

**FUTURE LAND USE MAP SERIES
PLAN AMENDMENT**

STAFF COMMENTS

Small Scale Plan Amendment 24S.16 (24SS00016)
Township 21, Range 35, Section 09

Property Information

Owner / Applicant: **Linde Inc. (f/k/a Praxair Inc.)/Kimberly B. Rezanka**

Adopted Future Land Use Map Designation: Industrial (IND), Planned Industrial (PI) and Residential 2 (RES 2)

Requested Future Land Use Map Designation: Heavy/Light Industrial (IND)

Acreage: 10.46 +/- acres , portion of 2103214

Tax Account #: 2103214

Site Location: Southeast corner of the Hammock Rd. and Jones Ave.

Commission District: 1

Current Zoning: IU (Light Industrial)

Requested Zoning: IU-1 (Heavy Industrial)

Background & Purpose

The applicant is requesting to amend the Future Land Use Map (FLUM) designation from Planned Industrial (PI) and Residential 2 (RES 2) to Heavy/Light Industrial (H/L IND) on 10.46 acres of the subject property. The change will provide uniform FLUM designation and consistency with the requested zoning classification. The applicant proposes to expand the existing air separation plant to increase production capacity. The expansion will include a new cold box on the vacant portion of the property. A cold box 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.

The subject property is over a mile from U.S. Highway 1, a major transportation corridor, exceeding the locational criteria set forth by Policy 3.8 as contained within Chapter XI—Future Land Use Element of Brevard County's Comprehensive Plan. The subject parcel

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

The FLUM designations on the overall property include PI, RES 2, and IND. The portion of the subject property with the PI (Planned Industrial) FLUM designation is not a part of this request.

The IND FLU designation is located on the southern portion of the property. It is developed with a air separation plant, which is not included in this request, was rezoned on May 24, 2001 under zoning action **Z-10572** from IU (Light Industrial) zoning and PI FLU designation to IU-1 (Heavy Industrial) with a Conditional Use Permit (CUP) for additional building height (up to 125 ft.), and a CUP for Heavy Industry with H/L IND FLU designation on 6.2 acres. The action also included a 2.13 acre property bounded to the south, owned by the same owner. The existing plant covers both properties.

The PI portion of the property is located along the east of the FEC railway corridor, and another portion is located west of the FEC railway in the northwest area. Under **18PZ00019**, 7.76 acres, a portion of 22.02 acres, changed from RES 2; RES 1:2.5 and PI to all PI on May 24, 2018. The portion of the property located east of the railway is not included in the current request.

Application, **18PZ00020**, approved on August 16, 2018, changed the zoning from AU (Agricultural Residential) to PIP (Planned Industrial Park) with a BDP (Binding Development Plan) on 9.48 acres of 24.15 acres, east of the FEC railway, stipulating that the developer/owner will maintain the property in its natural state.

RES 2 portion of the subject property is located on the northeast corner, west of the FEC railway, included in this request. The RES 2 is the original FLU designation established in May 1988.

The requested IND FLUM designation allows heavy industrial uses such as cement and concrete production, chemicals and fertilizer processing, lumber mills, foundries and forge works, and paint and plastics manufacturing. Heavy industrial land uses have the potential to adversely affect surrounding land uses.

The proposed IU-1 is the heaviest industrial zoning classification in the Code. Sec. 62-1544. – Heavy Industrial, conditional uses include arsenals and explosives, hazardous waste facility, heavy industry as defined in Sec. 62-1102, and metal salvage yards and junkyards. A companion application **24Z00062**, if approved, would amend the zoning classification from IU (Light Industrial) to IU-1 (Heavy Industrial).

Surrounding Land Use Analysis

	Existing Land Use	Zoning	Future Land Use
North	3 vacant parcel. 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)	GML, PIP, AU	RES 2, PI
West	Vacant	RR-1	RES 2

North; three vacant parcels, 10 acre with AU zoning, 1.88 acre with AU, 22 acre with RR-1 zoning vacant, and a 1 acre parcel developed as flag lot with RRMH-1 zoning, all with RES 2 FLU.

East; FEC Railway bounded by 0.48 acre parcel with GML zoning, 2.44 acre parcel classified by BCPAO as not suitable for occupancy with AU zoning and RES 2 FLU designation, part of 22.02 acres with PIP zoning with PI FLU designation.

South; is one parcel, acre parcel with IU-1 zoning and IND FLU designation.

West; are two parcels, 16.5 acre and 8 acre vacant parcels with RR-1 zoning and RES 2 FLU designation.

