# **Agenda Report**



2725 Judge Fran Jamieson Way Viera, FL 32940

#### Consent

F.2. 5/20/2025

## Subject:

Acceptance, RE: Binding Development Plan with Linde Inc. (24Z00062) (District 1)

## Fiscal Impact:

None

# **Dept/Office:**

Planning and Development

## **Requested Action:**

In accordance with Section 62-1157, it is requested that the Board of County Commissioners accept, and the Chairman sign, the Binding Development Plan.

## **Summary Explanation and Background:**

A BDP (Binding Development Plan) is a voluntary agreement presented by the property owner to self-impose limits upon development of a property in support of a change of zoning or conditional use permit. Pursuant to Section 62-1157, a BDP shall be recorded in the public records within 120 days of the Board's approval of the zoning request. Following staff and legal review, the BDP is presented to the Board in recordable form as a Consent Agenda item to finalize the zoning action.

On February 06, 2025, the Board approved a change of zoning classification from IU to IU-1 with a BDP restricting the application of the Live Local Act to the property. The attached agreement includes this provision.

#### Clerk to the Board Instructions:

Upon recordation, please return two certified copies of the BDP to Planning and Development.

#### Resolution 24Z00062

On motion by Commissioner Delaney, seconded by Commissioner Adkinson, the following resolution was adopted by a unanimous vote:

WHEREAS, Linde Inc. (Kimberly Rezenka) requests a change in zoning classification from IU (Light industrial) to IU-1 (Heavy industrial), on property described as a portion of Tax Parcel 511, as recorded in ORB 2976, Pages 4447 - 4451 of the Public Records of Brevard County, Florida. Lying in Section 09, Township 21. Range 35. Brevard County, Florida, and being more particularly described as follows: A portion of the lands described in parcel 1 of Official Records Book 2976, Page 4447 of the Public Records of Brevard County, Florida, also being a portion of government lot 4 in Section 9, Township 21 South, Range 35 East, being more particularly described as follows: begin at a 5/8" iron rod and cap "s&me inc fl 8165 ga 1252" located at the intersection of the southerly right of way line of jones avenue (30.00 foot wide right of way) also being the north line of government lot 4 and the easterly right of way line of Hammock Road (variable width right of way); thence south 89°53'15" east, along said southerly right of way line of Jones Avenue, a distance of 644.44 feet to the intersection of the south right of way line of Jones Avenue and the westerly right of way line of the Florida East Coast Railway (60.00 foot right of way); thence south 04°07'45" east, along the westerly right of way of said Florida East Coast Railway, a distance of 708.53 feet; thence departing said westerly right of way, run south 79°16'49" west, along a portion of the southerly line of that certain drainage easement recorded in Official Records Book 8366, Page 622, of said Public Records, a distance of 552.19 feet to the intersection of the south line of said drainage easement and the east right of way line of Hammock Road (variable width right of way); thence north 10°40'52" west, along said east right of way line, a distance of 824.96 feet to the point of beginning. (10.46 acres) Located on the southeast corner of Hammock Rd. and Jones Ave. (2801 Hammock Rd, Mims); and

**WHEREAS**, a public hearing of the Brevard County Planning and Zoning Board was advertised and held, as required by law, and after hearing all interested parties and considering the adjacent areas, the Brevard County Planning and Zoning Board recommended that the application be approved; and

**WHEREAS**, the Board, after considering said application and the Planning and Zoning Board's recommendation, and hearing all interested parties, and after due and proper consideration having been given to the matter, find that the application should be approved with a BDP to restrict a Live Local Project; now therefore,

**BE IT RESOLVED** by the Board of County Commissioners of Brevard County, Florida, that the requested change of zoning classification from IU to IU-1, be approved with a BDP, recorded on May 22, 2025, in ORB 10341, Pages 1432, restricting a Live Local Project. The Planning and Development Director, or designee, is hereby directed to make this change on the official zoning maps of Brevard County, Florida.

BE IT FURTHER RESOLVED that this resolution shall become effective as of May 21, 2025.

