

AGENDA
PLANNING & ZONING BOARD
REGULAR MEETING & PUBLIC HEARING

Wednesday, May 20th, 2026 – 3:30 PM

Marble Hall, 600 W. Ocean Drive, Key Colony Beach, Florida 33051 & via Zoom Conferencing
[Zoom Conferencing Information at the end of the Agenda](#)

1. **Call to Order, Pledge of Allegiance & Roll Call**
2. **Approval of the Agenda** (Additions, changes, and deletions can be made via one motion and a second to approve by majority vote)
3. **Citizen Comments & Correspondence – Pgs. 1-3**
4. **Approval of Minutes:** Planning & Zoning Board Minutes April 15th, 2026- **Pgs. 4-10**
5. **Administration of the Oath of Witness**
6. **Disclosure of Ex-Parte Communications – Pg. 11**
7. **Discussion/Recommendation for Approval of a Dissolution of Title for 480/490 9th Street – Pgs. 12-18**
8. **Discussion/Approval of a Request by Lynne Conkling to Rescind the Variances Approved for 620 and 630 10th Street at the April 15, 2026, Meeting, and Schedule the Matter for Reconsideration at a Duly Advertised Public Hearing, currently proposed for July 15, 2026, subject to the notice and advertising requirements of the City Code and Florida Statutes. (Requires a Motion and Second to Rescind the Previous Action and Rehear the Matter at a Future Meeting Following Required Public Notice.)**
 - a. **Letter to the Board – Pg. 19**
 - b. **Opposition to Variance of 10’ Setback from MHWL for Swimming Pools – Pgs. 20-22**
 - c. **Exhibits – Pgs. 23-32**
9. **Other Business**
10. **Next meeting:** June 17th, 2026, 3:30 PM
11. **Adjourn**

“Members of the Public may speak for three minutes and may only speak once unless waived by a majority vote of the commission.”

Letters submitted to the City Clerk to be read at the Commission Meeting will be made part of the record but not read into record. Persons who need accommodations in order to attend or participate in this meeting should contact the City Clerk at 305-289-1212 at least 48 hours prior to this meeting in order to request such assistance. If a person decides to appeal any decision made with respect to any matter considered at any meeting, that person will need a record of the proceedings and for such purpose may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

This meeting will be held at the City Hall Auditorium ‘Marble Hall’, 600 W. Ocean Drive, Key Colony Beach, and via Zoom.

Join from PC, Mac, iPad, or Android:

<https://us02web.zoom.us/j/89250885641?pwd=1oYbgN4abnn0H9WvEDbagBO68Np20s.1>

Passcode:503973

Phone one-tap:

+13052241968,,89250885641#,,,,*503973# US
+19292056099,,89250885641#,,,,*503973# US (New York)

Join via audio:

+1 305 224 1968 US
+1 929 205 6099 US (New York)
+1 301 715 8592 US (Washington DC)
+1 309 205 3325 US
+1 312 626 6799 US (Chicago)
+1 646 931 3860 US
+1 719 359 4580 US
+1 253 205 0468 US
+1 253 215 8782 US (Tacoma)
+1 346 248 7799 US (Houston)
+1 360 209 5623 US
+1 386 347 5053 US
+1 564 217 2000 US
+1 669 444 9171 US
+1 669 900 6833 US (San Jose)
+1 689 278 1000 US

Webinar ID: 892 5088 5641

Passcode: 503973

International numbers available: <https://us02web.zoom.us/j/89250885641?pwd=1oYbgN4abnn0H9WvEDbagBO68Np20s.1>

Owners at Castillo del Sol Condominiums

799 West Ocean Drive

Key Colony Beach, Florida 33051

April 28, 2026

City Hall Auditorium

City of Key Colony Beach

600 West Ocean Drive

Key Colony Beach, Florida 33051

ATTN: Planning and Zoning Board

Dear Members of the Planning and Zoning Board:

This letter is a follow-up to a previous correspondence to the Planning and Zoning Board dated April 10, 2026 regarding a proposed placement of a 40K, 8 post cradle boat lift to be located at 841 West Ocean Drive.

It is our understanding that despite what appears to be tentative approval, that there remains open discussion regarding this proposal. Accordingly, we would like to put forth additional justifications to support our opposition to this plan.

1. Noted in the application is a letter from the Florida Department of Environmental Protection dated February 29, 2024 approving this project based on information submitted to the department. There is no indication that anyone from that agency made an "on-site" visit to evaluate first-hand the actual impact of this project on our fragile marine environment. Also, this approval was granted 2 years ago when the original proposal was for a much smaller structure.
2. The petitioner states that it is his intention to only use this boat lift on a "part-time basis." However, when given the convenience of having his boat immediately available, it's hard to believe that this will not in fact, become a "full-time" indulgence.

Furthermore, it has come to our attention that the petitioner owns 2 large boats raising the real possibility that both vessels may at some point be moored at the same location.

3. "Safety." It is well known that we have local residents, ourselves included, who regularly swim, paddle boat, wind surf and snorkel in the immediate area of this proposed dock and boat lift. Visibility of these participants when in the water is extremely poor. A large boat navigating this area raises serious safety issues and/or may discourage people from even going into the water to avoid this risk.
4. "Liability." Some of us at Castillo del Sol have been owners or residents for 35+ years. We have experienced first-hand the unimaginable destruction generated by severe weather, especially hurricane wind and ocean surges. And in spite of every reassurance and precaution there is risk that all, or parts of this dock/boat lift may become separated and cause catastrophic damage to structures on land. As adjacent property owners we have concerns as to who bears responsibility for any damages that may impact our land or buildings should this occur. Is it the petitioner who is liable, or is it the City of Key Colony Beach who approved the placement of this structure?
5. Lastly, we're back again to the fundamental concept of "established precedent." We are aware that the city of Key Colony Beach, like most of Marathon, is centered around boating and fishing. However, the ocean front is the only real beach area that Key Colony Beach can take pride in. Once there is formal approval for placing a boat lift along ocean front property there becomes an established precedent for additional lifts. This has the very real potential to dramatically disfigure the beautiful coastline that is ocean front to the City of Key Colony Beach. We urge you, our city leaders to give this ruling very serious consideration as it will have profound impact for future generations.

These, as well as the previously cited concerns in our letter from April 10 are why we respectfully, but strongly oppose placement of a boat lift at 841 West Ocean Drive. We believe there are other potential options short of building this structure, and once again encourage the applicant to consider pursuing alternative plans.

Since it appears that the proposal for this boat lift is proceeding, we would like the Zoning Board to know that we will be sending a copy of our letters to the City Commissioners of Key Colony Beach so that they are equally aware of our position in opposing this application.

