



City of Hallandale Beach City Commission Agenda Cover Memo

Meeting Date:	File No.:	Item Type:	1 st Reading	2 nd Reading	
2/5/2025	24-602	<input checked="" type="checkbox"/> Resolution <input type="checkbox"/> Ordinance <input type="checkbox"/> Other	Ordinance Reading	N/A	N/A
			Public Hearing	<input checked="" type="checkbox"/>	<input type="checkbox"/>
			Advertising Required	<input checked="" type="checkbox"/>	<input type="checkbox"/>
			Quasi-Judicial:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Fiscal Impact (\$):	Account Balance (\$):	Funding Source:	Project Number:		
N/A	N/A	N/A	N/A		
Contract/P.O. Required	RFP/RFQ/Bid Number:	Sponsor Name:	Department:		
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	N/A	Vanessa Leroy	Sustainable Development		
Strategic Plan Focus Areas:					
<input type="checkbox"/> Fiscal Stability	<input type="checkbox"/> Resident Services	<input type="checkbox"/> Public Safety	<input type="checkbox"/> Infrastructure & Mobility	<input checked="" type="checkbox"/> Economic Development & Affordable Housing	
Implementation Timeline:					
Estimated Start Date: 2/5/2025			Estimated End Date: 2/5/2025		

SHORT TITLE:

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF HALLANDALE BEACH, FLORIDA, CONSIDERING THE APPLICATION BY MALTESE DIPLOMAT OWNER, LLC, REQUESTING A VARIANCE FROM SECTION 32-153(g)(2) OF THE CITY'S LAND DEVELOPMENT CODE FOR IMPROVEMENTS TO THE ACCESSORY MARINA AT THE SHELL BAY RESORT LOCATED AT 500 DIPLOMAT PARKWAY; AND PROVIDING FOR AN EFFECTIVE DATE.

STAFF SUMMARY:

Summary:

Maltese Diplomat Owner, LLC, the applicant/owner, is requesting a variance in order to expand the docks at the accessory marina at the Shell Bay Resort a/k/a Diplomat Hotel and Country Club. The marina is located at 500 Diplomat Parkway.

Staff recommends the City Commission adopt the proposed Resolution.

Background:

The applicant is seeking a variance from the following code provision to construct improvements at the existing accessory marina:

- 1) Section 32-153(g)(2) restricting boat slips and docks for an accessory marina in the CR-P Commercial Recreation-Passive zoning district, to project no more than 15% or 30 feet into the waterway, whichever is less.

The applicant proposes to expand the docks at the marina to project a maximum of 72'-10" into the waterway.

On October 18, 1994, the City Commission approved Application #60-94-CU by Diplomat Yacht Club Inc. for Conditional Use approval to construct and operate a marina at that portion of the Diplomat Property lying east of Diplomat Parkway at 500 Diplomat Parkway. The approval was subject to the applicant executing a restrictive covenant (Exhibit 5) with the following conditions:

1. The use of the marina is dependent upon the continued existence and operation of the Diplomat Resort and Country Club and the marina operation shall cease if the golf course is permanently closed. *(This conditioned was modified in May 1996 by amendment to the Covenant (Exhibit 6) to restate as follows:*
"The use of the marina is dependent upon the continued existence and operation of the Diplomat Resort and Country Club and the marina operation shall cease if the golf course is not being operated in conjunction with the marina."*)*
2. The marina will not operate or conduct any uses or activities prohibited by City Code.
3. Any structure or uses of the property not included in this application are not permitted and shall require City Commission approval by separate conditional use application or as an amendment to the permit for the property.
4. The southerly two piers will be restricted so as to prohibit the dockage of ocean racing boats and the remaining piers to the north will be utilized prior to the southerly two piers.
5. The agreement shall be binding upon the successors and assigns of the undersigned.

On October 21, 1997, the City Commission approved Application # 57-97-V by Diplomat Yacht Club Inc. for variances to allow an extension of the existing water taxi dock by 10.5 feet to 36 feet; and the mooring piles to extend to a maximum of 33 feet. They also approved allowing a security guard to occupy one vessel in one slip for overnight performance of security service as an exception to the prohibition against liveaboards. The restrictive covenant was amended (Exhibit 7) to include the following as worded below:

1. A Diplomat Yacht Club burgee may be displayed on a flagpole.
2. The existing water taxi dock may be extended ten and one-half (10.5) feet.

