



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, AICP, CFM, Principal Planner

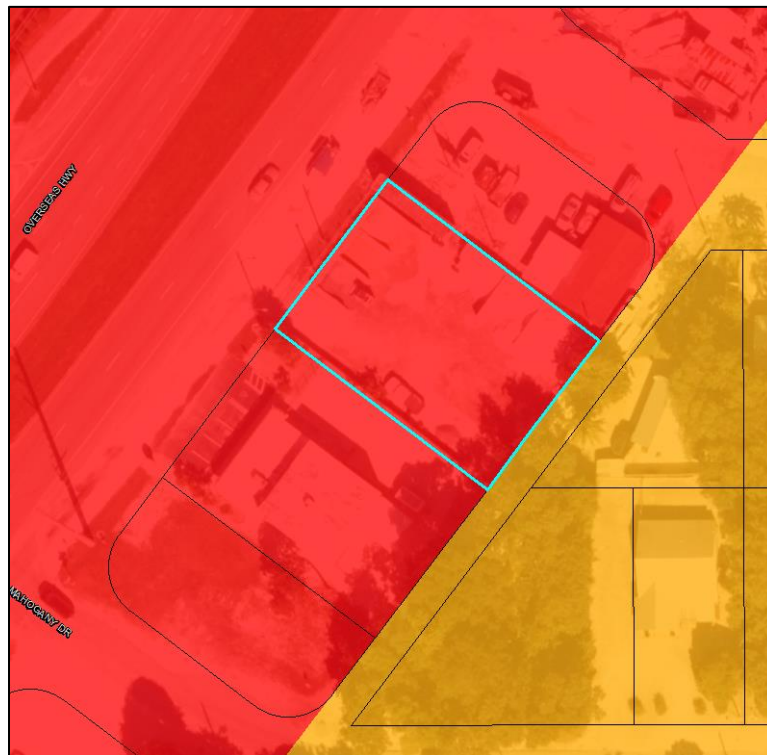
Date: December 16, 2022

Subject: *Request for Variance to Access Standards, 102091 Overseas Highway, Mile Marker 102, Key Largo, having Parcel Identification Number 00464610-000000 (File # 2022-214)*

Meeting: **January 25, 2023**

1 I REQUEST:

2 The applicant is requesting a variance to the access standards required pursuant to Chapter
3 114, Article VII of the Land Development Code (LDC). Approval would allow for the lawful
4 establishment of an access drive to U.S. 1 that is spaced approximately 25 feet from an
5 existing curb cut to the south and 125 feet from the Lime Drive curb cut to the north. This
6 variance is requested to facilitate the development of a light industrial aggregate storage yard
7 with an office on the subject property.
8



9
10 *Subject Property (blue outline) with Land Use (Zoning) Districts, 2022 Aerial*

1 **II BACKGROUND INFORMATION:**

2 **Location:** Key Largo near U.S. 1 Mile Marker 102, bayside

3 **Address:** 102091 Overseas Highway

4 **Legal Description:** All of Lot 13, and the Northeasterly One Half of Lot 14, together with an
5 Easement for ingress and egress across the Southeasterly 10 feet of the Southwesterly One
6 Half of Lot 14, Block 5, Pamela Villa, according to the plat thereof, as recorded in Plat Book
7 3, at Page 125, of the Public Records of Monroe County, Florida

8 **Parcel Identification Numbers:** 00464610-000000

9 **Property Owner/Applicant:** Javier Trucking, Inc.

10 **Agent:** Gelly Juvier

11 **Size of Site:** 10,080 square feet (per submitted plans)

12 **Land Use District:** Suburban Commercial (SC)

13 **Future Land Use Map (FLUM) Designation:** Mixed Use/Commercial (MC)

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

15 **Flood Zone:** X

16 **Existing Uses:** No approved/permitted use

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

18 **Community Character of Immediate Vicinity:** Commercial retail, office, light industrial,
19 single family residences

20
21 **Concurrent Applications:**

22 The applicant has also submitted a request for a Minor Conditional Use Permit (CUP) to
23 establish a light industrial use on the subject property (Planning File #2019-165). This
24 application is tentatively scheduled to be presented to the Development Review Committee
25 on February 21, 2023, following the receipt of letters of coordination from FCAA, FKEC,
26 and Monroe County Solid Waste Management. The site plan submitted with the Minor CUP is
27 consistent with the site plan submitted through this variance request.