Respectfully,

Gail and Dr. Robert Zimmerman (Unit 4)

Mr. and Mrs. Robert Zimmerman

John Rudolph (Unit 4)

Gail Zimmerman
on behalf of John Rudolph

Betsy Egan (Unit 3)

Theresa Hughes
on behalf of
Betsy Egan

Dr. Jeff and Julie Kesler (Unit 103)

Dr. & Mrs. Jeff Kesler

Stephen and Phyllis Pastore (Unit 104)

Mr & Mrs. S. Pastore

Richard and Terry Hughes (Unit 105)

Mr & Mrs. Richard
Hughes

Alex and JoAnn Lieblong (Unit 2)

Alex Lieblong
JoAnn Lieblong

MINUTES
PLANNING & ZONING BOARD
REGULAR MEETING & PUBLIC HEARING

Wednesday, April 15, 2026 – 3:30 PM

Marble Hall, 600 W. Ocean Drive, Key Colony Beach, Florida 33051 & via Zoom Conferencing

1. **Call to Order, Pledge of Allegiance & Roll Call:** The Key Colony Planning & Zoning Board was called to order by Chair George Lancaster at 3:30 PM, followed by Rollcall. **Present:** Chair George Lancaster, Vice-Chair Lin Walsh, Lynne Conkling, Skip Helme, Lenny Geronemus. **Also present:** Commissioner Tom Harding, Commissioner Kirk Diehl, City Administrator John Bartus, Building Official Tony Loreno, Administrative Assistant Par Darnall, City Clerk Silvia Roussin, Boatlift Applicant Jesse Schmidt.

2. **Approval of the Agenda** (Additions, changes, and deletions can be made via one motion and a second to approve by majority vote): There were no changes to the agenda, and Chair Lancaster asked for a motion to approve.

MOTION: Motion made by Lenny Geronemus to approve. Lynne Conkling seconded the motion.

DISCUSSION: None.

ON THE MOTION: Rollcall vote. Unanimous approval.

3. **Citizen Comments & Correspondence:** Chair Lancaster asked for citizen correspondence. City Clerk Roussin reported that on April 10th, owners of the Castillo Del Sole Condominiums wrote to the Board in opposition to the request for a boatlift at 841 W. Ocean Drive. City Clerk Roussin further reported that on April 13th, Tom and Molly Hill wrote to the Board in support of the Variance Request for the installation of a Pool at 620 10th Street.

4. **Approval of Minutes:** Planning & Zoning Board Minutes February 18th, 2026: There were no changes to the minutes, and Chair Lancaster asked for a motion to approve.

MOTION: Motion made by Lenny Geronemus to accept the minutes. Lynne Conkling seconded the motion.

DISCUSSION: None.

ON THE MOTION: Rollcall vote. Unanimous approval.

5. **Administration of the Oath of Witness:** City Clerk Roussin administered the Oath of Witness to Building Official Loreno.

6. **Disclosure of Ex-Parte Communications:** Chair Lancaster asked about exposure to ex-parte communications. Lynne Conkling stated that she is a neighbor and friend with the owners of the property at 620 10th Street, who are seeking variance applications, and that she has had conversations about pool setback requirements and possible variances. Lynne Conkling stated that she does not believe these communications would affect her impartiality in considering the evidence. Chair Lancaster had no objections.

7. **Discussion/Approval for installation of a 40,000 lb. Cradle-Style Boat Lift for the property at 841 W. Ocean Drive**

- a. Engineering Plans
- b. FDEP Qualification Letter
- c. Owner Letter
- d. Neighbor Letter of Approval
- e. Neighbor Letter of Opposition

Chair Lancaster introduced the agenda item and asked Building Official Loreno to elaborate. Building Official Loreno reported that in 2022 the Army Corps of Engineers originally approved the dock, including a boat lift. Building Official Loreno explained that the boat lift was never installed, that it fits within riparian lines, and that nothing in the city's codes would prohibit its installation. Building Official Loreno also provided further comment on the body of water and the location for the proposed installation.

Chair Lancaster invited Board comments.

Ms. Conkling stated there had been no prior boat-lift applications at this location and noted the opposition correspondence prompted additional review. She described the adjacent near-shore area as shallow and commonly used for casual swimming and raised concerns about boating activity in proximity to swimmers, including potential public-safety and liability considerations. Lynne Conkling referenced state and federal review considerations (including FDEP and the U.S. Army Corps of Engineers) and questioned whether a site-specific evaluation had occurred, given the area's use for swimming. Building Official Loreno advised that the City's review is based on applicable City Code requirements and stated that, to his knowledge, the proposed lift location fits within riparian lines and is not prohibited by City Code; he indicated he would follow up on questions raised. Lynne Conkling referenced a "300-foot" clearance standard for designated swimming areas and expressed concern about an adjacent area she described as a de facto and unmarked swimming area. Chair Lancaster asked for clarification regarding what constitutes a designated swimming area; the Board discussed marked swimming areas and the potential use of a marker buoy. Vice-Chair Walsh stated she understood the concerns raised but did not see a basis to deny the request under City Code as presented. Lenny Geronemus noted the dock had previously been permitted and that boat activity is already present in the area, and questioned how approval or denial of a lift would change existing boat traffic. Discussion also addressed the applicant's stated intent not to leave a boat on the lift permanently and the Board's ability to enforce such intent. Lenny Geronemus asked about the correspondence received in support and opposition, and City Clerk Roussin clarified what was included in the agenda packet. Lenny Geronemus questioned the applicability and measurement of the "300-foot" swimming-area clearance standard discussed. Lynne Conkling reiterated her concern and stated she was not comfortable proceeding without legal review.

The applicant, Jesse Schmidt, asked for the ability to speak, which Chair Lancaster granted. City Clerk Roussin administered the Oath of Witness to Jesse Schmidt.

Mr. Jesse Schmidt introduced himself and described the purpose of the application, stating that the lift would assist his two wheelchair-bound sons in accessing the family boat more safely. He described difficulties transferring to and from the boat without a lift and stated his intent not to keep a vessel on the lift full-time. Mr. Schmidt noted ongoing boat traffic in the area and stated the location is within a no-wake zone. Building Official Loreno advised that the prior boat-lift permit had expired. Skip Helme commented that the proposed lift would not negatively affect existing boat traffic.

Building Official Loreno addressed questions regarding permitting requirements, including any approvals applicable to lift equipment. The Board also discussed adjacent-neighbor approval and notice requirements, as well as related City Code provisions; City Clerk Roussin read the applicable code language into the record.

