



## 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:** January 22, 2021

**Subject:** *Request for Variance to front yard setback requirements on property located at 263, 267, 271, 275, 279, and 283 Peninsula Way, Mile Marker 100, Key Largo, Parcel Identification Numbers 00500600-000000, 00500610-000000, 00500620-000000, 00500630-000000, 00500640-000000, 00500650-000000, 00500660-000000 (File # 2018-071)*

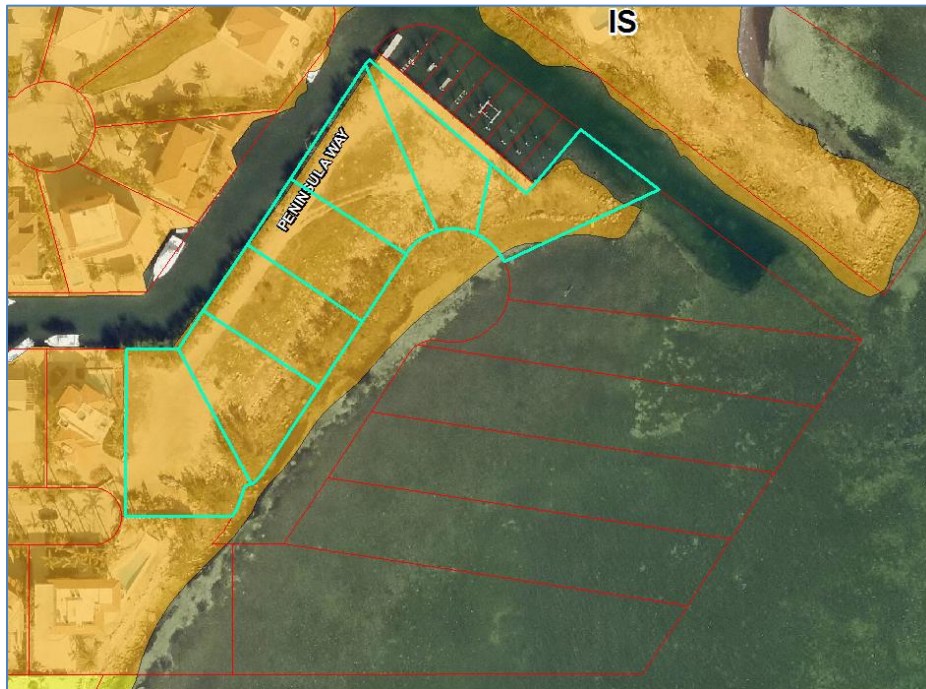
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**Meeting:** February 24, 2021

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1 I REQUEST:

2 The applicant is requesting a variance of twenty feet to the front yard setback requirement set  
3 forth in Chapter 131 of the Land Development Code (LDC). Approval would result in a five  
4 (5) foot primary front yard setback as measured from a required access easement for the  
5 development of five (5) single family residences on the seven parcels that collectively make  
6 up the subject property (File # 2018-071).  
7



8  
9 *Subject Property (center) with Land Use (Zoning) Districts, 2018 Aeria*

1 **II BACKGROUND INFORMATION:**

2 **Location:** Key Largo near U.S. 1 Mile Marker 100

3 **Address:** 263, 267, 271, 275, 279, and 283 Peninsula Way

4 **Legal Description:** Lots 19, 20, 21, 22, 23, 24, and 25, block 13, Key Largo Ocean Shores  
5 Addition, according to the plat thereof, as recorded in plat book 4, page 124, of the public  
6 records of Monroe County, Florida

7 **Parcel Identification Numbers:** 00500600-000000, 00500610-000000, 00500620-000000,  
8 00500630-000000, 00500640-000000, 00500650-000000, 00500660-000000

9 **Property Owner/Applicant:** 17RM Investments, LLC

10 **Agent:** Rolando Gonzalez

11 **Size of Site:** 57, 970 square feet (per submitted plans)

12 **Land Use District:** Improved Subdivision (IS)