28
29 **III RELEVANT PRIOR COUNTY ACTIONS:**

30 On July 20, 2021, the Monroe County Planning Commission denied the request for a
31 variance of the front and side yard setbacks for a previously proposed design to develop the
32 subject property as an aggregate storage site. This was memorialized through Planning
33 Commission Resolution No. P16-21.

34
35 **IV REVIEW OF APPLICATION:**

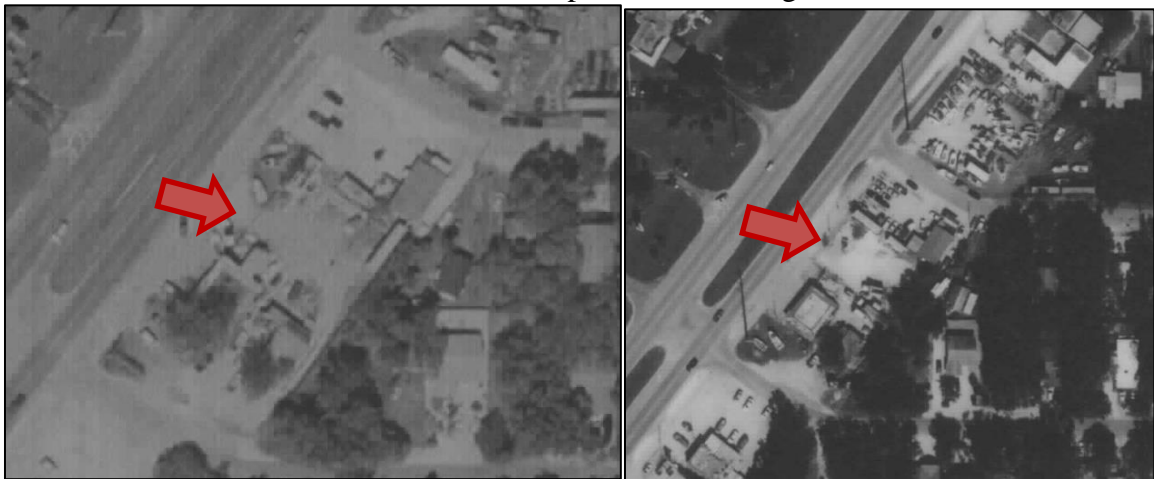
36 Pursuant to LDC Section 114-195, *US-1/ County Road 905 Access*, “No structure or land
37 shall be developed, used or occupied unless direct access to U.S. 1 or County Road 905 is by
38 way of a curb cut that is spaced at least four hundred (400) feet from any other curb cut that
39 meets the access standards of the Florida Department of Transportation, as contained in
40 Chapter 14-97, F.A.C., or an existing street on the same side of U.S. 1 or County Road 905.
41 Proposed developments with access on U.S. 1 that are designated as Class 5 or Class 6 access
42 control classifications, as defined by FDOT, where the posted speed limit is 45 MPH or less
43 may deviate from 400 foot standard, in accordance with the standards contained in Chapter

1 14-97, F.A.C., State Highway System Access Control Classification System and Access
2 Management Standards.”

3
4 This property is proposing a connection to an Access Class 5 roadway. In accordance with
5 LDC Section 114-195 and Chapter 14-97 F.A.C., connections on Access Class 5 roadways
6 with 45 mph are to be spaced 245 feet apart.

7
8 The applicant is proposing to develop the subject property with outdoor storage of aggregate
9 materials, a light industrial use, and an ancillary office. The subject property is proposed to
10 be developed with a single 24 foot wide access drive way onto US1 that is spaced
11 approximately 25 feet from the curb cut of the access drive of the property to the south and
12 125 feet from the curb cut of Lime Drive to the north.

13
14 There is no history of County approval for the paving of a driveway, as depicted on the
15 submitted boundary survey [*which is proposed to be removed*]. Additionally, this property
16 has never received County approval for a permitted use. Although not previously established
17 by a building permit, aerial imagery suggests that the property had been accessed from U.S.1
18 since sometime between 1991 and 1994, as depicted in the images below.



