



MEMORANDUM

MONROE COUNTY PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT

To: Monroe County Planning Commission

Through: Emily Schemper, AICP, CFM, Senior Director of Planning & Environmental Resources

From: Devin Tolpin, CFM, Senior Planner

Date: April 9, 2021

Subject: *Request for variance to access standards on property located at 103031 Overseas Highway, Mile Marker 103, Key Largo, Parcel Identification Number 00467150-000000 (File # 2020-192)*

Meeting: April 28, 2021

1 I REQUEST:

2 The applicant is requesting a variance to access standards set forth in Chapter 114, Article VII
3 of the Land Development Code (LDC). Approval would result in an access drive to U.S. 1 that
4 is spaced approximately 92 feet and 3 inches from an existing curb cut to the north and
5 approximately 47 feet and 4 inches to an existing access drive to the south of the subject
6 property. The variances are requested for the construction of a single family residence on the
7 subject property (File # 2020-192).
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10 *Subject Property (center) with Land Use (Zoning) Districts, 2018 Aerial*

1 **II BACKGROUND INFORMATION:**

2
3 **Location:** Key Largo near U.S. 1 Mile Marker 103

4 **Address:** 103031 Overseas Highway, Key Largo

5 **Legal Description:** Lot 8, Block 4, South Creek Village, according to the Plat thereof,
6 recorded in Plat Book 3, Page 85, of the Public Records of Monroe County, Florida

7 **Parcel Identification Number:** 00467150-000000

8 **Property Owner/Applicant:** Augustin Santana & Marta Barbara Reyes

9 **Agent:** Barbara Bauman

10 **Size of Site:** 6,360 square feet (per submitted boundary survey)

11 **Land Use District:** Improved Subdivision-Masonry (IS-M)

12 **Future Land Use Map (FLUM) Designation:** Residential Medium (RM)

13 **Tier Designation:** III (Infill Area)

14 **Flood Zone:** X

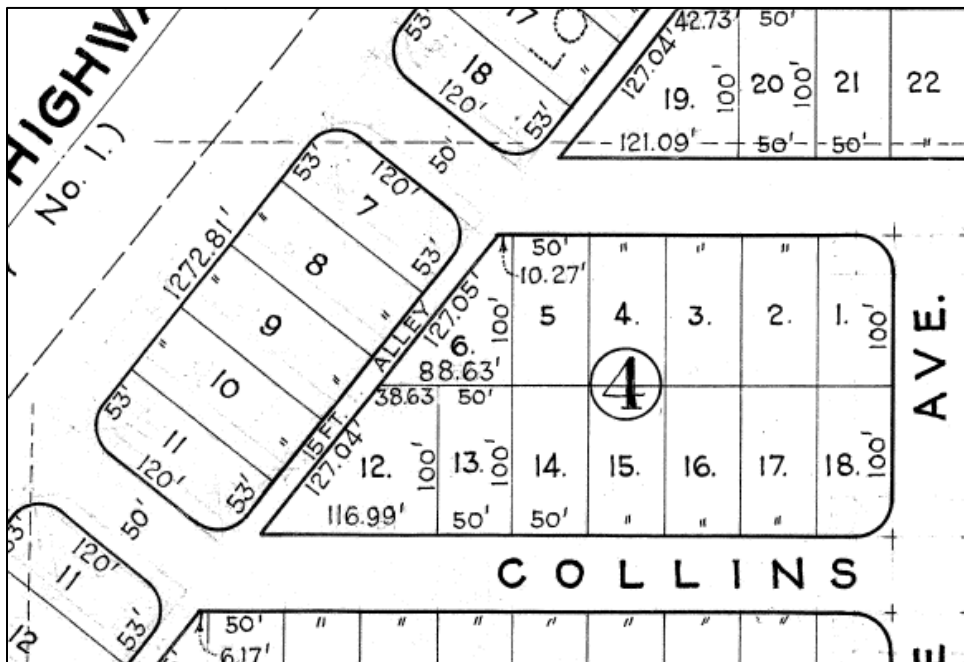
15 **Existing Uses:** Vacant

16 **Existing Vegetation / Habitat:** Developed land

17 **Community Character of Immediate Vicinity:** Single family residences

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19 **III RELEVANT PRIOR COUNTY ACTIONS:**

