



CULTURAL SERVICES, HISTORIC PRESERVATION, & TREE ADVISORY BOARD AGENDA

MONDAY

May 6, 2024 - 5:30 PM

COUNCIL CHAMBERS

4300 S. ATLANTIC AVENUE, PONCE INLET, FL

SUNSHINE LAW NOTICE FOR BOARD MEMBERS – Notice is hereby provided that one or more members of the Town Council or other Town Boards may attend and speak at this meeting.

A complete copy of the materials for this agenda is available at Town Hall.

- 1. CALL TO ORDER & PLEDGE OF ALLEGIANCE.**
- 2. ROLL CALL & DETERMINATION OF QUORUM.**
- 3. ADOPTION OF AGENDA.**
- 4. APPROVAL OF THE MINUTES:**
 - A. April 1, 2024
- 5. REPORT OF STAFF:**
 - A. Cultural Services update – *Jackie Alex, Cultural Services Manager*
 - B. Public Works update – *Fred Griffith, Public Works General Manager*
- 6. OLD BUSINESS:** None.
- 7. NEW BUSINESS:**
 - A. Athletic Court Reservation System
 - B. Tree Removal Request – 4716 S. Peninsula Drive
 - C. Timucuan Oaks Garden Potential Improvements
- 8. PUBLIC PARTICIPATION.**
- 9. BOARD/STAFF DISCUSSION.**
- 10. ADJOURNMENT.**

Next Meeting: Monday, June 3, 2024

If a person decides to appeal any decision made by the Cultural Services Board with respect to any matter considered at a meeting, they will need a record of the proceedings and to ensure that a verbatim record of the proceedings is made at their own expense. Persons who require accommodation to attend this hearing should contact the Ponce Inlet Town Hall at 236-2150 at least one week prior to the meeting date to request such assistance.



Meeting Date: May 6, 2024

Agenda Item: 4

Report to the Cultural Services, Historic Preservation, and Tree Advisory Board

Topic: Approval of Meeting Minutes

Summary:

Staff has prepared the attached set of meeting minutes for the Board's review and approval.

Suggested Motion/Action:

To APPROVE the April 1, 2024 meeting minutes:

As Presented - or - As Amended

Requested by:

Ms. Stewart, Assistant Deputy Clerk

Reviewed & Authorized by:

Mrs. Alex, Cultural Services Manager

Approved by:

Mr. Disher, Town Manager



Town of Ponce Inlet
**CULTURAL SERVICES, HISTORIC PRESERVATION,
AND TREE ADVISORY BOARD**
REGULAR MEETING MINUTES

April 1, 2024

4
5
6
7 **1. CALL TO ORDER & PLEDGE OF ALLEGIANCE:** Pursuant to proper notice, Chair Bell
8 called the meeting to Order at 5:30 PM in the Council Chambers, located at 4300 S. Atlantic Avenue,
9 Ponce Inlet, Florida and led the attendees in the Pledge of Allegiance.

10
11 **2. ROLL CALL & DETERMINATION OF QUORUM:** A quorum was established with five
12 members and two alternates present.

13
14 Board members present:

15 Ms. LaBarre, Seat 1
16 Ms. Keese, Seat 2
17 Mr. Shaffer, Seat 3
18 Ms. Finch, Seat 4; Vice-Chair
19 Ms. Bell, Seat 5, Chair
20 Ms. Kessler, Alternate Seat 1
21 Mr. Patton, Alternate Seat 2
22

23 Staff members present:

24 Mrs. Alex, Cultural Services Manager
25 Mr. Disher, Town Manager
26 Ms. Gjessing, Assistant Deputy Clerk
27 Mr. Griffith, Public Works Director
28 Mr. Lear, Planning and Development Director
29 Ms. Rippey, Principal Planner
30

31 **3. ADOPTION OF AGENDA:** Chair Bell asked if there were changes; there were none.

32
33 Ms. LaBarre moved to approve the agenda as presented; seconded by Vice Chair Finch. The motion
34 PASSED by consensus, 5-0.
35

36 **4. APPROVAL OF MINUTES:**

37
38 **A. February 5, 2024** – Chair Bell asked if there were any changes; Vice Chair Finch had
39 a correction to line 166, adding the word “not” to her statement regarding interest in a community
40 garden.

41
42 Vice Chair Finch moved to approve the February 5, 2024 meeting minutes as amended; seconded by
43 Ms. LaBarre. The motion PASSED by consensus, 5-0.
44

45 **5. REPORT OF STAFF:**

46 **A. Cultural Services Update** – Mrs. Alex introduced Ms. Barbara Davis and explained
47 the town partnered with the Florida Native Plant Society’s local chapter for a guided hike, noting that

48 Ms. Davis led part of that group. Ms. Davis, 4871 Sailfish Drive, stated on March 16, 2024, the town
49 welcomed 28 guests for a guided hike in Ponce Preserve to learn about native plants; the Preserve made
50 the front page of the Native Plant Society’s newsletter. Ms. Davis announced the “Ponce Preserves the
51 Planet” event that will include guided hikes to learn about native plants. Ms. Alex announced over 150
52 children participated in the Easter event on March 30th, 2024; there were ten volunteers and eight staff.
53 She announced Ponce Preserves the Planet will be the town’s Earth Day event on Saturday, April 20,
54 2024. There will be another volunteer event to remove invasive species in Timucuan Oaks Park in May;
55 the date will be announced through resident email and on the town’s Facebook page. Ms. Alex stated
56 the Jeff Miller memorial will be placed in Timucuan Oaks Garden next to the gazebo; the Town Council
57 approved a bench, plaque, and a tree in that location. She reminded members that the pickleball court
58 reservation system will be on the next agenda. Chair Bell asked if members should direct any questions
59 to Ms. Alex or compile a list to present at the next meeting. Ms. Alex replied either will work.

60
61 **B. Public Works Update** - Mr. Griffith provided an update on Public Works activities,
62 noting that tree trimming is completed, and town-wide mulching will begin next week. Floorboards at
63 the entrance to the museum will be replaced and sealed; next year the plan is to paint all three buildings.
64 The cistern needs repair; and the fencing around the museum needs to be replaced. The lighting at one
65 of the pavilions in Ponce Preserve has been replaced; an inspection revealed that nine pavilion roofs
66 need to be replaced, which will be placed in the budget for next year. Also for next year’s budget, the
67 riverwalk pilings are showing wear due to wave action and he hopes repairs can be made over
68 replacement.

69
70 **6. OLD BUSINESS:** None.

71
72 **7. NEW BUSINESS:**

73
74 **A. HIST-4-2024: Designation of Historic Tree at Ponce Preserve** - Mr. Lear provided a
75 [Powerpoint](#) and explained this request is for a 41” DBH Southern Live Oak in Ponce Preserve to be
76 designated as a historic, landmark tree. The Board shall review the nomination and provide a
77 recommendation on whether the tree should be designated; the Board’s decision is based on specific
78 criteria pursuant to the LUDC. The Board’s recommendation will be provided to the Town Council
79 who then may choose to pass a resolution that officially designates the tree. The tree is located at 4401
80 South Peninsula Drive, in Ponce Preserve Park, and is located at the northwest edge of the Green Mound
81 on the east side of South Peninsula Drive. The tree is in good health and is indigenous to this region;
82 he provided a description of the tree. He reviewed the application review criteria, noting this tree meets
83 the criteria; staff is recommending a favorable recommendation to the Town Council. Ms. Barbara
84 Davis, 4871 Sailfish Drive, stated Ms. Catherine O’Brien found this tree and they were surprised that
85 it had not yet been designated historic. She noted that Mr. Lear sent them the Town Council meeting
86 minutes from January 19, 2017, where Council designated seven trees; three in Ponce Preserve and
87 four in Timucuan Oaks Park. The arborist from 2017, Mr. Don Spence, located four within Ponce
88 Preserve that were eligible during an urban forestry assessment; this is that fourth tree. They surveyed
89 the entire town, noting 758 trees are on public property. She located a report conducted in British
90 Columbia explaining that the calcium in shells helps trees to grow bigger and stronger. She noted this
91 tree is the second largest that has been assessed. Ms. Kessler suggested that the next celebration for
92 the Town include a theme about native plants.

93
94 Vice Chair Finch moved to recommend approval of the HIST-4-2024: Designation of Historic Tree at
95 Ponce Preserve; seconded by Ms. Keese. The motion PASSED 5-0, consensus.

96

97 **B. Potential improvements for FY 24/25 budget consideration:** - Ms. Alex explained
98 that at the February 5, 2024 meeting, the Board requested staff research potential improvements to the
99 Town’s parks in preparation for next year’s budget.

100
101 **1. Additional pavilion at Kay & Ayres Davies Park** – Ms. Alex stated the Board
102 requested this item be assessed as to the use of the existing pavilion and if those findings would warrant
103 an additional pavilion of similar size. In 2023, the existing pavilion received a total of 19 reservations;
104 10 of which were reserved by the Town for its own events. This pavilion is not in high demand.
105 Preliminary estimates for a pavilion of similar size is \$21,500; this is a base price and does not include
106 mobilization of the site, excavation, clearing, concrete, or installation. A pavilion of similar size to
107 those at Pollard Park would be approximately \$54,000. Staff is seeking direction from the Board on
108 whether to budget for an additional pavilion at Kay & Ayres Davies Park for FY 24/25, and if so, for
109 the Board to make a recommendation to the Town Council. Ms. LaBarre commented that the existing
110 pavilion seems to have minimal use and therefore should not be a budgetary item.

111
112 The Board recommended this item NOT be forwarded to Town Council for FY 24/25 budget
113 consideration; 5-0, consensus.

114
115 **2. Native plant identification markers** - Ms. Alex explained that since
116 September, a group of Town volunteers, led by Ms. Davis, have dedicated hundreds of hours protecting
117 and preserving native plants within Town parks. They created temporary markers noting both the
118 common and scientific name of the plants, as well as a QR code linking to additional details of the
119 plant. The Cultural Services Department is proposing permanent identification markers for native
120 plants throughout Town parks; preliminary estimates of 5”x5” aluminum markers are \$60 per marker.
121 Understanding that prices may increase, staff proposes to budget for identification markers, not to
122 exceed \$3,000. The primary locations for these markers will be Ponce Preserve and Timucuan Oaks
123 Park. Staff is seeking direction on whether to budget for plant identification markers, and if so, for the
124 Board to make a recommendation to the Town Council. Mr. Patton asked how many markers would be
125 installed. Ms. Alex explained it would depend on pricing at the time the markers are purchased but it
126 will be limited to \$3,000. Ms. Keese asked how the markers would be installed. Ms. Alex explained
127 staff would work with the Public Works Department; it will likely include concrete with the stake so
128 that they are not easily removed. Ms. LaBarre commented it is a great idea and Ms. Davis and her group
129 should be commended for their hard work. Ms. Davis added that the markers Ms. Alex found will be
130 engraved; they are aluminum and will not rust. The temporary markers have a QR code that links to
131 the Native Plant Society and provides details about the plant; however, these markers have fallen apart.
132 Of the seven the Town installed, two were broken; Chief Scales and Councilmember White brought
133 them to Public Works to be repaired. She added that the 4x4 markers were approximately \$50 when
134 she priced those out and will require a post hole digger to install.

135
136 The Board recommended this item be forwarded to Town Council for FY 24/25 budget consideration,
137 5-0, consensus.