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2009

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It should be noted that a building permit was issued in 1996 for fencing on the property with the following condition: “*Approval for upland security only. No authorization for storage...*” See snapshot of approval conditions below:

- OVERSEAS HWY MM 102 CLIPBOARD
- 104 LIN FT RELOCATION OF SIX FT HIGH
- CHAIN LINK FENCE WITH GATE. NO OTHER
- WORK THIS PERMIT. APPROVAL FOR UPLAND
- SECURITY ONLY, NO AUTHORIZATION FOR
- STORAGE. MUST COMPLY WITH MONROE COUNTY
- CODE 9.5-309. PLANNING INSPECTION
- REQUIRED. DEEMED DEVELOPMENT, PERMIT
- EFFECTIVE ON 1/15/97.

According to documentation in the file, the applicant has not received opposition from FDOT and was informed that an Access Permit is not required, as described in the snap of email correspondence included below:

From: [Loren Marquez](#)
Sent: Monday, August 22, 2022 8:47 AM
To: [Gelly Juvier](#)
Cc: [Chinea, Juan](#)
Subject: RE: 102091 Overseas Hwy

Good morning Gelly,

Based on the information provided for the subject project location a FDOT Access Permit is not required since the driveway is considered grandfathered and the proposed daily trip increase does not constitute a significant change.

See below FDOT’s Traffic Operations review observations/comments:

1. At the subject location, SR 5/Overseas Highway is an access class 5 roadway with a posted speed of 45 mph.
2. The applicant is proposing to utilize an existing two-way driveway connection along SR 5 to add a small office building (about 810 SF) in addition to an existing general light industrial use. The proposed daily trip difference per the traffic study is about 10 vehicles and does not appear to constitute a significant change.
3. The existing driveway length is about 25 feet and does comply with the general Department’s preferences.

We do not see any objections to the proposed addition to the existing land use based on the information provided.

Please let me know if you have any questions/comments.

Best regards,

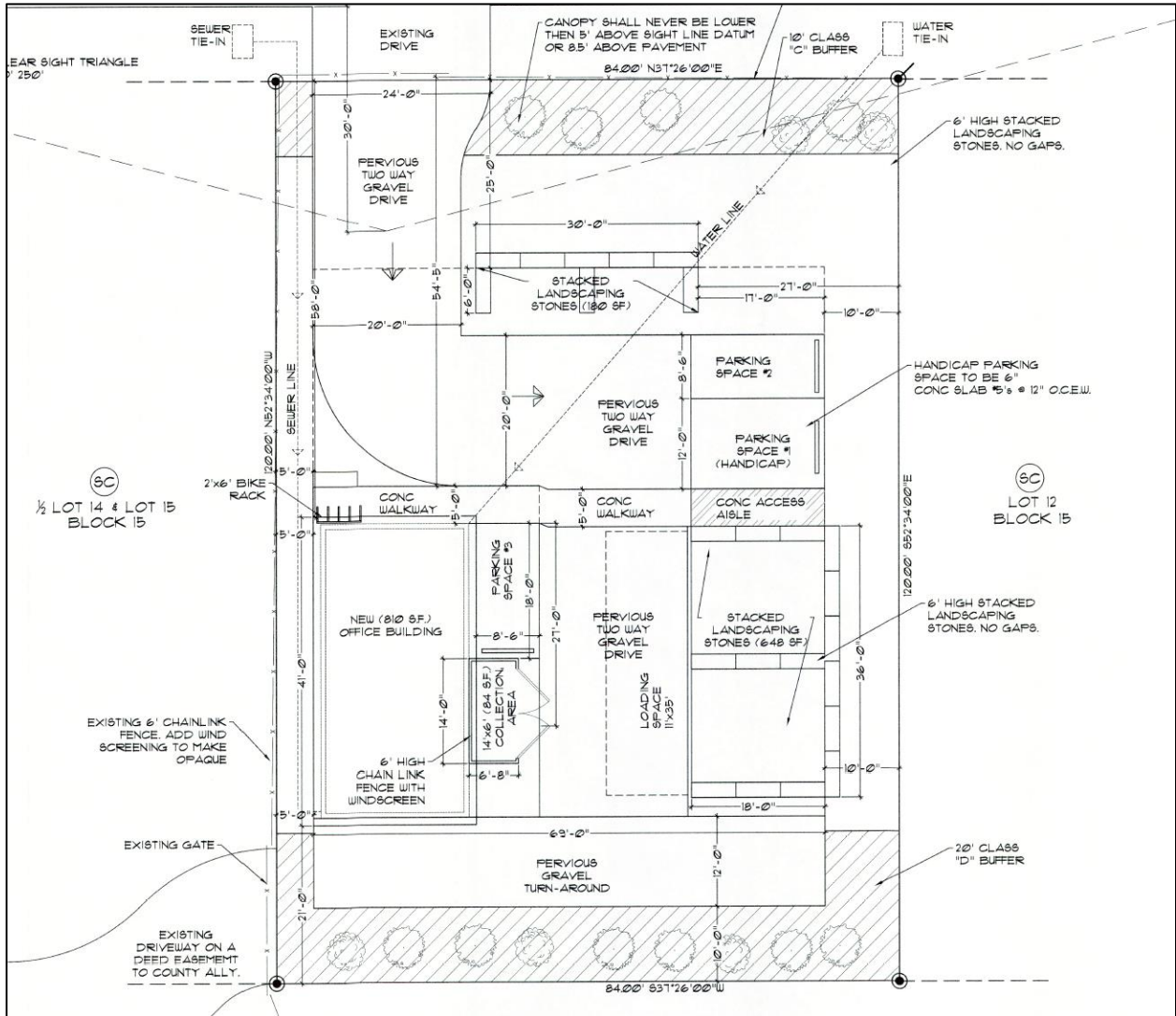
Loren Marquez, P.E., C.B.I.

