



## City Council Staff Report

**Meeting Date: March 4, 2024**

**TO:** Marco Island City Council  
**FROM:** Daniel J. Smith, AICP – Director of Community Affairs  
**DATE:** February 22, 2024  
**RE:** Variance Petition: VP-22-075970 – Eagle Center 860 Bald Eagle

### **PROJECT DESCRIPTION:**

The applicant, Eagle Center, LLC. and JARP Enterprises, LLC is requesting a variance to the required parking requirements in order to reduce the required parking associated with a use that is not necessarily categorized in the City of Marco Island's Land Development Code (LDC) with respect to parking requirements. The applicant's proposed use is categorized as 1 on 1 fitness training for two 917 square foot units, and one unit for group fitness at 1,038 square feet by appointment only. Under the City of Marco Island's LDC, indoor recreational fitness facilities require 1 parking space per 100 square feet of indoor space. The 1 on 1 classes have a maximum of 2 students and 2 instructors requiring 8 parking spaces, based on the engineer's report, which is provided. The applicant would like to use the less restrictive formula of 1 space per 300 square feet, which would be consistent with the requirements of the general office parking requirement contained in the LDC. The Site Development Plan (SDP) for the subject property, which was approved in 2004, currently shows 21 parking spaces existing on site. The approved SDP plan allows for 2 parking credits.

In summary, based on the proposed use, the applicant would like to reduce the required parking from the required 29 parking spaces (2,872 sf. /100), to 10 spaces on site. As a supplement to parking, the owner had previously constructed seven (7) City approved public parking spaces in the alley directly behind the building. Pursuant to the City's LDC, the building cannot use the alley parking to satisfy required parking, as part of SDP approval.

### **PLANNING BOARD OUTCOME:**

The Planning Board considered this petition at their February 2, 2024, meeting. There were discussions about parking requirements, times of operation, public right of way parking in the rear, employee parking, and vehicles parked in the lot after businesses are closed. The Planning Board voted 7-0 to forward a recommendation of approval to the City Council.

### **APPLICANT:**

Lenore T. Brakefield and Zachary W. Lombardo Esq.  
Woodward, Pires & Lombardo  
505 Bald Eagle, Suite 500  
Marco Island, FL 34145  
T. 239-649-6555

