

# Persson & Cohen, P.A.

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*Reply to: Lakewood Ranch*

January 14, 2014

Benedict Feole, Chairman  
Zoning Board of Adjustment  
Town of Longboat Key  
501 Bay Isles Road  
Longboat Key, FL 34228

Re: Petition: The Pierre Condominium Assn. 455 Longboat Club Road  
Petition for Special Exception

Dear Chairman Feole:

This is a request filed by The Pierre Condominium Association for a variance of Section 158.127(E) of the Longboat Key Zoning Ordinance requesting permission to expand the existing tennis courts approximately five (5) feet to the East, up to, but not beyond, the 20 foot property line set back.

It is my opinion that the Zoning Board of Adjustment has jurisdiction pursuant to Section 158.127(E)(1).

This letter is an opinion of jurisdiction and is not intended to address the merits of the application. Should you have any questions, please contact me.

Respectfully,



Maggie Mooney-Portale

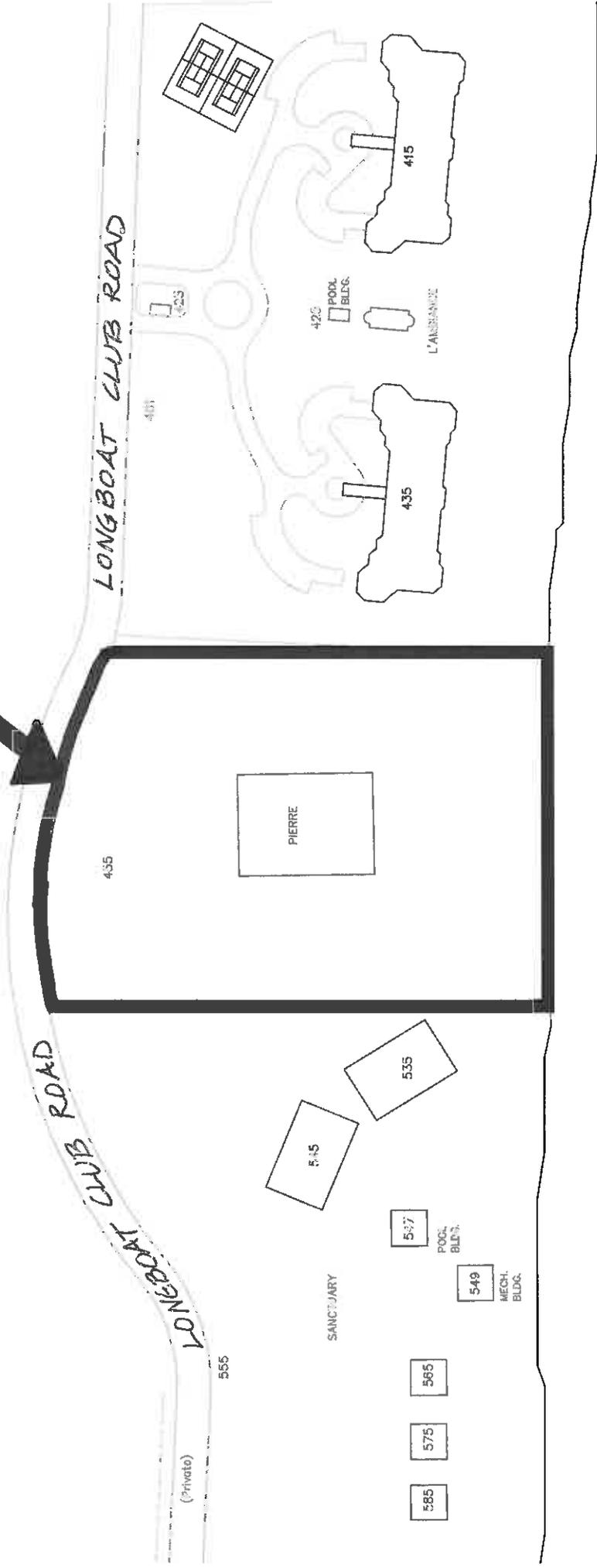
cc: Alaina Ray  
Donna Chipman

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Lakewood Ranch  
6853 Energy Court  
Lakewood Ranch, Florida 34240