Lynne Conkling expressed concern that prior approvals may not have fully accounted for current site conditions and requested additional due diligence, including a review of the specific location and any relevant agency determinations. She expressed understanding of the applicant's request but noted concerns about the potential use of the adjacent swimming area. Chair Lancaster suggested proceeding with a motion that would include legal review. Ms. Conkling stated she had drafted proposed motion language contingent upon confirmation that the relevant agencies have been consulted and that concerns regarding adjacent swimming areas have been evaluated. Chair Lancaster asked whether any Board member objected to placing a motion on the table. Vice-Chair Walsh reiterated her earlier comments that the applicant had presented DEP documentation, that staff had not identified a City Code basis for denial, and that she did not object to moving forward. Lynne Conkling referenced code language and statutes related to existing mooring areas and questioned whether the documentation in the packet fully addressed the circumstances. Vice-Chair Walsh asked about the relevance of the Americans with Disabilities Act; it was noted that ADA requirements were not applicable because the request involves private property. Chair Lancaster asked Lynne Conkling to make a motion.

MOTION: Motion made by Lynne Conkling to accept the application for a boatlift at 841 W. Ocean Drive, based on the following findings: The Subject property is located on the open-ocean side of Key Colony Beach, where nearshore waters are shallow and commonly used for wading and swimming. The applicant will provide site-specific evidence demonstrating that the proposal will not create unsafe interactions between vessels and swimmers, and the City Attorney will review and make a recommendation on compliance with legal provisions for permitting. Chair

Lancaster seconded the motion.

FURTHER DISCUSSION: Building Official Loreno commented on the DEP verbiage of an existing mooring area and his understanding that the proposed lift meets environmental standards that minimize impact on seagrass, mangroves, and navigation. Lenny Geronemus asked for a possible grandfathering clause of the original permit. Building Official Loreno stated that he had not been present at the time of the original permit approval, but that the original permit had expired and was no longer relevant, and commented on not being able to grandfather in potential hazardous conditions once known. Skip Helme commented that if the boatlift were installed, there would be less activity with boats coming in and out of the ocean to the dock area, where the lift would pose less risk than coming to the dock. Lenny Geronemus agreed with the statement. Lynne Conkling stated that she had to base her decision on perceived rules, opposition's stated potential swimming issues, and considerations of responsibility. Vice-Chair Walsh commented on existing boat traffic, boatlifts along the water's edge, and beaches. Lynne Conkling stated to have specifically looked at beachfront properties, and it was reasonable to approve the request after legal review for the city not subjecting itself to liability, knowing there is a swimming area adjacent. Lynne Conkling repeated her motion to conditionally approve the application once legal review determined that no hazard was being approved. **ON THE MOTION:** Rollcall vote. Unanimous approval.

City Clerk Roussin informed that the recommendation is to be presented to the City Commission on May 20th.

8. Items for Discussion/Recommendation of Approval

A. A Variance Request from Kenneth and Ellen Jones, owners of the property at 620 10th Street, Key Colony Beach, for the construction of a residential swimming pool that would encroach into the setback by 3 feet.

1. Proof of Legal Publications & Affidavits of Mailing/Posting
2. Variance Application
3. Applicant Questions & Responses
4. Recommendation by the Building Official

Chair Lancaster introduced the variance request and asked that the applicants' questions and responses be read first.

City Clerk Roussin read the applicant's questions and responses into the record.

Chair Lancaster asked Building Official Loreno for comment. Building Official Loreno explained that, with the variance approval, the homeowners will have an additional two feet from their house; an engineering letter examining the seawall found no structural problems with the pool being built and noted no visual difference in the setback.

Lenny Geronemus noted that both Variance applications use identical wording in the applicants' questions and responses and asked whether, for expediency, both requests could be addressed at the same time. City Clerk Roussin advised that the discussion of both requests could be held together, but that the motions and post-hearing questions would remain separate. The Board gave consensus that the applicants' questions and answers for 630 10th Street need not be read again.

Chair Lancaster asked for the Post-Hearing questions to be read. Lynne Conkling asked for a Point of Order to have further discussion.

Lynne Conkling commented on the requests to set a precedent as being reviewed after the code requirements were changed, and to have completed research on the matter and encroachment of a seawall to be considered. Discussion followed on setback requirements, property boundary verification, the definition and identification of mean high water, and engineering requirements to ensure seawall stability and life safety during and after construction. Lynne Conkling raised concerns about language in the engineering certification and continued by describing 10 items that have appeared in various litigation issues in Florida, with entities finding them a condition of approval. Lynne Conkling suggested that the applicant provide the following: : 1. Signed and sealed plans certified by a Florida Structural Engineer that include the following: the pool and excavation will not compromise the seawall, no loss of lateral support will occur, and the design accounts for soil and groundwater conditions. 2. Provide seawall documentation: seawall height, construction type, and current condition assessment. 3. Geo-technical/Soil

evaluation, including soil type and compaction, groundwater elevation, and risks of soil mitigation or voids. 4. Construction method requirements, including excavation, and protection of seawall footing/toe during excavation. 5. Groundwater and hydrostatic control, including hydrostatic relief valves in the pool design and assurance of no soil washout behind the seawall. 6. Drainage plan to include no water accumulation between pool and seawall and no increased hydrostatic pressure on seawall. 7. Pre-construction conditions survey documenting seawall condition before construction. 8. Engineering inspection requirements – perform construction-phase inspections, or certify compliance upon completion. 9. Indemnification and acknowledgment of risks by applicant – risk associated with reduced setback and responsibility for any seawall impacts resulting from construction. 10. Optional strong safeguard Engineers' certification – approval is contingent upon the engineer specifically certifying that the pool can be constructed safely at a 7-foot setback without undermining or adversely affecting the seawall.

Approval is based on the condition that all engineering demonstrates no adverse structural impact to the seawall. Failure to provide such documentation shall void this approval. Building Official Loreno explained that engineering review and inspections during construction are intended to address these concerns and discussed potential process improvements for future applications, including more stringent assessments where warranted. Skip Helme asked questions regarding caps and tiebacks and noted potential concerns if structural elements were cut and not properly repaired. Board members discussed potential design alternatives to reduce risk, including narrowing and lengthening the pool. Further discussion on ensuring no seawall compromise followed, with consideration of variables, confirmation of the scope of the work included on the permit, and confirmation that the scope did not include a tiki structure.

5. Post-Hearing Questions

1.) Has the applicant shown good and sufficient cause to grant the variance?

Skip Helme	Yes
George Lancaster	Yes
Lin Walsh	Yes
Leonard Geronemus	Yes
Lynne Conkling	No

2.) Will denial of the variance result in unnecessary hardship to the applicant?

George Lancaster	Yes
Lin Walsh	Yes
Leonard Geronemus	Yes
Lynne Conkling	No
Skip Helme	Yes

3.) Granting this variance will not result in public expense, a threat to public health & safety and it will not create a threat to or nuisance, or cause fraud or victimization of the public?