### **OWNER/DEVELOPER:**

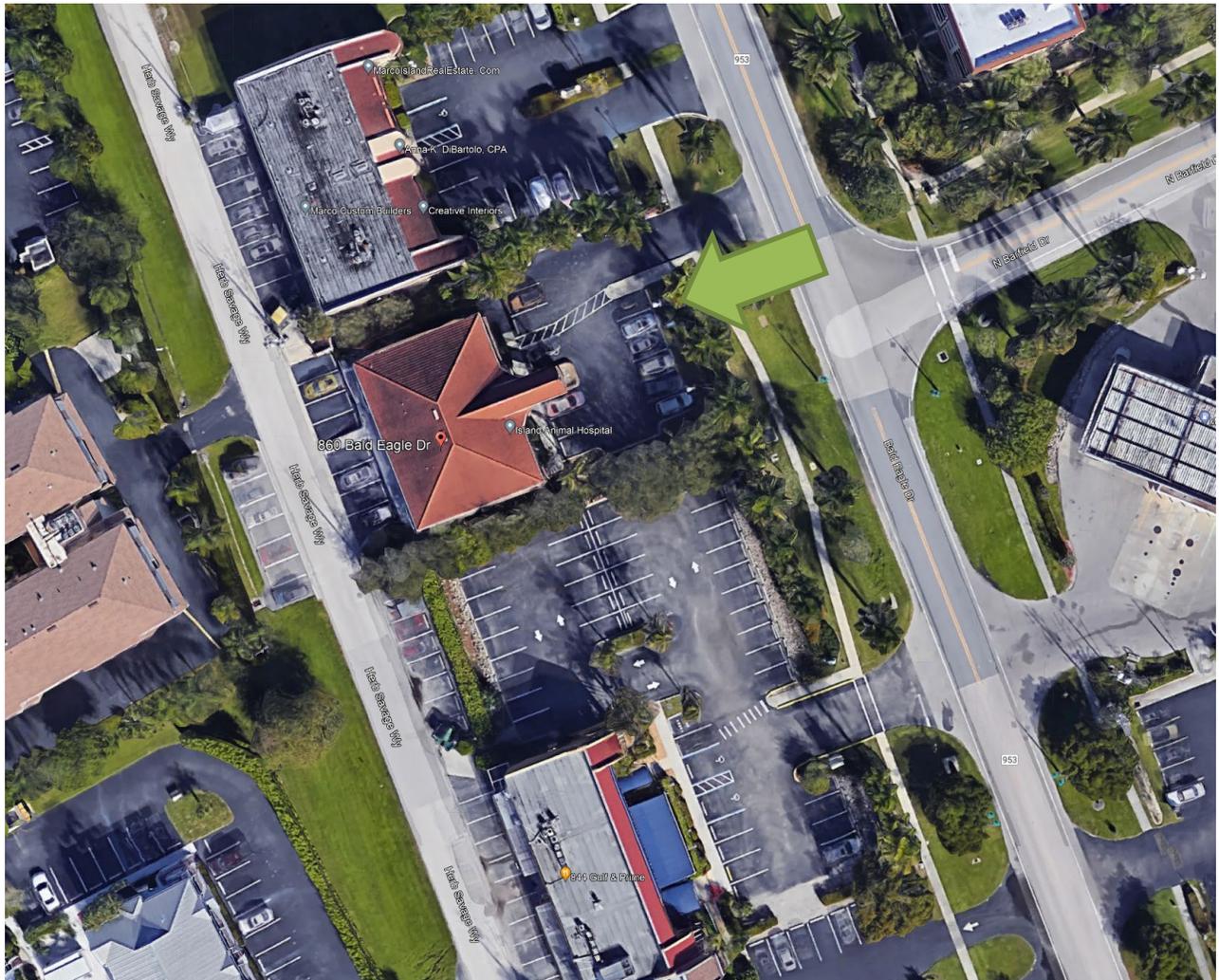
Eagle Center LLC., and JARP Enterprises, LLC.