BOARD OF COUNTY COMMISSIONERS

Brevard County, Florida

Rob Feltner, Chair

**Brevard County Commission** 

As approved by the Board on May 20, 2025.

ATTEST:

RACHEL SADOFF CLERK

(SEAL)

Planning and Zoning Board Hearing - January 13, 2025

Board of County Commissioners Hearing – February 06, 2025

Please note: A CUP (Conditional Use Permit) will generally expire on the three-year anniversary of its approval if the use is not established prior to that date. CUPs for Towers and Antennas shall expire if a site plan for the tower is not submitted within one year of approval or if construction does not commence within two years of approval. A Planned Unit Development Preliminary Development Plan expires if a final development plan is not filed within three years. The granting of this zoning does not guarantee physical development of the property. At the time of development, said development must be in accordance with the criteria of the Brevard County Comprehensive Plan and other applicable laws and ordinances.

# RACHEL M. SADOFF CLERK OF THE CIRCUIT COURT & COMPTROLLER

BREVARD COUNTY, FLORIDA

POST OFFICE BOX 2767 TITUSVILLE, FLORIDA 32781-2767 (321) 637-2006 WWW.BREVARDCLERK.US

1 Payments

Transaction #: Receipt #:

3874633

63652090

Cashier Date:

05/22/2025 08:40:52 AM

Cashier Branch: Titusville - Six Story

			Ш		
ш	Ш			III	ш

Print Date: 05/22/2025 08:40:58 AM

CUSTOMER INFORMATION	TRANSACTION	INFORMATION	PAYMENT SUMMA	RY
KIMBERLY BONDER REZANKA PA	Date Received:	05/22/2025	Total Fees:	\$35.50
111 FURMAN ROAD	Source Code:	Titusville - Six Story	Total Payments	\$35.50
MERRITT ISLAND, FL 32953	Return Code:	Hand Carried	Balance Due:	\$0.00
	Trans Type:	Recording		
		THE PROPERTY.		

CHECK #1483	\$35.5U
1 Recorded Items	
AGREEMENT	BK/PG: 10341/1432 CFN: 2025102812 Date: 05/22/2025 08:40:51 AM
From: Ta:	

4 \$35.50 Recording @ 1st=\$10 Add'l=\$8.50 ea.

# 1 Miscellaneous Items **AGENT TRANSMITTAL**



#### FLORIDA'S SPACE COAST

Kimberly Powell, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001 Fax: (321) 264-6972 Kimberly.Powell@brevardclerk.us



May 21, 2025

MEMORANDUM

TO: Alice Randall, Zoning

RE: Item F.2., Binding Development Plan with Linde, Inc. (24Z00062)

The Board of County Commissioners, in regular session on May 20, 2025, executed Binding Development Plan with Linde, Inc. for the property located at a portion of the lands described in parcel 1 of Official Records Book 2976, Page 4447 of the Public Records of Brevard county, Florida, also being a portion of government Lot 4 in Section 9, Township 21 south, Range 35 east, being more particularly described as follows: begin at a 5/8" Iron rod and cap "S&ME Inc. FL 8165 GA, 1252" located at the intersection of the Southerly right of way line of Jones Avenue (30.00 foot wide right-of-way) also being the north line of government Lot 4 and the Easterly right-of-way line of Hammock Road (variable width right-of-way); thence south 89°53'15" east, along said Southerly right-of-way line of Jones Avenue, a distance of 644.44 feet to the intersection of the south right of way line of jones avenue and the Westerly right-of-way line of the Florida East Coast Railway (60.00 foot right of way); thence south 04°7'45" east, along the Westerly right-of-way of said Florida East Coast Railway, a distance of 708.53 feet; thence departing said Westerly rightof-way, run south 79°16'49" west, along a portion of the Southerly line of that certain drainage easement recorded in official records book 8366, page 622, of said public records, a distance of 552.19 feet to the intersection of the south line of said drainage easement and the east right of way line of hammock road (variable width right of way);thence north 10°40'52" west, along said east right-of-way line, a distance of 824.96 feet to the point of beginning. Containing: 10.46 acres. Enclosed for your necessary action are two certified copies of the recorded statement.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS

RACHEL M. SADOFF, CLERK

Kimberly Powell, Clerk to the Board

/si

Encls. (2)



## FLORIDA'S SPACE COAST

Kimberly Powell, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001 Fax: (321) 264-6972 Kimberly.Powell@brevardclerk.us



May 21, 2025

MEMORANDUM

TO: Recording

RE: Item F.2., Binding Development Plan with Linde, Inc. (24Z00062)

The Board of County Commissioners, in regular session on May 20, 2025, accepted and executed Binding Development Plan with Linde, Inc. for the property located at a portion of the lands described in parcel 1 of Official Records Book 2976, Page 4447 of the Public Records of Brevard county, Florida, also being a portion of government Lot 4 in Section 9, Township 21 south, Range 35 east, being more particularly described as follows: begin at a 5/8" Iron rod and cap "S&ME Inc. FL 8165 GA, 1252" located at the intersection of the Southerly right of way line of Jones Avenue (30.00 foot wide right-of-way) also being the north line of government Lot 4 and the Easterly rightof- way line of Hammock Road (variable width right-of-way); thence south 89°53'15" east, along said Southerly right-of-way line of Jones Avenue, a distance of 644.44 feet to the intersection of the south right of way line of jones avenue and the Westerly right-of-way line of the Florida East Coast Railway (60.00 foot right of way); thence south 04°7'45" east, along the Westerly right-ofway of said Florida East Coast Railway, a distance of 708.53 feet; thence departing said Westerly right-of-way, run south 79°16'49" west, along a portion of the Southerly line of that certain drainage easement recorded in official records book 8366, page 622, of said public records, a distance of 552.19 feet to the intersection of the south line of said drainage easement and the east right of way line of hammock road (variable width right of way); thence north 10°40'52" west, along said east right-of-way line, a distance of 824.96 feet to the point of beginning. Containing: 10.46 acres. Enclosed are original Binding Development Plan Agreement and check No. 1483 for \$35.50.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS

RACHEL M. SADOFF, CLERK

Kimberly Powell, Clerk to the Board

/si

Encls. (2)

1432, Recorded 05/22/2025 at 08:40 AM, Rachel M.

Sadoff, Clerk of Courts, Brevard County

#Pas:4

Prepared by: Kimberly Bonder Rezanka

Address:

Lacey Lyons Rezanka 1290 US-1, Ste. 103 Rockledge, FL 32955

#### BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this 20th day of May, 2025 between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and LINDE INC., a Delaware corporation (hereinafter referred to as "Developer/Owner").

#### RECITALS

WHEREAS, Developer/Owner owns property (hereinafter referred to as the "Property") in Brevard County, Florida, as more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference; and

WHEREAS, Developer/Owner has requested the IU-1 zoning classification pursuant to the Brevard County Code, Section 62-1157; and

WHEREAS, as part of its plan for development of the Property, Developer/Owner wishes to mitigate negative impacts on abutting land owners and affected facilities or services; and

WHEREAS, the County is authorized to regulate development of the Property.

NOW, THEREFORE, the parties agree as follows:

- 1. Recitals. The above recitals are true and correct and are incorporated into this Agreement by their reference.
- 2. The County shall not be required or obligated in any way to construct or maintain or participate in any way in the construction or maintenance of the improvements. It is the intent of the parties that the Developer/Owner, its grantees, successors or assigns in interest or some other association and/or assigns satisfactory to the County shall be responsible for the maintenance of any improvements.