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21 The plat of South Creek Village was approved by Resolution of the Monroe County Board of
22 County Commissioners on January 25, 1955 and recorded in Plat Book 3 at page 85 in the
23 Public Records of Monroe County, Florida. See snapshot of the subject property (Lot 8, Block
24 4) and recorded plat below.
25



1 On August 8, 2017, an application for a Monroe County Building Permit was submitted to
2 construct a single family residence on the subject property. This permit has not been issued.
3

4 IV REVIEW OF APPLICATION:
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6 Pursuant to LDC Section 114-195, *US-1/ County Road 905 Access*, “No structure or land shall
7 be developed, used or occupied unless direct access to U.S. 1 or County Road 905 is by way
8 of a curb cut that is spaced at least four hundred (400) feet from any other curb cut that meets
9 the access standards of the Florida Department of Transportation, as contained in Chapter 14-
10 97, F.A.C., or an existing street on the same side of U.S. 1 or County Road 905. Proposed
11 developments with access on U.S. 1 that are designated as Class 5 or Class 6 access control
12 classifications, as defined by FDOT, where the posted speed limit is 45 MPH or less may
13 deviate from 400 foot standard, in accordance with the standards contained in Chapter 14-97,
14 F.A.C., State Highway System Access Control Classification System and Access Management
15 Standards.”
16

17 The subject property, if approval of the requested variance is granted, is proposed to be
18 developed with a single access drive that is spaced approximately 92 feet and 3 inches from
19 an existing curb cut to the north and approximately 47 feet and 4 inches to an existing access
20 drive to the south of the subject property. The access variances are requested in order to
21 develop a single family residence on the subject property.
22

23 It should be noted that there is a County owned alley way adjacent to the south eastern property
24 line of the subject property. This alley has not been developed nor is it maintained by Monroe
25 County. The applicant has corresponded with the Director of Engineering regarding the
26 potential to use the adjacent alley way to provide access to the subject property. See snapshot
27 of correspondence below (correspondence also located in application file):

Good Afternoon – The alley is an undeveloped county right of way, for which Engineering Dept. is responsible. County crews do not clear undeveloped rights-of-way; any work would need to be performed by the applicant under a right-of-way permit.

The alley in question is only 15 ft. wide and therefore is not meant to be the primary access for a property as there is insufficient width to have even one way traffic with appropriate shoulder width and clear zone. This option could be considered where there was no other alternative to obtain access to the parcel. If permission was granted for the applicant to clear the alley to use as access to the lot the full length of the alley would need to be cleared and signage indicating that it was one way traffic only would need to be installed. The applicant would also be required to maintain the cleared alley. Given that it is a county right of way access could not be restricted just to residents; the alley would be public access.

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29
30 It should also be noted that Florida Department of Transportation has issued a Proposed State
31 Highway Access Connection Notice of Intent [hereinafter referred to as ‘Notice of Intent’] to
32 Issue Permit for the subject access drive off of U.S. 1. This Notice of Intent was issued with
33 four (4) standard conditions and one condition labeled ‘other’ which reads, “**5. Development**
34 **approval from the appropriate local government consistent with the Notice of Intent to**
35 **Permit (i.e. Building Permit).** A building permit for the subject access driveway cannot be
36 issued without approval of the subject request for variance to access standards.

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Pursuant to Comprehensive Plan Policy 301.2.5: *In order to proceed with development, a parcel shall have legal access to public or private roads, rights of way or easements or such access shall be established.*

Below is a snapshot of an aerial view of the subject property and the adjacent properties and alley, with access drive locations notated (aerial dated 2018):



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Pursuant to LDC Section 102-187, the Planning Commission is authorized to grant variances to the access standards in LDC Chapter 114, Article VII in accordance with the standards in LDC Section 102-187(d).

Pursuant to LDC Section 102-187, a variance may only be granted if the applicant demonstrates that all of the following standards are met:

1 (1) *The applicant demonstrates a showing of good and sufficient cause:*

2 **Applicant:** “The property is a platted parcel (PB 3-85) and is located between Overseas
3 Highway and an undeveloped Monroe County alley. The owner is seeking a variance to
4 allow access to his property via Overseas Highway.