FDOT Permits – Monroe County
 Consultant (LARS Engineering)

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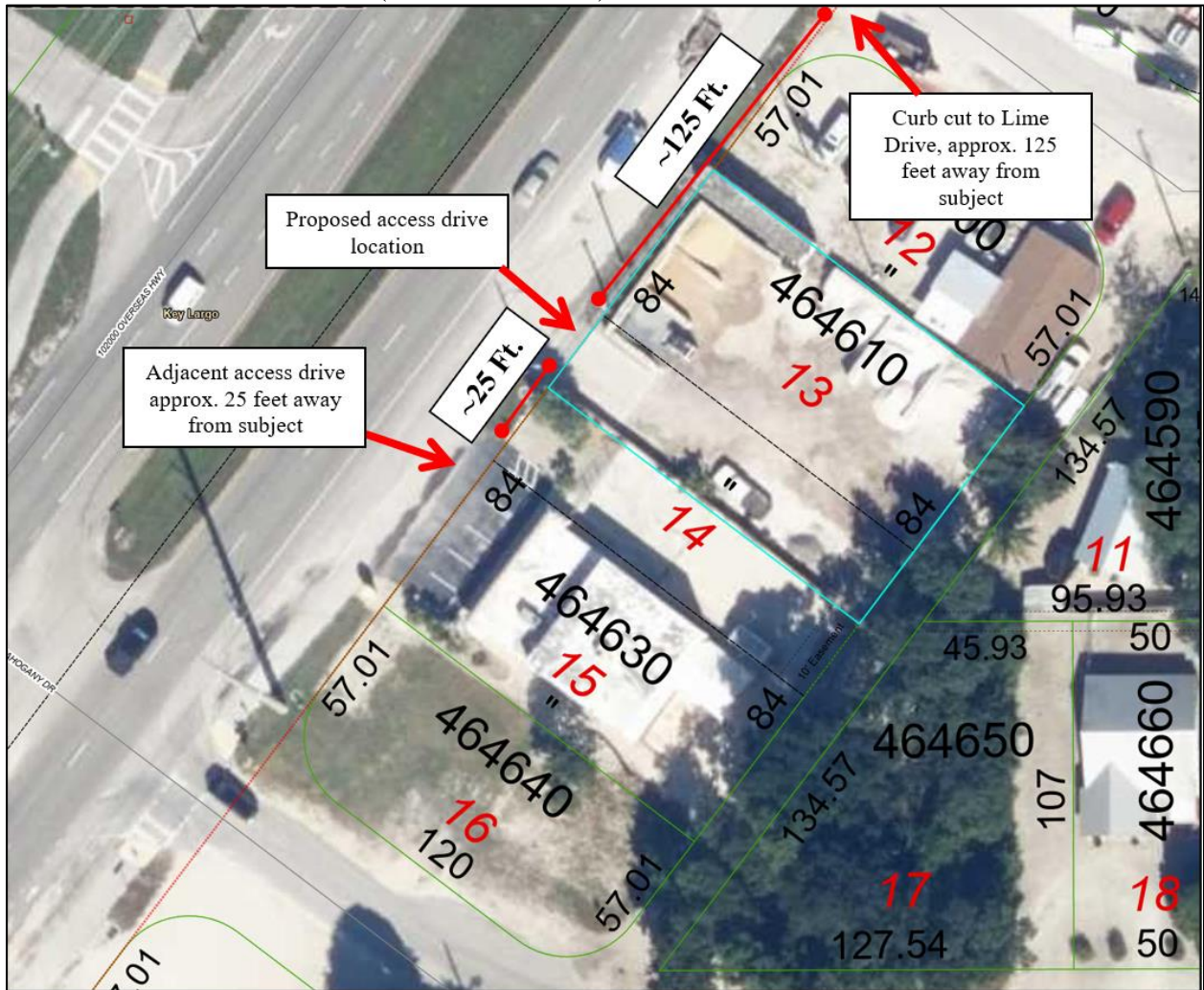
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The following figure shows the site plan of the proposed development, if the requested variance is approved:



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1 Below is a snapshot of an aerial view of the subject property and the adjacent properties, with
2 access drive locations notated (aerial dated 2022):



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

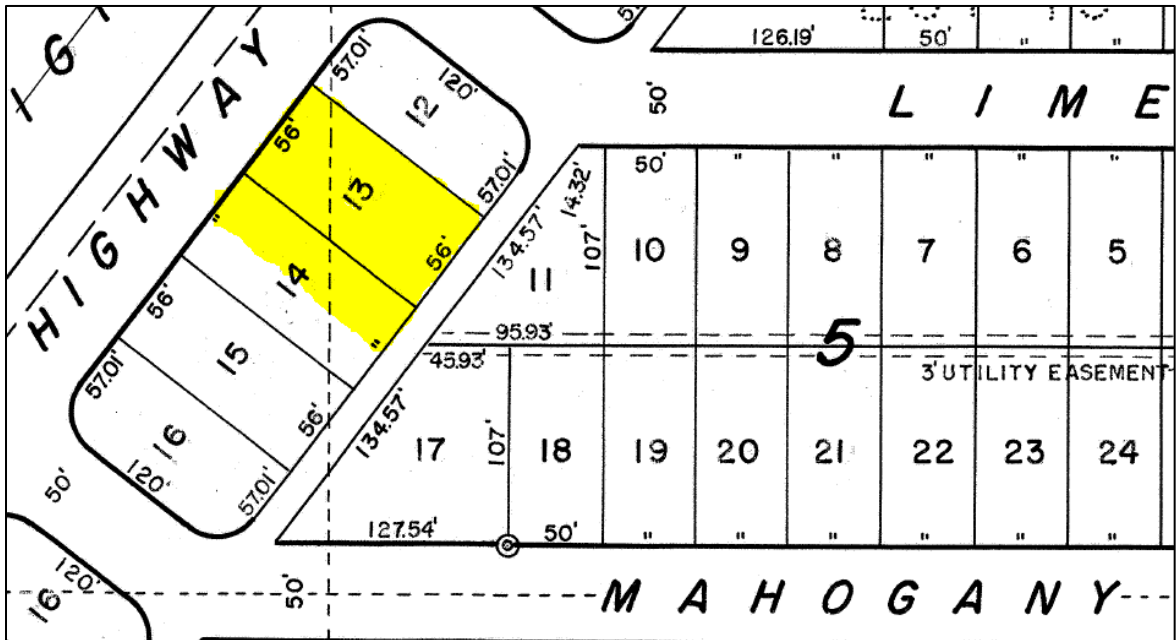
8
9 Pursuant to LDC Section 102-187, a variance may only be granted if the applicant
10 demonstrates that all of the following standards are met:

11
12 (1) The applicant demonstrates a showing of good and sufficient cause: IN COMPLIANCE

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14 **Applicant:** "The property is a platted parcel (PB 3-125) and is located between Overseas
15 Highway and a Monroe County residential alley within Key Largo. Previously a PC
16 Variance (File 2020-144) was applied for a variance to the setbacks to construct an office
17 building. The variance was denied by the Planning Commission July 2021. We are no
18 longer requesting a variance to the setbacks. The purposed [sic] office building size has
19 been reduced and reconfiguration of the site to meet required setbacks and access. We are

1 seeking a variance to use FDOT existing driveway to allow access to his property via
 2 Overseas Highway. Currently the site has an asphalt driveway off Overseas Highway
 3 FDOT right-a-way. FDOT paved and developed the driveway for access to the property.
 4 We have coordination with FDOT. Please see Attachment B and email from FDOT
 5 stating FDOT Access Permit is not required. With no access from the residential alley
 6 and no other access to the property is sufficient cause for granting the variance to access
 7 the property.”