Lin Walsh	Yes
Leonard Geronemus	Yes
Lynne Conkling	No
Skip Helme	Yes
George Lancaster	Yes

4.) The property has unique or peculiar conditions or circumstances to this property that do not apply to other properties in the same zoning district.

Leonard Geronemus	Yes
Lynne Conkling	No
Skip Helme	Yes
George Lancaster	Yes

Lin Walsh Yes

5.) Granting this variance would not confer any special privileges in terms of established development in the immediate neighborhood?

Lynne Conkling No
Skip Helme Yes
George Lancaster Yes
Lin Walsh Yes
Leonard Geronemus Yes

6. Recommendation to approve, deny, or approve with conditions

Chair Lancaster asked for a motion to approve or deny, or approve with conditions.

MOTION: Motion made by Lynne Conkling to approve the variance request for 620 10th Street with conditions, contingent upon receipt and review of satisfactory documentation addressing the engineering and seawall stability items as discussed. Skip Helme seconded the motion.

FURTHER DISCUSSION: Vice-Chair Walsh asked what additional information could be requested from the engineer. Building Official Loreno stated that the engineer can be given the opportunity to address some of the questions to satisfy the Board. Lynne Conkling commented on the pool's location relative to the seawall, and on engineering requirements and variables affecting seawall stability. Lynne Conkling noted that the engineer letter (p. 33) certified that “*when* appropriate methods of construction are used ...” Since this is the first time a variance is being sought to locate a swimming pool closer than 10 feet from a seawall, Lynne Conkling suggested the City require the engineer to detail the “appropriate methods of construction” to address the 10 items previously suggested. . Building Official Loreno offered to meet with Lynne Conkling and the engineer, and to develop a process for this type of variance request. Lynne Conkling expressed support for the suggestion. **ON THE MOTION:** Rollcall vote. Unanimous approval.

City Clerk Roussin informed that the recommendation will be presented to the City Commission on May 21st, 2026, and clarified that the recommendation for the boatlift will be heard on the same date as well.

B. A Variance Request from Brian Vliem of Vliem Vacation Rentals, LLC, owner of the property at 630 10th Street, Key Colony Beach, for constructing a residential swimming pool that would encroach into the setback by 3 feet.

1. Proof of Legal Publications & Affidavits of Mailing/Posting
2. Variance Application
3. Applicant Questions & Responses
4. Recommendation by the Building Official

Chair Lancaster asked for guidance on whether a discussion is necessary for the property at 630 10th Street, as it is identical to the previous one. City Clerk Roussin advised making a motion to accept all discussion and evidence and provided notes under the variance application for 620 10th Street for 630 10th Street. Chair Lancaster asked for a motion.

MOTION: Motion made by Skip Helme to approve. Vice-Chair Walsh seconded the motion.

DISCUSSION: None.

ON THE MOTION: Rollcall vote. Unanimous approval.

5. Post-Hearing Questions

- 1.) Has the applicant shown good and sufficient cause to grant the variance?

Skip Helme Yes
George Lancaster Yes
Lin Walsh Yes
Leonard Geronemus Yes
Lynne Conkling No

2.) Will denial of the variance result in unnecessary hardship to the applicant?

George Lancaster Yes
Lin Walsh Yes
Leonard Geronemus Yes
Lynne Conkling No
Skip Helme Yes

3.) Granting this variance will not result in public expense, a threat to public health & safety and it will not create a threat to or nuisance, or cause fraud or victimization of the public?

Lin Walsh Yes
Leonard Geronemus Yes
Lynne Conkling No
Skip Helme Yes
George Lancaster Yes

4.) The property has unique or peculiar conditions or circumstances to this property that do not apply to other properties in the same zoning district.

Leonard Geronemus Yes
Lynne Conkling No
Skip Helme Yes
George Lancaster Yes
Lin Walsh Yes

5.) Granting this variance would not confer any special privileges in terms of established development in the immediate neighborhood?

Lynne Conkling No
Skip Helme Yes
George Lancaster Yes
Lin Walsh Yes
Leonard Geronemus Yes

6. Recommendation to approve, deny, or approve with conditions

Chair Lancaster asked for a motion. City Clerk Roussin stated the motion to approve the variance request with conditions, contingent upon receipt and review of satisfactory documentation addressing the engineering and seawall-stability issues discussed.

MOTION: Motion made by Lynne Conkling to approve. Chair Lancaster seconded the motion.

DISCUSSION: None.

ON THE MOTION: Rollcall vote. Unanimous approval.

City Clerk Roussin informed that the recommendation will be presented to the City Commission on May 21st.

9. Other Business: None.

10. Next meeting: May 20th, 2026, 3:30 PM

11. Adjourn: The meeting adjourned at 4:56 PM.

Respectfully submitted,

Silvia Roussin

City Clerk

DRAFT

EX-PARTE COMMUNICATIONS

An ex-parte communication is defined as:

any contact, conversation, communication, writing, correspondence, memorandum or any other verbal or written communication that takes place outside a public hearing between a member of the public and a member of a quasi-judicial board, regarding matters which are to be heard and decided by said quasi-judicial board.

Site visits and expert opinions are also considered ex-parte communications.

In the event that someone contacts a Board Member about a quasi-judicial matter outside of a public meeting, at such time that particular issue is brought before the Board, the Board Member should state on the record:

- the existence of any ex-parte communication,
- the nature of the communication,
- the party who originated the ex-parte communication, and
- whether or not the ex-parte communication affects your ability to impartially consider the evidence presented.

Similarly, any correspondence received by a Board Member must be forwarded to the Board Clerk.

Note: The term “Board Member” would include all members of the Code Enforcement Board, the Planning & Zoning Committee, and the City Commission when they are acting in a quasi-judicial capacity (for example, but not limited to, code violation hearings and variance hearings).

This Instrument Was Prepared By:

Patrick M. Stevens
Wolfe Stevens PLLC
5800 Overseas Highway Unit 3
Marathon, FL 33050
305-743-9858

Lot Split and Easement Agreement

480-490 9th Street, Key Colony Beach , Florida
33051
RE: 00075250-000000

Lot Split

KNOW ALL MEN BY THESE PRESENTS: The undersigned Pedro L. Amador and Pedro Amador request a lot split for the real property located at 480 9th Street, Key Colony Beach Florida 33051.

The parcel is currently a duplex which is on parcel as seen in Exhibit A legally described as follows:

Lot 47, Block 5, Amended Plat Key colony Beach First Addition, according to the plat thereof as recorded in Plat Book 4, page 11, Public Records of Monroe County, Florida.

The owners desire to divide the property into 2 parcels.