Venice  
217 Nassau Street S.  
Venice, Florida 34285

Site



## MEMORANDUM

DATE: January 31, 2014

TO: Zoning Board of Adjustment

FROM: Steve Schield, AICP, ASLA, CFM, Planner  
Planning, Zoning & Building Department

THROUGH: Alaina Ray, AICP, Director  
Planning, Zoning & Building Department

SUBJECT: Special Exception Application: The Pierre Condominium

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APPLICANT: The Pierre Condominium

AGENT: Margaret Suarez, Association Manager

LOCATION: 455 Longboat Club Road  
Longboat Key, Florida 34228

ZONING DISTRICT: MUC- 2 Mixed Use Community-Islandside

REQUEST: The applicant has requested a Special Exception, under Section 158.126 of the Town Zoning Code, to expand the existing tennis courts five (5) feet into the required street yard located at The Pierre Condominium, 455 Longboat Club Road.

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### **STAFF SUMMARY**

The property owner, The Pierre Condominium Association, with the Association's approval, has submitted the above referenced application. The Association owns the property located at 455 Longboat Club Road, and proposes to expand tennis courts that currently exist on the site.

The Pierre property, which is zoned MUC-2 Mixed Use Community, contains two tennis courts located 20-feet into the required 45-foot street yard. As proposed, the applicant would like to expand the existing tennis courts an additional five (5) feet into the required street yard. The tennis courts will encroach 25-feet into the required 45-foot street yard and be located 20-feet from the street yard property line. In accordance with Section 158.127 (E)(1)(a), encroachment of a tennis court into the required yard area requires approval of a Special Exception by the Zoning Board of Adjustment (ZBA). If approved, the Special Exception would allow for the expansion of the existing tennis courts, as designed, with a 20-foot street yard setback. The standards for the granting

of a Special Exception are outlined in Section 158.126 of the Town Zoning Code and evaluated in Staff's report.

### **STAFF ASSESSMENT**

As per Town Zoning Code Section 158.126(A), before any Special Exception shall be granted, the ZBA shall make a written finding that the granting of the Special Exception will not adversely affect the public interest. The ZBA must also certify that the specific requirements governing the individual Special Exception, if any, have been met by the petitioner and that, further, satisfactory provision and arrangement has been made concerning the following matters, where applicable.

To facilitate discussions by the ZBA, the following findings and conclusions have been prepared by Staff for your review and consideration:

1. The proposed use is in compliance with all elements of the Comprehensive Plan.
2. The proposed use is a Special Exception use as set forth in the Schedule of Use Regulations of the Town Zoning Code.
3. Safe and convenient ingress and egress to the property is to be provided.
4. Off-street parking, as required for the existing tennis courts as a recreational use, is provided.
5. No refuse or service areas are required for the proposed land use.
6. New utility service is not proposed.
7. Screening of the proposed use shall be provided by landscaping and fencing.
8. The proposed expansion of the existing courts utilizes a portion of the 45-foot required street yard. The minimum allowable street yard for tennis courts is 20-feet with a Special Exception, which the applicant is proposing. All other yard requirements will be met.
9. The proposed use conforms to all applicable regulations governing the zoning district in which it is located and the approved Outline Development Plan.
10. The proposed use is generally compatible with adjacent properties and other properties in the zoning district. The compatibility of the proposed use is specifically evaluated through the following criteria:
  - a. **Whether the proposed use would be contrary to the land use plan and would have an adverse effect on the Comprehensive Plan.** As a permitted land use as approved in the ODP for the property, the proposed use will not be contrary to the land use plan and will not have an adverse effect on the Comprehensive Plan.

