

Petition for Hearing regarding Pinellas County Florida Permit #WND-22-00252
RE: 1605 Pass-a-Grille Way
St, Pete Beach, FL 33706

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BY:

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As owners of real property located at 1803 Pass-a-Grille Way and 1701 Pass-a-Grille Way, we are respectfully petitioning for hearing to appeal the issuance of the permit for a six-slip dock located at 1605 Pass-a-Grille Way, permit #WND-22-00252 issued 03/27/2023, to Rostam Holding LLC. This petition is made according to **Sec. 58-536(a) & (b) (Appeals)** of Article XV-Water and Navigations Regulations of the Pinellas County Florida Code of Ordinances.

We, and other nearby property owners we have talked to, were unaware of the issuance of approvals/permits by either St. Pete Beach or Pinellas County until receipt of a notice from the Board of Trustees of the Internal Improvement Trust Fund dated 04/11/2023 regarding application #52-0427074-002-EI for a sovereignty submerged land lease for the property that is the subject of this petition.

Considering the scope of the dock expansion from the current configuration, the six boat slips proposed, the location in an aquatic preserve, and the requirements of a submerged lands lease, we posit that the Water and Navigation Division (WND) should have scheduled a public hearing according to **Sec. 58-535 – Notice of Public Hearing** prior to issuance of a permit.

A marina (with dozens of wet and high/dry slips is already in place just a few blocks north of the subject property. As long-term residents and property owners of St. Pete Beach in Pinellas County, we are concerned that the approval of a permit for a large dock with six boat slips would create what essentially would be a mini-marina, for either private or commercial benefit, while making use of submerged lands that are held in trust for the people of Florida. The permit was issued without notice or the opportunity for input from neighboring property owners or the public. As property owners within 500 feet of the subject property, including the closest northern property at 1701 Pass-a-Grille Way, we contend that the issuance of permit #WND-22-00252 was in error because it is not in compliance with the regulations of Article XV-Water and Navigations Regulations of the Pinellas County Florida Code of Ordinances.

All references hereafter are to sections of **ARTICLE XV. - WATER AND NAVIGATION REGULATIONS** of the Pinellas County Florida Code of Ordinances.

The dock for the permit in question is classified as a multiuse private dock according to:

Sec. 58-501. - Definitions.

Multiuse private dock means any dock to be owned in common or used by the residents of an apartment house (more than two units), condominium, cooperative apartment, mobile home park or zero lot line attached structures. Docks serving both commercial and residential uses shall fall under the appropriate commercial dock category.

We submit that Permit #WND-22-00252 was issued in error for the following reasons:

1. The applicant has the burden of complying with the various regulations of the Water and Navigation Regulations regarding private and multiuse private dock applications (relevant sections follow):

Sec. 58-551. - Multiuse private dock application information.

The following information is required for applications for multiuse private docks:

- (1) All information required under section 58-550.
- (3) Information shall be submitted, prepared by a state registered civil engineer, attesting to the fact that adequate flushing exists and that the project will not cause stagnation or water quality degradation.
- (4) The following additional information is required:
 - (a) A detailed statement describing the proposed activity and how it affects the waters of the county.

Comments: No documents are available on the Pinellas Public Portal to indicate either a finding by the Water and Navigation Division (WND) or information prepared by a state registered civil engineer “attesting to the fact that adequate flushing exists and that the project will not cause stagnation or water quality degradation.”

In addition, most survey documents uploaded to the Pinellas Public Portal do not appear to be signed and sealed by a licensed engineer.. The only signed and sealed survey document is signed and sealed 03/08/2022 (tagged with the upload date 02/28/2023), and does not reflect the revision for the addition of boat lifts.

A hearing is necessary to determine whether the WND erred in issuing permit #WND-22-00252 without a signed and sealed survey indicating the boat lift revisions.

Sec. 58-550. - Private dock application information.

- (b) All applications for permits for docks to be located within a municipal limit must have municipal approval prior to submission to the county, except for after-the-fact applications, which may be submitted to the county and municipality simultaneously.
- (c) Where required, signatures of no objection from adjacent property owners must be provided on the permit drawing accompanying the application for a private dock, along with the completed notarized variance forms included in the application.
- (d) Adequate water depth at the slip and to navigable waters must be evidenced on applications for the expansion of existing dock facilities or the creation of new dock facilities.
- (e) The following information is required for applications for private dock permits:
 - (2) A detailed statement describing the upland land use and activities (i.e., commercial marina, multiuse, condominium, restaurant, private single-family, etc.).
 - (3) Satisfactory evidence of title or extent of interest of the applicant to the riparian upland ownership or submerged ownership with a copy of the trustee's deed in chain of title.
 - (4) A copy of the state department of environmental protection permit application, where

applicable.