138
139 **3. Adding youth basketball hoops at Timothy Pollard Memorial Park** - Ms.
140 Alex explained that after observing small children on the basketball court, a resident suggested adding
141 basketball hoops of a shorter height for the youth population. Currently, there are two hoops at the
142 standard height of 10-feet at the north and south ends of the court. The court is 26-feet shorter in length
143 than regulation size, which should be accounted for when adding amenities. Most basketball hoops are
144 the standard 10-foot height, or hoops that adjust from 5-feet to 10-feet. Ms. Alex explained the main
145 purpose for adjustable hoops is for dunking and that multiple vendors stated adjustable hoops place
146 facilities at a higher risk of liability due to players falling and getting hurt while dunking. Preliminary

147 estimates for two adjustable basketball hoops are \$8,000 to \$10,000 each, which is a base price for
148 materials and does not include engineering, installation, labor, travel, or concrete. Vendors have
149 informed her that installing two hoops on an existing court is a smaller project than they contract out
150 for; therefore, it may be difficult to find a vendor. Staff is seeking direction from the Board on whether
151 to budget for a basketball hoop at a height for youth players at Pollard Park for FY 24/25, and if so, for
152 the Board to make a recommendation to the Town Council. The Board discussed the concern of placing
153 the Town at a higher liability risk of the adjustable hoops; they concluded that there is not a cost/benefit
154 ratio to adding an adjustable hoop.

155
156 The Board recommended this item NOT be forwarded to Town Council for FY 24/25 budget
157 consideration; 5-0, consensus.
158

159 **4. Kayak launch at Jesse Linzy Boat Ramp** – Ms. Alex stated the Jesse Linzy
160 Boat Ramp is a highly utilized amenity in Town to launch a variety of vessels, such as boats, kayaks,
161 and paddleboards. A resident brought to staffs’ attention that many visitors do not observe proper boat
162 ramp etiquette. The resident also stated kayakers are launching from the riprap revetment south of the
163 boat ramp and has requested a kayak launch be installed along the revetment along the east side of the
164 boat ramp with a sign designating that area as an official kayak/paddleboard launch site. The current
165 conditions of the boat ramp were assessed by Public Works and the Public Safety Director and due to
166 the presence of oysters, algae, and unstable ground, staff will be placing “no kayak launching” signs
167 on the east and west revetment sides as well as placing two of the current “boat ramp etiquette” signs
168 closer to the ramp for better visibility. Ms. Alex explained that potential improvements to the boat ramp
169 could include a kayak/paddleboard launch under this Board’s recommendation to the Town Council;
170 however, it would potentially be a two-year project for FY 24/25 and 25/26 as the project scope may
171 require additional research such as a traffic study, public comment and survey, design plans, and
172 permitting in year one, and construction in year two. Preliminary estimates for a concrete launch
173 approximately 8-feet wide is \$80,000 - \$100,000 for materials, design, and permitting. Staff is seeking
174 direction from the Board on the requested project of installing a kayak/paddleboard launch at the Jesse
175 Linzy Boat Ramp, with specific direction on whether staff should further research this project for FY
176 24/25 and FY 25/26. Ms. LaBarre asked how much a traffic study would cost; Ms. Alex explained she
177 does not have the information yet. Mr. Shaffer noted parking and safety could be an issue due to the
178 currents of the river. Vice Chair Finch agreed it is dangerous to launch a kayak there; she had a friend
179 fall and break her arm doing so. She suggested installing signs directing people to where they can safely
180 launch. Chair Bell commented that people could still launch from the boat ramp. Ms. Alex explained
181 that the request was to install an official kayak launch. The Board continued to discuss a potential kayak
182 launch and the concerns associated with it. Ms. Alex noted there are kayak launches at Ponce Preserve
183 and Timucuan Oaks.

184
185 Ms. Bell opened public comment. Ms. Bonnie Carney, Rains Court, stated she is the resident
186 that suggested this item and that there seems to be some misunderstanding; this is not a concern for
187 kayakers. Ms. Carney clarified the idea was to take the area east of the ramp and add docking or a
188 floating dock to clear the boat ramp for boaters and to have a place to launch paddleboards and kayaks.
189 The riprap is Hidden Treasure’s and she watched people tear down the seawall behind the dumpster
190 and noted that trash is being thrown anywhere; they cleaned up the rebar but broke it up and left it.
191 Chair Bell explained that since it is a public boat ramp, it would have to go through permitting. Ms.
192 Alex added it would also have to go through design; she has not had the opportunity to research the
193 cost of a floating dock but expects it to be approximately the same price. Ms. Davis stated that the
194 floating dock Ms. Carney is referring to is like the one at the Wilbur Boathouse. One of the kayak
195 launches at Ponce Preserve has wheels that help the kayak launch. She asked if parking spaces could
196 be added at Wilbur Wetlands. Chair Bell replied that would have to be researched. Discussion

197 continued. Ms. Kessler asked if etiquette was grounds for an ordinance. Ms. Alex replied she did not
198 have an answer; she would have to research it. Ms. Kessler proposed adding etiquette signage and Mr.
199 Shaffer proposed signage to direct people to where the other kayak launches are. Ms. Alex explained
200 kayak launch information is provided on the Town’s website under each park; there is also a boat ramp
201 etiquette sign. Discussion continued. Vice Chair Finch stated she did not think more signage is needed
202 as the information is on the website and signs are already in place.

203
204 The Board recommended a kayak/paddleboard launch at the Jesse Linzy Boat Ramp NOT be forwarded
205 to Town Council for FY 24/25 budget consideration; 5-0, consensus.

206
207 Mr. Griffith referred to the four signs Ms. Alex mentioned two etiquette signs and two “no
208 kayak launching” signs and asked for clarification on the recommendation of the Board regarding these
209 signs.

210
211 The Board recommended staff consider a kayak/paddleboard launch staging area at Jesse Linzy Boat
212 Ramp without additional signage; 5-0, consensus.

213
214 **8. PUBLIC PARTICIPATION:** There was no public participation.

215
216 **9. BOARD/STAFF DISCUSSION:** Chair Bell asked if any other parcels are publicly owned in
217 Ponce Preserve other than the one currently for sale. Mr. Disher explained all parcels within Ponce
218 Preserve are publicly owned; the parcels adjacent to it are privately owned and not developed. Ms.
219 Kessler asked if the Town had considered purchasing it. Mr. Disher stated there has been no direction
220 for that and noted that beach front property is very expensive; budget priorities are hurricane recovery
221 and stormwater. Mr. Shaffer asked if the lot on Old Carriage Road is privately owned. Mr. Disher stated
222 that it is not technically a lot but considered right-of-way and not developable property. Ms. LaBarre
223 asked if the ordinance regarding tree removal had changed; a property on Peninsula Drive was just
224 purchased and all the trees were removed; she asked if the Town was aware of that type of thing. Mr.
225 Disher replied yes, Code Enforcement routinely patrols the town to look for issues such as this. The
226 ordinance has not changed; however, state law did change in 2019 and was revised again in 2021; it
227 exempts property owners from obtaining a permit to replace trees if they receive a letter from an arborist
228 recommending removal; A recommendation for removal should come if it is the only option to prevent
229 damage to the home. An arborist will provide a letter to the property owner that they do not need to
230 obtain a permit. This law has been abused; when this happens, it is reported to the Code Enforcement
231 Board. Code Enforcement or permitting can be contacted to find out if a permit has been issued; even
232 if a permit is not required, the property owner should provide the Town a copy of an arborist’s letter.

233
234 **10. ADJOURNMENT:** The meeting was adjourned at 6:47 p.m.

235
236 Prepared and submitted by:

237
238 -----
239 Debbie Stewart, Assistant Deputy Clerk

240
241 Attachment(s): None.



Meeting Date: May 6, 2024

Agenda Item: 7-A

Report to the Cultural Services, Historic Preservation, and Tree Advisory Board

Topic: Athletic Court Reservation System

Summary:

Review and discuss options for athletic court reservation system.

Suggested Motion/Action:

Recommendation of whether to keep, modify, or remove the online athletic court reservation system.

Requested by:

Ms. Alex, Cultural Services Manager

Approved by:

Mr. Disher, Town Manager



MEMORANDUM

TOWN OF PONCE INLET, CULTURAL SERVICES DEPARTMENT

The Town of Ponce Inlet staff shall be professional, caring and fair in delivering community excellence while ensuring Ponce Inlet residents obtain the greatest value for their tax dollar.

To: Cultural Services, Historic Preservation, and Tree Advisory Board
 From: Jackie Alex, Cultural Services Manager
 Date: April 24, 2024
 Subject: Athletic Court Reservation System

MEETING DATE: May 6, 2024

Introduction:

The purpose of this report is to discuss issues recently brought to Staff's attention by a group of residents regarding the Town's court reservation system. These issues include potential improvements, as well as compliance with the Americans with Disabilities Act (ADA). Staff has reviewed the capabilities of the current and new reservation system, while the Town Attorney has focused on legal compliance with the ADA. The result of this review is that the Town is left with two options for court reservations. As this affects the public at large, any changes to the court reservation system will need to go through this Advisory Board as well as Town Council. It is brought before this Board to provide a recommendation to Town Council on whether to keep, modify, or remove the online court reservation system.

Background:

At the December 2, 2014, Parks, Recreation and Tree Advisory Board meeting, Staff requested the Board make a recommendation regarding a resident's suggestions for improvement at Timothy Pollard Memorial Park. These included an online court reservation system as well as painting pickleball lines on the existing basketball court, similar to the lines on the shared tennis court at that time. The Board recommended approval of both requests to the Town Council, which the Town Council then approved at its December 18, 2014, meeting.

Renovations in 2019 to Pollard Park included the construction of four new pickleball courts and a new basketball court, and the resurfacing of the tennis court, creating separate designated courts for each sport.

In March of 2024, the pickleball courts operated by the City of Daytona Beach Shores were renovated and went through intermittent, temporary closures. During this time, a group of residents shared with Town staff their experience of an influx of new pickleball players using the online pickleball court reservation system at Pollard Park, believing them to be those affected by the Shores court closures. The residents expressed their concern of losing the reservations to which

they had become accustomed, and requested that Ponce Inlet residents receive priority on the Town's on-line court reservation system.

On March 18, 2024, at the request of the resident group, a meeting with the Mayor, the Public Safety Director, and the Cultural Services Manager was held to discuss their concerns regarding the Town's court reservation system. Staff informed the residents that renovations to Pollard Park and the athletic courts had been funded in part through a grant with Volusia ECHO. This grant was conditioned on maintaining access for the general public and without discrimination for the use of the facility (**Attachment 1**)¹. Therefore, staff cannot limit access to Ponce Inlet residents.

At the conclusion of that meeting, the residents provided the following requests for changes to the Town's court reservation system, understanding that some would require additional research or Council approval.

1. Regulate "no-show" reservations.
2. Regulate players using multiple e-mail accounts to reserve the court for more than one hour at a time.
3. Research "penalties" for no-show players and others that violate rules.
4. Research the ability and capability of a new reservation system on the following:
 - a. Tracking "no-show" players
 - b. Mobile app "check-in" for players upon arrival
 - c. A wait list for courts with an alert if a court becomes available.
5. Develop timeslots for pickleball league reservations.
6. Start a new registration list for a new reservation system.
7. Require in-person registration with proof of residency.
8. Regulate private pickleball lesson vendors.
9. Research leasing a private pickleball court by the Town to add court capacity.
10. Research locations and costs to build more pickleball courts.
11. Provide staff/ department contact for players to report rule infractions.
12. Publish additional information on court etiquette and use.