Comprehensive Plan Policies/Comprehensive Plan Analysis

Comprehensive Plan Policies are shown in plain text; Staff Findings of Fact are shown in **bold**.

Notice: The Comprehensive Plan establishes the broadest framework for reviewing development applications and provides the initial level of review in a three layer screening process. The second level of review entails assessment of the development application's consistency with Brevard County's zoning regulations. The third layer of review assesses whether the development application conforms to site planning/land development standards of the Brevard County Land Development Code. While each of these layers individually affords its own evaluative value, all three layers must be cumulatively considered when assessing the appropriateness of a specific development proposal.

FLUE Policy 3.1 – Role of Comprehensive Plan 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. Compatibility with adjacent adopted Future Land Use designations and land uses;

The subject property abuts RES 2 to the west and north, RES 2 and PI to the east and IND to the south. Beyond the greater property's boundary lies additional land with the RES 2 Future Land Use designation. Although the area is sparsely developed with single family residential, the existing surrounding land use is designated as residential. The requested expansion of IND has the potential to adversely affect surrounding residential land uses.

- B. Existing industrial development trends in the area;

There is an existing developed air separation plant on the southern portion. The applicant intends to expand the existing use. A Conditional Use Permit (CUP) is required for heavy industry use which is not included in this request.

- C. Availability of required infrastructure at/above adopted levels of service;

The preliminary concurrency analysis did not indicate that the proposed development would cause a deficiency of adopted levels of service.

- D. Size of proposed industrial designation compared with current need for industrial lands;

A market analysis is needed to determine whether there is a current need for industrial lands. The applicant has not provided any documentation.

- E. Accessibility to major transportation corridors, as well as air, water and rail transportation facilities;

The subject property is located adjacent to the FEC Railroad and is in close proximity to U.S. Highway 1, a major transportation corridor.

- F. Adherence to the objectives/policies of the Conservation Element and minimization of impacts upon natural resources and systems; and

The subject property has been reviewed by the Brevard County Natural Resources Management (NRM) Department for adherence to the objectives and policies of the Conservation Element of the Comprehensive Plan. The property is reported to contain mapped aquifer recharge soils which may limit development and potentially impose impervious area restrictions.

A majority of the property is mapped as being within the flood plain as identified by FEMA and is subject to the development criteria in Objective 4 of the Conservation Element.

See the attached NRM comments at the end of this report.

- G. Accessibility to labor, raw materials and markets.

The subject property is located approximately three (3) miles east of Interstate 95. Due to this short distance to an arterial road.

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;

Off-site impacts such as noise, light, and other potential nuisance factors associated with IU-1 activities should be considered.

- 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.

Only a certified MAI (Master Appraiser Institute) appraisal can determine if material reduction has or will occur due to the proposed use(s).

- 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 mostly undeveloped properties with RES2 low density residential. There are approximately ten residential lots already in developed as residential, the nearest of which is within 400 feet of the subject property. The most recent improvement in the area occurred in 2018, featuring a manufactured home.

Other than development activity occurring on the subject property, there are no emerging patterns of development.

There have been no FLUM amendments within one-half mile of the subject property in the past three years.

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 (3) 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.

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 or intensity of traffic (including but not limited to volume, time of day of traffic activity, type of vehicles, etc.), 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.

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 development proposal is for commercial and not residential use.

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

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

See the full NRM comments on pages 10 - 12 of this report.

Historic Resources

There are no recorded historic or archaeological sites on the project site according to the Master Site File from the Florida Division of Historic Resources.

For Board Consideration

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

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 62-1483 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
Land Use Review & Summary
Item No. 24SS00016

Applicant: Kimberly Rezanka (Owners: Praxair Inc.)

Land Use: PI and RES 2 to H/L IND

Note: To develop the 10.46 acres for the use of new plant with a cold box

LPA Zoning Hearing: 01/13/2025; **BCC Hearing:** 02/06/2025

Tax ID No.: 2103214 (22.02 ac)

- 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
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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

A 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. 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, 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

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. Primary structures shall be located outside the Buffer. Accessory structures are permissible within the Buffer with conditions (e.g., storm water management is provided, avoidance/minimization of impacts, and maximum 30% impervious). The removal of native vegetation located within the Buffer is prohibited unless approved through an active development order. Temporary impacts to native vegetation require in-kind restoration. The Florida Department of Environmental Protection (FDEP) regulates mangrove trimming and can be reached at 407-897-4101. The applicant is encouraged to contact NRM at 321-633-2016 prior to any activities, plan, or permit submittal.

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.