- b. **Whether the proposed use would be compatible with the established land use pattern.** The proposed use does not affect the established land use pattern in the vicinity. Adequate and sufficient buffering shall be required of the existing tennis courts.
- c. **Whether the proposed use would materially alter the population density pattern and thereby increase or overtax the load on public facilities such as schools, utilities and streets.** The proposed use will not alter the population density pattern and, therefore, does not increase or overtax the load on public facilities such as schools, utilities and streets.
- d. **Whether changed or changing conditions find the proposed use to be advantageous to the community and the neighborhood.** The expansion of the existing tennis courts would improve the safety of the courts and regulation size requirements.
- e. **Whether the proposed use would adversely influence living conditions in the neighborhood.** The proposed expansion of the existing courts would not change the existing uses and would not adversely influence the living conditions in the neighborhood. In addition to an existing vegetated buffer and fence, the expanded courts would include the installation of 13 Areca Palms to increase the width and height of the vegetative buffer. Court lighting is not proposed; therefore, play will be limited to the daylight hours.
- f. **Whether the proposed use would create or excessively increase traffic congestion or otherwise affect public safety.** The proposed use should not create or excessively increase traffic congestion or otherwise affect public safety.
- g. **Whether the proposed use would create a drainage problem.** Through the Building Review process, it will be ensured that the proposed expansion of the tennis courts will be developed with an adequate drainage system for the site and land use.
- h. **Whether the proposed use would seriously reduce the flows of light and air to adjacent areas.** The proposed use will not reduce the flows of light and air to adjacent areas.
- i. **Whether the proposed use would affect property values in the adjacent area.** No evidence has been produced demonstrating that the proposed use will adversely affect property values in the adjacent area.
- j. **Whether the proposed use would be a deterrent to the improvement or development of adjacent property in accordance with existing regulations.** The proposed expansion of use should not be a deterrent to the improvement or development of adjacent property in accordance with existing regulations. The existing use is adjacent to The Pierre driveways on both sides.

- k. **Whether the proposed use would be out of scale with the needs of the neighborhood or the town.** The proposed use will not be out of scale with the needs of the neighborhood or the Town.

### **STAFF RECOMMENDATIONS**

Staff recommends that the ZBA APPROVE Special Exception Order #2014-01.

### **ATTACHMENTS**

Attached, please find a copy of the Special Exception petition and support documentation. If you should have any questions or desire any additional information, please do not hesitate to contact the Planning, Zoning and Building Department.

xc: Maggie Mooney Portale, Town Attorney  
Alaina Ray, AICP, Director – Planning, Building & Zoning Department

ZONING BOARD OF ADJUSTMENT  
SPECIAL EXCEPTION ORDER # 2014-01

AN ORDER OF THE ZONING BOARD OF ADJUSTMENT OF THE TOWN OF LONGBOAT KEY, FLORIDA, APPROVING A SPECIAL EXCEPTION APPLICATION TO EXPAND EXISTING TENNIS COURTS, LOCATED AT THE PIERRE, 455 LONGBOAT CLUB ROAD, FIVE FEET INTO THE REQUIRED STREET YARD; PROVIDING AN EFFECTIVE DATE.

**WHEREAS**, tennis courts are allowed at 455 Longboat Club Road, as permitted accessory uses in the MUC-2 Mixed Use Community-Islandside zoning district; and

**WHEREAS**, The Pierre Condominium Association, submitted a Special Exception application to expand the tennis courts approximately five (5) feet east into the required street yard, but not beyond the 20 foot property line setback, in accordance with Section 158.127(E) of the Town's Code of Ordinances; and

**WHEREAS**, the Planning and Zoning Official has, in a timely fashion, accepted the Application and referred same to the Zoning Board of Adjustment along with the support documentation and staff recommendations; and

**WHEREAS**, the Zoning Board of Adjustment makes these conclusions and findings of fact:

- (a) With the recommended conditions of approval the Special Exception is consistent with the Comprehensive Plan, and the purpose and intent of the zoning district in which it is located.
- (b) With the recommended conditions of approval the Special Exception is in conformance with all applicable regulations of the zoning district in which it is located.
- (c) With the recommended conditions of approval the Special Exception is in conformance with the Town's subdivision regulations, Chapter 157, and all other applicable Town requirements, including the design, adequacy, utility facilities, and other essential services.
- (d) With the recommended conditions of approval the Special Exception is consistent with good design standards in respect to all external relationships, including but not limited to relationship to adjoining properties; and provision of screening and buffering;
- (e) With the recommended conditions of approval the Special Exception is in conformance with Town policy in respect to sufficiency of ownership,

guarantees for completion of all required improvements, and, if private, the guarantees for continued maintenance.