- 3. Developer/Owner shall not develop the Property with any housing or other residential purposes which may be allowed under Florida Live Local Act, Chapter 2023-17, Laws of Florida, as may be amended.
- 4. Developer/Owner shall comply with all regulations and ordinances of Brevard County, Florida. This Agreement constitutes Developer's/Owner's agreement to meet additional standards or restrictions in developing the Property. This Agreement provides no vested rights against changes to the Brevard County Comprehensive Plan or land development regulations as they may apply to this Property.
- 5. Developer/Owner, upon execution of this Agreement, shall pay to the Clerk of Court all costs of recording this Agreement in the Public Records of Brevard County, Florida.
- 6. This Agreement shall be binding and shall inure to the benefit of the successors or assigns of the parties and shall run with the subject Property unless or until rezoned and shall be binding upon any person, firm or corporation who may become the successor in interest directly or indirectly to the subject Property, and shall be subject to the above referenced conditions as approved by the Board of County Commissioners on MAY 20 2025. In the event the subject Property is annexed into a municipality and rezoned, this Agreement shall be null and void.
- 7. Violation of this Agreement shall constitute a violation of the zoning classification and of this Agreement. This Agreement may be enforced by Sections 1-7 and 62-5 of the Code of Ordinances of Brevard County, Florida, as may be amended.
- 8. Conditions precedent. All mandatory conditions set forth in this Agreement mitigate the potential for incompatibility and shall be satisfied before Developer/Owner may implement the approved use(s), unless stated otherwise. The failure to timely comply with any condition is a violation of this Agreement and constitutes a violation of the Zoning Classification and is subject to enforcement action as described in Paragraph 7, above.
- 9. Severability clause. If any provision of this BDP is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provision shall continue in full force and effect without being impaired or invalidated in any way.

IN WITNESS THEREOF, the parties hereto have caused these presents to be signed all as of the date and year first written above.

BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA 2725 Judge Fran Jamieson Way Viera, FL 32940  Rob Feltner, Chair As approved by the Board on MAY 20 2025  and a notary for each signature required. The notary
Linde Inc.
10 Riverview Drive
Danbury, CT 06810
Director, Corporate Real Estate (Title) Brian C. Morgan (Name typed, printed or stamped)
owledged before me by means of physical presence, 25, by Brian C. Morgan, Director, Corporate Real own to me.  Li Sa Hurray (Name typed, printed or stamped)

LISA MURRAY NOTARY PUBLIC - CT 178083 My Commission Expires 12/31/2028

#### **EXHIBIT "A"**

#### SURVEYORS LEGAL DESCRIPTION:

A PORTION OF THE LANDS DESCRIBED IN PARCEL 1 OF OFFICIAL RECORDS BOOK 2976, PAGE 4447 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, ALSO BEING A PORTION OF GOVERNMENT LOT 4 IN SECTION 9, TOWNSHIP 21 SOUTH, RANGE 35 EAST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGIN AT A 5/8" IRON ROD AND CAP "S&ME INC FL 8165 GA 1252" LOCATED AT THE INTERSECTION OF THE SOUTHERLY RIGHT OF WAY LINE OF JONES AVENUE (30.00 FOOT WIDE RIGHT OF WAY) ALSO BEING THE NORTH LINE OF GOVERNMENT LOT 4 AND THE EASTERLY RIGHT OF WAY LINE OF HAMMOCK ROAD (VARIABLE WIDTH RIGHT OF WAY); THENCE SOUTH 89°53'15" EAST, ALONG SAID SOUTHERLY RIGHT OF WAY LINE OF JONES AVENUE, A DISTANCE OF 644.44 FEET TO THE INTERSECTION OF THE SOUTH RIGHT OF WAY LINE OF JONES AVENUE AND THE WESTERLY RIGHT OF WAY LINE OF THE FLORIDA EAST COAST RAILWAY (60.00 FOOT RIGHT OF WAY); THENCE SOUTH 04°07'45" EAST, ALONG THE WESTERLY RIGHT OF WAY OF SAID FLORIDA EAST COAST RAILWAY, A DISTANCE OF 708.53 FEET; THENCE DEPARTING SAID WESTERLY RIGHT OF WAY, RUN SOUTH 79°16'49" WEST, ALONG A PORTION OF THE SOUTHERLY LINE OF THAT CERTAIN DRAINAGE EASEMENT RECORDED IN OFFICIAL RECORDS BOOK 8366, PAGE 622, OF SAID PUBLIC RECORDS, A DISTANCE OF 552.19 FEET TO THE INTERSECTION OF THE SOUTH LINE OF SAID DRAINAGE EASEMENT AND THE EAST RIGHT OF WAY LINE OF HAMMOCK ROAD (VARIABLE WIDTH RIGHT OF WAY); THENCE NORTH 10°40'52" WEST, ALONG SAID EAST RIGHT OF WAY LINE, A DISTANCE OF 824.96 FEET TO THE POINT OF BEGINNING.

