



## City Council Staff Report

Meeting Date: September 5, 2023

**TO:** Marco Island City Council

**FROM:** Mary P. Holden, Planning Manager

**DATE:** August 22, 2023

**RE:** Variance Petition VP-23-000181, 800 Bald Eagle Dr., Variance to Sec. 30-245. (3). c., Sec. 30-441. (g). and Sec. 30-485. (d) of the Marco Island Land Development Code, Planning Board Recommendation

### **PROJECT DESCRIPTION:**

Robert Mulhere of Hole Montes, on behalf of the owner, Bald Eagle Prop Trust of 1997 (Ehlen family) (the "Owner") has submitted a variance request, in conjunction with SDP 22-000289, to the below sections of the Land Development Code.

Sec. 30-245. - Dimensional standards.

(3)Minimum yard requirements:

c. Rear yard: Ten feet. Principal and accessory buildings shall be setback a minimum of 25 feet (**requesting 18 feet**) from an alley right-of-way when vehicular parking spaces take direct access from the alley, or ingress/egress is provided into the building.

Sec. 30-441. (g)Types of buffers. Within a required buffer area, the following alternative shall be used based on the matrix in Table 2.

Alternative C: A landscape buffer shall be required adjacent to any road right-of-way external to the development project. Said landscape buffer shall be consistent with the provisions of the city master plan, which is incorporated by reference herein. The minimum width of the perimeter landscape buffer shall vary according to the ultimate width of the abutting right-of-way. Where the ultimate width of the right-of-way is zero to 99 feet, the corresponding landscape buffer shall measure at least ten feet in width. Where the ultimate width of the right-of-way is 100 or more feet, the corresponding landscape buffer shall measure at least 15 feet in width (**requesting 10 feet**). Developments within the town center mixed use district shall provide a perimeter buffer of at least 20 feet in width, regardless of the width of the right-of-way. The exception to this landscape buffer requirement is property located within the Elkcarn Circle Overlay as provided for in the land development code. The town center mixed use district right-of-way buffer requirements shall not be applicable to roadways internal to the development or along alleys, however, these areas shall provide the applicable landscape buffer per this code.

Sec. 30-485

(d) Off-street parking adjacent to alley right-of-way. Parking spaces that take direct access from an alley right-of-way shall be separated from the side yard property line by a ten-foot

wide landscape buffer island. A five-foot wide minimum (**requesting 0 feet**) landscape buffer shall be placed along the front of these spaces when parking is at direct access from the alley. Parking spaces shall be provided entirely on the subject property and shall not encroach into the alley right-of-way.

Attached are the application, written responses to the criteria for review and Neighborhood Information Meeting (NIM) transcript.

**PLANNING BOARD SUMMARY AND RECOMMENDATION:**

The Planning Board considered this request and held a public hearing at their August 4, 2023 meeting. After presentations by Staff and the applicant, the Planning Board discussed the pedestrian easement to the south of the existing structure, and parking. There were no public comments. (We did receive a letter of objection from an adjacent condominium that is included in the packet for City Council consideration). The Planning Board voted 5-0 to forward a recommendation of approval to the City Council with the findings and conditions as outlined in the resolution. Please note the Planning Board approved SDP 22-000289 at the August 4, 2023 meeting.

**OWNER/APPLICANT:**

Bald Eagle Prop Trust of 1997 (Ehlen Family)  
790 Bald Eagle Dr.  
Marco Island, FL 34145

**AGENT:**

Mr. Robert Mulhere, FAICP, President/CEO  
Hole Montes  
950 Encore Way, Suite 200  
Naples, FL 34110