Comments: Municipal approval by the City of St. Pete Beach was not provided upon initial application submission for a private dock permit on 03/02/2022, nor on the corrected commercial and multiuse application dated 03/02/2022 (uploaded to the Pinellas Public Portal and tagged with an upload date of 07/13/2022). The referenced commercial and multiuse application also does not contain a detailed statement describing upland land use and activities, satisfactory evidence of interest of the applicant to the riparian upland ownership or submerged ownership with a copy of the trustee's deed in chain of title, or a copy of the applicable environmental protection permit application.

Of note is that the above-referenced commercial and multiuse application was made by and signed by Bahram Ahmadi. The legal entity title to the subject property Rostam Holding LLC. In addition, the uploaded Florida Division of Corporations (upload date 08/03/2022) is for Rostam Holdings LLC, an entity that was administratively dissolved on 09/23/2016 as is clearly noted on the document.

It appears that although permit #WND-22-00252 was issued to the proper entity with ownership of the subject property, Rostam Holding LLC, the application was never corrected to reflect proper ownership and proof of ownership, and never provided proof of submerged ownership as required. Without evidence of such corrected application, the application is deficient and the permit was issued in error. Since supporting documents are not uploaded to the Pinellas Public Portal as of 04/25/2023, a hearing is needed to determine the sufficiency of the application.

2. In reference to the following sections:

Sec. 58-505. - Interpretation; conflicting provisions.

In interpreting and applying the provisions of this article, such provisions shall be held to be the minimum requirements for the promotion of the public health, safety, morals and general welfare of the citizens of the county. It is not intended by this article to interfere with, abrogate or annul any lawful easements, covenants or other agreements between parties; provided, however, that **where this article imposes a greater restriction upon the use of structures, premises or lands within the waters of the county than are imposed or required by other resolutions, rules, regulations or other lawful easements, covenants or agreements, the provisions of this article shall control.** (bold added)

Comments: Although the City of St. Pete Beach granted various municipal approvals under their permit #2200378 on 03/16/2023 (dock revision and drawings adding boat lifts, boat lift capacity and specifications) and on 03/20/2023 (planning and zoning), Sec. 58.505 states that the Pinellas County regulations control if those regulations are more restrictive:

Therefore, regardless of any St. Pete Beach approvals, any more restrictive Pinellas County regulations would control. Permit #WND-22-00252 allows for six boat slips, a hearing should be held to determine if said permit is in violation of the following section:

Sec. 58-555. - Design criteria for private docks.

(a) Design criteria for all private docks shall be as follows:

- (5) A dock shall not be designed or constructed to accommodate more than two boats for permanent mooring. No more than one structure shall be located at a private residential site.

Absent any other regulation allowing more than two boat moorings for private docks (which includes multiuse private docks), a hearing should be held to determine whether permit #WND-22-00252 was issued in error, in violation of Sec. 58-555(a)(5).

3. In reference to the following section:

Sec. 58-549. - Application information.

- (b) Prior to the issuance of a permit under this article, the applicant must show that the proposed activity is consistent with the county comprehensive plan or municipal comprehensive plan, as applicable.
- (e) All applications under this article must include a statement outlining the intended use of the project facility.

Comments: The burden is on the applicant to comply with the above-referenced regulation, and we were unable to locate the required information in the files uploaded to the Pinellas Public Portal as of 04/25/2023. A hearing should be held to determine whether applicant has met this burden of “must show” and “must include,” and whether permit #WND-22-00252 was issued in error in violation of Sec. 58-549(b)&(c).

3. In reference to the following sections:

Sec. 58-530. - Permit required; review of applications.

