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Town of Ponce Inlet
**CULTURAL SERVICES, HISTORIC PRESERVATION
AND TREE ADVISORY BOARD**
REGULAR MEETING MINUTES
July 6, 2020

1. **CALL TO ORDER & PLEDGE OF ALLEGIANCE:** Chairperson Bell called the meeting to Order at 5:30 PM in the Council Chambers, located at 4300 S. Atlantic Avenue, Ponce Inlet, Florida and led attendees in the Pledge of Allegiance.

2. **ROLL CALL & DETERMINATION OF QUORUM:** A quorum was established with seven members present.

Board members present:

Ms. LaBarre, Seat 1

Ms. Harris, Seat 2

Mr. Shaffer, Seat 3

Ms. Finch, Seat 4

Ms. Bell, Seat 5

Ms. Keese, Alternate 1

Mr. Patton, Alternate 2

Staff members present:

Ms. Hugler, Administrative Assistant (Moderator)

Ms. French, Cultural Services Manager

Mr. Disher, Assistant Director, Planning & Development

Ms. Frazier, Senior Planner

3. **ADOPTION OF AGENDA:** Chairperson Bell asked if there were any changes to the agenda; there were none.

Ms. Finch moved to adopt the agenda as presented; seconded by Ms. LaBarre. The motion PASSED 5-0, consensus.

4. **DISCLOSURE OF EX-PARTE COMMUNICATION:** None.

5. **ADMINISTERING THE OATH TO WITNESSES:** None.

6. **APPROVAL OF MINUTES:**

A. **June 1, 2020 regular meeting minutes** – Chairperson Bell asked if there were any changes; there were none.

Ms. LaBarre moved to approve the June 1, 2020 meeting minutes as presented; seconded by Ms. Finch. The motion PASSED 5-0, consensus.

7. **REPORT OF STAFF:**

A. **Jackie French, Cultural Services** – Ms. French provided an update on the tennis court resurfacing project and the Davies Park Lighthouse improvement project; regarding Elbers Park survey &

49 improvements recommendation, she reported Town Council approved a new survey by a company that
50 hasn't surveyed it before; regarding speed limit reduction recommendation for South Peninsula Drive, she
51 reported Town Council will consider this further at their July meeting; she provided an update on light
52 installed at Ponce's Happy Tails Dog Park and the incorporation into the upcoming park improvements in
53 order to consider extending hours beyond sunset.

54
55 **B. Mike Disher, Assistant Director of Planning and Development-** Mr. Disher provided an
56 update on trees cut at 4746 Dixie Drive in violation of the Town's code. He stated that Ms. Schamay's
57 neighbor was provided a notice of violation for trimming trees such that it caused the death of the tree
58 according to an arborist's letter. He noted that the trees were in the public right-of-way in front of her
59 property. The neighbor contributed to the Town's tree mitigation bank in the equivalence of 5 new trees,
60 which will be used to plant trees on Town parks or other public property.

61
62 Chairperson Bell stated she was contacted by a resident with concerns that this issue would continue. Mr.
63 Disher stated that the Town received calls from residents of this concern. Staff went to look and noted there
64 were no violations.

65
66 **8. CORRESPONDENCE & COMMUNICATIONS:** None.

67
68 **9. OLD BUSINESS:** None.

69
70 **10. NEW BUSINESS:**

71 **A. Tree Removal Permit Request- 4908 S. Peninsula Drive** – Chairperson Bell thanked
72 staff for the thorough packet staff provided. Ms. Frazier noted that staff have two arborists' reports the
73 applicant provided earlier on this date, which were passed out to the Board members before her presentation.

74
75 Ms. Frazier reviewed the Tree Removal Application for 4908 S. Peninsula Drive. She noted the applicants
76 are Brian & Rachel Kopec to remove 5 specimen Live Oak trees, with trunks measuring 18" DBH or greater,
77 for construction of a new single-family home. She noted that both applicants and contractor are here to
78 answer any questions. Ms. Frazier reviewed the authority and process of this application, provided a
79 property overview, reviewed the trees proposed to be removed and the tree removal plan. She discussed the
80 proposed lot development and the Land Use Development Code Regulations for this application proposal.
81 Ms. Frazier stated that staff recommended approval to remove 4 trees between 20" and 26" DBH, and denial
82 to remove 1 tree at 28" DBH for construction subject to 6 conditions outlined in the provided staff report.
83 Ms. Finch referenced line 100-107 in the provided staff report states the canopy coverage of at least 90%
84 is exempt from replacement but appears 100% based on the aerial photograph provided in the report. Ms.
85 Frazier notes the aerial photo is older and she did a site visit and found a few trees have fallen and a large
86 area on the side of the site does not have a canopy and not depicted within the aerial photo. Ms. Finch asked
87 if these trees fell before or after decision was made to build. Ms. Frazier confirms the trees fell previously
88 and site conditions are assessed when the application came in. Mr. Shaffer asked if there was a way to save
89 the 28" tree. Ms. Frazier noted that saving this tree is among staff's recommendations. Ms. LaBarre asked
90 if the arborists took staff response, page 5 line 144, into consideration. Ms. Frazier stated the arborists'
91 report was provided tonight. Chairperson Bell asked if there was an option for the applicants to pay into the
92 Town's tree mitigation bank. Ms. Frazier stated it would be a good option if they do not have more room
93 on the lot. Chairperson Bell stated she feels for people wanting to balance building a new home with the
94 natural environment. Ms. Harris asked if there are ways to show other proposed plans to preserve the 28"
95 tree. Ms. Frazier stated staff requested other plans and met with applicant to discuss, but alternative plans
96 were not provided to staff. Chairperson bell invited the applicant to discuss - Brian Kopec- contract
97 purchaser for 4908 S. Peninsula Drive, thanked staff for their time and the opportunity to present this to the
98 Board. He stated that 4 trees within the center of the design would present an issue for any future
99 development with the home built in the center of the lot. He stated his background in landscape design and