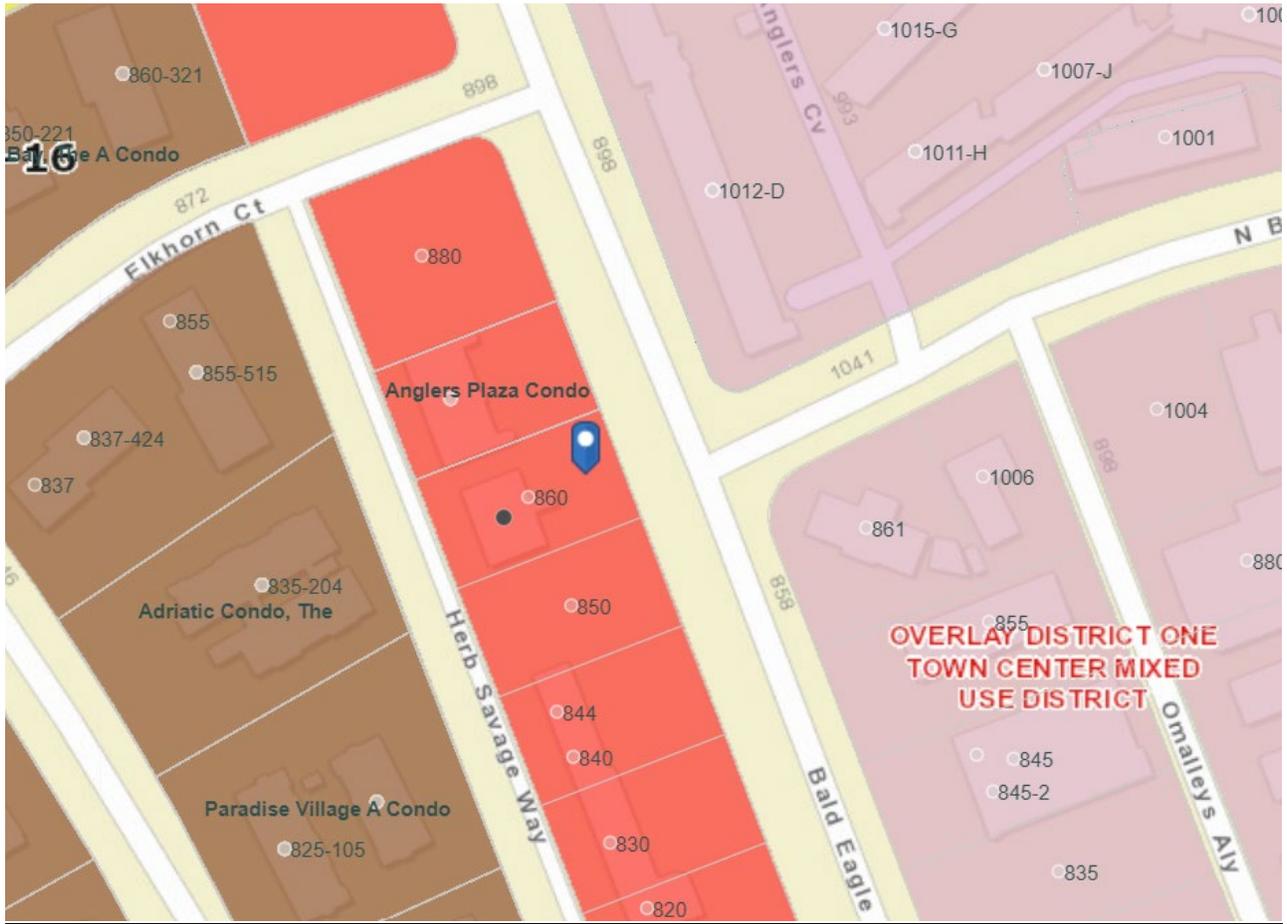
**PROJECT ADDRESS:**

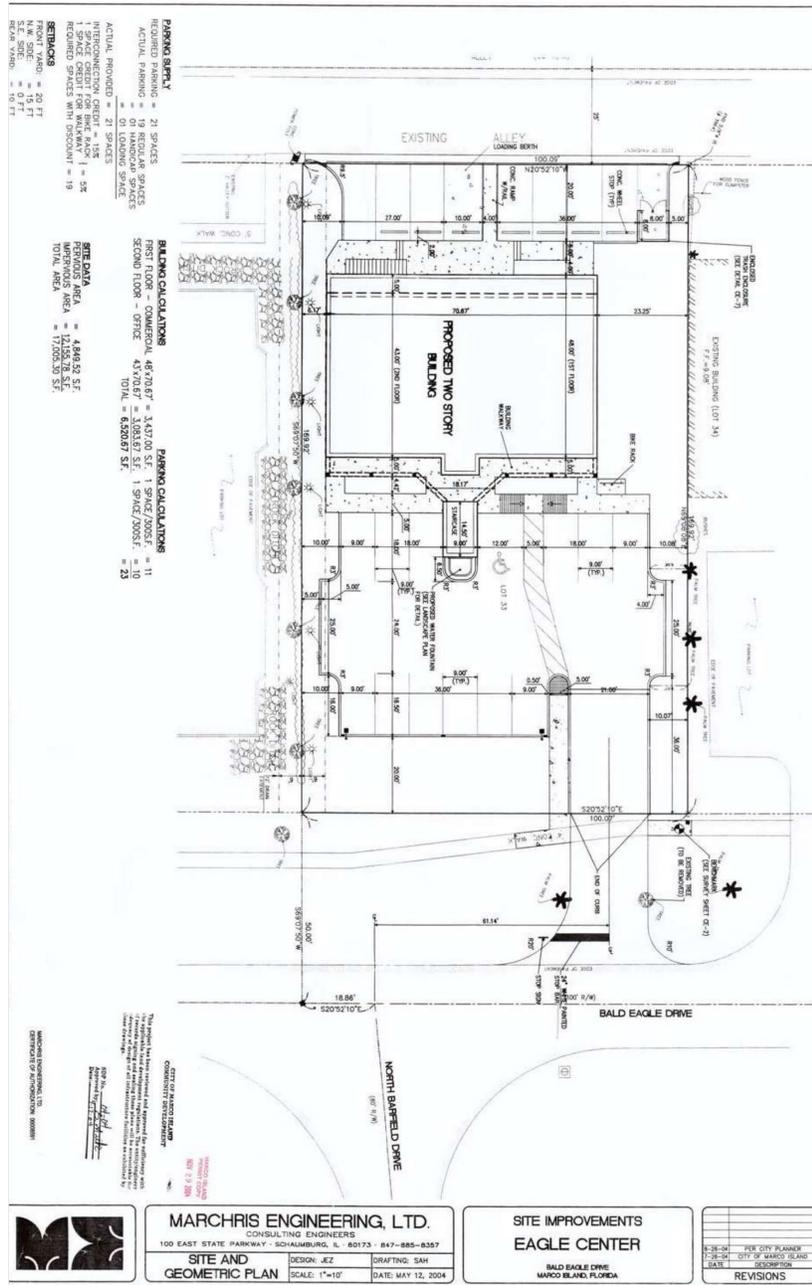
860 Bald Eagle Dr.  
Marco Island, Florida 34145