Additionally, a resident submitted a request for a court reservation accommodation due to a disability. Under the Americans with Disabilities Act (ADA), public entities are required to provide "reasonable modifications" or accommodations to their usual practices when necessary to provide equal access and avoid discrimination based on a disability. The request was for staff to create outstanding reservations for this resident for certain days and times each week for an unstated length of time beyond when court reservations are ordinarily opened to the public.

Discussion:

Currently, the Town's online reservation system only allows reservations to be made by the public one week in advance. For example, on Monday night, the Monday of the following week will become available. This provides equal opportunity to all members of the public to make a reservation. Through consultation with our Town Attorney, the subject request for advanced reservations beyond one week was found to not meet the legal requirements of a "reasonable

¹ Link: [Volusia ECHO Program Guidebook; page 6](#)

modification” (**Attachment 2**), since no one else would have that same opportunity. This request would therefore impose a “fundamental alteration,” as it does not provide the same opportunity to those without disabilities. **Attachments 2 & 3** provide several examples of “reasonable modifications” based on U.S. Department of Justice (DOJ) materials². The Town is not obligated to provide the exact requested modification, as it was found to not be considered “reasonable.”

After speaking with other municipalities regarding on-line court reservation systems, Staff found no other cities within the County or the state that operate an on-line reservation system for their pickleball courts. However, one facility, operated by a private club, currently manages an on-line reservation system with a staffed desk and information line provided during operational hours to check players in and assist with reservation needs.

In addressing the residents’ listed requests, Town staff reviewed the technical capabilities of the current and new reservation system, while the Town Attorney focused on legal compliance regarding requests for ADA accommodation. The result of this review is that the Town is left with two options for court reservations: (1) a staffed telephone line executing ADA requests or (2) removing the court reservation system in its entirety.

Option (1) – With this option, players with a disability could call a staff member and request a reservation be made in their name. The time that reservations are currently scheduled to become available to the public can be changed to business hours to accommodate this change³. However, there are several additional factors that will determine the success of this change.

1. A staff member must be physically present and available during this allotted timeframe. For this to work, the staff member cannot be serving another member of the public in-person or over the phone, on vacation, out of the office, or otherwise detained with other duties that arise.
2. Since the online reservation system is on a first-come, first-served basis, reserving the player’s requested time slot becomes dependent on the speed in which the staff member can reserve the spot versus other players requesting their desired reservations on-line at the same time.
3. Under the ADA, a player is not required to disclose their disability, nor is a staff member allowed to request it, which means the disability cannot be verified. This could leave this service open to potential abuse.
4. This accommodation must serve *all* disabilities, which is not guaranteed by the use of a staffed phone line. This method provides a “reasonable modification” but may not provide equal access to all those disabled.

However, if this option is executed, it does not by itself fulfill a majority of the resident’s original requests to improve the current reservation system. The Town cannot limit access to only Ponce Inlet residents – it must remain open to the general public. A new on-line court reservation system

² [ADA Update: A Primer for State and Local Governments](#)

³ Currently, online reservation times become open at 10:00pm.

can create methods that address “no-shows” per request #3 above, however, they still rely entirely on the honor system. Unless a staff member is physically present during the court’s operational hours of 6:00 am - 10:00 pm, there cannot be accountability for accurate check-ins or no-shows. Currently there is a Town court rule posted on both the Town’s website and at the athletic courts to address “no-shows” for reservations. The rule states that if reservations are not claimed within 10 minutes, the reservation is considered void and open for use by other players.

The Town is not under legal obligation to provide a staffed telephone line as an alternative to access this on-line service. As of March of 2022, the DOJ no longer believes staffed telephone lines can realistically provide equal opportunity to individuals with disabilities, given the way that the modern internet has developed, the factors listed above, and other factors⁴ (**Attachment 4**).

Option (2) – In option two, removing the online court reservation not only resolves many of the resident’s expressed concerns, but also provides equal access to all visitors and individuals with disabilities. Residents living closer to the courts are able to access them more quickly than visitors. Players must be present to play, reserving their turn by placing their paddle within the next available slot on the paddle rack (**Figure 1**), which is currently on the north and south pickleball courts.

Figure 1



This eliminates “no-shows” as well as the problem of the same person using multiple e-mail accounts to reserve the court for more than one hour at a time. Additionally, this option opens the possibility of play for anyone with a disability that may have been unable to do so with an online reservation system. If Option 2 is selected, the athletic courts will become open for play on a first-

⁴ [Full DOJ rule of WCAG 2.1, Level AA; page 14-17](#)

come, first-served basis, providing a feasible, inclusive option for all who wish to play. This option is how all other cities within Volusia County operate their pickleball courts.

In addition to the Town’s current obligations under the ADA for web site accessibility, recent updates to the ADA will affect the Town’s overall approach to digital inclusivity in future years. According to the Town Attorney in **Attachment 2**, “...on April 8, 2024, the U.S. Attorney General signed a final rule that establishes specific technical standards (WCAG 2.1, Level AA) that state and local governments must follow to make their web content and mobile apps accessible to people with disabilities. The standards apply to web content that a state or local government provides or makes available, including content provided by a third party on behalf of the state or local government.” These third parties include reservation systems, which are not exempt from meeting the technical standards⁵ (see **Attachment 5**). Furthermore, the DOJ has set compliance dates dependent on the government’s total population. As the Town of Ponce Inlet serves a population of “up to 50,000,” the Town will have three years to comply with these updated standards once the rule is published.

Addressing Additional Requests:

Request #7:

The Town’s fee schedule now includes a fee to rent the pickleball courts for private lessons (**Figure 2**). The Town Council approved this amendment 5-0 via Resolution 2024-05 at its April 18, 2024, meeting.

Figure 2

Section 6. Amending Fees for Parks and Special Events. Part XX of Appendix A of the Town of Ponce Inlet Code of Ordinances is hereby amended to read as follows:

PART XX – PARKS AND SPECIAL EVENTS

APPLICATION TYPE	FEE
1 Rental of gazebo and pavilions at Town parks and approved Town facilities for limited duration	\$35.00 + \$100.00 refundable deposit
2 Rental of tennis <u>and pickle-ball</u> courts for private lessons For-profit entities Non-profit entities	\$20.00 per hour \$10.00 per hour
3 Special event permits	
Permit fee	\$150.00
Amplified sound permit fee	\$50
Additional fee for tents and/or temporary structures	per Part II
Additional services Standby fire/EMS protection	per Part XVI

RESOLUTION 2024-05
PAGE 7 OF 8

⁵ [Fact Sheet: New Rule on the Accessibility of Web Content and Mobile Apps Provided by State and Local Governments](#)

Requests #8 & #9:

If requested by this Board, Staff may research potential locations and the cost for additional courts within the town.

Requests #10 & #11:

Depending on the recommendation from this Board and decision by the Town Council on the future of the on-line court reservation system, new court rule signage will be required for court etiquette and reporting of violations.

Summary and Conclusion:

The Town's current on-line court reservation system was established in December 2014 by recommendation of the Parks, Recreation and Tree Advisory Board and approval by the Town Council. In 2019, renovations to Timothy Pollard Memorial Park added four new pickleball courts with assistance from public funding through the Volusia ECHO grant, which requires access to the public without discrimination.

Staff was provided with 13 requests by a group of residents to change aspects of the Town's online court reservation system, with one request relating to a special accommodation under the ADA. Town staff conducted research and consulted with the Town Attorney and other municipalities regarding online court reservation systems. Staff found two options in providing a "reasonable modification" for individuals with a disability to make a court reservation.

The first option is a staffed telephone line, however, the DOJ does not believe this provides a realistic, equal opportunity to all disabilities and states the Town is not under a legal obligation to provide this option.

The second option is to remove the online court reservation system for all town athletic courts and establish the courts as open play on a first-come, first-served basis. This option provides a solution to the resident's requests regarding the online system, but more importantly is the most feasible option to provide an ADA "reasonable modification." The Town *is* under legal obligation to provide a "reasonable modification" to the court reservation system to ensure equal opportunity is provided to all visitors, including those with disabilities.

The Town appreciates the residents bringing the ADA compliance concern to staff's attention, as it is our utmost goal to provide equal access and inclusivity to all residents and visitors of our community. Staff's priority is to best serve this community, and we are grateful for citizen participation in helping to accomplish that goal.

Recommendation:

Staff is requesting a recommendation from the Board on whether to keep, modify, or remove the online court reservation system. Additionally, Staff is seeking a recommendation from the Board on whether to research potential locations and cost estimates for additional pickleball courts within town.

Jackie Alex

Jackie Alex, Cultural Services Manager

April 24, 2024
Date

Attachments:

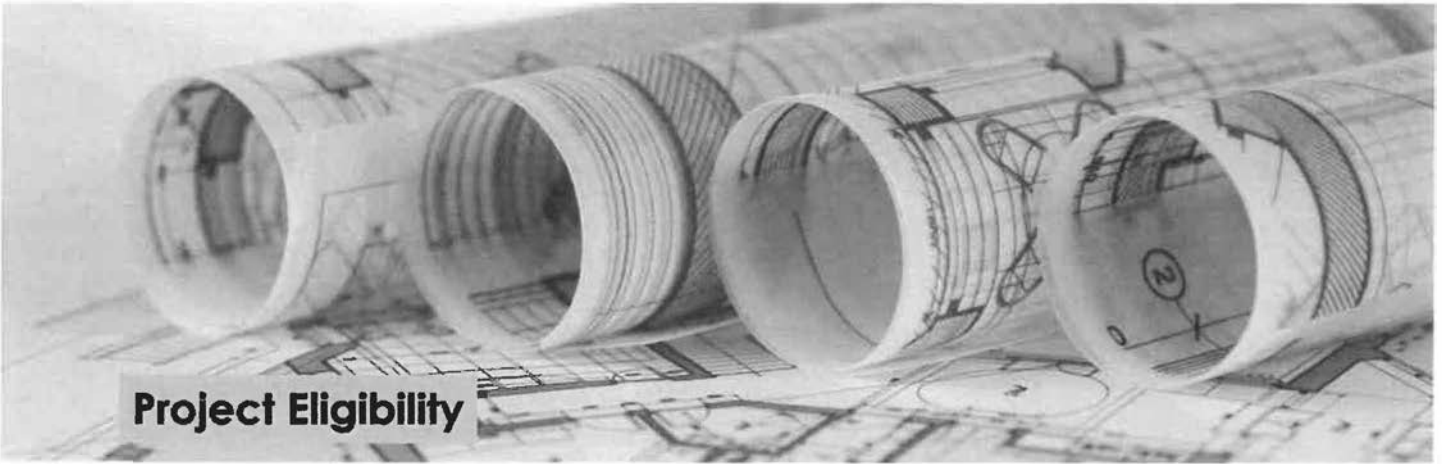
1. Volusia ECHO Program Guidebook- Excerpt regarding Public Access
2. Email from Town Attorney Holli New regarding ADA compliance on court reservation systems, April 22, 2024
3. ADA Update: A Primer for State and Local Governments- Excerpt regarding examples of “reasonable modifications”
4. Excerpt of the full DOJ rule of WCAG 2.1, Level AA
5. Fact Sheet: New Rule on the Accessibility of Web Content and Mobile Apps Provided by State and Local Governments- Excerpt regarding content posted by a third party and compliance date.