**NOW, THEREFORE, BE IT ORDERED BY THE ZONING BOARD OF ADJUSTMENT, THAT:**

Section 1. The Special Exception application for a tennis court located in the required yard at 455 Longboat Club Road, Longboat Key, Florida 34228 be and is hereby approved subject to the conditions attached hereto marked Exhibit "A", "Conditions Requisite for Approval", Special Exception, Tennis Courts located at 455 Longboat Club Road, Longboat Key, Florida 34228, and dated concurrently with this Special Exception Order.

Section 2. This Order shall become effective immediately upon adoption.

ADOPTED at a meeting of the Zoning Board of Adjustment of the Town of Longboat Key on the 13th day of February 2014.

\_\_\_\_\_  
Chairman

ATTEST:

\_\_\_\_\_  
Secretary

Attachment: Exhibit "A": Conditions of Approval

EXHIBIT "A"

SPECIAL EXCEPTION ORDER # 2014-01

CONDITIONS REQUISITE FOR APPROVAL  
SPECIAL EXCEPTION

TENNIS COURTS

THE PIERRE CONDOMINIUM, 455 LONGBOAT CLUB ROAD

1. The screening of the tennis courts shall be provided by landscaping and fencing as per the attached plan received January 27, 2014.
2. The screening of the tennis courts from all adjacent properties and right-of-ways shall be maintained.
3. In the required yard, only an open-wire mesh fence shall be permitted not exceeding a height of 12 feet.
4. No tennis court lights shall be permitted.
5. The expansion of the tennis courts shall be limited to a minimum setback of 20 feet from the street property line.
6. The proposed use conforms to all applicable regulations governing the district in which it is located, and the approved Outline Development Plan.
7. The special exception to allow for the expansion of the tennis courts shall expire 12 months from the date of grant, unless appealed and extended by action of the Town Commission, if by that date the use for which the special exception was granted has not been commenced. An appeal for extension shall show that commencement of the use is being actively pursued by evidence of an application for a building permit, preliminary plat, or site and development plan, or other evidence satisfactory to the Town Commission; said extension shall not exceed six months.
8. Approval of the proposed special exception shall be subject to payment of all staff review charges.