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

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

15 **Flood Zone:** VE15/ VE12

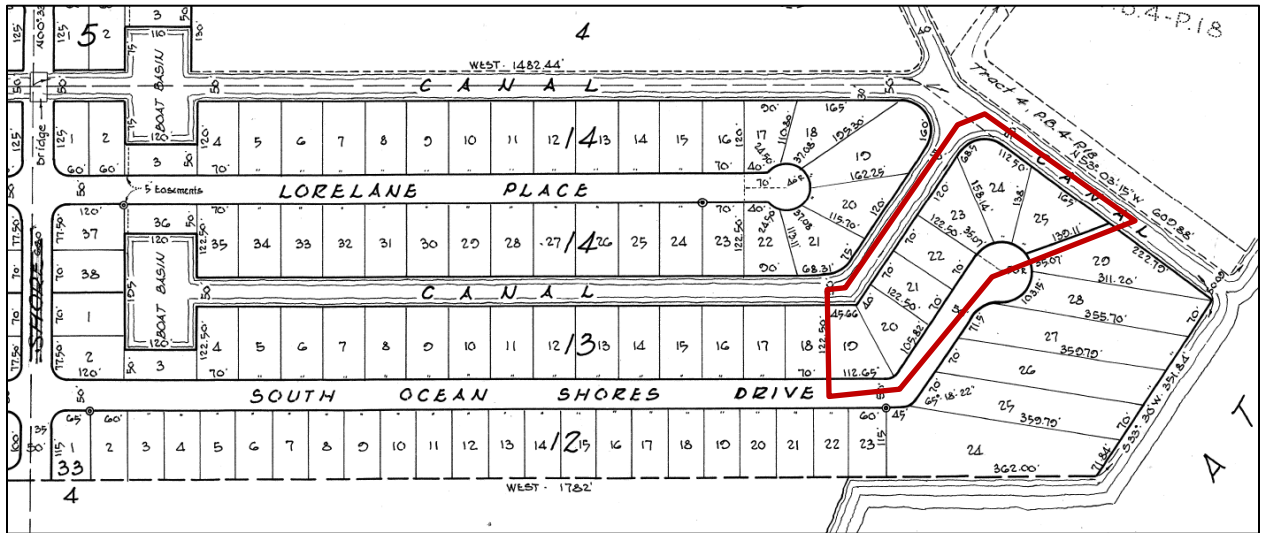
16 **Existing Uses:** Vacant

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

18 **Community Character of Immediate Vicinity:** Single family residences, multifamily  
19 residences, open water

20  
21 **III RELEVANT PRIOR COUNTY ACTIONS:**

22 The plat, Key Largo Ocean Shores Addition, a Re-Plat of Tracts 1, 2, 3, A & B, and Blocks 2, 5,  
23 7 & 8 as shown on "Amended and Extended Plat of Key Largo Ocean Shores" (PB 4, P 18) was  
24 approved by resolution of the Board of County Commissioners of Monroe County, Florida, July  
25 14, 1959 and recorded in Plat Book 4 Page 124.



26  
27 *Clip from Plat Book 4, Page 124 showing the platted lots along South Ocean Shores Drive*

28 On February 11, 1998 the BOCC passed Resolution number 080-1998 renouncing and  
29 disclaiming any right of the county and the public in and to a portion of South Ocean Shores  
30  
31

1 Drive, contiguous to Lot 22 and a part of Lot 23 Block 12, and contiguous to part of Lots 18  
2 and 19 Block 13, Key Largo Ocean Shores Addition, Key Largo, Florida.

3  
4 Building Permit 98301266 was issued 8/31/1998, for dock and boat lift to The Peninsular @  
5 Key Largo Inc. for parcel having RE# 00500650-000000. A condition of the permit was  
6 “Title to a dock slip may not be acquired separately from title to the lot to which the dock  
7 slip is appurtenant whether by foreclosure or otherwise, other than by an owner who already  
8 owns a lot in Peninsula a Key Largo.” The lot and boat slips were identified in permit  
9 application through the draft document “By Laws of the Peninsula at Key Largo Yacht Club  
10 Property Owners Association, Inc.”

11  
12 A Grant of Easement, executed 07/05/2011, by Peninsula Development at Key Largo, LLC  
13 to “ALL CURRENT AND FUTURE OWNERS OF DOCKS or real property...”, for the  
14 purpose of “ingress, egress, access for emergency services, and utility maintenance providers  
15 and over and across and through” the subject property was recorded in the Official Records,  
16 07/11/2011, Book 2525, Page 814.