Volusia ECHO Program

A guide for applicants





Project Eligibility

Pursuant to Volusia County Council Resolution 2000-156, an organization's project/application must meet the following criteria:

- The Volusia ECHO Program funds are to be used solely to finance acquisition, restoration, construction and improvement of environmental/ecological, cultural, historical/heritage and outdoor recreation facilities for public use.
- Projects without construction designs that guarantee ECHO related uses are ineligible.
- Only one application for the same project, facility complex or site will be accepted in a single grant cycle.
- There may be no more than two open ECHO grant awards per project site to be an eligible application.
- Projects should not duplicate each other or an existing or planned ECHO related function in the same area of service, whether public or private. This applies to projects from the same applicant or different applicants.
- County staff shall make recommendations on duplication and eligibility. Appeals may be made to the ECHO Advisory Committee.
- Historic restoration, a trail system, off-beach parking and established, fully open to the public ECHO related projects are exempt from these restrictions.
- Projects solely for depreciable items, with less life expectancy than the required grant agreement period, are ineligible unless there is sufficient evidence the applicant has the ability to replace them.

PUBLIC ACCESS

The project must be accessible to the public for a period of 20 years from execution of the grant agreement. In addition, grantees may not discriminate in the schedule of fees or terms of use of the facility. Public access must be provided within three years of the ECHO award. If this does not occur, the applicant will not be eligible to apply for additional ECHO funding.

Projects that ultimately allow access only to the exterior of a building are ineligible. These include:

- Projects intended primarily for students, faculty and staff and/or that are intended to augment or supplement a curriculum
- Projects on multi-use campuses/complexes with no designated parking

UNRESTRICTED OWNERSHIP/ UNDISTURBED USE OF FACILITY

Documentation of the ownership or lease of the facility and property shall provide for undisturbed use. Length of the lease shall be consistent with requirements set in the Restrictive Covenants. Leases shall not be cancelable without cause. Owners of leased property must be a municipality of Volusia County, the County of Volusia, the State or Federal government, or an eligible Not for Profit.

Applicant must document ownership or undisturbed use by one of the following:

- Proof of unrestricted ownership of property and/or building(s): unrestricted shall mean unqualified ownership and power of disposition. Projects leased to For-Profit entities are not eligible for ECHO funding. Documentation may be a copy of the deed or the title. Provisional

Jackie Alex

From: Holli New <hnew@shepardfirm.com>
Sent: Monday, April 22, 2024 9:08 PM
To: Jackie Alex
Subject: RE: Athletic court reservation system
Attachments: Fact Sheet_ New Rule on the Accessibility of Web Content and Mobile Apps Provided by State and Local Governments _ ADA.gov.pdf; ADA Update_ A Primer for State and Local Governments _ ADA.gov.pdf

[EXTERNAL: This email was sent from outside of ponce-inlet.org, confirm this is a trusted sender before opening any links or attachments]

Hi Jackie,

Please see below for a general analysis regarding requests for reasonable modifications, as requested, and a summary of the DOJ's recently promulgated accessibility requirements for web content. These technical standards will likely apply to the Town's reservation system.

Requests for Modification

The ADA is designed to ensure equal opportunities and access for individuals with disabilities. To that end, state and local governments are required to make reasonable modifications to their usual practices when necessary to avoid discrimination on the basis of disability.[1] Determination of what constitutes a "reasonable modification" involves a fact-specific, case-by-case inquiry that considers, among other factors, the effectiveness of the modification in light of the nature of the disability in question and the cost of implementation. The DOJ illustrates what constitutes a "reasonable modification" in Title II guidance with the following example:

- "A person who uses crutches may have difficulty waiting in a long line to vote or register for college classes. The ADA does not require that the person be moved to the front of the line (although this would be permissible), but staff must provide a chair for him and note where he is in line, so he doesn't lose his place."
- "At a museum's gift shop, accompanying and assisting a customer who uses a wheelchair may not be reasonable when there is only one person on duty."

As demonstrated in the above example, modifications are meant to mitigate the barriers faced by individuals with disabilities so that they have the same opportunity to participate as those without disabilities. However, only "reasonable" modifications are required. A modification is not reasonable if it imposes a "fundamental alteration" to the essential nature of the program. Again, these examples based on DOJ materials may be helpful:

- "At a hot lunch program for elderly town residents, staff are not obliged to feed a woman with a disability who needs assistance in eating, if it does not provide this service for others. However, the woman should be allowed to bring an attendant to assist her. If she can feed herself but cannot cut large pieces of food into bite-sized pieces, it is reasonable to ask staff to cut up the food."
- "A testing agency may be required to allow an individual to use a basic calculator during an exam even if test-takers are not typically allowed to do so. If the objective of the test is to measure one's ability to solve algebra equations, and the ability to perform basic math computations (e.g., addition, subtraction, multiplication, and division), is secondary to the objective of the test, then a basic calculator may be an appropriate testing accommodation. If, however, the objective of the test is to measure the ability to

perform math computations, then it likely would not be appropriate to permit the use of the calculator, as it could fundamentally alter the purpose of the test and the value of the test results.”

A review of caselaw indicates that where “reasonable modifications” involve waiving applicable rules and regulations to accommodate a person with a disability, many courts focus on “whether a waiver of the rule would be so at odds with the purposes behind the rule that it would be a fundamental and unreasonable change.”

Thus, while the Town is encouraged to consider the preferences of the individual requesting a modification, it is not necessarily obligated to provide the exact modification requested if such modification is determined to be unreasonable, as described above. Ultimately, what is obligated is that reasonable modifications be made to ensure the requesting resident has an equal opportunity to receive the same benefit of the program or service—in this case, the benefit of the reservation system—that all other members of the public are afforded. As such, my recommendation in this instance, and in related modification requests, is to engage the requestor in an interactive process to determine an appropriate reasonable modification that will accommodate the requestor’s needs.

Web Accessibility Requirements for the Reservation System

Relatedly, in addition to the Town’s existing obligations under the ADA to ensure that communications with people with disabilities are as effective as communications with people without disabilities, and to provide people with disabilities an equal opportunity to participate in or benefit from the entity’s services, programs, or activities, as described above, **the ADA has undergone a recent update that will affect the Town’s approach to digital inclusivity in forthcoming years.**

On April 8, 2024, the U.S. Attorney General signed a final rule establishing specific technical standards (WCAG 2.1 Level AA) that state and local governments must follow to make their web content and mobile apps accessible to people with disabilities. The standards apply to web content that a state or local government provides or makes available, including content provided by a third party on behalf of the state or local government:

“Further, the Department emphasizes that the phrase “provides or makes available” in § 35.200 is not intended to mean that § 35.200 only applies when the public entity creates or owns the web content or mobile app. The plain meaning of “make available” includes situations where a public entity relies on a third party to operate or furnish content. Section 35.200 means that public entities provide or make available web content and mobile apps even where public entities do not design or own the web content or mobile app, if there is a contractual, licensing, or other arrangement through which the public entity uses the web content or mobile app to provide a service, program, or activity. For example, even when a city does not design, create, or own a mobile app allowing the public to pay for public parking, when a contractual, licensing, or other arrangement exists between the city and the mobile app enabling the public to use the mobile app to pay for parking in the city, the mobile app is covered under § 35.200. This is because the public entity has contracted with the mobile app to provide access to the public entity’s service, program, or activity (i.e., public parking) using a mobile app.”

Recognizing that smaller government entities may face challenges with respect to resources for implementing the new requirements, the DOJ has staggered the compliance dates for public entities according to their total population: once the rule is published, governments serving a population of 50,000+ will have two years to comply, and those serving populations of up to 50,000 will have three years.

I have attached the DOJ’s Fact Sheet, which summarizes the new rule. If you would like a copy of the actual rule for presentation purposes, let me know. I have also attached general guidance materials from the DOJ on ADA requirements for state and local governments, which includes additional examples and explanations.

Hopefully this assists in assessing the Town's recreational court reservation system. If I can provide any additional information, kindly let me know.

Thank you,

HOLLI NEW | ATTORNEY AT LAW



SHEPARD, SMITH,
KOHLMYER & HAND, P.A.
2300 MAITLAND CENTER PKWY, STE 100
MAITLAND, FL 32751
TOLL FREE: 866.247.3008
OFFICE: 407.622.1772 x107
FAX: 407.622.1884
SHEPARDFIRM.COM



From: Jackie Alex <jalex@ponce-inlet.org>
Sent: Friday, April 19, 2024 12:01 PM
To: Holli New <hnew@shepardfirm.com>
Subject: Athletic court reservation system

Hi Holli,

Thank you for speaking with me today on your recent findings regarding ADA compliance. Attached is my draft staff report regarding the residents' concerns with the town's online court reservation system.

Based on our conversation regarding what you found from 2003 and 2022 about the requirement of a staffed information line, I'm understanding I may not need the highlighted paragraphs if they can be attachments, I may reference to the Board understanding that confirms it's not feasible. I could have these factors at the ready to say rather than write.

Thank you,
Jackie Alex
Cultural Services Manager
Town of Ponce Inlet
4300 South Atlantic Avenue
Ponce Inlet, FL 32127
Phone: 386-322-6703
jalex@ponce-inlet.org

Ponce Inlet Historical Museum
143 Beach Street

**ADA.gov**U.S. Department of Justice
Civil Rights Division

ADA Update: A Primer for State and Local Governments

Last updated: February 28, 2020

More than 55 million Americans—18% of our population—have disabilities, and they, like all Americans, participate in a variety of programs, services, and activities provided by their State and local governments. This includes many people who became disabled while serving in the military. And, by the year 2030, approximately 71.5 million baby boomers will be over age 65 and will need services and surroundings that meet their age-related physical needs.

■ Guidance & Resources

Read this to get specific guidance about this topic.

For a beginner-level introduction to a topic, view [Topics](#)

1. The ADA allows (and may require - see below) different treatment of a person with a disability in situations where such treatment is necessary in order for a person with a disability to participate in a civic activity. For example, if an elected city council member has a disability that prevents her from attending council meetings in person, delivering papers to her home and allowing her to participate by telephone or videoconferencing would enable her to carry out her duties.
2. There are some situations where it simply is not possible to integrate people with disabilities without fundamentally altering the nature of a program, service, or activity. For example, moving a beach volleyball program into a gymnasium, so a player who uses a wheelchair can participate on a flat surface without sand, would “fundamentally alter” the nature of the game. The ADA does not require changes of this nature.

In some cases, “equal” (identical) treatment is not enough. As explained in the next few sections, the ADA also requires public entities to make certain accommodations in order for people with disabilities to have a fair and equal opportunity to participate in civic programs and activities.

Reasonable Modification of Policies and Procedures

Many routine policies, practices, and procedures are adopted by public entities without thinking about how they might affect people with disabilities. Sometimes a practice that seems neutral makes it difficult or impossible for a person with a disability to participate. In these cases, the ADA requires public entities to make “reasonable modifications” in their usual ways of doing things when necessary to accommodate people who have disabilities. For example:

- A person who uses crutches may have difficulty waiting in a long line to vote or register for college classes. The ADA does not require that the person be moved to the front of the line (although this would be permissible), but staff must provide a chair for him and note where he is in line, so he doesn’t lose his place.
- A person who has an intellectual or cognitive disability may need assistance in completing an application for public benefits.