3. Mooring piles may extend to a maximum of 33 feet from the seawall as shown on the plans by M.D.P. Engineering filed with the City and approved by the City Commission on October 21, 1997.
4. A security guard licensed by the State of Florida, holding a Class D license pursuant to Chapter 493, Florida Statutes, may occupy a vessel in one slip overnight when performing security services at the marina as a limited exception to the prohibition against live-aboards, and as a limited exception to paragraph 3 of the Restrictive Covenant referred to above.
5. In all other respects, the marina shall continue to comply with the applicable Code and regulations and with the aforesaid Restrictive Covenant referred to above.
6. This agreement may not be amended or altered without the written consent of the City pursuant to a duly executed and recorded amendment hereto.

On March 2, 2016, the City Commission approved applications by Diplomat Golf Course Venture, LLC, for the Diplomat Hotel and Country Club Project for construction of 250 multi-family residential units, 938 new hotel rooms/keys, 70, 960 SF of accessory hotel uses and 4 single family homes. The Major Development Plan (*Application #091-15-DB*), Development Agreement; variances and Rezoning from CR-P District to CCB (Central City Business) District 5 acres of the Property and a Conditional Use permit to allow a residential development in CCB District; and applying to PDO Overlay District to the entire Property.

On the same date, specifically applying to the marina site, the City Commission also approved Ordinance # 2016-06 rezoning the northern 275 feet of the marina parcel measured along the waterway (*0.59 acre of the 1.45 marina parcel*) from CR-P District to RS-7 (single-family residential) District. The rest of the marina site south of said portion remained zoned Commercial Recreation Passive (CR-P) District.

On December 30, 2024, the Planning and Zoning Board heard the subject application. The Board recommended approval of the application by a vote of 5 – 0, subject to the staff's conditions of approval. The Planning and Zoning Board Agenda Cover Memo and Meeting Minutes are attached as Exhibits 9 and 10.

Current Situation:

Applicable Codes

1. According to Section 32-153(e)(1), marinas are permitted in CR-P (Commercial Recreation-Passive) zoning district, provided that they are accessory to a main permitted golf course and dependent upon the existence and operation of a golf course use on noncontiguous site zoned CR-P District. Marinas are not permitted in RS-7 District.

The CR-P zoned portion property is a permitted existing marina that received a conditional use permit in 1994 and operates in conjunction with the golf course use on noncontiguous site zoned CR-P.

The portion zoned RS-7 district is considered an existing nonconforming accessory use. Per Section 32-921(5) nonconforming uses cannot be extended or intensified beyond what existed at the time it became nonconforming. Therefore, the request for the expansion of the docks may only be considered for the CR-P zoned portion of the property.

2. According to Section 32-153(g)(2) boat slips for accessory marinas in the CR-P Commercial Recreation-Passive, zoning district, cannot project more than 15% or 30 feet into the waterway, whichever is less, or extend closer than 15 feet to the lot line of any adjacent property.

There are 22 docks at the existing marina. The northernmost 7 docks, which project 26 feet into the waterway, are located in the RS-7 portion of the property and are nonconforming, thus, cannot be further extended.

There are 15 existing docks within the CR-P zoned portion of the property of which 14 project 26 feet and one "taxi" dock which projects 36 feet into the waterway that was approved by a previous variance. The applicant proposes to extend these existing docks from 48'-11" to 72'-10" feet into the waterway measured from the seawall. The Desoto Waterway is 199.70 feet in width. Eight of these piers located at the widest portion of the waterway would extend up to 72'-10"; 6 docks would extend up to 58'-9"; and 1 dock would extend 48'-11" (25%) at the narrowest point of the waterway.

Since the City Commission's approval in 1997 was limited to only the taxi dock extending up to 36 feet into the waterway, and the maximum projection allowed per Code is 15% or 30 feet whichever is less, the applicant needs a variance from the referenced provision to extend the docks located within the CR-P zoned portion of the property, as proposed.