Newly created parcel A as seen in Exhibit B would legally be described as follows:

The South 1/2 of Lot 47, Block 5 in AMENDED PLAT KEY COLONY BEACH FIRST ADDITION, as recorded in Plat Book 4, at Page 11, of the Public Records of Monroe County, Florida, together with an easement over the following described part of the North 1/2 of Lot 47 Block 5 existing above an elevation of 14.90 Feet NGVD 1929 and more particularly described as follows:

Commencing at the Northwest corner of said Lot 47 in Block 5 thence run N 77°51'00" E along the North line of said Lot 47 for 22.50 Feet; thence run S 12°09'00" E for 14.25 Feet to the Point of Beginning of the herein described Easement; thence continue S 12°09'00" E for 23.25 Feet to the centerline of said Lot 47; thence run N 77°51'00" E along the line dividing the North half from the South half of Lot 47 for 55.90 Feet; thence run N 12°09'00" W for 23.20 Feet; thence run S 77° 54'06" W for 55.90 Feet back to the Point of Beginning.

Newly created parcel B as seen in Exhibit C would be legally described as follows:

The North 1/2 of Lot 47, Block 5 in AMENDED PLAT KEY COLONY BEACH FIRST ADDITION, as recorded in Plat Book 4, at Page 11, of the Public Records of Monroe County, Florida, together with an easement over the following part of the South 1/2 of said Lot 47 more particularly described as follows:

Commencing at the Southwest corner of said Lot 47 in Block 5 thence run N 77°51'00" E along the south line of Lot 47 for 26.00 Feet; thence run N 12°09'00" W for 18.40 Feet to the Point of Beginning; thence continue N 12°09'00" W for 19.10 Feet to the dividing line between the North 1/2 and the South 1/2 of said Lot 47; thence run N 77°51'00" E for 52.40 Feet; thence run S 12°09'00" E for 19.30 Feet; thence run S 78°04'07" W for 52.40 Feet back to the Point of Beginning, the entire easement area is below elevation 14.90 Feet NGVD 1929.

Easement Agreement

1. Easement and Maintenance. Parcel A and Parcel B hereby grant an easement for the parties. Easement is the following ways:
 - a. The current structure may remain in its current location with the upstairs dwelling unit owned by the owner of Parcel A and the downstairs dwelling unit owned by the owner of Parcel B.
 - b. The parties will mutually share the expenses of maintaining the exterior walls, roof, floor dividing the two dwelling units and will sign off on any necessary permits to make such repairs.
 - c. Each party agrees the air conditioning handlers and utilities will remain in their current location and each party shall have reasonable access to the parcel owned by the other part to make any repair to the air conditioning, water, sewer , and electrical, and internet lines.
 - d. The parties will mutually share the expenses of maintaining the water, sewer, electric, and the two dwelling units and will sign off on any necessary permits to make such repairs.
 - e. The owners of Parcel A and Parcel B shall only park their vehicles, trailers, or RVs wholly within the parcel they own.
 - f. The owners of Parcel A and Parcel B shall only dock their vessels adjacent to the parcel they own.

2. Cost of Enforcement. In any litigation, including breach, enforcement or interpretation, arising out of this Agreement, the prevailing party in such litigation shall be entitled to recover from the non-prevailing party reasonable attorney's fees, costs and expenses.

3. Notices. All notices or other communications required or permitted to be given hereunder shall be in writing and shall be deemed received: ten days after depositing in the U. S. Mail, by certified mail, return receipt requested to the last address of the party receiving the notice provided to the other party.

4. Governing Law. This Agreement and the rights and obligations of the parties hereto shall be governed by and construed and enforced in accordance with the laws of the State of Florida and shall be performable in Monroe County, Florida.

5. Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto and shall run with the land.

6. Counterparts. This Agreement may be executed in counterparts, each of which, when executed and delivered, shall be an original, but such counterparts shall together constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the date first above written.

Witness #1

By: Pedro L. Amador

Witness #2

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this ____ day of May, 2026 by Pedro L. Amador company who is personally known or has produced a driver's license as identification.

Notary Public, State of Florida
Printed Name: _____
My Commission Expires: _____

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the date first above written.

Witness #1

By: Pedro Amador

Witness #2

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this ____ day of Marh, 2026 by Pedro Amador, who is personally known or has produced a driver's license as identification.

Notary Public, State of Florida
Printed Name: _____
My Commission Expires: _____

SKETCH OF SURVEY

SCALE: 1" = 20'

CANAL

LOCATION MAP

SCALE: N.T.S.
SEC. 5, T. 66 S., R. 33 E.



LEGAL DESCRIPTION:

The South 1/2 of Lot 47, Block 5 in AMENDED KEY COLONY BEACH FIRST ADDITION, as recorded in Plat Book 4, at Page 11, of the Public Records of Monroe County, Florida, together with and easement over the following described part of the North 1/2 existing above an elevation of 14.90 Feet NGVD 1929 and more particularly described as follows:
Commencing at the Northwest corner of said Lot 47 in Block 5 thence run N 77°51'00" E along the North line of said Lot 47 for 23.50 Feet; thence run S 17°09'00" E for 14.25 Feet to the Point of Beginning of the herein described Easement; thence continue S 12°09'00" E for 23.25 Feet to the centerline of said Lot 47; thence run N 77°51'00" E along the line dividing the North half from the South half of Lot 47 for 55.90 Feet; thence run N 12°09'00" W for 23.20 Feet; thence run S 77°51'00" W for 55.90 Feet back to the Point of Beginning.

NOTES:

- Lands shown herein were not researched by the surveyor for easement, legal overlaps, or any other instruments of record.
- No utilities located.
- Fence ownership not determined by this survey.
- There may be additional restrictions/Easements that are not shown on this survey that may be found in the public records of this county.
- Surveyor makes no claims to subsurface features other than evidence of same as shown herein.
- This drawing is the property of LINCOLN ITURREY, P.A. and shall not be used in whole or part without the written permission of LINCOLN ITURREY, P.A.
- Liability limited to survey fee charged.
- Elevation when shown Refer to N.G.V.D. 1929.
- Riparian rights not determined by this survey.
- All Measurements and Distances are in U.S. Standard Feet.
- Examination of the abstract of title will have to be made to determine recorded instruments, if any, affecting the property.
- Location and identification of utilities on and/or adjacent to the property were not secured, as such information was not requested.
- Ownership is subject to opinion of title.
- This survey is performed for: SOUTHSTAR PROPERTY & INVESTMENT, LLC., for the singular purpose of obtaining MORTGAGE and TITLE INSURANCE, and does not extend to any unnamed party.