- (b) The board and its staff shall consider, in its review of permit applications under this article, the following criteria. **If any of the following questions are answered in the affirmative, the application shall be denied or modified** (bold added):
 - (1) Would the project have a detrimental effect on the use of such waters for navigation, transportation, recreational or other public purposes and public conveniences?
 - (2) Would the project restrict the free use of the waterways and navigable waters?
 - (3) Would the project have a material adverse effect upon the flow of water or tidal currents in the surrounding waters?
 - (4) Would the project have a material adverse effect upon erosion, erosion control, extraordinary storm drainage, shoaling of channels, or would be likely to adversely affect the water quality presently existing in the area or limit progress that is being made toward improvement of water quality in the area?
 - (5) Would the project have a material adverse effect upon the natural beauty and recreational advantages of the county?
 - (6) Would the project have a material adverse effect upon the conservation of wildlife, marine life, and other natural resources, including beaches and shores, so as to be contrary to the public interest?
 - (7) Would the project have a material adverse effect upon the uplands surrounding or necessarily affected by such plan or development?
 - (8) Would the project have a material adverse effect on the safety, health and welfare of the general public?
 - (9) Would the project be inconsistent with adopted state plans (e.g., manatee protection, SWIM plans), county and municipal comprehensive plans, other formally adopted natural resource management plans, or any other county ordinances or regulations?

Sec. 58-531. - Criteria for approval of permits.

(a) It shall be the burden of the applicant for a permit under this article to provide data and testimony to show the effect of the proposed plan and development on the criteria in subsection 58-530(b). **Sec. 58-**

Sec. 58-553. - Permitting criteria for docks.

The county shall use the criteria as contained in sections 58-530(b) and 58-533 in the issuance of dock permits. If any of the nine questions are answered in the affirmative, the application shall be denied or modified.

Comments: We have not found any documentation in the Pinellas Public Portal that the above-listed criteria were considered as required in the issuance of permit #WND-22-00252. We contend that without any documentation of the findings of the board and its staff on these criteria, a hearing should be held to determine whether the answer to any of these questions is in the affirmative, and to receive public input. Note Sec. 58-531(a) places the burden upon the applicant "to show the effect of the proposed plan and development on the subsection 58-530(b) criteria.

4: In reference to the following section:

Sec. 58-533. - Criteria for issuance.

(c) In order to provide protection for those habitats having a high degree of ecological value, proposed projects shall be specifically reviewed for adverse impacts to vegetated wetland areas; vegetative, terrestrial, or aquatic habitats critical to the support of listed species in providing one or more of the requirements to sustain their existence, such as range, nesting or feeding grounds; habitats which display biological or physical attributes which would serve to make them rare within the confines of the county, such as natural marine habitats, grass flats suitable as nursery feeding grounds for marine life, or established marine soil suitable for producing plant growth of a type useful as nursery or feeding grounds for marine life; designated preservation areas such as those identified in the comprehensive land use plan, national wildlife refuges, bird sanctuaries, manatee sanctuaries; natural reefs and any such artificial reef which has developed an associated flora and fauna which have been determined to be approaching a typical natural assemblage structure in both density and diversity; oyster beds; clam beds; known sea turtle nesting sites; commercial or sport fisheries or shell fisheries areas; habitats desirable as juvenile fish habitat.

Comments: We found no documentation in the Pinellas Public Portal that the proposed project was "specifically reviewed for adverse impacts..." This criteria is especially important since the subject property is on Boca Ciega Bay (South) is a Class II Outstanding Florida Waterbody located within the Pinellas County and Boca Ciega Bay Aquatic Preserves. A public hearing should be held to determine whether such review was conducted prior to issuance of permit #WND-22-2052.

5. In reference to the following section:

DIVISION 3. - DOCKS AND SIMILAR STRUCTURES**Sec. 58-543. - Dock permit requirements and restrictions.**

- (e) Boat lifts shall not be permitted where the installation of such lifts can reasonably be expected to have an adverse impact on the natural resources in the immediate vicinity of the installation.
- (f) In tidal waters, all docks shall have at least 18 inches of water depth at the slip at mean low tide and shall have a continuous channel with a minimum of 18 inches of water depth at mean low tide to allow access to the structure from open waters.
- (h) In accordance with the comprehensive plan coastal management element, the county shall use the following criteria in the review of commercial and multiuse private dock structures:
 - (1) Adequate water depth to accommodate the proposed boat use.
 - (2) Preference shall be given to the expansion of suitable existing facilities rather than new construction.
 - (3) Located in areas where there is adequate flushing of the basin to prevent stagnation and water quality deterioration.
 - (10) **Commercial and multiuse private dock facility development shall be consistent with the special requirements for developing in the following areas (bold added):**
 - (a) Aquatic preserves.
 - (b) Outstanding Florida Waters.
- (i) No commercial or multiuse private dock shall be constructed or expanded in areas determined by the state department of environmental protection to be critical to the survival of the West Indian Manatee.