**SUBJECT PROPERTY LEGAL DESCRIPTION:**

Zoning District: C-4  
Legal Description: MARCO BCH UNIT 11 REPLAT BLK 782 LOT 33  
Folio Number: 57991640001







**VARIANCE APPLICATION REQUIRED INFORMATION:**

The Marco Island Variance Application poses several questions to the Applicant related to the Subject Property and the requested variances. We have provided those application questions below along with the Applicant’s responses and staff’s comments:

1. Are there special conditions and circumstances existing which are peculiar to the location, size and characteristics of the land, structure or building involved?

Yes. Gyms contemplate high volume turn over. The three units at issue are not gyms in the traditional sense. Instead, at any one time one unit is for pre-scheduled classes with limited class sizes and the other two are used solely for one-one-one training. Additionally, the building is near 7 public parking spaces built by the Applicant.

**Staff comment.** No. The applicant moved into the building and expanded without obtaining a Commercial Land Use and Zoning Certificate for occupancy and compliance. The use has been in existence for at least five years.

2. Are there special conditions and circumstances which do not result from the action of the applicant such as pre-existing conditions relative to the property which is the subject of the variance request?

Yes. The building was constructed by a prior property owner and when constructed and now, there is not a use in the parking requirements that matches the use at the site, specifically the one-on-one appointment studios and fitness classes, as opposed to an open gym.

**Staff comment.** No. The applicant moved into the building and expanded without obtaining a Commercial Land Use and Zoning Certificate for occupancy and compliance. The use has been in existence for at least five years.

3. Will a literal interpretation of the provisions of this zoning code work unnecessary and undue hardship or create practical difficulties on the applicant?

Yes. A literal interpretation will work unnecessary and undue hardship and create practical difficulties on the applicant because applicants parking needs are lower than what is otherwise required by the LDC. Further, there is more than adequate available public parking for any deficiency.

**Staff comment. Yes.** We are of the opinion that the use is unique for the requirements of a fitness center. Unlike Planet Fitness, Orange Theory, and Gold’s Gym, access to the fitness classes and equipment is by appointment only. In reading the code, staff have the capability of evaluating the parking requirements and making administrative decisions based on the information given. However, we believe there may be circumstances unknow, which may be more appropriate through the variance/public hearing process.

4. Will the variance, if granted, be the minimum variance that will make possible the reasonable use of the land, building or structure and which promote standards of health, safety or welfare?