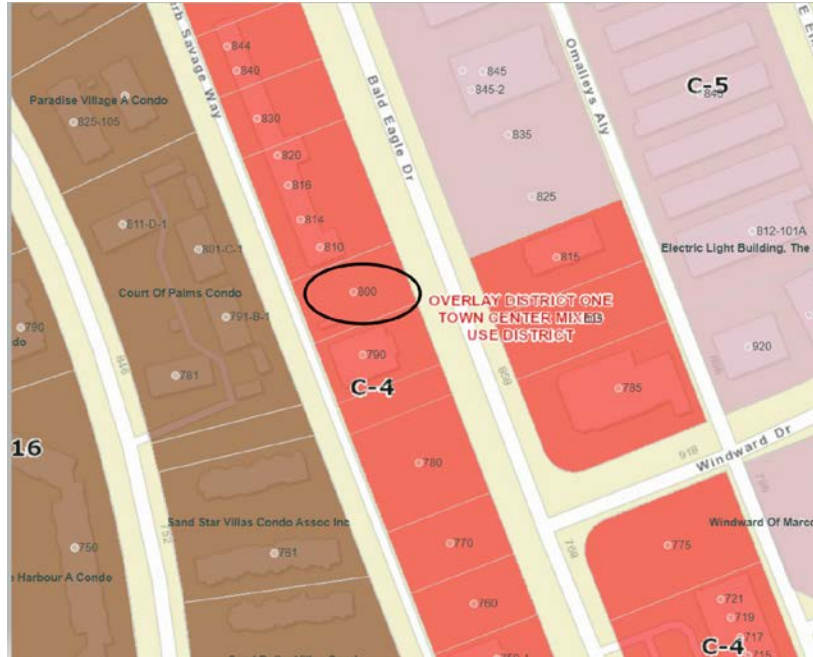
**PROJECT ADDRESS:**

Street Address: 800 Bald Eagle Dr., Marco Island, FL 34145

Legal Description: Marco Beach, Unit 11, Replat of Block 782, Lot 27  
Parcel No. 57991400005

Zoning: C-4

**SUBJECT PARCEL ZONING MAP:**



**SUBJECT PARCEL AERIAL:**



### **STAFF ANALYSIS**

The notification requirements have been met and the transcript of the NIM meeting are included in this packet.

Overall Staff has no concerns with the variances requested. We would note that a condition of approval is added that SDP 22-000289 be approved in conjunction with this variance request.

The following is the staff's analysis of the variance application as it relates to the provisions of 30-65(g)(3) of the City's LDC:

- (a) That there are special conditions and circumstances existing which are peculiar to the location, size and characteristics of the land, structure, or building involved.

**Staff Comments:** This site is under the same ownership as the lot and building to the south and the proposed development will be attached to and match the existing architecture of the existing structure. To accommodate the newer (post 1997) regulatory standards and keep the development pattern consistent, these variances are needed.

- (b) That there are 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.

**Staff Comments:** The special conditions related to the land are not due to actions of the applicant.

- (c) That a literal interpretation of the provisions of this zoning code work unnecessary and undue hardship on the applicant or create practical difficulties on the applicant.

**Staff Comments:** The literal interpretation of the code would result in a visual disjointed development with more negative aspects than positive aspects, including, but not limited to, additional driveway cuts onto Bald Eagle Dr.

- (d) That 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.

**Staff Comments:** The requested variances are the minimum to make possible the reasonable use of the land, building and proposed building and it will promote health, safety and welfare by minimizing driveway cuts.

- (e) That granting the variance requested will not confer on the petitioner any special privilege that is denied by this LDC to other lands, buildings, or structures in the same zoning district.

**Staff Comments:** Granting the variance will not confer special privilege.

- (f) That granting the variance will 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.

**Staff Comments:** Granting the variance will be in keeping with the neighborhood and the existing development patterns established.

(g) That there are natural conditions or physically induced conditions that ameliorate the goals and objectives of the regulation such as natural preserves, lakes, golf course, or similar circumstances.

**Staff Comments:** There are no natural conditions or physically induced conditions that ameliorate the goals and objectives of the regulation such as natural preserves, lakes, golf course, or similar circumstances.

(h) That the granting of the variance will be consistent with the City of Marco Island's Comprehensive Plan.

**Staff Comments:** Granting this variance is in keeping with the current City of Marco Island Comprehensive Plan, Future Land Use Element, Goal 2 Community Character: Maintain Marco Island as a visually attractive, small town coastal community with a strong identifiable sense of place.

### **STAFF RECOMMENDATION**

Staff recommends the Planning Board approve Variance Petition VP-23-000181, 800 Bald Eagle Dr., and recommend approval of the variances to Sec. 30-245(3)c., Sec. 30-441(g), and Sec. 30-485(d) of the Marco Island Land Development Code, based upon the findings and conditions contained herein, and forward the recommendation for approval to the City Council:

### **Findings:**

1. This site is under the same ownership as the lot and building to the south and the proposed development will be attached to and match the existing architecture of the existing structure. To accommodate the newer (post 1997) regulatory standards and keep the development pattern consistent, these variances are needed.
2. The special conditions related to the land are not due to actions of the applicant.
3. The literal interpretation of the code would result in a visual disjointed development with more negative aspects than positive aspects, including, but not limited to, additional driveway cuts onto Bald Eagle Dr.
4. The requested variances are the minimum to make possible the reasonable use of the land, building and proposed building and it will promote health, safety, and welfare by minimizing driveway cuts.
5. Granting the variance will not confer special privilege.
6. Granting the variance will be in keeping with the neighborhood and the existing development patterns established.
7. Granting this variance is in keeping with the current City of Marco Island Comprehensive Plan, Future Land Use Element, Goal 2 Community Character: Maintain Marco Island as a visually attractive, small town coastal community with a strong identifiable sense of place.

### **Conditions of Approval:**

1. That SDP 22-000289 be approved by City Council in conjunction with this variance request. If SDP 22-000289 is not approved, then, the variance request shall be null and void.