17  
18 On May 22, 2018, a Letter of Understanding was signed by the Senior Director of Planning  
19 & Environmental Resources concerning the development of five single family residences on  
20 the subject property. This letter established that each of the proposed single family residences  
21 shall be setback 25 feet from the access easement road in order to determine compliance with  
22 the primary front yard setback requirements pursuant to the LDC.

#### 23 24 IV REVIEW OF APPLICATION:

25 The subject property is proposed to be developed with five (5) single family residences. A  
26 single family residence is proposed on each individual lot (Lots 19 through 22), with the  
27 exception of one (1) single family residence proposed on the aggregated Lots 23, 24, and 25.

28  
29 Each of the proposed structures are subject to the following non-shoreline setback  
30 requirements:

- 31 ▪ A 25-foot primary front yard setback along the easement access road;
- 32 ▪ A 10-foot primary side yard setback along one of the side property lines;
- 33 ▪ A 5-foot secondary side yard setback along the remaining side property lines;
- 34 ▪ Shoreline setback along all shorelines;

35  
36 Pursuant to LDC Section 131-3(c):

37 *Front yard setbacks.* A front yard is a required setback on a parcel of land that is located  
38 along the full length of the front property line of the parcel, is generally the property  
39 frontage to which development on the parcel is oriented and is generally adjacent a road.  
40 On parcels fronting more than one road, such as corner lots and double frontage parcels,  
41 each yard along a road shall be a front yard. The front yard setback does not apply to a  
42 utility pole.

43  
44 Pursuant to LDC Section 101-1:

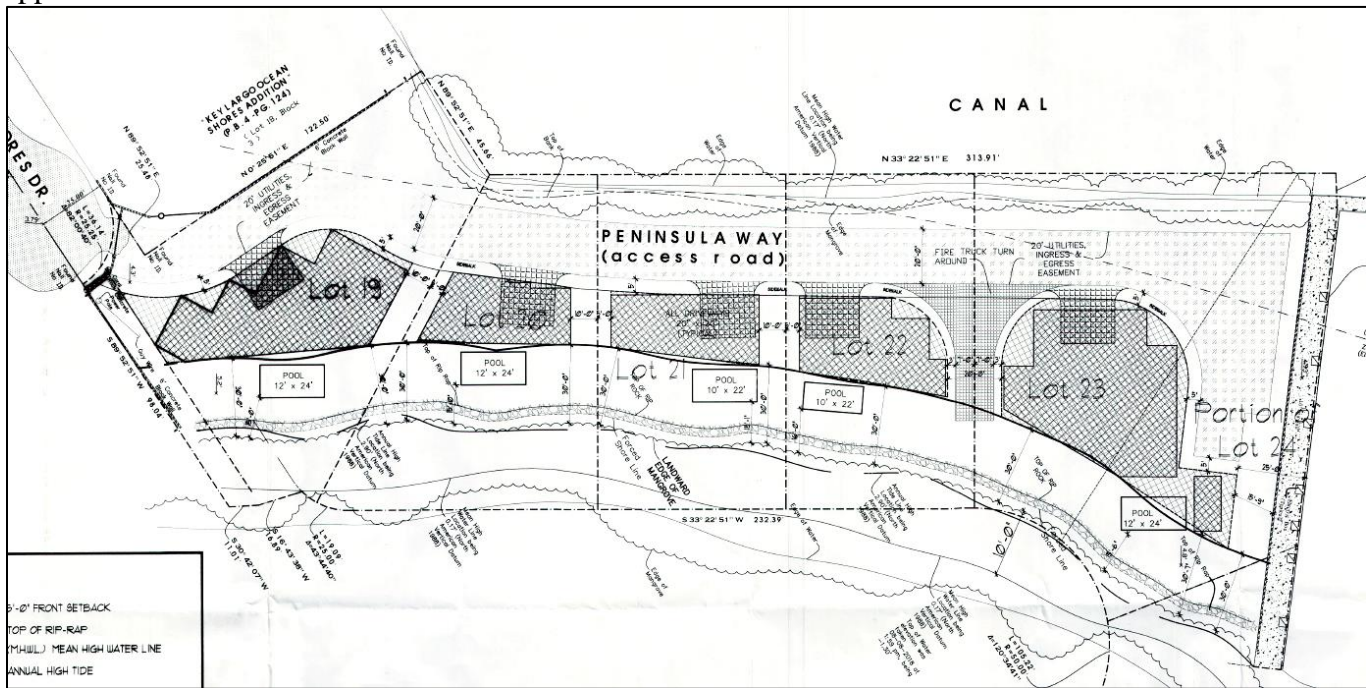
45 *Easement* means a grant of one or more of the property rights by the property owner to  
46 and/or for the use by the public, the County, a public or private utility, a corporation, or  
47 another person or entity.