Yes.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Staff comment. Yes.**

5. Will granting the variance requested confer on the petitioner any special privilege that is denied by these zoning regulations to other lands, buildings, or structures in the same zoning district?

No. Applicant is not just asking for less parking than applicant needs. Intead, the applicant is asking for the parking actually needed by the use. And, to the extent the Applicant is asking for any variance, it is by way of public parking spaces paid for and constructed by the Applicant.

**Staff comment.** No. Any property owner has the opportunity to apply for a variance to the Land Development code.

6. Will granting the variance be in harmony with the intent and purpose of this zoning code, and not be injurious to the neighborhood, or otherwise detrimental to the public welfare?

Yes.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Staff comment. Yes.

7. Are there natural conditions or physically induced conditions that ameliorate the goals and objectives of the regulation such as natural preserves, lakes, golf course, etc?

N/A

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Staff comment. No.

8. Will granting the variance be consistent with the growth management plan?

Staff comment. Yes.

### **STAFF ANALYSIS**

This application is a result of a pending code enforcement case that is currently before the City's Special Magistrate. The intent is to bring the property into compliance through the grant of this variance request. While the use has been operating in violation of the current City LDC requirements, there have not been any complaints from the surrounding neighborhood.

Section 30-488 of the Land Development Code states the following regarding minimum parking requirements:

*Irrespective of any other requirement of this article, each and every separate individual store, office, or other business shall be provided with at least two off-street parking spaces, unless specific provision is made to the contrary. **The city manager or his designees may determine the minimum parking requirements for a use which is not specifically referenced below or for which an applicant has provided evidence that a specific use is of such a unique nature that the applicable minimum parking ratio listed in this code should not be applied.** In making such a determination the city manager or his designees may require submission of parking generation studies; evidence of parking ratios applied by other counties and municipalities for the specific use; and other conditions and safeguards deemed to be appropriate to protect the public health, safety and welfare.*

- d. *On-street parking provided within the right-of-way. Where approved by the city for such parking alternatives, commercial projects and developments may provide some of their off-street parking requirement to be satisfied within the public right-of-way **(except alleys)**. The developer can achieve up to a 50 percent credit for the total amount of required parking spaces provided in the right-of-way. The on-street parking shall be limited to the area located between the intersection of the front yard property lines and the adjacent right-of-way unless otherwise approved through a public hearing by the planning advisory board and the city council. Parking provided in the right-of-way shall be reviewed through the SDP process. Parking provided in the right-of-way shall be available for public use. There shall be no signs prohibiting and/or regulating parking within the public right-of-way unless so authorized or designated by the city.*

The city staff is of the opinion that the proposed use is unique for the requirements of a fitness center. Unlike Planet Fitness, Orange Theory, or Gold's Gym, access to the fitness classes and equipment is by appointment only. In reading the code, staff have the capability of evaluating the parking requirements and making administrative decisions based on the information given; however, we believe there may be unknown circumstances, which may be more appropriate

through the variance/public hearing process. A Neighborhood information meeting was required and there were no objections to the variance application. Below is the engineer's parking study results.



Zach Lombardo, Esq.  
 Woodward, Pires, and Lombardo P.A.  
 3200 Tamiami Trail North, Suite 200  
 Naples, FL 34103

December 14, 2022

Re – 860 Bald Eagle Drive  
 Parking Study Update

Mr. Lombardo,

This study is done per our previous correspondence to address parking concerns at the referenced site. The site is located at 860 Bald Eagle Drive in Marco Island, Florida and is known as Eagle Center. This project was originally permitted in 1984 consistent with the site and geometric plan prepared by Marchis Engineering, LTD. The plan notes that the building had a total square footage of 1,520.67 square feet with a parking ratio of one space for every 300 square feet consistent with the current Marco Island Land Development Code parking ratio for standard commercial and office uses yielding a requirement of 23 parking spaces. Credits were taken for a bike rack and interconnected walkway to bring down the required parking to 21 spaces, which is what was provided. There is no interconnect of the driveways to the adjoining parking lots (north and south) therefore no additional credit was taken at that time.

