The height of any new structures will have to meet the requirements of Brevard County Code.

Section 62-1901(c)(2)(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.

Note: 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.

Applicant's Response: The new "loading area" for filling of trucks will be onsite and will not impair the use and enjoyment of adjacent and nearby properties, as all nearby properties are vacant unless part of the Praxair facility. The parking area for employees will be located at the exiting parking areas on the southern portion of the Property or the adjacent Praxair Services parcel to the south. MBV has created a sketch of the parking to show the parking for the addition five (5) employees that will be created per shift.

Staff analysis: The subject property will have to meet current Brevard County Code. **Loading facilities and truck parking:** No shipping or receiving shall be permitted within 100 feet of residentially zoned property. Where the lot abuts a commercial district, no truck parking and loading shall be permitted closer than 50 feet to the rear lot line. However, no rear yard is required where the lot abuts an existing or proposed railroad right-of-way or spur.

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Wetlands and Hydric Soils
- Aquifer Recharge Soils
- Coastal High Hazard Area
- Floodplain Protection
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Surface Waters of the State
- Protected and Specimen Trees
- Protected Species

Please refer to all comments provided by the Natural Resource Management Department at the end of this report.

For Board Consideration

The Board may wish to consider whether the expansion of IU-1 zoning classification is compatible with the surrounding residentially zoned area.

The Board may consider applying approval conditions that mitigate any potential impacts of the CUP.

The Board and the applicant should be advised that the activities on the property must comply with the standards in the Brevard County Code of Ordinances, including, but not limited to, Chapter 46, Article IV, Noise, and Sections 62-1544 and 62-1833.5.

The applicant must ensure any on-site improvements comply with the applicable standards and specifications established by the Brevard County Code.

NATURAL RESOURCES MANAGEMENT DEPARTMENT
Zoning Review & Summary
Item No. 25Z00017

Applicant: Bruce Moia (Owner: Praxair, Inc.)

Zoning Request: IU-1 to IU-1 with CUP for heavy industry

Note: Heavy Industry allows for the manufacture of goods under the following NAICS codes:
325-Chemical Manufacturing

Zoning Hearing: 06/26/2025; **BCC Hearing:** 07/17/2025

Tax ID No.: 2103214

- 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:

- Wetlands and Hydric Soils
- Aquifer Recharge Soils
- Coastal High Hazard Area
- Floodplain Protection
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Surface Waters of the State
- Protected and Specimen Trees
- Protected Species

Land Use Comments:

Wetlands and Hydric Soils

A majority of the subject parcel contains mapped National Wetlands Inventory (NWI) and St. Johns River Water Management District (SJRWMD) wetlands and hydric soils (Copeland-Bradenton-Wabasso complex, limestone substratum; Turnbull and Riomar soils, tidal; Anclote sand, frequently ponded, 0 to 1 percent slopes; Floridana sand, 0 to 1 percent slopes, frequently flooded; and Canaveral-Urban land complex); indicators that wetlands may be present on the

property. The applicant provided an environmental assessment (Harnden Environmental, October 22, 2024) (Report) identifying wetlands surrounding the existing developed portion of the north half of the property. The wetland assessment shall be verified prior to any land clearing activities, site plan design, or building permit submittal.

The Report states that there are an estimated 5.6 acres of direct impact wetland impacts proposed on the site. The applicant states that they will follow County and regulatory agencies requirements regarding wetland impacts. Section 62-3694(c)(3)c states that commercial or industrial land development activities may be permitted in wetlands contained in properties designated for commercial or industrial land uses on the future land use map prior to February 23, 1996, if the property abuts land(s) developed as commercial or industrial as of December 31, 2010, and has sufficient infrastructure available to serve the commercial or industrial use.

If the proposed development meets the criteria in Section 62-3694(c)(3), and wetlands are found, the applicant shall complete High Function and Landscape Level wetlands assessments prior to the allowance of any impacts. Board approval may be required for impacts. Any permitted wetland impacts must meet the requirements of Section 62-3694(e), including avoidance of impacts, and will require mitigation in accordance with Section 62-3696.

Aquifer Recharge Soils

This property contains Orsino fine sand, classified as an aquifer recharge soil. Canaveral-Urban land complex may also function as aquifer recharge soils. Mapped topographic elevations indicate the soils may consist of Type 3 Aquifer Recharge soils that have impervious area restrictions. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

Coastal High Hazard Area

The majority of this property is located within the Coastal High Hazard Area (CHHA) as defined by Florida Statute 163.3178(2)(h), and as shown on the CHHA Map. The Coastal Management Element of the Comprehensive Plan, Policy 6.1, designates Coastal High Hazard Areas to be those areas below the elevation of the Category 1 storm surge elevation as defined in Chapter 163, Florida Statute. Objective 7 of the Coastal Management Element aims to limit densities within the coastal high hazard area and direct development outside of this area.

Floodplain Protection

This property is located within an area mapped as FEMA Special Flood Hazard Area (SFHA) AE, as identified by the Federal Emergency Management Agency, and as shown on the FEMA Flood Map. The parcel is subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance, including compensatory storage. Chapter 62, Article X, Division 6 states, "No site alteration shall adversely affect the existing surface water flow pattern." Chapter 62, Article X, Division 5, Section 62-3723 (2)

states, "Development within floodplain areas shall not have adverse impacts upon adjoining properties."

Indian River Lagoon Nitrogen Reduction Septic Overlay

A portion of this property 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.

Surface Waters of the State

A 9.48-acre portion of the subject property (east of the FEC railway) is located on the Indian River Lagoon, designated as a Class II Water in this location; however, that portion of the subject property is not a part of this request.

Protected and Specimen Trees

Protected (≥ 10 inches in diameter) and Specimen (≥ 24 inches in diameter) trees likely exist on the parcel. The applicant shall perform a tree survey prior to any site plan design in order to incorporate valuable vegetative communities or robust trees into the design. Per Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, Section 62-4341(18), Specimen and Protected Trees shall be preserved or relocated on site to the Greatest Extent Feasible. 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 preservation and canopy coverage requirements and buffer requirements. **Applicant should contact NRM at 321-633- 2016 prior to performing any land clearing activities.**

Protected Species

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 (FWC), and/or U.S. Fish and Wildlife Service, as applicable. The applicant is advised to call Valeria Guerrero at 561-882-5714 (O) or 561-365-5696 (C) with the FWC to obtain any necessary permits or clearance letters for Gopher Tortoises.