5 The owner applied for a building permit for a single family residence (permit # 17304505).
6 Planning did not approve the permit with the proposed access driveway via Overseas
7 Highway. It was suggested for the owner to reach out to Monroe County Engineering to
8 discuss the possibility of achieving access by means of the alley way or apply for a Planning
9 Commission Variance.

10
11 The alley is undeveloped with heavy vegetation, trees and is not paved to allow the owner
12 to access the property via the alley.

13
14 Monroe County Engineering was contacted in reference to the possibility of the Monroe
15 County maintaining the alley for public traffic access. See Engineering’s response included
16 with this application [*excerpt provided above*].

17
18 Florida Department of Transportation was contacted for access connection and a “Notice
19 of Intent to Issue a Permit” was provided to the owner. The Notice of Intent to Issue a
20 Permit is included with this application [*in file*].

21
22 The owner feels with no access from the undeveloped alley is sufficient cause for granting
23 the variance to access his property.”

24
25 **Staff Review:** The subject property is adjacent two public rights of way. To the north west,
26 the property abuts U.S.1 and to the south east, the property abuts a platted, County owned
27 alley. It should be noted that the alley is undeveloped and almost completely mapped as
28 hammock on the 2009 County Habitat maps. See snapshot of subject property with 2009
29 habitat layer below:



1
2 Pursuant to LDC Section 101-1, *Alley* means a right-of-way providing a *secondary* means
3 of access and service to abutting property.
4

5 The subject property is a platted lot within the Improved Subdivision (IS) zoning district
6 and is designated as a Tier III Infill lot on the tier overlay map. Development within Tier
7 III properties is to be encouraged as opposed to the development of environmentally
8 sensitive habitat in accordance with the Comprehensive Plan and LDC.
9

10 Comprehensive Plan Policy 105.2.1: *Infill Area (Tier III): Any defined geographic area,*
11 *where a significant portion of land area is not characterized as environmentally sensitive*
12 *as defined by this Plan, except for dispersed and isolated fragments of environmentally*
13 *sensitive lands of less than four acres in area, where existing platted subdivisions are*
14 *substantially developed, served by complete infrastructure facilities, and within close*
15 *proximity to established commercial areas, or where a concentration of nonresidential*
16 *uses exists, is to be designated as an Infill Area. New **development and redevelopment are***
17 ***to be highly encouraged, except within tropical hardwood hammock or pineland patches***
18 *of an acre or more in area, where development is to be discouraged. Within an Infill Area*
19 *are typically found: platted subdivisions with 50 percent or more developed lots situated*
20 *in areas with few sensitive environmental features; full range of available public*
21 *infrastructure in terms of paved roads, potable water, and electricity; and concentrations*
22 *of commercial and other nonresidential uses within close proximity. In some Infill Areas,*
23 *a mix of nonresidential and high-density residential uses (generally 8 units or more per*
24 *acre) may also be found that form a Community Center.*

25
26 Staff has determined that the applicant has demonstrated a showing of good and sufficient
27 cause for the proposed access variance.
28

29 (2) *Failure to grant the variance would result in exceptional hardship to the applicant:*
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31 LDC Section 101-1 defines “exceptional hardship” as “a burden on a property owner that
32 substantially differs in kind or magnitude from the burden imposed on other similarly
33 situated property owners in the same land use district as a result of adoption of these
34 regulations.”
35

36 **Applicant:** “Failure to grant the variance would be an exceptional hardship to the property
37 owner, without access to the property it would prevent the construction of a single family
38 residence or any structure on his property.”
39

40 **Staff Review:** Through communication with the Monroe County Engineering Department,
41 it appears that the applicant would be responsible for the improvement and all future
42 maintenance of the adjacent alley way to provide a means of access from either Collins
43 Street or Plante Street. Due to the fact that this is a County owned right of way, the alley
44 would be open for use by the general public and not restricted to the applicant or any
45 adjacent property owner. Additionally, it does not appear that the alley is of sufficient width
46 to meet the accepted standards for through traffic.