- A public agency that does not allow people to bring food into its facility may need to make an exception for a person who has diabetes and needs to eat frequently to control his glucose level.
- A city or county ordinance that prohibits animals in public places must be modified to allow people with disabilities who use service animals to access public places. (This topic is discussed more fully later.)
- A city or county ordinance that prohibits motorized devices on public sidewalks must be modified for people with disabilities who use motorized mobility devices that can be used safely on sidewalks. (This topic is discussed more fully later.)

Only “reasonable” modifications are required. When only one staff person is on duty, it may or may not be possible to accommodate a person with a disability at that particular time. The staff person should assess whether he or she can provide the assistance that is needed without jeopardizing the safe operation of the public program or service. Any modification that would result in a “fundamental alteration” – a change in the essential nature of the entity’s programs or services – is not required. For example:

- At a museum’s gift shop, accompanying and assisting a customer who uses a wheelchair may not be reasonable when there is only one person on duty.
- At a hot lunch program for elderly town residents, staff are not obliged to feed a woman with a disability who needs assistance in eating, if it does not provide this service for others. However, the woman should be allowed to bring an attendant to assist her. If she can feed herself but cannot cut large pieces of food into bite-sized pieces, it is reasonable to ask staff to cut up the food.
- If a city requires a 12-foot set-back from the curb in the central business district, it may be reasonable to grant a 3-foot variance for a store wishing to install a ramp at its entrance to meet its ADA obligations. If the set-back is smaller and the ramp would obstruct pedestrian traffic, granting the variance may “fundamentally alter” the purpose of the public sidewalk.

Service Animals

Billing Code: 4410-13

DEPARTMENT OF JUSTICE

28 CFR Part 35

CRT Docket No. 144; AG Order No.

RIN 1190-AA79

Nondiscrimination on the Basis of Disability; Accessibility of Web Information and Services of State and Local Government Entities

AGENCY: Civil Rights Division, Department of Justice.

ACTION: Final rule.

SUMMARY: The Department of Justice (“Department”) issues its final rule revising the regulation implementing title II of the Americans with Disabilities Act (“ADA”) to establish specific requirements, including the adoption of specific technical standards, for making accessible the services, programs, and activities offered by State and local government entities to the public through the web and mobile applications (“apps”).

DATES: *Effective Date:* This rule is effective [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

Compliance Dates: A public entity,¹ other than a special district government,² with a total population of 50,000 or more shall begin complying with this rule [INSERT DATE TWO YEARS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. A public entity with a total population of less than 50,000 or any public entity that is a special district

¹ The Department uses the phrases “State and local government entities” and “public entities” interchangeably throughout this rule to refer to “public entit[ies]” as defined in 42 U.S.C. 12131(1) that are covered under part A of title II of the ADA.

² See U.S. Census Bureau, *Special District Governments*, <https://www.census.gov/glossary/?term=Special+district+governments> [https://perma.cc/8V43-KKL9]. “Special district government” is also defined in this rule at § 35.104.

On July 26, 1991, the Department issued its final rules implementing title II and title III, which are codified at 28 CFR part 35 (title II) and part 36 (title III),²⁵ and include the ADA Standards for Accessible Design (“ADA Standards”).²⁶ At that time, the web was in its infancy—and mobile apps did not exist—so State and local government entities did not use either the web or mobile apps as a means of providing services to the public. Thus, web content and mobile apps were not mentioned in the Department’s title II regulation. Only a few years later, however, as web content of general interest became available, public entities began using web content to provide information to the public. Public entities and members of the public also now rely on mobile apps for critical government services.

B. History of the Department’s Title II Web-Related Interpretation and Guidance

The Department first articulated its interpretation that the ADA applies to websites of covered entities in 1996.²⁷ Under title II, this includes ensuring that individuals with disabilities are not, by reason of such disability, excluded from participation in or denied the benefits of the services, programs, or activities offered by State and local government entities, including those offered via the web, such as education services, voting, town meetings, vaccine registration, tax filing systems, applications for housing, and applications for benefits.²⁸ The Department has

²⁵ Title III prohibits discrimination on the basis of disability in the full and equal enjoyment of places of public accommodation (privately operated entities whose operations affect commerce and fall within at least one of 12 categories listed in the ADA, such as restaurants, movie theaters, schools, day care facilities, recreational facilities, and doctors’ offices) and requires newly constructed or altered places of public accommodation—as well as commercial facilities (facilities intended for nonresidential use by a private entity and whose operations affect commerce, such as factories, warehouses, and office buildings)—to comply with the ADA Standards. 42 U.S.C. 12181–12189.

²⁶ See 28 CFR 35.104, 36.104.

²⁷ See Letter for Tom Harkin, U.S. Senator, from Deval L. Patrick, Assistant Attorney General, Civil Rights Division, U.S. Department of Justice (Sept. 9, 1996), <https://www.justice.gov/crt/foia/file/666366/download> [<https://perma.cc/56ZB-WTHA>].

²⁸ See 42 U.S.C. 12132.

since reiterated this interpretation in a variety of online contexts.²⁹ Title II of the ADA also applies when public entities use mobile apps to offer their services, programs, or activities.

As with many other statutes, the ADA’s requirements are broad and its implementing regulations do not include specific standards for every obligation under the statute. This has been the case in the context of web accessibility under the ADA. Because the Department had not previously adopted specific technical requirements for web content and mobile apps through rulemaking, public entities have not had specific direction on how to comply with the ADA’s general requirements of nondiscrimination and effective communication. However, public entities still must comply with these ADA obligations with respect to their web content and mobile apps, including before this rule’s effective date.

The Department has consistently heard from members of the public—including public entities and individuals with disabilities—that there is a need for additional information on how to specifically comply with the ADA in this context. In June 2003, the Department published a document entitled “Accessibility of State and Local Government Websites to People with Disabilities,” which provides tips for State and local government entities on ways they can make

²⁹ See U.S. Dep’t of Just., *Guidance on Web Accessibility and the ADA*, *ADA.gov* (Mar. 18, 2022), <https://www.ada.gov/resources/web-guidance/>[<https://perma.cc/WH9E-VTCY>]; Settlement Agreement Between the United States of America and the Champaign-Urbana Mass Transit District (Dec. 14, 2021), https://www.ada.gov/champaign-urbana_sa.pdf [<https://perma.cc/VZU2-E6FZ>]; Consent Decree, *United States v. The Regents of the Univ. of Cal.* (Nov. 21, 2022), <https://www.justice.gov/opa/press-release/file/1553291/download> [<https://perma.cc/9AMQ-GPP3>]; Consent Decree, *Dudley v. Miami Univ.* (Oct. 13, 2016), https://www.ada.gov/miami_university_cd.html[<https://perma.cc/T3FX-G7RZ>]; Settlement Agreement Between the United States of America and Nueces County, Texas Under the Americans with Disabilities Act (effective Jan. 30, 2015), https://archive.ada.gov/nueces_co_tx_pca/nueces_co_tx_sa.html [<https://perma.cc/TX66-WQY7>]; Settlement Agreement Between the United States of America, Louisiana Tech University, and the Board of Supervisors for the University of Louisiana System Under the Americans with Disabilities Act (July 22, 2013), <https://www.ada.gov/louisiana-tech.htm> [<https://perma.cc/78ES-4FQR>]; Settlement Agreement Between the United States of America and the City and County of Denver, Colorado Under the Americans with Disabilities Act (Jan. 8, 2018), https://www.ada.gov/denver_pca/denver_sa.html [<https://perma.cc/U7VE-MBSG>].

their websites accessible so that they can better ensure that individuals with disabilities have equal access to the services, programs, and activities that are provided through those websites.³⁰

In March 2022, the Department released additional guidance addressing web accessibility for individuals with disabilities.³¹ This guidance expanded on the Department's previous ADA guidance by providing practical tips and resources for making websites accessible for both title II and title III entities. It also reiterated the Department's longstanding interpretation that the ADA applies to all services, programs, and activities of covered entities, including when they are offered via the web.

The Department's 2003 guidance on State and local government entities' websites noted that "an agency with an inaccessible website may also meet its legal obligations by providing an alternative accessible way for citizens to use the programs or services, such as a staffed telephone information line," while also acknowledging that this is unlikely to provide an equal degree of access.³² The Department's March 2022 guidance did not include 24/7 staffed telephone lines as an alternative to accessible websites. Given the way the modern web has developed, the Department no longer believes 24/7 staffed telephone lines can realistically provide equal opportunity to individuals with disabilities. Websites—and often mobile apps—allow members of the public to get information or request a service within just a few minutes, and often to do so independently. Getting the same information or requesting the same service using a staffed telephone line takes more steps and may result in wait times or difficulty getting the information.

³⁰ U.S. Dep't of Just., *Accessibility of State and Local Government Websites to People with Disabilities*, ADA.gov (June 2003), <https://www.ada.gov/websites2.htm> [<https://perma.cc/Z7JT-USAN>].

³¹ U.S. Dep't of Just., *Guidance on Web Accessibility and the ADA*, ADA.gov (Mar. 18, 2022), <https://www.ada.gov/resources/web-guidance/> [<https://perma.cc/874V-JK5Z>].

³² U.S. Dep't of Just., *Accessibility of State and Local Government Websites to People with Disabilities*, ADA.gov (June 2003), <https://www.ada.gov/websites2.htm> [<https://perma.cc/Z7JT-USAN>].

For example, State and local government entities' websites may allow members of the public to quickly review large quantities of information, like information about how to register for government services, information on pending government ordinances, or instructions about how to apply for a government benefit. Members of the public can then use government websites to promptly act on that information by, for example, registering for programs or activities, submitting comments on pending government ordinances, or filling out an application for a government benefit. A member of the public could not realistically accomplish these tasks efficiently over the phone.

Additionally, a person with a disability who cannot use an inaccessible online tax form might have to call to request assistance with filling out either online or mailed forms, which could involve significant delay, added costs, and could require providing private information such as banking details or Social Security numbers over the phone without the benefit of certain security features available for online transactions. A staffed telephone line also may not be accessible to someone who is deafblind, or who may have combinations of other disabilities, such as a coordination issue impacting typing and an audio processing disability impacting comprehension over the phone. Finally, calling a staffed telephone line lacks the privacy of looking up information on a website. A caller needing public safety resources, for example, might be unable to access a private location to ask for help on the phone, whereas an accessible website would allow users to privately locate resources. For these reasons, the Department does not now believe that a staffed telephone line—even if it is offered 24/7—provides equal opportunity in the way that an accessible website can.



Fact Sheet: New Rule on the Accessibility of Web Content and Mobile Apps Provided by State and Local Governments

The Attorney General signed a final rule updating its regulations for Title II of the Americans with Disabilities Act (ADA). The final rule has specific requirements about how to ensure that web content and mobile applications (apps) are accessible to people with disabilities.

Purpose of this fact sheet: This fact sheet gives a summary of the rule. The summary is designed to provide introductory information about the rule's requirements, particularly for people who may not have a legal background. [For more information, please read the full rule.](#) Please note that this link leads to an advance copy of a rule that has been approved by the Attorney General. The official version of the rule will be published in the Federal Register.

programs, or activities do not fall under the exception even if the documents were posted before the date the government has to comply with the rule.