IWE HEREBY CERTIFY:

That the attached Boundary survey of the above described property is true and correct to the best of our knowledge and meets standards of practice set forth by the FLORIDA BOARD OF LAND SURVEYORS. Pursuant to Chapter 5-17 Florida Administrative Code

Digitally signed by
56874e-6091-417a-8194-4c358897279e
Date: 2026.04.13
12:45:17 -0400

LINCOLN ITURREY, P.S.M. No. 5719
Professional Land Surveyors and Mappers L.B. 8190
Mailing Address: P.O. BOX 755, LONG KEY, FLORIDA, 33001.
Office Address: 65821 OVERSEAS HIGHWAY, No. 255, LONG KEY, FLORIDA, 33001.
PHONE: (305) 664-2727 / (305)975-3141 (CEL) Email = liturrey@gmail.com

This survey not valid without the original signature and seal of the appropriate registered Land Surveyor and Mapper.

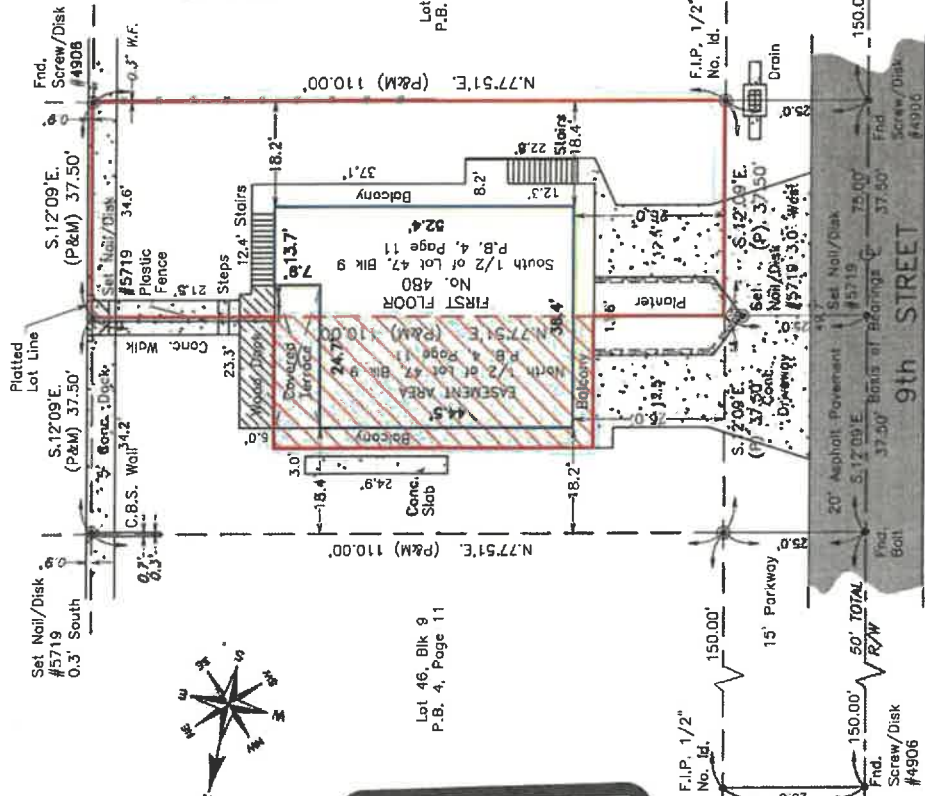
PREPARED BY: LINCOLN ITURREY, P.A.

Professional Land Surveyors and Mappers L.B. 8190
Mailing Address: P.O. BOX 755, LONG KEY, FLORIDA, 33001.
Office Address: 65821 OVERSEAS HIGHWAY, No. 255, LONG KEY, FLORIDA, 33001.
PHONE: (305) 664-2727 / (305)975-3141 (CEL) Email = liturrey@gmail.com

DATE: 07-24-2025 SCALE: 1" = 20' FB: 144 PG: 42

PREPARED FOR: SOUTHSTAR PROPERTY & INVESTMENT, LLC.
ADDRESS: 480 9th STREET, KEY COLONY BEACH, FLORIDA, 33051.

COMMUNITY NO. PANEL NO. SUFFIX DATE OF FIRM ZONE BASE ELEVATION
125729 1392 K 02-18-2005 AE 8
CLOSURE AT LEAST 17500 DRAWN BY: J.M. DRAWING NO. 26-10201 A



GROUND FLOOR ENCLOSURE

- A-2 - ALUMINUM SCHED.
- B-1 - BRICK
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ABBREVIATIONS & LEGEND

- A-1 - ALUMINUM SCHED.
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- A-100 - ALUMINUM SCHED.

EXHIBIT B

May 13, 2026

RE: Variance Request to 10' setback from MHWL for swimming pool.

Dear Planning and Zoning Committee Members,

As you know, as a member of the P&Z committee at our last meeting I made a motion to conditionally approve a variance request to install a swimming pool which encroached 3 feet into the 10' MHWL setback. My focus at the time was trying to understand the structural issues related to installing a swimming pool less than 10' from the MHWL, as I was informed this had never been done in KCB. My position was based on research I conducted regarding pools near seawalls in other coastal areas where several concerns were noted, including instances where it was later discovered that due to the construction method, the seawall structure was compromised when the pool was installed. It seemed if the structural issues could be addressed, a variance was warranted; but I now know that is not correct.

After the last P&Z meeting, I again reviewed the variance application, isolating and analyzing each question to determine its' validity and subsequently concluded that even if installing a swimming pool in the setback area is structurally sound, the request does not provide a reasonable basis for granting the variance.

My analysis and concerns are attached, including my concern that public trust will be undermined if the P&Z committee, of which I am a member, approves a variance that, according to my analysis, does not meet the criteria for granting a variance.

The last year I have been a member of the P&Z committee; from my perspective there have been no substantial variance issues requiring research; this is a first for me. We may not always "get it right" according to others, but I am compelled to share my research with my fellow committee members. I appreciate your consideration of this matter.

Respectfully,

Lynne Conkling

**Opposition to Variance of 10' setback from MHWL for swimming pools
May 12, 2026**

SUMMARY:

Based on the following, the current variance request, to encroach 3' into the 10' setback to construct a 11'3" X 12'6" pool, should be denied because strict compliance with the 10' set back requirement is feasible, applicant has not met the 5 conditions necessary for a variance, approval would signal selective enforcement, and it is important that citizens trust and rely on the government to implement rules, i. e., the 10' foot setback, that are well researched, necessary, and not arbitrary or capricious.

FACTS:

Setback requirement in KCB is 10 foot from the MHWL (or the landward edge of the seawall, as applicable).

Applicant requested a variance for relief to allow their placement of a pool to encroach into the setback by 3'. Applicant's proposed pool dimensions are 11'3" X 12'6."

This is the first time a variance from the 10' setback to install a pool has been requested in KCB.