1  
2 *Right-of-way* means land dedicated, deeded, used, or to be used for a street, alley,  
3 walkway, boulevard, drainage facility, access for ingress and egress, or other purpose by  
4 the public, certain designated individuals, or governing bodies.  
5

6 *Setback* means the area between a building or structure and the property line of the parcel  
7 of land on which the building or structure is located, unoccupied and unobstructed from  
8 the ground upward, except for fences or other development permitted in the area as  
9 provided for in this Land Development Code. In measuring a setback, the horizontal  
10 distance between the property line and the furthestmost projection of the building or  
11 structure shall be used. Further, the setback shall be measured at a right angle (90  
12 degrees) from the property line.  
13

14 Through this variance application, the applicant is requesting that the primary front yard  
15 setback requirement along the Peninsula Way easement be reduced from the required twenty-  
16 five (25) feet to five (5) feet for each of the properties in order to construct five (5) single  
17 family residences.  
18

19 The following figure shows a clip of the proposed site plan if the requested variance is  
20 approved:



21 Pursuant to LDC Section 102-187, the Planning Commission is authorized to grant variances  
22 to the front yard non-shoreline setback requirements in LDC Chapter 131, in accordance with  
23 the standards in LDC Section 102-187(d).  
24

25 Pursuant to LDC Section 102-187, a variance may only be granted if the applicant  
26 demonstrates that all of the following standards are met:  
27

- 28 (1) *The applicant demonstrates a showing of good and sufficient cause:*  
29  
30

1  
2 **Applicant:** “Property has a shoreline (MHWL) in both sides, front of rear with a  
3 recorded access (20’) easement to all lots. Department request a set back from access  
4 easement rather than MHWL, owner request setback from MHWL as other properties in  
5 the area; see drawing A01”  
6

7 **Staff Review:** The subject property is comprised of seven contiguous lots. The  
8 southernmost lot, Lot 19, is the only lot with direct access to and from the adjacent  
9 county road (Ocean Shores Drive), all other lots achieve access by means of a shared  
10 access easement which cuts through each lot, reducing the buildable area of each parcel.  
11 Additionally, the subject property is adjacent a canal and open water, a shore line setback  
12 would be required adjacent each shoreline in accordance with LDC Section 118-12.  
13

14 Staff has determined that the applicant has demonstrated a showing of good and  
15 sufficient cause for the proposed setback variance.  
16

17 (2) *Failure to grant the variance would result in exceptional hardship to the applicant:*  
18

19 LDC Section 101-1 defines “exceptional hardship” as “a burden on a property owner that  
20 substantially differs in kind or magnitude from the burden imposed on other similarly  
21 situated property owners in the same land use district as a result of adoption of these  
22 regulations.”  
23

24 **Applicant:** “A 20’ Access easement is the road provided for all 5 lots, if set back is to be  
25 obtain [*sic*] from access easement each lot will be reduced by ±50% making each lot very  
26 small. Owner request setback from MHWL plus additional 5’ for a sidewalk which is the  
27 total equivalent to 35’ from MHWL. See A-2”  
28

29 **Staff Review:** The twenty foot wide access easement substantially reduces the buildable  
30 area of each property. A twenty five foot front yard setback requirement as measured  
31 from the access easement roadway would result in a 45 foot wide area across each parcel  
32 that is not considered to be buildable area. Additionally, due to the 20 foot shoreline  
33 setback requirement as measured from the canal, it is unlikely that a structure would be  
34 permitted to be located on the western side of the access easement further reducing the  
35 buildable area of each property.  
36

37 Staff has determined that failure to grant the variance would result in exceptional  
38 hardship to the applicant.  
39

40 (3) *Granting the variance will not result in increased public expenses, create a threat to*  
41 *public health and safety, create a public nuisance, or cause fraud or victimization of the*  
42 *public:*  
43

44 **Applicant:** “Granting this variance will NOT result in increased public expenses.”  
45