CONTAINING: 10.46 ACRES

#### AFFIDAVIT OF NO MORTGAGE

Brian C. Morgan, Director, Corporate Real Estate at Linde Inc., after being duly sworn, deposes and says:

- 1. I am the representative of the owner of the real property as more particularly described in **Exhibit "A"** attached hereto
- 2. There are no mortgages on the Property

Dated March 12, 2025.

Linde Inc.

10 Riverview Drive Danbury, CT 06810

Bv.

Brian C. Morgan

Its: Director, Corporate Real Estate

STATE OF CONNECTICUT COUNTY OF FAIRFIELD

The foregoing instrument was acknowledged before me by means of physical presence, this 124 day of March 2025, by Brian C. Morgan, Director, Corporate Real Estate, for Linde Inc., who is personally known to me.

My commission expires: 12 31/2028

Notary Public

**SEAL** 

Commission No.:

CT 178083

(Name typed, printed or stamp)

LISA MURRAY NOTARY PUBLIC - CT 178083 My Commission Expires 12/31/2028

#### **EXHIBIT "A"**

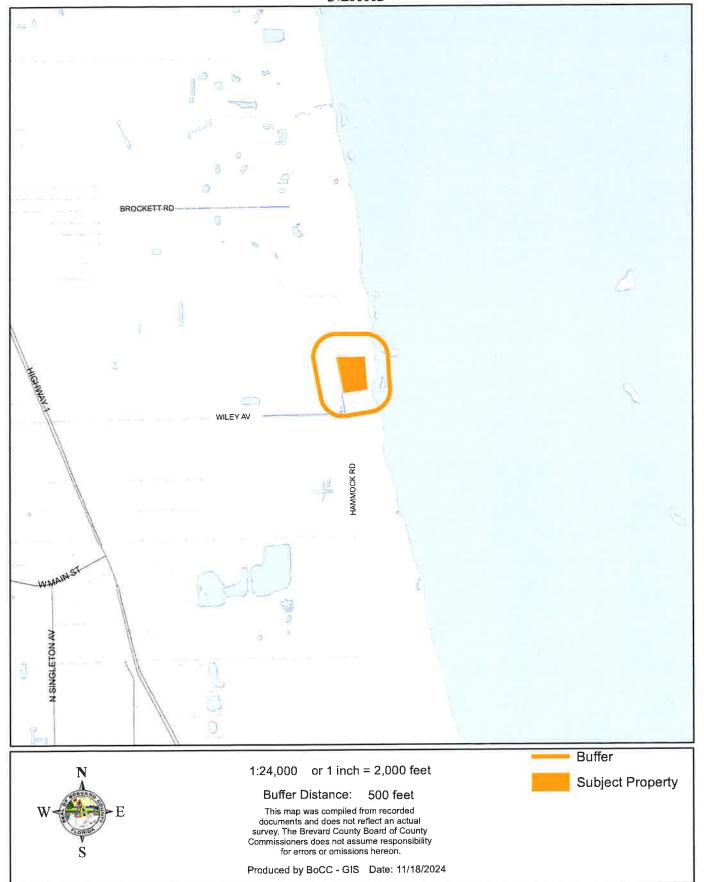
#### SURVEYORS LEGAL DESCRIPTION:

A PORTION OF THE LANDS DESCRIBED IN PARCEL 1 OF OFFICIAL RECORDS BOOK 2976, PAGE 4447 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, ALSO BEING A PORTION OF GOVERNMENT LOT 4 IN SECTION 9, TOWNSHIP 21 SOUTH, RANGE 35 EAST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGIN AT A 5/8" IRON ROD AND CAP "S&ME INC FL 8165 GA 1252" LOCATED AT THE INTERSECTION OF THE SOUTHERLY RIGHT OF WAY LINE OF JONES AVENUE (30.00 FOOT WIDE RIGHT OF WAY) ALSO BEING THE NORTH LINE OF GOVERNMENT LOT 4 AND THE EASTERLY RIGHT OF WAY LINE OF HAMMOCK ROAD (VARIABLE WIDTH RIGHT OF WAY); THENCE SOUTH 89°53'15" EAST, ALONG SAID SOUTHERLY RIGHT OF WAY LINE OF JONES AVENUE, A DISTANCE OF 644.44 FEET TO THE INTERSECTION OF THE SOUTH RIGHT OF WAY LINE OF JONES AVENUE AND THE WESTERLY RIGHT OF WAY LINE OF THE FLORIDA EAST COAST RAILWAY (60.00 FOOT RIGHT OF WAY); THENCE SOUTH 04°07'45" EAST, ALONG THE WESTERLY RIGHT OF WAY OF SAID FLORIDA EAST COAST RAILWAY, A DISTANCE OF 708.53 FEET; THENCE DEPARTING SAID WESTERLY RIGHT OF WAY, RUN SOUTH 79°16'49" WEST, ALONG A PORTION OF THE SOUTHERLY LINE OF THAT CERTAIN DRAINAGE EASEMENT RECORDED IN OFFICIAL RECORDS BOOK 8366, PAGE 622, OF SAID PUBLIC RECORDS, A DISTANCE OF 552.19 FEET TO THE INTERSECTION OF THE SOUTH LINE OF SAID DRAINAGE EASEMENT AND THE EAST RIGHT OF WAY LINE OF HAMMOCK ROAD (VARIABLE WIDTH RIGHT OF WAY); THENCE NORTH 10°40'52" WEST, ALONG SAID EAST RIGHT OF WAY LINE, A DISTANCE OF 824.96 FEET TO THE **POINT OF BEGINNING**.

CONTAINING: 10.46 ACRES.

