



# STAFF REPORT

## LAND DEVELOPMENT DIVISION

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### Prepared by

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#### CASE

CU23-00015 – Pribell Dock

#### PLANNING & ZONING BOARD HEARING DATE

October 2, 2024

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#### PROPERTY OWNER & APPLICANT

Richard Pribell and Joyce Lochan-Pribell  
(Stephen L. Conteaguero with Nason  
Yeager Gerson Harris & Fumero Law  
Firm, Rep.)

#### PROPERTY LOCATION/ADDRESS

A portion of Tax Parcel 755, Section 26, Township 28,  
Range 37, Brevard County, Florida, containing  
approximately 10 acres. Located north of and adjacent  
to Port Malabar Boulevard NE, specifically at 1803 Port  
Malabar Boulevard NE. Tax Account 2834924.

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#### SUMMARY OF REQUEST

A Conditional Use to allow the construction of a dock within the FC (Floodway Conservation District), in accordance with Section 185.048(D)(3) of the Palm Bay Code of Ordinances.

##### Current Zoning

FC (Floodway Conservation District), IU (Institutional Use District), RS-2 (Single-Family Residential District)

##### Current Land Use

CON (Conservation Use), PSP (Public/Semi-Public), LDR (Low-Density Residential)

##### Site Improvements

Vacant Land

##### Site Acreage

Approximately ten (10) acres

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#### SURROUNDING ZONING & USE OF LAND

##### North

FC (Floodway Conservation District); Vacant Land

##### East

RS-2 (Single-Family Residential District); Developed

##### South

FC (Floodway Conservation District); Vacant Land

##### West

IU (Institutional Use District); Church

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#### COMPREHENSIVE PLAN

##### COMPATIBILITY

Yes, Conservation Use

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**BACKGROUND:**

The subject property is a ten (10) acre parcel located north of and adjacent to Port Malabar Boulevard NE, specifically at 1803 Port Malabar Boulevard NE. An approximately quarter-acre area of the property, in the southwest corner, is zoned for single-family residential and is developed with the applicant's primary residence. The conditional use request is specifically to allow for the installation of a dock within the portion of the parcel that is within the Floodway Conservation Zoning District, as required by Section 185.048(D)(3). The applicant has provided a site sketch with graphic details for the proposed dock.

The applicant first submitted an application for a dock permit (BL23-07961) and upon review, it was determined that a Conditional Use was required. Staff was also aware that the applicant had an open case with Florida Department of Environmental Protection (FDEP) for a wetland impact violation. The applicant was required to mitigate by establishing native wetland vegetation and trees in the impacted area, which is immediately north of the proposed dock site. The applicant has since submitted documentation that the mitigation requirements have been completed and the case is closed.

At the time of Conditional Use submittal, the ten (10) acre property consisted of three separate parcels, divided by their zoning district. This meant that the proposed dock would be on a separate parcel than the residence. Land Development Code establishes docks as an accessory structure and forbids an accessory structure to be built on a parcel which does not have a primary structure. Therefore, prior to staff review of the Conditional Use request, the applicant was required to first establish a legal Unity of Title on the three lots.

**ANALYSIS:**

The provisions of the Floodway Conservation District are intended to protect persons and property from the hazards of floodways and to conserve important natural resources for ecological purposes, open space needs, and the enjoyment and education of present and future residents. Section 185.048(D)(3) of the Code of Ordinances establishes boat ramps or docks as a conditional use in this District. The requirements of Section 170.141 and 170.142 serve to further ensure that such structures are designed with minimal impact on the floodway and surrounding natural area.

Upon receiving Conditional Use approval, the applicant will be required to apply for a dock permit with the City. Through the administrative permit review process, staff will ensure compliance with all applicable codes regarding dock design and setbacks. The applicant will also be required to submit a valid Army Corps of Engineers (ACOE) dock permit and a formal wetland delineation for the entire parcel.