**Special Exception #2014-01**

**Tennis Courts**

**The Pierre**

**455 Longboat Club Road**

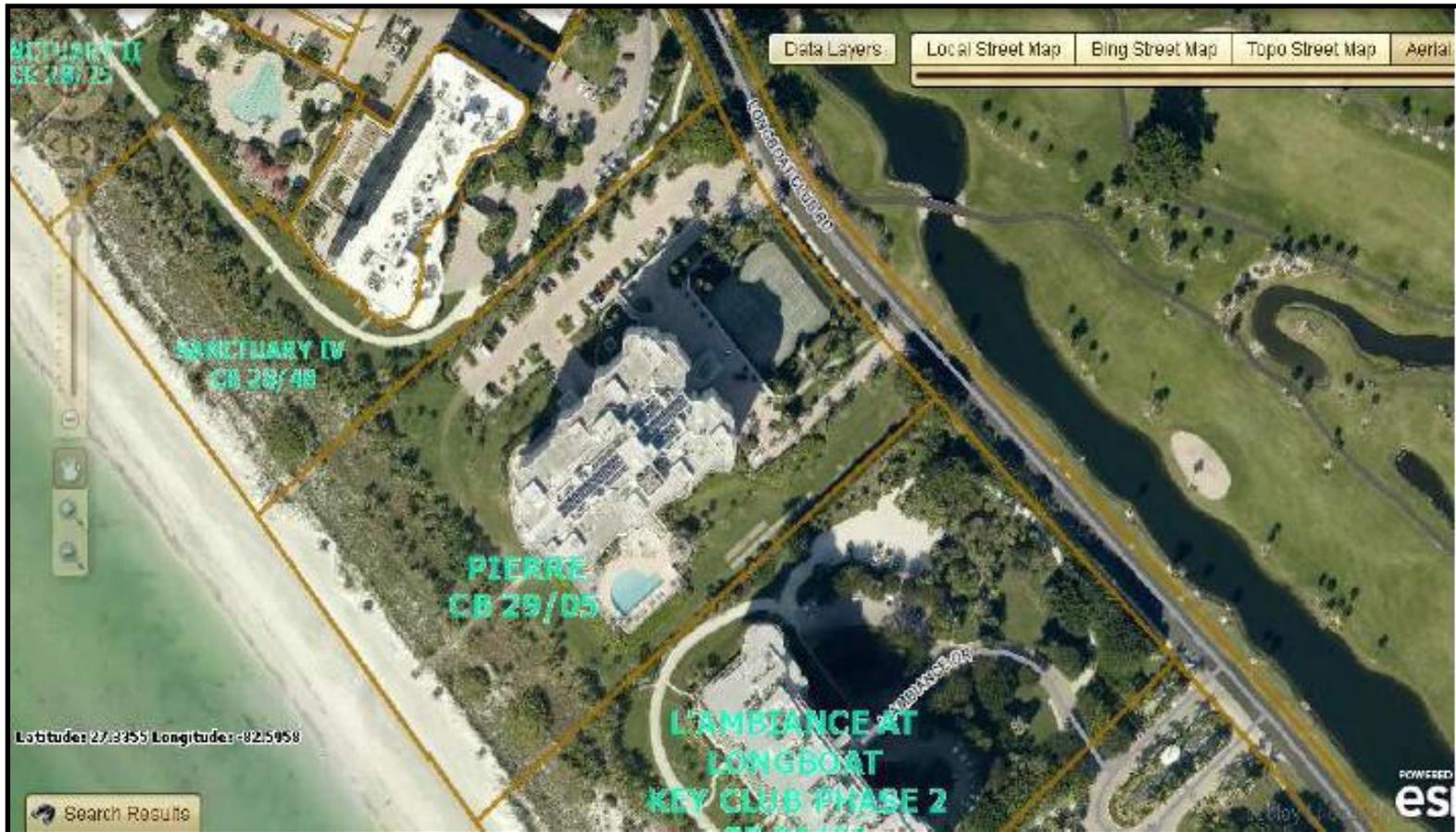
**Zoning Board of Adjustment**

**February 13, 2014**

# TOWN OF LONGBOAT KEY



## Location Map





## Special Exception Request

The applicant has requested a Special Exception under Section 158.126 of the Town Zoning Code, to expand the existing tennis courts an additional five feet into the required street yard.