8
 9 **Staff Review:** The development of the subject property requires compliance with access
 10 standards pursuant to LDC Section 114-195, which is a minimum of 245 feet separation
 11 distance between curb cuts. The development proposal includes a single two-way access
 12 drive; however the configuration of the block as platted does not provide for the ability to
 13 comply with the minimum distance requirement. See snapshot of Block 5 of Pamela Villa
 14 Subdivision, Plat Book 3, Page 125, with the subject property highlighted below:
 15



16 Pursuant to LDC Section 114-196, lots that cannot meet the major road access standard in
 17 Section 114-195 shall take access from platted side streets, parallel streets or frontage
 18 roads. Such access shall be acquired by installing a parallel street or frontage road,
 19 through combined parking lots or by combining lots by sharing drives, or the provision of
 20 easements of access. However, if any permanent access is constructed pursuant to an
 21 agreement entered into under this section and such construction would otherwise render
 22 the structure located on the subject lot nonconforming under any other section of this
 23 chapter, then such structure shall be considered conforming under those other sections
 24 regardless of the terms thereof.
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27
 28 The subject property is adjacent a platted 15 foot wide County owned alley way. Based
 29 on communication with County Engineering Services, it appears that the alley is too

1 narrow to be used as primary access/egress for two way traffic. Utilizing the alley way
2 for primary access to the site is likely not a suitable option.

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

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7 Staff has determined that the applicant has demonstrated a showing of good and
8 sufficient cause for the proposed access variance.

9
10 (2) *Failure to grant the variance would result in exceptional hardship to the applicant: IN*
11 *COMPLIANCE*

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13 LDC Section 101-1 defines “exceptional hardship” as “a burden on a property owner that
14 substantially differs in kind or magnitude from the burden imposed on other similarly
15 situated property owners in the same land use district as a result of adoption of these
16 regulations.”

17
18 **Applicant:** “Failure to grant the variance would be an exceptional hardship to the
19 property owner, without access to the property it would prevent the construction of the
20 proposed structure or use of the property.”

21
22 **Staff Review:** As previously mentioned, due to the configuration of the platted
23 subdivision, lots 13 through 15 of this block cannot meet the major road access standard
24 in Section 114-195. Additionally, the adjacent alley way is not of sufficient width to meet
25 the accepted standards for through traffic. LDC Section 114-196 provides the option to
26 establish access by installing a parallel street or frontage road through combined parking
27 lots or by combining lots to share drives; however the adjacent properties are currently
28 developed and do not allow for this option at this time.

29
30 Failure to grant the variance would result in exceptional hardship to the applicant.

31
32 (3) *Granting the variance will not result in increased public expenses, create a threat to*
33 *public health and safety, create a public nuisance, or cause fraud or victimization of the*
34 *public: IN COMPLIANCE*

35
36 **Applicant:** “The granting the variance will not result in increased public expenses, create
37 a threat to public health and safety, create a public nuisance or cause fraud or
38 victimization of the public.”

39
40 **Staff Review:** Staff does not anticipate that granting the requested variance would result
41 in increased public expenses, create a threat to public health and safety, create a public
42 nuisance, or cause fraud or victimization of the public.

43
44 (4) *The property has unique or peculiar circumstances, which apply to this property, but*
45 *which do not apply to other properties in the same zoning district: IN COMPLIANCE*

1 **Applicant:** “There are other commercial properties in Key Largo within the SC district
2 having nonconforming access to their property. Many of the properties were constructed
3 prior to current LDC. Although there are existing properties granted a PC Variance due
4 there is no other access to their property. This property does not have access from a
5 county road or the residential alley the only access is from Overseas Highway.
6

7 **Staff Review:** The subject property is adjacent U.S.1 and a County owned 15 foot wide
8 alley. The platting of this subdivision likely did not anticipate the access requirements
9 that are in place today. Due to the distance of the surrounding streets to the internal lots
10 of Block 5, Pamela Villa Subdivision, and the unsuitable width of the alley to
11 accommodate through traffic, staff has determined that the property does have unique or
12 peculiar circumstances, which apply to this property, but which do not apply to other
13 properties in the same zoning district.
14