**CODE REQUIREMENTS:**

To be granted conditional use approval, requests are evaluated upon items (A) through (H) of the General Requirements and Conditions of Section 185.087 of the Code of Ordinances. Staff did not evaluate these criteria because the applicant does not meet the requirement for the conditional use they are requesting.

**Item (A):** Adequate ingress and egress may be obtained to and from the property, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or other emergencies.

Ingress and Egress for vehicular traffic is established through the residence's driveway off Port Malabar Boulevard NE.

**Item (B):** Adequate off-street parking and loading areas may be provided, without creating undue noise, glare, odor, or other detrimental effects upon adjoining properties.

Vehicle parking is already established on the residence's driveway. Access to the dock will be by way of a pre-existing narrow foot path from the residential driveway following east along a raised berm that lies adjacent to Port Malabar Boulevard NE.

**Item (C):** Adequate and properly located utilities are available or may be reasonably provided to serve the proposed development.

The Utilities Department stated they have no objections to the proposed dock. The proposed boat lift and lighting may require an electricity connection. Any necessary upgrades to provide this connection shall be designed, permitted, installed, and inspected at the homeowner's cost.

**Item (D):** Adequate screening and/or buffering will be provided to protect and provide compatibility with adjoining properties.

The area surrounding the dock location is natural wetland that has been recently restored with native vegetation, per FDEP criteria. No additional landscaping is necessary. Setback requirements established in Section 170.142 provide limitations on the dock's size and does not allow the dock to project into a waterway more than thirty three percent (33%) of the minimum width of the waterway or two hundred fifty (250) feet, whichever is less. These requirements protect the riparian rights of surrounding property owners and protect the public's safe access to the waterway.

**Item (E):** Signs, if any, and proposed exterior lighting will be so designed and arranged to promote traffic safety and to eliminate or minimize any undue glare, incompatibility, or

disharmony with adjoining properties.

Per 170.142(l), All lighting of any pier, dock or boathouse shall be shielded or shaded in such a manner that the light source does not shine directly into adjacent homes.

**Item (F):** Yards and open spaces will be adequate to properly serve the proposed development and to ensure compatibility with adjoining properties.

This requirement is not applicable to this project.

**Item (G):** The proposed use will not constitute a nuisance or hazard because of the number of persons who will attend or use the facility, or because of vehicular movement, noise, fume generation, or type of physical activity. The use as proposed for development will be compatible with the existing or permitted uses of adjacent properties.

The proposed dock site is surrounded by acres of vacant natural lands. The use as proposed created a minimal impact on the shoreline and will be compatible with the conservation use of the adjacent property. Only one dock will be permitted on this property, any additional docks would require a separate Conditional Use application, per 170.142(C).

**Item (H):** Development and operation of the proposed use will be in full compliance with any additional conditions and safeguards which the City Council may prescribe, including, but not limited to, a reasonable time limit within which the action for which special approval is requested shall be begun or completed, or both.

Sections 170.141 and 170.142 establish the application requirements and design standards for all piers, docks, and boathouses, which will be reviewed and inspected by staff as part of the permitting process. The Board and Council have the authority and right to impose any additional and justifiable safeguards, and/or conditions, to ensure that the facility operates safely and harmoniously with its surroundings.

**STAFF FINDINGS:**

Staff recommends Case CU23-00015 for approval.



Map is not to scale—for illustrative purposes only; not to be construed as binding or as a survey.



**AERIAL LOCATION MAP**

**CASE: CU23-00015**

**Subject Property**

North of and adjacent to Port Malabar Blvd NE, specifically at 1803 Port Malabar Boulevard NE



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**ZONING MAP**

**CASE: CU23-00015**

**Subject Property**

North of and adjacent to Port Malabar Blvd NE, specifically at 1803 Port Malabar Boulevard NE

**Zoning District**

FC - Floodway Conservation District



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**FUTURE LAND USE MAP**

**CASE: CU23-00015**

**Subject Property**

North of and adjacent to Port Malabar Blvd NE, specifically at 1803 Port Malabar Boulevard NE

**Future Land Use Classification**

CON - Conservation Use