- **Example:** A state posted a PDF version of a business license application on its website in 2020. Members of the public still use that PDF to apply for a business license after the date the state has to comply with the rule. The exception would **not** apply to the application and it would usually need to meet WCAG 2.1, Level AA.

3. Content posted by a third party where the third party is not posting due to contractual, licensing, or other arrangements with a public entity

Third parties sometimes post content on state and local governments' websites or mobile apps. Third parties are members of the public or others who are not controlled by or acting for state or local governments. The state or local government may not be able to change the content third parties post.

- Content that is posted by third parties on a state or local government's website or mobile app would not need to meet WCAG 2.1, Level AA.
 - **Example:** A message that a member of the public posts on a town's online message board would probably fall under the exception.

This exception only applies to content posted by a third party. Content that is not posted by a third party usually needs to meet WCAG 2.1, Level AA. This includes:

1. Third-party content posted by the state or local government.
 - **Example:** Many state or local governments post content on their websites that is developed by an outside technology company, like calendars, scheduling tools, maps, reservations systems, and payment systems. This content would **not** fall under the exception,

and it would usually need to meet WCAG 2.1, Level AA, because it is posted by the state or local government.

2. Content posted by a state or local government's contractor or vendor.
 - **Example:** If a state or local government uses a company to design, manage, or update its website, the content the company posts for the government would **not** fall under the exception, and it would usually need to meet WCAG 2.1, Level AA.
3. Tools and platforms that allow third parties to post content.
 - **Example:** If the state or local government has a message board platform on its website, that platform would **not** fall under the exception, and it would usually need to meet WCAG 2.1, Level AA, because the message board was added to the website by the state or local government. However, the exception would probably apply to posts by third parties on that platform.

What the exception does not change

Under the current ADA rules, state and local governments must provide individuals with disabilities with effective communication, reasonable modifications, and an equal opportunity to participate in or benefit from their services, programs, and activities.

- **Example:** If a person with a disability is a party to a state court case, and a third-party private law firm in the case submits documents to the state court's website, the court could provide effective communication to the person with a disability by providing the documents to the person in a format that is accessible to them quickly upon request.
-

- **Example that meets the rule:** A state’s web page with information about a park has text with a color contrast ratio that is 4.45:1. WCAG 2.1, Level AA requires a color contrast ratio of 4.5:1 for this text. It can be hard for some people with vision disabilities to see text on a web page if there is not enough contrast between the color of the text and the background color. But that very small difference in color contrast ratio probably would not change whether most people with vision disabilities could read the text on the website and access the information about the park. If the state can prove the difference in color contrast is so small that it would not make it harder for people with disabilities to access the information about the park, the state would not violate the rule.

For more information, see the [final rule](#) in the section of the appendix called “§ 35.205 Effect of noncompliance that has a minimal impact on access.”

How Long State and Local Governments Have to Comply with the Rule

State and local governments must make sure that their web content and mobile apps meet WCAG 2.1, Level AA within two or three years of when the rule is published, depending on their population.

You can find more information about why the Department is requiring compliance with this timeline in the [rule](#) in the section of the appendix called “Requirements by Entity Size.”

This table shows how much time a state or local government has to comply with this rule.

State and local government size	Compliance date
---------------------------------	-----------------

State and local government size	Compliance date
0 to 49,999 persons	Three years after the final rule is published
Special district governments	Three years after the final rule is published
50,000 or more persons	Two years after the final rule is published

After this time, state and local governments must continue to make sure their web content and mobile apps meet WCAG 2.1, Level AA.

What is the compliance date for school districts?

A school district is not a special district government. If it is a city school district, it would use the population of the city to know when to comply. If it is a county school district, it would use the population of the county. If it is an independent school district, it would use the population estimate in the most recent Small Area Income and Poverty Estimates.

How do you know the compliance date for other parts of government, like your city, state, or town police department or library?

To figure out the date, you have to know the population of your state or local government. For most governments, this is a number you can find in the 2020 data from the U.S. Census Bureau. For smaller parts of a larger government that do not have a population listed there, like a city police department or a city library, you can look at the population of the larger government they are part of, like the city the runs the police department and library in this example.



Meeting Date: May 6, 2024

Agenda Item: 7-B

**Report to the Cultural Services,
Historic Preservation, and Tree Advisory Board**

Topic: Tree Removal Request – 4716 S. Peninsula Drive

Summary:

The applicant is requesting the removal of one specimen Live Oak tree with trunk measuring 18” DBH, located in the front yard of the property. If the request is approved, the tree will be replaced with a specimen-species tree in a more appropriate location on the property.

Suggested Motion/Action:

At Board’s discretion.

Requested by:

Ms. Rippey, Principal Planner

Approved by:

Mr. Disher, Town Manager



MEMORANDUM

TOWN OF PONCE INLET, PLANNING AND DEVELOPMENT DEPARTMENT

The Town of Ponce Inlet staff shall be professional, caring, and fair in delivering community excellence while ensuring Ponce Inlet obtain the greatest value for their tax dollar.

To: Cultural Services, Historic Preservation & Tree Advisory Board
 From: Patty Rippey, Principal Planner
 Date: April 25, 2024
 Subject: Tree Removal Permit Application

REQUEST: Removal of 1 specimen tree measuring 18” DBH for safety and maintenance concerns
LOCATION: 4716 S. Peninsula Dr.
APPLICANT: Steve Rossi, Owner
RECOMMENDATION: **Approval** to remove 1 tree 18” DBH, based on the findings in this report

MEETING DATE: May 6, 2024

1 INTRODUCTION

2 The applicant is requesting the removal of one specimen Live Oak tree with trunk measuring 18”
 3 DBH (Diameter at Breast Height). The tree is located in the front yard of the property, which is
 4 developed with a single-family home. If the request is approved, the applicant will remove the tree
 5 and replace it with a specimen-species tree in a more appropriate location on the property
 6 (**Attachment 1**).

8 AUTHORITY AND PROCESS

9 Trees greater than or equal to 18” DBH require approval of the Cultural Services Board (CSB) to
 10 remove, pursuant to LUDC Section 4.10.5. Tree removal applications are reviewed first by Staff
 11 and then provided to the CSB for a decision. Review of such applications must consider certain
 12 standards and criteria listed in Section 4.10.4.C and D. For trees of this size, the CSB has authority
 13 to approve, approve with conditions, or deny the proposed tree removal. Pursuant to LUDC Sec.
 14 4.10.6.B, decisions of the CSB may be appealed to the Town Council. Appeals shall be in writing
 15 and submitted to the Town with the appropriate fee within 15 days of the CSB’s decision. The
 16 Town Council will then hear the appeal at its next available meeting.

18 PROPERTY OVERVIEW

19 The subject property comprises Lot 61 and 62 of the Lighthouse Shores subdivision plat
 20 (**Attachment 2**). The subject property measures approximately 9,985 square feet (0.25 acres) in
 21 size, which meets the minimum size requirements of the R-3 (Medium density single family
 22 residential) zoning district and maximum density of the corresponding *Medium-density single*

23 *family residential* future land use category. The lot is approximately 100 feet in width and 100 feet
24 in depth. The surrounding properties are also zoned for single-family residential use, with R-1
25 zoning to the west and R-3 zoning to the north, south, and east across S. Peninsula Drive. The
26 abutting lots to the north and south are developed with single family homes and the lot to the west
27 is vacant.

28
29 The owner contacted staff prior to submitting the tree removal permit to discuss removal of one
30 specimen oak tree in his front yard at the subject property. The owner expressed safety and
31 maintenance concerns regarding this tree. The tree is leaning west towards the east side of the
32 house and is approximately 16 feet from the east side of the house (**Attachment 3**). The applicant
33 is concerned that the tree will damage the structure during hurricanes and other storm events. The
34 lot has an extensive tree canopy with several large oak trees located on the property. The remaining
35 existing specimen trees and landscaping will be protected and preserved (**Attachment 4**).

36
37 **LUDC REQUIREMENTS**
38 The LUDC requires protected trees removed from a property to be replaced unless the replacement
39 is specifically exempt. The number of replacement trees required depends on the location, number,
40 and size of the tree(s) being removed, according to LUDC Sec. 4.10.4.E., Table 4-19.

41
42

Table 4-19 Tree Replacement Mitigation

Size of Tree Removed (DBH)	Number of Replacement Trees Required per Tree Removed	
	If trees preserved in protected zone only	If trees also preserved outside protected zone
4 inches—6 inches	1	1
>6 inches—8 inches	2	1
>8 inches—12 inches	3	1
>12 inches—18 inches	5	1
>18"+	7	1

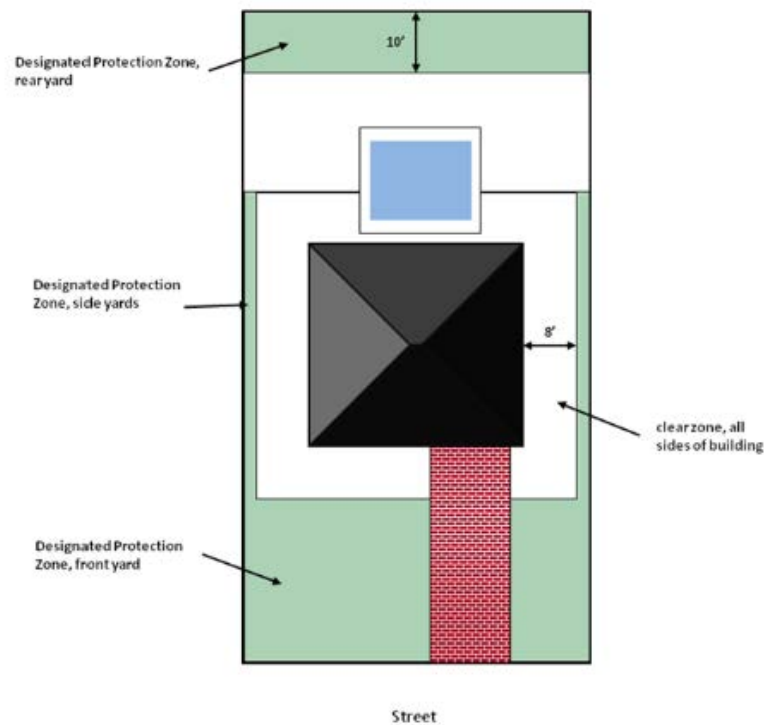
43 The number of replacement trees required can be reduced by preserving trees outside the
44 designated protection zone (DPZ), where such protection is strictly required. The DPZ includes
45 the front yard, side yards, and rear-most 10 feet of the rear yard but does not include the actual
46 footprint of the principal and accessory structures, uses permitted in the buffers, and area lying
47 within eight feet of the house (clear zone). The required DPZ is illustrated in **Figure 1** below.

48 As an incentive to preserve additional trees, the replacement ratio drops to 1:1 if trees are also
49 preserved outside of the DPZ. According to the tree survey and house layout provided, preserved
50 trees exist outside of the DPZ.