# TOWN OF LONGBOAT KEY



## Southern Property Line



# TOWN OF LONGBOAT KEY



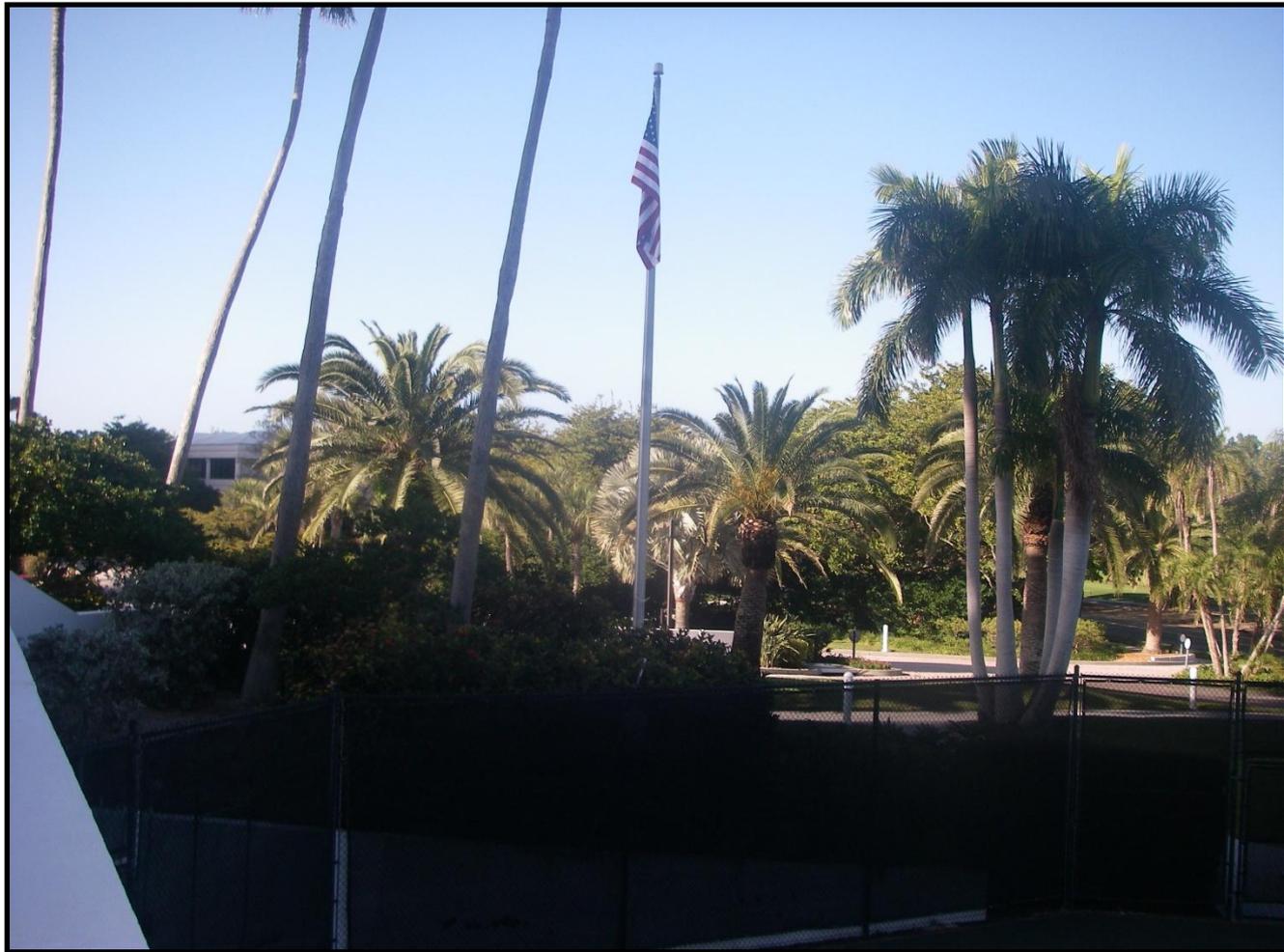
## Southern Side of Tennis Courts



# TOWN OF LONGBOAT KEY



## Northern Property Line



# TOWN OF LONGBOAT KEY



## North Side of Tennis Courts



# TOWN OF LONGBOAT KEY



## East



# TOWN OF LONGBOAT KEY



## West



# TOWN OF LONGBOAT KEY



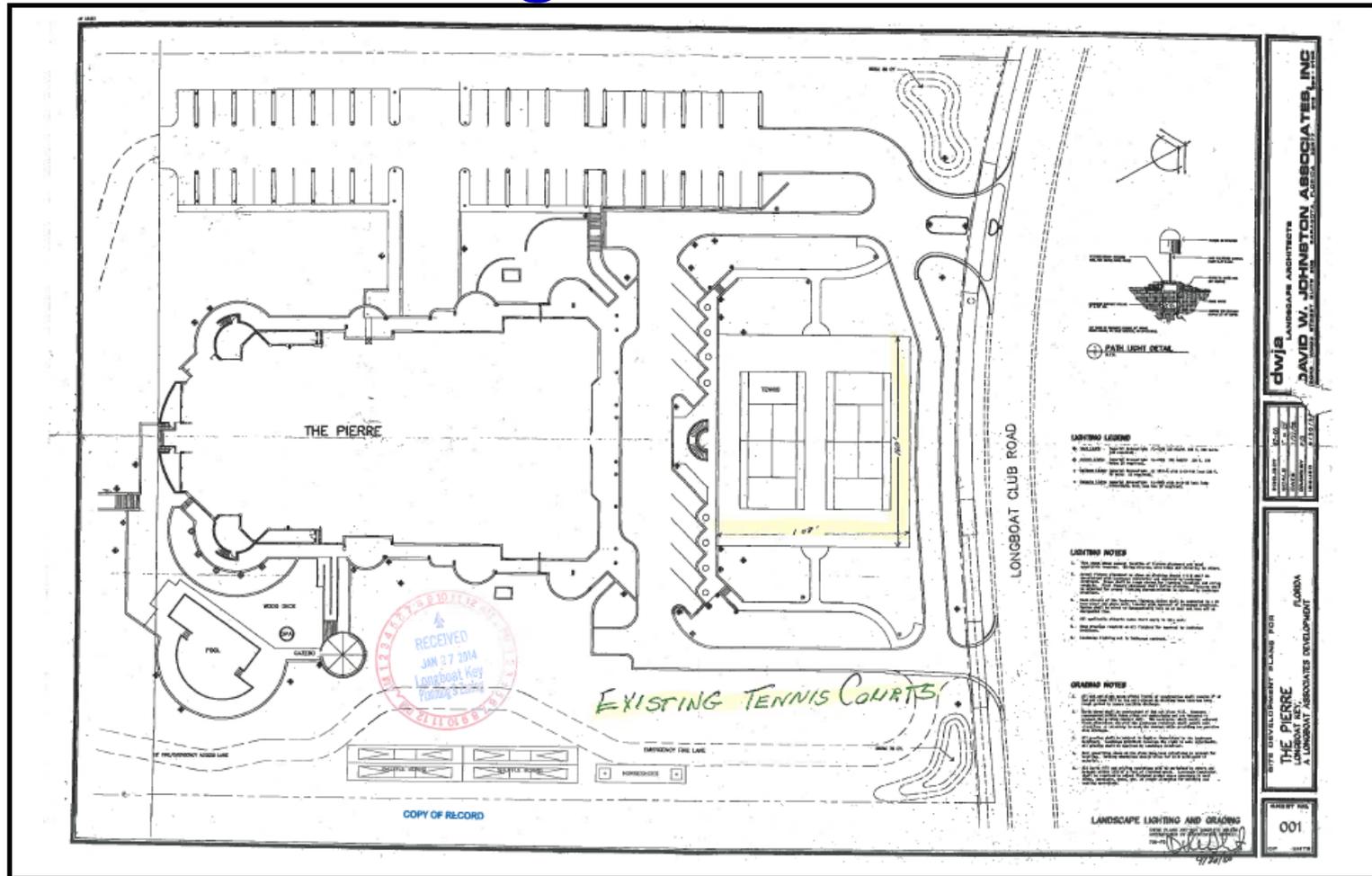
## Northwest



# TOWN OF LONGBOAT KEY



## Existing Tennis Courts







## Staff Recommendations

Based on the review, Staff recommends the Board APPROVE Special Exception Order #2014-01, subject to the following conditions of approval:



## Specific Conditions

1. The screening of the tennis courts shall be provided by landscaping and fencing as per the attached plan, received January 27, 2014.
2. The screening of the tennis courts from all adjacent properties and right-of-ways shall be maintained.
3. In the required yard, only an open-wire mesh fence shall be permitted, not exceeding a height of 12 feet.
4. No tennis court lights shall be permitted.
5. The expansion of the tennis courts shall be limited to a minimum setback of 20 feet from the street property line.