Comments: We found no documentation in the Pinellas Public Portal that the proposed project was reviewed for impact on natural resources, including to the West Indian Manatee. This review is especially important since the subject property is on Boca Ciega Bay (South) is a Class II Outstanding Florida Waterbody located within the Pinellas County and Boca Ciega Bay Aquatic Preserves. A public hearing should be held to determine whether such review and determination of no impact was conducted prior to issuance of permit #WND-22-2052.

6. In reference to the following section:

Sec. 58-549. - Application information.

- (b) Prior to the issuance of a permit under this article, the applicant must show that the proposed activity is consistent with the county comprehensive plan or municipal comprehensive plan, as applicable.
- (e) All applications under this article must include a statement outlining the intended use of the project facility.

Comments: We found no documentation in the Pinellas Public Portal that the proposed project was consistent with either the county comprehensive plan or municipal comprehensive plan. We found no applicant statement outlining the "intended use" of the project facility, ie. whether dock slips will be rented to the public or are for private use of property residents only. A public hearing should be held to determine whether such review was conducted prior to issuance of permit #WND-22-2052.

7. In reference to the following sections:

Sec. 58-550. - Private dock application information.

- (b) All applications for permits for docks to be located within a municipal limit must have municipal approval prior to submission to the county, except for after-the-fact applications, which may be submitted to the county and municipality simultaneously.

- (c) Where required, signatures of no objection from adjacent property owners must be provided on the permit drawing accompanying the application for a private dock, along with the completed notarized variance forms included in the application.
- (d) Adequate water depth at the slip and to navigable waters must be evidenced on applications for the expansion of existing dock facilities or the creation of new dock facilities.
- (e) The following information is required for applications for private dock permits:
 - (2) A detailed statement describing the upland land use and activities (i.e., commercial marina, multiuse, condominium, restaurant, private single-family, etc.).
 - (3) Satisfactory evidence of title or extent of interest of the applicant to the riparian upland ownership or submerged ownership with a copy of the trustee's deed in chain of title.
 - (4) A copy of the state department of environmental protection permit application, where applicable.
 - (5) An affidavit attesting to the dates any existing structures were built, and a copy of any prior authorization or permit for the structures, where applicable.

Sec. 58-551. - Multiuse private dock application information.

The following information is required for applications for multiuse private docks:

- (1) All information required under section 58-550.
- (3) Information shall be submitted, prepared by a state registered civil engineer, attesting to the fact that adequate flushing exists and that the project will not cause stagnation or water quality degradation.
- (4) The following additional information is required:
 - (a) A detailed statement describing the proposed activity and how it affects the waters of the county.

Comments: We found no documentation in the Pinellas Public Portal that the application demonstrated adequate water depth at the slips. The municipal approvals from St. Pete Beach were not submitted at the time of submission, and were not completed until 03/20/2023, only seven days before permit #WND-22-00252 was issued. There is no copy of the state department of environment protection permit application or evidence of submerged ownership as required. A public hearing should be held to determine whether such the applicant met the burdens clearly imposed on the applicant under the above-referenced sections.

8. In reference to the following sections:

Sec. 58-555. - Design criteria for private docks.

- (a) Design criteria for all private docks shall be as follows:
 - (1) All criteria contained in section 58-554 shall also apply to private docks.
 - (5) A dock shall not be designed or constructed to accommodate more than two boats for permanent mooring. No more than one structure shall be located at a private residential site.

Sec. 58-556. - Design criteria for commercial and multiuse private docks.

- (a) Design criteria for all commercial and multiuse private docks shall be as follows:
 - (1) All criteria contained in subsections 58-555(a)(1), (2), (3), (4), (7) and (8) shall also apply to commercial and multiuse private docks.

Comments: Absent a regulation that allows for accomodation of more than two boats for permanent mooring, we contend that permit #WND-22-00252 was issued in error because it allows for six boat

slips. Absent such a regulation, the variance process should have been implemented in lieu of granting of a permit. We were unable to locate such a regulation applicable to multiuse private docks.

In conclusion, we respectfully petition for a public hearing/administrative hearing in appeal of the issuance of permit #WND-22-00252 as property owners aggrieved by the issuance for the reasons given above. We are concerned about the lack of public notification and opportunity to comments on the merits of this permit, and to the increased boat traffic of what is essentially a six-slip mini-marina within four blocks of an already existing marina that has dozens of high/dry and wet slips that lead to congestion in this area of Boca Ciega Bay. We would like evidence that the County has met its burden of ensuring that the proposed project will not impact water quality, marine life, and existing seagrass beds in the area and interfere with the rights of nearby property owners to unobstructed water views.

Respectfull submitted,



Mark S. Colburn



Debra A. Colburn