51
52

53
54

Figure 1 Designated Protection Zone



55
56

REVIEW OF APPLICATION

57 Pursuant to LUDC Sec. 4.10.4.D, the removal of protected trees and vegetation is evaluated
58 according to certain criteria. These criteria include making reasonable efforts to reposition the
59 footprints of structures, parking areas, and storm water management/drainage facilities where
60 possible to save trees. The Applicant has also submitted a written Narrative (**Attachment 5**) to
61 describe the request and justification for removal of the proposed specimen tree.
62

63
64 To determine the amount of tree or vegetation removal permitted, the Town shall review
65 applications based on the factors below. If necessary, the Town may request applicants to
66 submit additional information addressing these factors.
67

68 Criteria for determining extent of tree and vegetation protection and removal:

- 69
- 70 a. The actual or intended use of the property;
71 *Staff response:* The property has appropriate zoning (R-3) for the existing single-
72 family home, and it is consistent with the intended use of the property and the Town's
73 Comprehensive Plan. The property is a platted single-family lot that is already
74 developed and complies with LUDC dimensional requirements. *This criterion has*
75 *been met.*
76
 - 77 b. The desirability of preserving any tree by reason of its size, age, or other outstanding
78 quality, such a uniqueness, rarity, or status as a specimen, historic or landmark tree.
79 *Staff response:* The tree does not meet the criteria for designation as a historic or
80 landmark tree and is not otherwise unique or rare. *This criterion has been met.*

- 81
82 c. The extent to which the area would be subject to increased water runoff or
83 environmental degradation due to removal of the tree;

84 *Staff response:* The removal of the tree will not increase water runoff or environmental
85 degradation. Once removed, the former location of the tree will not be paved or
86 developed and will be left as pervious area. The tree will be replaced with another
87 specimen-species tree elsewhere on the property. *This criterion has been met.*
88

- 89 d. The need for visual screening in transitional/buffer areas between different types of
90 uses; from non-residential service areas and structures; and from glare, blight, or other
91 unsightliness; or any other affront to the visual or aesthetic sense in the area;

92 *Staff response:* The property is surrounded by similar single-family development and
93 fronts S. Peninsula Drive, so additional screening from other types of uses is not
94 required. The site contains several specimen oak trees and significant landscaping,
95 creating lush buffers yards between properties. *This criterion is met.*
96

- 97 e. The effect that changes to the natural grade will have on the trees to be preserved;

98 *Staff response:* This property is developed with an existing single-family structure. No
99 changes to the existing grade are anticipated other than to restore the natural grade
100 once the tree is removed. *This criterion is met.*
101

- 102 f. The extent to which a reasonable design effort has been made to save as many of the
103 existing trees found on-site as possible and to work with the existing grades; and

104 *Staff response:* The property is already developed. *This criterion is not applicable.*
105

- 106 g. The extent to which site design considerations, including the relocation of roads and
107 utilities, have been incorporated into the project.

108 *Staff response:* The property is already developed. *This criterion is not applicable.*
109

110 **DISCUSSION**

111 The applicant is requesting removal of one tree 18" DBH while preserving many other specimen
112 trees on the property. The applicant has expressed concern for the structure as the tree is leaning
113 to the west and could damage the house if it falls during a storm event. In addition, proximity of
114 the tree to the house requires frequent trimming to keep limbs from touching the house and
115 windows and to remove a build-up of mold.
116

117 **RECOMMENDATION**

118 Based on the findings of this report, Staff finds the application meets the criteria of LUDC Section
119 4.10.4.D to support the requested removal of the 18" DBH specimen tree. Staff recommends
120 approval subject to the following condition:
121

- 122 • The applicant shall provide replacement mitigation with one specimen-species native shade
123 tree that is a minimum of 6' in height and 2.5" caliper at the time of planting, or payment
124 into the Town's tree mitigation bank if insufficient space exists on the property for planting.
125

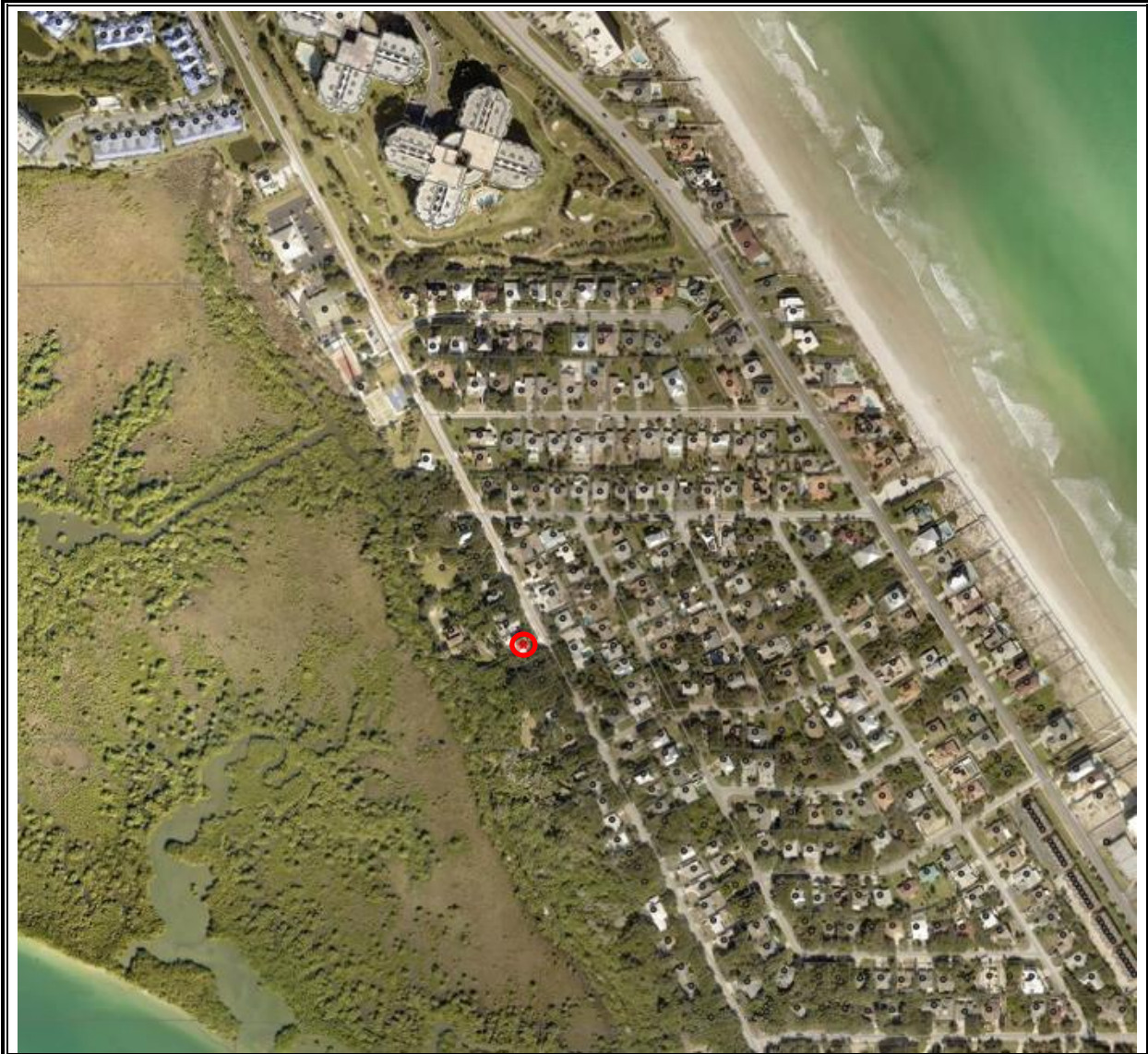
Patty Rippey, Principal Planner

April 25, 2024
Date

Attachments:

1. Location map
2. Lighthouse Shores Subdivision Plat – Lots 61 & 62
3. Survey with location of tree
4. Photos taken April 22, 2024
5. Narrative provided by Applicant

ATTACHMENT 1 - LOCATION MAP



Property Address/Location: 4716 S. Peninsula Dr.