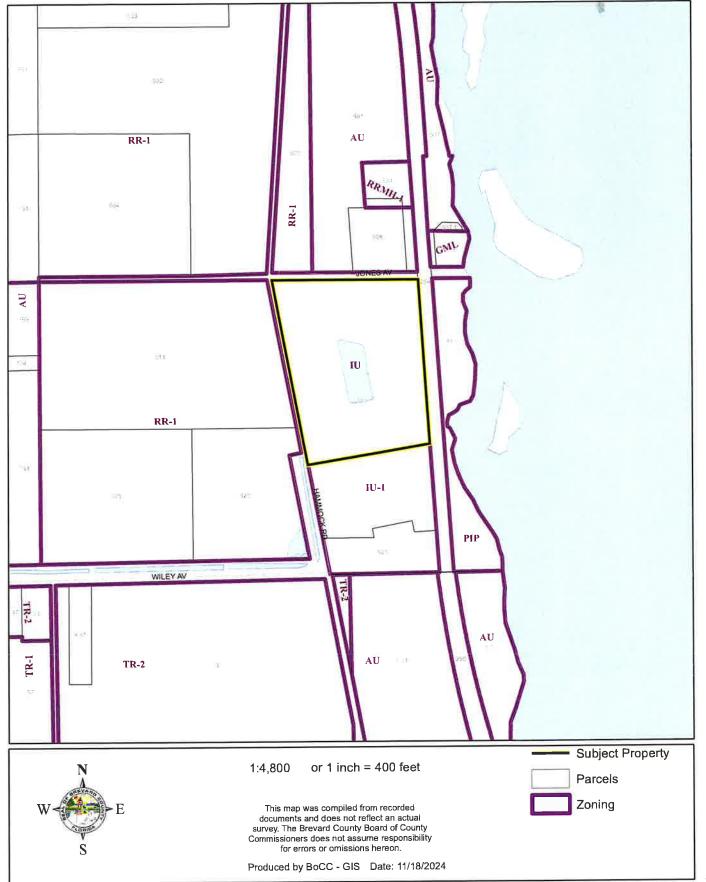
# LOCATION MAP

## PRAXAIR INC 24Z00062



# ZONING MAP

PRAXAIR INC 24Z00062



P&Z - January 13, 2025

BOCC-Zoning - February 06, 2025

**(24Z00062) Linde Inc.** (Kimberly Rezanka) requests a change in zoning classification from IU (Light industrial) to IU-1 (Heavy industrial). The property is 10.46 acres, located on the southeast corner of Hammock Rd. and Jones Ave. (2801 Hammock Rd, Mims. (Tax Account 2103214) (District 1)

P&Z Recommendation: Minneboo/Luse - Approved. The vote was unanimous.

BCC Action: Delaney/Adkinson – Approved the request for a change of zoning classification from IU to IU-1 with a Binding Development Plan to restrict a Live Local Project. The vote was unanimous.



#### FLORIDA'S SPACE COAST

Kimbarly Powell, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 837-2001 Fax: (321) 264-6972 Kimberly.Powell@brevardclerk.us



February 7, 2025

MEMORANDUM

TO: Billy Prasad, Interim Planning and Development Director Attn: Trina Gilliam

RE: Board Actions on Planning and Zoning Board Recommendations

The Board of County Commissioners, in regular session on February 6, 2025, took action on Planning and Zoning Board Recommendations.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS

RACHEL M. SADOFF, CLERK

Kimberly Powell, Clerk to the Board

/kl

Encl. (1)

cc: Desiree Jackson, Zoning

County Attorney

#### PLANNING AND ZONING BOARD RECOMMENDATIONS

- Item H.1. RHR Construction and Development LLC. Delaney/Adkinson. Adopted Ordinance No. 25-01, setting forth the first Small Scale Comprehensive Plan Amendment of 2025, (24.12), to change the Future Land Use designation from PI to RES 4. (245500012) Commissioner Altman absent
- Item H.2. RHR Construction and Development LLC. Delaney/Adkinson. Approved the request for a change of zoning classification from GU and RU-1-11 to RU-1-11 with a Binding Development Plan for the applicant to do an engineering study to show this change would not adversely affect the drainage of the surrounding streets. (24Z00042) Commissioner Altman absent
- Item H.3. Wanda and Dennis Crocker. Delaney/Adkinson. Approved the request for a change in zoning classification from AU to RR-1. (24Z00059) Commissioner Altman absent
- Item H.4. Luz Nogueroles. Goodson/Adkinson. Approved the request for a change of zoning classification from AU to RR-1 with a Binding Development Plan limiting development on the entire five-acre parcel to one residential unit on entirety of the property. (24Z00060) Commissioner Altman absent
- Item H.5. Tiffany and Henry Lequear. Adkinson/Goodson. Approved the request for a change of zoning classification from RR-1 to AGR. (24Z00058)
- Item H.6. Linde Inc. Delaney/Altman. Adopted Ordinance No. 25-02, setting forth the second Small Scale Comprehensive Plan Amendment of 2025, (24S.16), to change the Future Land Use designation from Pl and Res 2 to all Heavy/Light Industrial (H/L IND). (24SS00016)
- Item H.7. Linde Inc. Delaney/Adkinson. Approved the request for a change in zoning classification from IU to IU-1 with a Binding Development Plan to restrict a Live Local Project. (24Z00062)
- Item H.8. Christopher Espanet. Adkinson/Delaney. Denied the request for a Comprehensive Plan Amendment to change the Future Land Use designation from RES 1 to RES 2. (24SS00013)