REASON FOR VARIANCE REQUEST:

1. Good and sufficient cause

Applicant: Inability to construct a modestly sized pool limits the property's reasonable and competitive use; the subject property is constrained by limited lot depth, leaving "insufficient buildable area for a reasonably sized pool ..." These conditions are inherent to the platted lots and original home placement, not the result of any action by the owner.

2. Unnecessary hardships

Applicant: Increasing numbers of pools are being permitted within KCB, establishing a clear pattern of neighborhood character and market expectation. Without relief, the property is placed at a competitive disadvantage compared to similarly situated properties.

3. Would it create a threat to public health and safety? nuisance?

Applicant: Will not encroach into navigable waters. The requested relief represents the minimum variance necessary to allow a "modestly sized" code-compliant adequate circulation space for safe ingress and egress. The variance upholds the spirit and intent of the Land Development Regulations while addressing unique site hardship.

4. Unique physical circumstances that apply to this property but not others in the same zoning district?

Applicant: Strict application of the setback requirement effectively precludes construction of a "functional pool" thereby denying the property a right commonly enjoyed by similarly situated properties within the same zoning district. Creates a

disproportionate burden on this parcel due to its physical configuration and original building placement.

5. Confer upon the applicant any special privilege denied to other properties.

Applicant: No; rather it will allow the applicant to enjoy substantially the same residential amenities that neighboring property owners currently enjoy. The variance merely restores parity within the zoning district and is consistent with the City's comprehensive plan and land development regulations, in the public interest, will further the health, safety, welfare, and goals of the residents of the City of Marathon.

CONCERNS:

Applicant states there are unique characteristics of their lot which places a disproportionate burden due to its physical configuration and original building placement and as such, they are denied a property right commonly enjoyed by similarly situated properties (4). They have requested the minimum variance necessary (3) to construct a "modestly sized pool" (1, 3) which is necessary for the properties "reasonable and competitive use" (1). They are at a "competitive disadvantage" compared to similar properties (2). Granting this variance would not provide any special privilege denied to other properties and instead would allow applicant to enjoy substantially the same residential amenities that neighboring property owners currently enjoy (5).

- A. Applicants knew of the lot characteristics when they purchased their lot; conditions have not changed since their purchase and instead are inherent to the platted lots and original home placement (Reason for variance request #1, #4 above). Purchasers of real property, applicants, are deemed to have constructive notice of existing municipal ordinances affecting the use of property (Florida law).
- B. Applicant's lot characteristics are not unique. There are many lots similar to applicant's where the building is located close to the seawall, requiring narrower swimming pools in conformance with the 10' setback, in comparison to lots with houses placed farther from the seawall that install larger pools without violating the 10' setback. Exhibit 4 (pp. 6-9).
- C. Applicants are not denied a property right commonly enjoyed by similarly situated properties. Similarly situated properties comply with the 10' setback. There are no pools in KCB that encroach on the 10' setback. Exhibits 2-4 (pp. 4-9); City building official.
- D. A variance is not necessary to construct a "modestly sized pool" or necessary to construct a "functional pool." (4) Pool dimensions of 6'10" and 8'12" are common for smaller pools and deemed functional. <https://www.angi.com/articles/swimming-pool-size-chart.htm>. Applicant's proposed pool size is 11'3" X 12'6." Similarly situated properties have pools that are less than 11' wide (Exhibits 2-4; pp. 4-9); including applicant's neighbor (Exhibit 3, p. 5). Applicant could construct a functional pool that is 8' wide and would not require a variance. Exhibit 5 (p. 10).
- E. Applicants are not at a competitive disadvantage compared to similar lots. All similar lots with swimming pools in KCB adhere to the 10' setback. Exhibits 2, 4 (pp. 4, 6-9). Applicants have not shown that this variance is necessary for "reasonable and competitive" use.
- F. Granting this variance *would* confer upon the applicant a special privilege denied to other similarly situated properties, thereby providing a competitive advantage to applicants

compared to all other similarly situated lots with swimming pools, including applicant's neighbor since, if the variance is granted, applicants property would be the only swimming pool in KCB that is less than 10' from the seawall and would provide a larger pool than the comparative lots. Exhibits 3-4 (pp. 5-9).

A public governing body's decisions cannot be arbitrary or capricious; they must be grounded in law and provide an expectation by citizens that the laws (statutes) have a reasonable basis.

The 10' setback is not only a requirement in KCB, but also in the adjacent city of Marathon. The rationale for the 10' setback is a combination of many factors. Exhibit 1.

Importantly, many citizens have relied on the 10' setback as a legal requirement and complied. It is not prudent to change this setback requirement without significant justification. Lastly, another citizen mentioned the visual impact of allowing structures to encroach on the 10' setback. Our canals are like streets and, similar to our rules prohibiting leaving garbage cans on the street, the City has a responsibility to regulate the aesthetics; setback requirements provide a degree of regulation in this respect.

EXHIBIT 1

The rationale for Marathon's 10-foot shoreline setback for pools near seawalls/MHWL is primarily a combination of:

1. coastal environmental protection,
2. seawall and shoreline stability,
3. storm/flood resilience, and
4. maintaining a buffer for drainage, maintenance, and future shoreline adaptation.

While the ordinances do not contain a single express "purpose statement" specifically for pools, the rationale is evident from Marathon's shoreline regulations, Florida coastal management law, FEMA floodplain principles, and standard coastal engineering practice.

1. Protection of shoreline stability and seawalls

A pool excavation too close to a seawall can undermine:

- seawall footings,
- tie-backs/deadmen,
- soil bearing capacity,
- and canal bank stability.

This is particularly important in the Florida Keys because:

- many seawalls are older,
- many were not engineered to modern standards,
- canal edge soils are porous limestone and fill,
- groundwater and tidal fluctuations can migrate beneath pool excavations.

The 10-foot setback creates a structural "buffer zone" between:

- the excavated pool shell,
- and the seawall/canal edge.

This is a standard coastal engineering concern.

2. Flood and storm resilience

Marathon is in a hurricane-prone coastal flood zone.

The setback helps reduce:

- scour during storm surge,
- hydrostatic pressure concentration,
- undermining during tidal events,
- collapse risk during canal overtopping.

If a pool is too close to the shoreline:

- storm surge can erode soils between the pool and seawall,
- leading to cracking, settlement, or seawall failure.

This rationale aligns with FEMA coastal construction principles.

Relevant FEMA guidance

FEMA Coastal Construction Manual:

- recommends setbacks from erosion-prone shorelines,
- discourages structures immediately adjacent to shoreline stabilization systems.

FEMA Coastal Construction Manual

3. Environmental and water-quality protection

The setback also helps protect:

- adjacent canals,
- tidal waters,
- mangroves,
- and nearshore marine habitat.