Subsequent correspondence and review with the property owner finds that the usable square footage of the building is 6,046 square feet. This is consistent with the lease agreements and excludes the exterior access equipment room, elevators, and common area hallways. The current building leases and use breakdown find a painting contractor office with 1,547 square feet, a veterinary office with 1,519 square feet, and three studios for fitness classes and personal training by appointment only studios for the remaining 2,872 square feet of the buildings leasable area. The studios are two equal end studios of 917 square feet and a central studio of 1,038 square feet. Review of the fitness schedule finds that the highest parking demand is when there is a class in the largest studio and personal training in the smaller studios at the same time. Personal training is set to a maximum of two students and two teachers per studio for a maximum parking demand of 8 spaces.

The current Land Development Code for Marco Island sets the parking lot ratios for these uses:

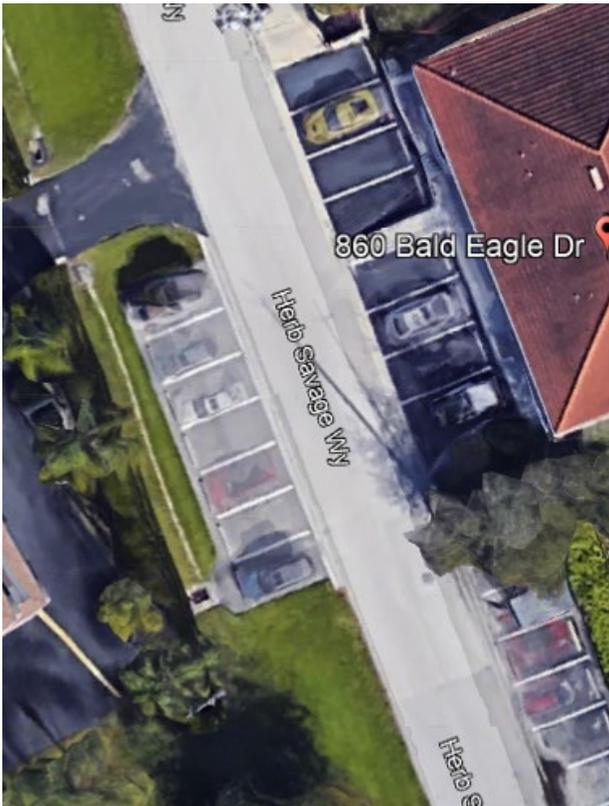
Description	Area	Ratio	Req Parking Spaces
Painting Contractor	1,547 sf	1 PS/300sf	5.2
Veterinary Office:			
Office Area	1,195 sf	1 PS/200sf	6.0
Animal Holding Area (432 sf)	4 Areas	1 PS/10 area	0.4
Personal Training			
(2 students + 2 teachers)	4 people	2 studios	8.0
Fitness Classes (largest studio)	1,038 sf	1 PS/100sf	10.4
Required Total:			30.0

Based on the Marco Island Land Development Code parking ratios, the project has a deficit of 3.5 spaces (Demand 30.0 – Supply 21.0 + Credits 7.5 = 3.5) for these uses.

We believe this is a fair assessment and shows that the site is complying. Please review this and share your thoughts and assessment.

Sincerely,

Chris Hagan



7 alley parking spaces

This is a code case before the Magistrate for not having a Commercial Zoning Certificate of occupancy. Staff has no issue with approval as long as the building use is consistent with the Hagen Engineering parking study provided.

**RECOMMENDATION:**

Staff finds that the requested variance meets some of the standards outlined in Section 30-65. Staff recommends the City Council approve the Variance with the following conditions:

1. Operation of the indoor fitness use shall be in a manner consistent with the Variance and all applicable City ordinances, rules, and regulations.
2. Hours of operation cannot be extended beyond the Hagen Engineer's parking study.

Daniel J. Smith, AICP  
Director of Community Affairs