1           **Staff Review:** Staff does not anticipate that granting the requested variances would result  
2 in increased public expenses, create a threat to public health and safety, create a public  
3 nuisance, or cause fraud or victimization of the public.  
4

- 5           (4) *The property has unique or peculiar circumstances, which apply to this property, but*  
6 *which do not apply to other properties in the same zoning district:*  
7

8           **Applicant:** “This parcel has a unique recorded access easement (20’) name [sic]  
9 Peninsula Way to provide access to the 5 Lots which other properties do not have, this  
10 this easement reduces the lot size by 20’ ”  
11

12           **Staff Review:** The property has the unique or peculiar circumstance of having a platted  
13 right-of-way over submerged lands. Ocean Shores Drive was platted to continue along  
14 the south of Lot 19 and along the southeast property lines of Lots 20, 21, and 22, ending  
15 in a cul-de-sac at Lots 23, 24, and 25. Ocean Shores Drive was not constructed in this  
16 configuration. To create access for the parcels, an easement access drive was established.  
17

18           Staff has determined that the property does have unique or peculiar circumstances, which  
19 apply to this property, but which do not apply to other properties in the same zoning  
20 district.  
21

- 22           (5) *Granting the variance will not give the applicant any special privilege denied other*  
23 *properties in the immediate neighborhood in terms of the provisions of this chapter or*  
24 *established development patterns:*  
25

26           **Applicant:** “Lots in this subdivision are measured from the MHWL and they do not  
27 required [sic] an access easement.”  
28

29           **Staff Review:** Staff has determined that granting the variances will not give the applicant  
30 any special privilege denied other properties in the immediate neighborhood in terms of  
31 the provisions of this chapter or established development patterns.  
32

- 33           (6) *Granting the variance is not based on disabilities, handicaps or health of the applicant or*  
34 *members of his family:*  
35

36           **Applicant:** “No”  
37

38           **Staff Review:** Concerning the proposed development, granting the requested variance  
39 would not be based on disabilities, handicaps or health of the applicant or their family  
40 members.  
41

- 42           (7) *Granting the variance is not based on the domestic difficulties of the applicant or his*  
43 *family:*  
44

45           **Applicant:** “No”  
46

1           **Staff Review:** Concerning the proposed development, granting the requested variance  
2 would not be based on the domestic difficulties of the applicant or their family.  
3

4           (8) *The variance is the minimum necessary to provide relief to the applicant:*  
5

6           **Applicant:** “Granting this variance of setbacks from MHWL would allow the owner to  
7 develop the property and would permit the development the minimum required.”  
8

9           **Staff Review:** Staff has determined that the requested access variance is the minimum  
10 necessary in order to provide relief to the applicant to develop the property as proposed,  
11 with the exception that the applicant must demonstrate compliance with all shoreline  
12 setback requirements.  
13

14 V RECOMMENDATION:  
15

16 Staff recommends **APPROVAL** of the requested variance of twenty five feet to the front  
17 yard setback requirements set forth in Chapter 131 of the Land Development Code (LDC),  
18 resulting in a five (5) foot primary front yard setback as measured from a required access  
19 easement road for the development of five (5) single family residences with the following  
20 conditions:  
21

- 22 1. This variance approval does not reduce any or all required shoreline setback  
23 requirements.  
24
- 25 2. This variance approval is based on the site plan by Luis Rene Rodriguez, revised  
26 01/12/2021, received by the Planning & Environmental Resources Department on  
27 01/20/2021. Work not specified or deviations to the approved plans shall not be carried  
28 out without any required additional Planning & Environmental Resources Department  
29 approval.  
30
- 31 3. The granting of this front yard setback variance is based on the design and placement of  
32 the structures as proposed within the front yard setback as measured five feet from the  
33 access easement road. At the time of building permit application and review, changes to  
34 the proposed structures may be required in order to show compliance with the Land  
35 Development Code.  
36
- 37 4. This variance approval does not waive or reduce any other requirement of the Land  
38 Development Code, nor waive the Land Development Code requirements for any future  
39 development.  
40

41 VI PLANS REVIEWED:  
42

- 43 A. Site Plan, Sheet Number 3, by Luis Rene Rodriguez, revised 01/12/2021
- 44 B. Boundary Survey by Mario Prats III, Professional Surveyor & Mapper No. 6686 dated  
45 10/11/2019  
46