15 (5) *Granting the variance will not give the applicant any special privilege denied other*
16 *properties in the immediate neighborhood in terms of the provisions of this chapter or*
17 *established development patterns:* IN COMPLIANCE
18

19 **Applicant:** “Granting the variance will not give the applicant any special privilege
20 denied other properties in the immediate neighborhood in terms of the provisions of the
21 code or established development patterns.”
22

23 **Staff Review:** Staff has determined that granting the variance will not give the applicant
24 any special privilege denied other properties in the immediate neighborhood in terms of
25 the provisions of this chapter or established development patterns.
26

27 (6) *Granting the variance is not based on disabilities, handicaps or health of the applicant or*
28 *members of his family:* IN COMPLIANCE
29

30 **Applicant:** “Granting the variance is not based on disabilities, handicaps or health of the
31 applicant or members of his family.”
32

33 **Staff Review:** Granting the requested variance would not be based on disabilities,
34 handicaps or health of the applicant or their family members.
35

36 (7) *Granting the variance is not based on the domestic difficulties of the applicant or his*
37 *family:* IN COMPLIANCE
38

39 **Applicant:** “Granting the variance is not based on the domestic difficulties of the
40 applicant or his family.”
41

42 **Staff Review:** Granting the requested variance would not be based on the domestic
43 difficulties of the applicant or their family.
44

45 (8) *The variance is the minimum necessary to provide relief to the applicant:* IN
46 COMPLIANCE

1
2 **Applicant:** “This variance is the minimum necessary to provide relief to the applicant to
3 construct a small office building.”
4

5 **Staff Review:** Staff has determined that the requested access variance is the minimum
6 necessary to provide relief to the applicant to develop the property as proposed.
7

8 V RECOMMENDATION:
9

10 Staff recommends **APPROVAL** of the requested variance to the access standards set forth in
11 Chapter 114, Article VII of the Land Development Code (LDC).
12

- 13 1. This variance approval is based on the site plan by Daryle Osborn, P.E., signed and
14 sealed 12/01/2022, submitted with the Variance Application. Work not specified or
15 deviations to the approved plans shall not be carried out without any required additional
16 Planning & Environmental Resources Department approval.
17
- 18 2. This variance approval does not constitute approval of any use of the subject property and
19 is not a final approval for certain development. The applicant shall obtain a conditional
20 use permit and building permit(s) for any improvement(s) requiring such an approval.
21
- 22 3. This variance approval does not waive or reduce any other requirement of the Land
23 Development Code, nor waive the Land Development Code requirements for any future
24 development.
25
- 26 4. This Variance Approval does not discharge, exempt, waiver, or otherwise release the
27 Applicant(s) or any natural or legal person from their duty to obtain required federal,
28 state, County, and local approval(s) for any future development, construction of buildings
29 or structures, or establishment of uses upon the property. This Variance Approval does
30 not waive any rights Monroe County has with respect to violations of Monroe County's
31 Codes, Comprehensive Plan, the Florida Building Code, and/or floodplain regulations.
32 Enforcement of this Variance or of Monroe County's Codes, Comprehensive Plan, the
33 Florida Building Code, and/or floodplain regulations, subsequent to the date of this
34 Variance approval date shall not be subject to claims or defenses of estoppel or laches.
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37 VI PLANS REVIEWED:
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- 39 1. Site Plan, Sheet C-1, by Daryle Osborn, P.E., signed and sealed on 12/01/2022
40 2. Topography Plan, Sheet C-2, by Daryle Osborn, P.E., signed and sealed on 12/01/2022
41 3. Floor Plan, Sheet A-1, by Daryle Osborn, P.E., signed and sealed on 12/01/2022
42 4. Elevations, Sheet A-2, by Daryle Osborn, P.E., signed and sealed on 12/01/2022
43 5. Electrical Plans, Sheets E-1 and E-2, by Daryle Osborn, P.E., signed and sealed on
44 12/01/2022
45 6. Mechanical Plan, Sheet M-1, by Daryle Osborn, P.E., signed and sealed on 12/01/2022
46 7. Plumbing Plan, Sheet P-1, by Daryle Osborn, P.E., signed and sealed on 12/01/2022

- 1 8. Structural Plans, Sheets S-1 and S-2, by Daryle Osborn, P.E., signed and sealed on
- 2 12/01/2022
- 3 9. Boundary Survey prepared by Armando F. Alvarez, Professional Surveyor and Mapper,
- 4 dated on 03/06/2019
- 5