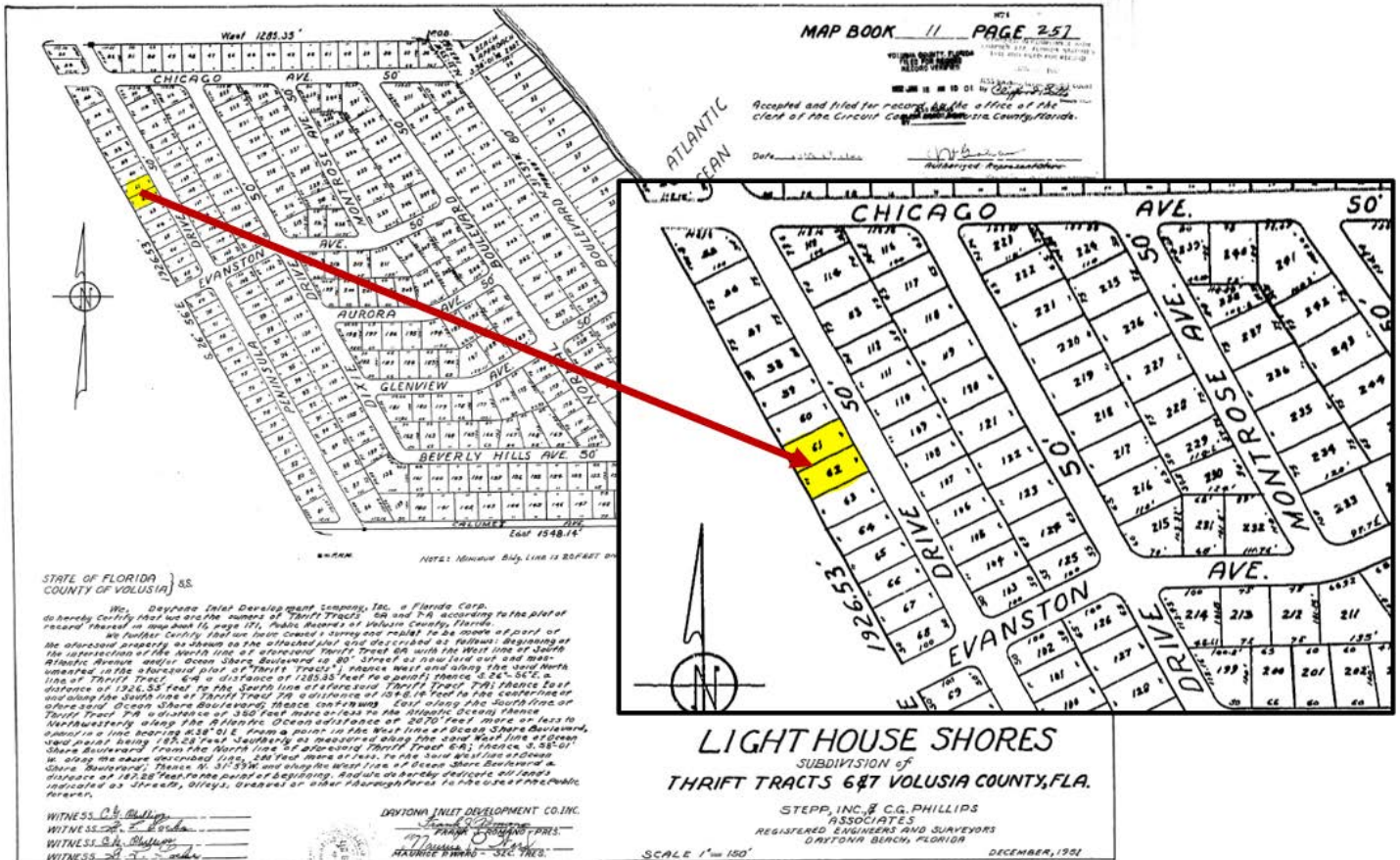


LOCATION MAP
TOWN OF PONCE INLET

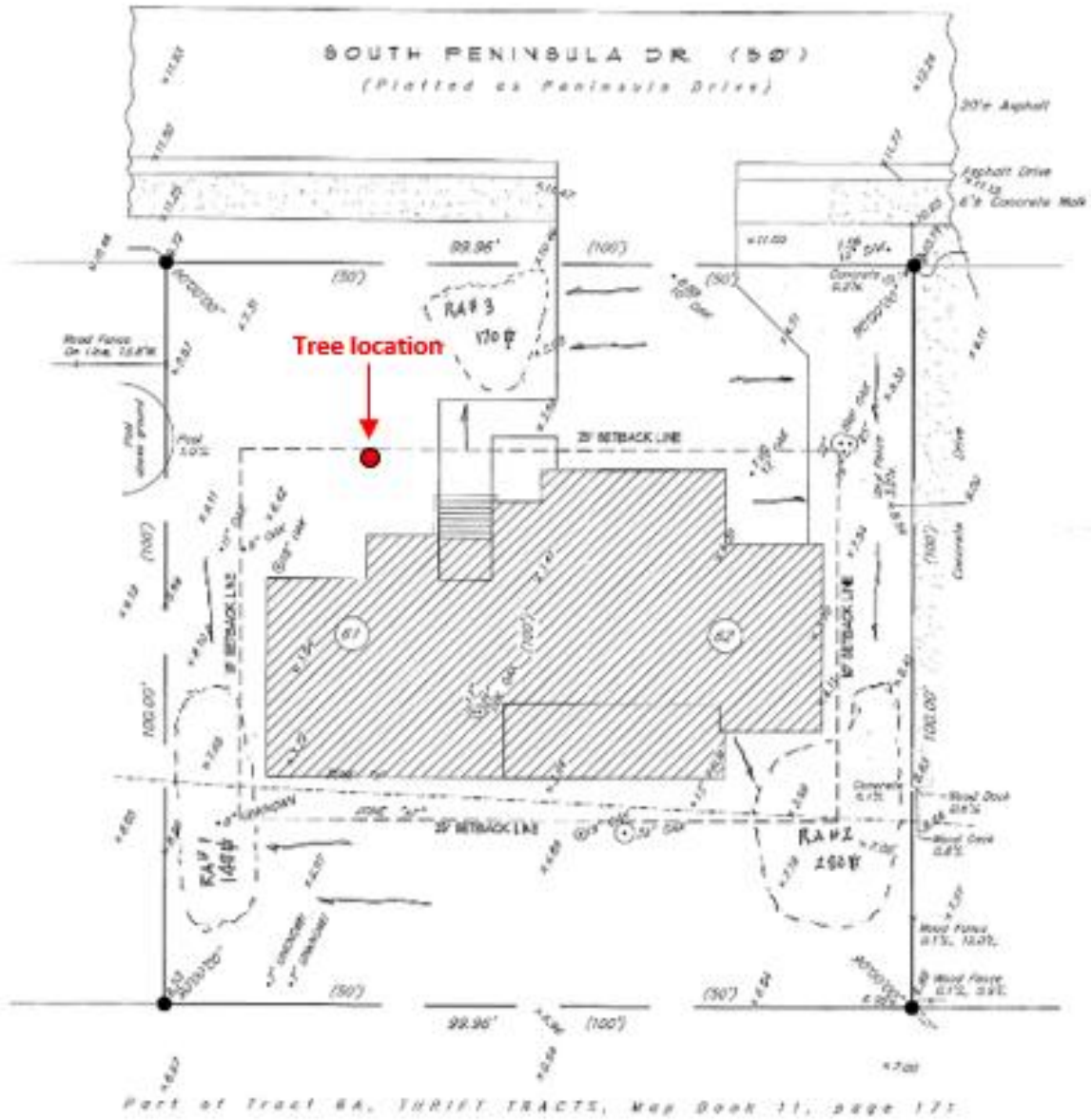


ATTACHMENT 2

LIGHTHOUSE SHORES SUBDIVISION PLAT LOTS 61 & 62



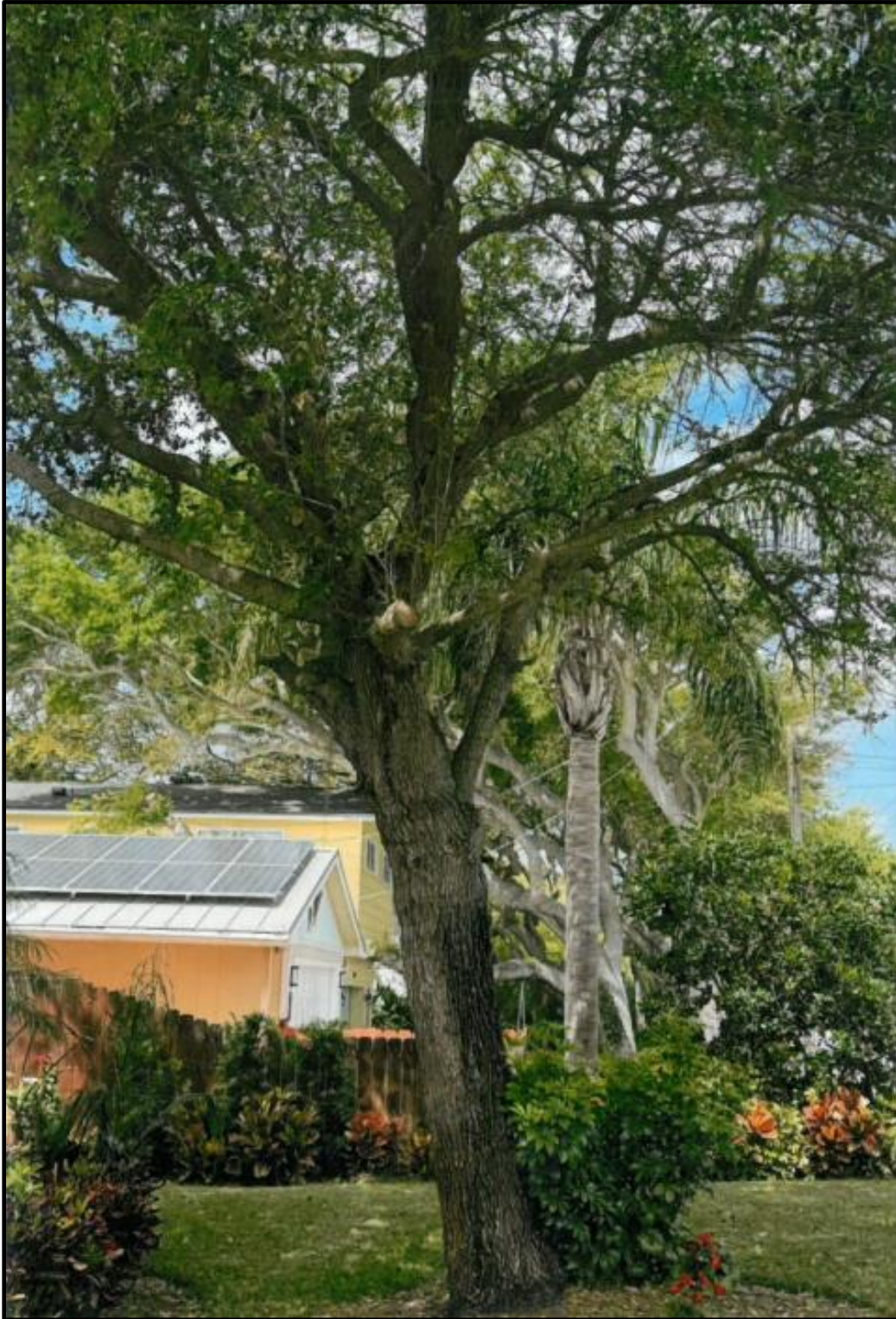
ATTACHMENT 3 SITE LAYOUT – TREE SURVEY



300
1/4" = 100'
SECTION
TOWNSHIPS

1 SITE PLAN
1 SCALE 1" = 10'-0"

ATTACHMENT 4
PHOTOS OF 18" OAK
NORTHEAST SIDE OF FRONT YARD







EXISTING TREES TO BE PRESERVED



ATTACHMENT 5
APPLICANT'S NARRATIVE

4716 S. Peninsula Drive, Ponce Inlet
Steve Rossi, Owner
Request for approval of removal of trees

April 22, 2024

To Whom it May Concern,

We are requesting the right to remove the tree that is in front of our house. The tree is positioned close to the house, and it is causing the front of the house to mildew. Additionally, we feel that the tree is posing a danger to our home as the tree is leaning in the direction of the house and we are concerned about the root system of the tree affecting the foundation. During the last storm, the tree was swaying, and branches were hitting our window. Although we have trimmed the tree, we feel that the tree still poses a direct threat to our home. We are also concerned that if our insurance company were to inspect the home, they would raise our current rate due to its position. Please consider our request.

In regards,
Steve and Charlene Rossi
4716 South Peninsula Drive
Ponce Inlet, FL 32127



Meeting Date: May 6, 2024

Agenda Item: 7-C

Report to the Cultural Services, Historic Preservation, and Tree Advisory Board

Topic: Timucuan Oaks Garden Potential Improvements

Summary:

Board to provide recommendation for future potential improvements in Timucuan Oaks Garden

Suggested Motion/Action:

At Board's discretion.

Requested by:

Ms. Alex, Cultural Services Manager

Approved by:

Mr. Disher, Town Manager



MEMORANDUM

TOWN OF PONCE INLET, CULTURAL SERVICES DEPARTMENT

The Town of Ponce Inlet staff shall be professional, caring and fair in delivering community excellence while ensuring Ponce Inlet residents obtain the greatest value for their tax dollar.

To: Cultural Services, Historic Preservation, and Tree Advisory Board
 From: Jackie Alex, Cultural Services Manager
 Date: April 22, 2024
 Subject: Timucuan Oaks Garden potential improvements

MEETING DATE: May 6, 2024

In September and November 2022, two hurricanes made landfall in Florida, creating a severe impact throughout our coastal town.

Timucuan Oaks Garden was one of these areas, experiencing the destruction of the park's pergola (**Exhibit 1 & 2**).

There have been previous discussions among this Board suggesting a preference to not rebuild this pergola. Suggestions for other park improvements have been made, including additional benches, a paved walkway to the boardwalk, butterfly plants, and more shade trees.

Staff submitted the Timucuan Oaks Garden pergola for FEMA reimbursement, and the Town is anticipating a reimbursement for this item in the amount of \$14,640.

Staff is requesting a recommendation from the Board on whether to rebuild a pergola within the park or to budget for other improvements within Timucuan Oaks Garden next fiscal year (FY 24-25).


 Jackie Alex, Cultural Services Manager

April 22, 2024
 Date

Exhibits:

1. Timucuan Oaks Garden pergola
2. Hurricane damage- Timucuan Oaks Garden pergola

Exhibit 1:
Timucuan Oaks Garden pergola



Exhibit 2:
Hurricane damage- Timucuan Oaks Garden pergola