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3 Failure to grant the variance would result in exceptional hardship to the applicant.
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- 5 (3) *Granting the variance will not result in increased public expenses, create a threat to public*
6 *health and safety, create a public nuisance, or cause fraud or victimization of the public:*
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8 **Applicant:** “The granting the variance will not result in increased public expenses, create
9 a threat to public health and safety, create a public nuisance or cause fraud or victimization
10 of the public.”
11

12 **Staff Review:** Per ITE Manual 10th edition, Land Use Code 210 (SFR-detached), the daily
13 trips generated per single family residence are 9.14 or 9 trips.
14

15 Staff does not anticipate that granting the requested variances would result in increased
16 public expenses, create a threat to public health and safety, create a public nuisance, or
17 cause fraud or victimization of the public.
18

- 19
20 (4) *The property has unique or peculiar circumstances, which apply to this property, but which*
21 *do not apply to other properties in the same zoning district:*
22

23 **Applicant:** “Many neighborhoods within the IS district are platted lots located on county
24 roads with access from FDOT Overseas Highway. This property does not have access from
25 a county road the only access is Overseas Highway”
26

27 **Staff Review:** The subject property is adjacent U.S.1 and an unimproved alley. Most
28 properties within the IS zoning district are located within platted subdivisions that are
29 adjacent a County road. For example, the other homes within the South Creek Village
30 subdivision are adjacent a County Road/ right of way that is 50 feet in width. Additionally,
31 most homes within this subdivision and the IS zoning district in general are not adjacent
32 U.S.1 and therefore are not subject to LDC Section 114-195.
33

34 Staff has determined that the property does have unique or peculiar circumstances, which
35 apply to this property, but which do not apply to other properties in the same zoning district.
36

- 37 (5) *Granting the variance will not give the applicant any special privilege denied other*
38 *properties in the immediate neighborhood in terms of the provisions of this chapter or*
39 *established development patterns:*
40

41 **Applicant:** “Granting the variance will not give the applicant any special privilege denied
42 other properties in the immediate neighborhood in terms of the provisions of the code or
43 established development patterns.”
44

1 **Staff Review:** Staff has determined that granting the variances will not give the applicant
2 any special privilege denied other properties in the immediate neighborhood in terms of
3 the provisions of this chapter or established development patterns.
4

5 (6) *Granting the variance is not based on disabilities, handicaps or health of the applicant or*
6 *members of his family:* IN COMPLIANCE
7

8 **Applicant:** Granting the variance is not based on disabilities, handicaps or health of the
9 applicant or members of his family.
10

11 **Staff Review:** Concerning the proposed development, granting the requested variances
12 would not be based on disabilities, handicaps or health of the applicant or their family
13 members.
14

15 (7) *Granting the variance is not based on the domestic difficulties of the applicant or his*
16 *family:* IN COMPLIANCE
17

18 **Applicant:** “Granting the variance is not based on the domestic difficulties of the applicant
19 or his family.”
20

21 **Staff Review:** Concerning the proposed development, granting the requested variance
22 would not be based on the domestic difficulties of the applicant or their family.
23

24 (8) *The variance is the minimum necessary to provide relief to the applicant:* IN
25 COMPLIANCE
26

27 **Applicant:** “This variance is the minimum necessary to provide relief to the applicant to
28 construct a commercial building.”
29

30 **Staff Review:** Staff has determined that the requested access variance is the minimum
31 necessary in order to provide relief to the applicant to develop the property as proposed.
32
33

34 V RECOMMENDATION:

35 Staff recommends **APPROVAL** of the requested variance to the access standards set forth in
36 Chapter 114, Article VII of the Land Development Code (LDC), resulting in an access drive
37 to U.S. 1 that is spaced approximately 92 feet and 3 inches from an existing curb cut to the
38 north and approximately 47 feet and 4 inches to an existing access drive to the south, for the
39 development of a single family residence on the subject property.
40

- 41 1. This variance approval is based on the site plan by Ruben J. Pujol, signed and sealed
42 October 22, 2020, and received by the Planning & Environmental Resources Department
43 on 02/04/2021 with this variance application. Work not specified or deviations to the
44 approved plans shall not be carried out without any required additional Planning &
45 Environmental Resources Department approval.
46

1 2. This variance approval does not waive or reduce any other requirement of the Land
2 Development Code, nor waive the Land Development Code requirements for any future
3 development.
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5 VI PLANS REVIEWED:
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7 A. Site Plan, Sheet Number A-1, by Ruben J. Pujol, signed and sealed October 22, 2020,
8 received 2/04/2021

9 B. Boundary Survey by Eugenia L. Formoso, P.S.M., dated 03/29/2017