Analysis

Variance Criteria:

Pursuant to Section 32-965 of the Zoning and Land Development Code the City Commission may approve a variance to the terms of the Zoning and Land Development Code that will not be contrary to the public interest where, due to special conditions, a literal enforcement of the provisions of the Zoning and Land Development Code will result in unnecessary and undue hardship may be granted in compliance with the requirements. The requested variances shall be reviewed with consideration given to the following criteria:

1. Special conditions and circumstances exist which are peculiar to the land, structure or building involved, and which are not generally applicable to other lands, structures or building in the same zoning district.

There are no special conditions or circumstances that are peculiar to the land or structure involved. Accessory marinas are permitted by conditional use permit in CR-P district, such conditions would be applicable to other lands, structures or in the same zoning district. The requested variance to extend the docks beyond the 30 feet specified by the Code is needed by the applicant in order to accommodate larger boats than may be utilized by the existing facilities.

2. The special conditions and circumstances do not result from the actions of the applicant.

The special conditions and circumstances do result from the actions of the applicant. The requested variance is needed by the applicant as a result of their need to accommodate larger boats at the existing marina.

3. Granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, buildings or structures in the same district.

CR-P district allows docks in accessory marinas to extend up to 30 feet. Considering the applicant's proposal is to extend the docks beyond the maximum allowed, the requested variance would confer a special privilege.

4. Literal interpretation of the provisions of this chapter would deprive the applicant of the rights commonly enjoyed by the properties in the same zoning district under the terms of this chapter and would work unnecessary and undue hardships on the applicant.

The applicant's property is the only site presently zoned CR-P district. However, notwithstanding, the literal interpretation of this regulation would not deny the applicant of the rights commonly enjoyed by properties in the same zoning district nor work unnecessary and undue hardships as the variance is specifically requested to accommodate the applicant's specific needs.

5. The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.

The requested variance is not required for the reasonable use of the land. It is desired by the applicant for the use of the vessels anticipated to dock at the marina.

6. The grant of the variance will be in harmony with the general intent and purpose of this chapter.

The purpose of this chapter is to permit accessory marinas in the CR-P District, subject to a conditional use permit and the specific restrictions set forth in the Code. Although variances have been granted in the past from these restrictions, the proposal does align with the general intent of the chapter.

7. Such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

The requested variance will not be injurious to the area involved or otherwise detrimental to the public welfare. There are code restrictions and restrictive covenants in place that regulate the use of the property.

Why Action is Necessary:

Pursuant to Section 2-102(b) and Section 32-965, a Planning and Zoning Board recommendation is required for variances. Pursuant to the Restrictive Covenant in effect for the property, City Commission approval is required to modify the conditional use permit and restrictive covenant for the property.

Cost Benefit:

There is no cost associated with the request.

STAFF RECOMMENDATIONS:

In staff's opinion, the requested variance does not meet all the criteria for granting variances, therefore, staff does not support approval of the subject application.

Should the City Commission decide to approve the application, approval shall be conditioned on the following:

1. The variance granted for the expansion of the proposed docks shall apply only to the docks in that portion of the property that is zoned CR-P District.
2. The Restrictive Covenant governing the marina under the Conditional Use Permit per Application #60-94-CU shall be amended to reflect the Commission's action under this application and the limitations of the approval to the portion of the property presently zoned CR-P District.

PROPOSED ACTION:

The City Commission consider the attached Resolution.

ATTACHMENT(S):

- Exhibit 1 – Resolution
- Exhibit 2 – Aerial Map
- Exhibit 3 – Zoning Map
- Exhibit 4 – Applicant's Letter and Backup
- Exhibit 5 – Restrictive Covenant 1994
- Exhibit 6 – Amended Restrictive Covenant 1996
- Exhibit 7 – Amended Restrictive Covenant 1997
- Exhibit 8 – Existing Zoning Marina Parcel DS1378
- Exhibit 9 – Planning and Zoning Board Agenda Cover Memo
- Exhibit 10 – Planning and Zoning Board Meeting Minutes
- Exhibit 11 – Presentation

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