Pools near canal edges increase risks from:

- chlorinated water discharge,
- runoff,
- construction sediment,
- chemical contamination.

The shoreline buffer provides space for:

- drainage,
- filtration,
- grading,
- and stormwater management.

This is consistent with Florida coastal resource regulation generally.

4. Preservation of shoreline access and maintenance

The setback leaves room for:

- seawall inspection,
- repairs,
- utility access,
- drainage infrastructure,
- future shoreline reinforcement.

Without a setback:

- pool shells and decks can physically obstruct seawall replacement or reconstruction.

This becomes a major issue because Keys seawalls often require:

- cap replacement,
- tieback repair,
- or full reconstruction after storms.

5. Adaptation and sea-level-rise planning

Modern coastal setback rules increasingly serve a long-term resilience purpose.

Marathon's Comprehensive Plan and coastal management framework emphasize:

- minimizing coastal hazards,
- protecting shorelines,
- adapting to flooding and sea level rise.

A setback leaves flexibility for:

- future seawall raising,
- drainage modifications,
- shoreline adaptation infrastructure.

6. Why the setback is only 10 feet on altered canal shorelines

The city already reduced the setback substantially for:

- "lawfully altered shorelines."

That is effectively a compromise recognizing:

- canals are already hardened,
- many lots are shallow,
- waterfront residential use is expected,
- strict natural-shoreline setbacks would make many lots unusable.

Thus:

- natural shorelines may require 20–50 feet,
- but altered canal seawalls are permitted at 10 feet.

That reflects the city balancing:

- property use rights,
- against coastal safety and environmental concerns.

7. Why Marathon measures from MHWL instead of seawall

Legally, coastal regulation focuses on:

- sovereign submerged lands,
- tidal jurisdiction,
- shoreline processes.

The MHWL is the legally recognized shoreline boundary under Florida law, not the seawall face.

Relevant statute:

[Florida Statutes § 177.27](#)

Thus the city regulates from the legal tidal boundary rather than from a manmade structure that may shift over time.

8. Practical reality in Marathon

In practice, many canal lots are constrained enough that:

- the 10-foot rule can severely limit pool size/location,
- especially where homes were built decades ago before modern shoreline regulations.

That is why:

- compact pool designs are relatively common in the Florida Keys.

Primary source documents

- [Marathon Ordinance 2001-07-07](#)
- [Marathon Ordinance 2002-01-06](#)
- FEMA Coastal Construction Manual
- [Florida Statutes § 177.27 \(definition of MHWL\)](#)

EXHIBIT 2

Subject Property

Adjacent neighbor's pool (10' set back)



EXHIBIT 3

- (1) Applicants proposed pool.
- (2) Neighbor's pool with 10' setback.



EXHIBIT 4

Sadowski Causeway



9th Street



10th Street



14th Street

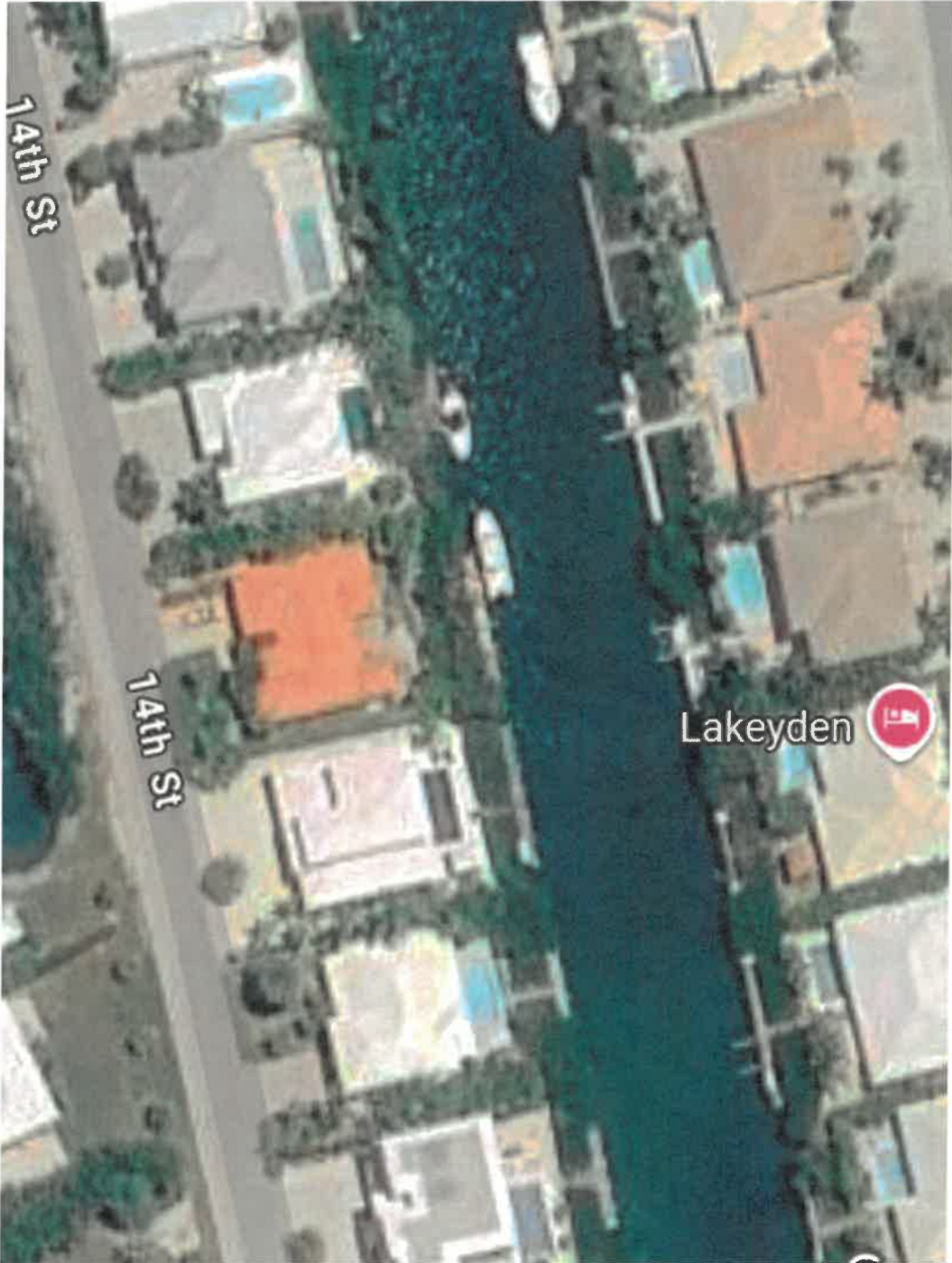


EXHIBIT 5

Pictures of functional pools with narrow widths.

