



BOARD OF COUNTY COMMISSIONERS

**Planning and Development Department**

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

**STAFF COMMENTS**

**24Z00062**

**Linde Inc**

**IU (Light Industrial) to IU-1 (Heavy Industrial)**

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, part of 2103214

Port St. John Board: 1/08/2025  
 Planning and Zoning Board: 1/13/2025  
 Board of County Commissioners: 2/06/2025

**Consistency with Land Use Regulations**

- Current zoning cannot 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)

	<b>CURRENT</b>	<b>PROPOSED</b>
<b>Zoning</b>	IU	IU-1
<b>Potential*</b>	FAR of 0	FAR of 1.76 313 dwelling units**
<b>Can be Considered under the Future Land Use Map</b>	No PI & RES 2	Yes*** H/L IND

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

\*\* Development potential at 30 units per acre pursuant to F.S. 125.01055 (Live Local Act).

\*\*\*Approval is pending approval of companion request **24SS00016** which proposes to amend the Future Land Use (FLU) designation from PI and RES 2 to Heavy/Light Industrial (IND).

## Background and Purpose of Request

The applicant is requesting a change of zoning classification from IU (Light Industrial) to IU-1 (Heavy Industrial) on 10.46 acres of the subject property. The change will provide uniform zoning and consistency with the requested Future Land Use Map designation. 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 applicant will need to obtain Conditional Use approval for the aforementioned uses/improvements prior to site plan approval.

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 zoning classification on the overall property includes IU-1, IU, and PIP. The portion of the subject property with the PIP (Planned Industrial Park) zoning classification is not a part of this request.

AU was the original zoning on the entire 25 acres, more or less. The change in zoning to IU was approved on April 6, 1961.

The IU-1 zoning is located on the southern portion of the property. It is developed with an 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.

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.

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 **24SS00016**, if approved, would amend the FLUM designation from PI and RES 2 to Heavy/Light Industrial (IND).

Chemical manufacturing or Industrial Gas Manufacturing is considered a Heavy Industry use as defined in Sec.62-1102 and would require Industrial Future Land Use Map designation and IU-1 zoning classification. In addition, the use would require a Conditional Use Permit (CUP) as identified in Sec. 62-1544.

Sec. 62-1102. – Definitions defines 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. NAICS code 325120 establishments primarily engaged in industrial gas manufacturing. Specifically manufacturing of industrial organic and inorganic gases in compressed liquid and solid forms.

Although IU-1 is established primarily for manufacturing and other heavy uses. Heavy industry uses requires a CUP. The applicant may need to seek a CUP if the new plant with cold box involves any gas manufacturing processes such as separation and liquefaction. The Board will have the opportunity to apply approval conditions which mitigate potential impact with the CUP.

**Surrounding Area**

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

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 principle 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.

The current IU zoning classification permits light industrial land uses within enclosed structures. The minimum lot size is 20,000 square feet, with a minimum width of 100 feet and a minimum depth of 200 feet.

### **Future Land Use**

The subject property has a Future land Use designation of PI and RES 2. The existing IU zoning classifications cannot be considered consistent with the PI and RES 2 FLU designation. The proposed IU-1 zoning can be considered consistent with the proposed IND FLU designation.

### **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;

**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.**

B. Existing industrial zoning trends in the area;

**The initial IU zoning classification was established in the area on the subject property in 1961. IU-1 zoning classification was approved in 1964 less than half a mile to the south. The most recent industrial zoning change occurred on May 24, 2001, when the IU-1 classification was established for the southern part of the subject property.**

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

**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 Board shall determine whether the expansion of IU-1 zoning classification is compatible with a predominantly residentially zoned area. However, site development must comply with the requirements of Sec. 62-1544, particularly needing a rear setback of 120 feet and a side yard setback of 100 feet, along with a 20-foot buffer zone. This consideration excludes heavy industrial uses, which would necessitate a CUP application.**

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

**The preliminary concurrency analysis 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. No sewer service is available in the area.**

- 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.

- 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 62-1482 of Brevard County Code. The proposed use is not anticipated to require performance standards beyond the zoning criteria.**

**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 not 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 62-1483 and 62-1833.5 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.**

**Staff analysis determined the proposed FLUM designation is an emerging pattern of development of the subject property.**

**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 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.**

### **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 for potable water. 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.

## **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 13 - 15 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 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.

**Applicant:** Kimberly Rezanka (Owners: Praxair Inc.)

**Zoning Request:** IU to IU-1

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

**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
- 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**

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 ( $\geq 10$  inches in diameter) and Specimen ( $\geq 24$  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.