100 that he took into consideration what would be reasonable to design regarding the trees. He noted there were
101 over 15 site visits with architects and builders to discuss a variety of design options to no avail. He discussed
102 the two arborists' reports, which he noted discussed the 5th tree in question and that the concern focused
103 more on the health of the tree rather than its location. He noted both arborists are certified risk assessors
104 and they both concluded that the tree be removed from a health and safety standpoint. He stated the
105 requirements of the design of the home in keeping the 28" tree is not feasible. Mr. Kopec stated it is always
106 the right choice to save trees, but on a case-by-case basis such as this, it can come down to the health of the
107 tree. He read from the arborists' report which mentioned the current condition the 28" tree and that once
108 the plot is cleared for development, this tree cannot survive being exposed to the wind. He also stated that
109 the arborists' reports concluded that this tree had a high probability of failure, impact and consequences of
110 said failure. Ms. LaBarre asked if staff's recommendation changes given these arborists' reports after the
111 staff report was written. Chairperson Bell states her concern is that staff feels the applicant has not exhausted
112 efforts to save the tree and if staff and the Board have been given enough time to review the arborists'
113 reports. Chairperson Bell asked Mr. Kopec what their mitigation plans are for the trees that are removed.
114 Mr. Kopec stated that it would be required to replant 88 trees, but that a contribution to the tree bank is
115 planned instead and he would like to work with staff on better understanding this fund to see trees planted.
116 Chairperson Bell noted her conflict of having seen several homes in Ponce Inlet with large oak trees beside
117 them. Ms. Harris stated she has seen a lot being developed without trees removed. Mr. Kopec stated he is
118 familiar with that lot and the trees in question are much smaller caliper and face potential stunt in growth
119 in the near future using ISA standards. He agreed with Ms. Harris that it is a common occurrence, but long-
120 term effects should be considered. He stated that in this case, the arborists' reports stated regards to the
121 health of the tree and the health impact during construction, not the location. There was discussion on staff's
122 request for a reasonable effort of the applicant to preserve the trees in question. Ms. LaBarre asked if time
123 should be given to staff to review the two arborists' reports for this application and Chairperson Bell agreed.
124 Chairperson Bell asked of the details in the provided design around the 28" tree and the front entrance. Mr.
125 Kopec stated it is a conceptual design of the walkway leading to the front door and to integrate the turn
126 around driveway. Chairperson bell asked if the entire lot would be cleared for construction. Mr. Kopec
127 stated trees would be saved along the perimeter and a few other locations. Mr. Shaffer asked how Mr. Kopec
128 would address the criteria within C-1 within the staff report on line 123. Mr. Kopec stated that there are no
129 trees being preserved outside of the designated protection zone, but it is because of the less than ideal
130 condition of the trees and location within the core of the design of the home on the lot. He stated trees can
131 be saved but the question becomes if it is buildable. Ms. Keese stated that documentation was needed from
132 staff of proof of effort to re-design and asked staff what would be considered proof. Mr. Disher stated the
133 review is based on evidence submitted that supports the applicant has met criteria and this application did
134 not have evidence submitted in the application. He stated examples of this proof would be copies of different
135 layouts, verbal descriptions of what has been discussed and reviewed, or choices in the design such as a
136 single-story home. Board members recommended that these examples be submitted. Mr. Kopec stated that
137 the end of their feasibility study nears as well as their closing. He then stated their reason for moving is that
138 Ponce Inlet is his son's training ground as he is a member of the USA Surfing Junior Team for the Olympics.
139 Chairperson Bell stated the Board has a close partnership with staff and trust their guidance. She stated she
140 liked the idea of providing staff time to review the arborists' reports. Mr. Disher stated staff does not need
141 to see alternative designs and staff has had time to review the arborists' reports that were submitted shortly
142 before the meeting. He stated trees sometimes need to come down for safety and health. He stated that if
143 staff had that prior, the recommendation would have been different. Mr. Shaffer asked if staff would have
144 an issue with the discussed C-1 criteria. Mr. Disher stated that was an issue of design and this criteria lowers
145 the replacement ratio to 1:1. He stated he did not see in the arborists' report the feasibility of trimming the
146 tree, but that construction would damage the roots of the tree if it is already diseased. Ms. LaBarre asked
147 Mr. Disher if staff is accepting the arborists' reports. Mr. Disher confirmed staff is with both reports. Mr.
148 Kopec noted two trees when they began looking at the house has since been damaged and the interior
149 revealed they were rotted, which opposes the exterior. Mr. Disher clarified that staff is making the
150 recommendation and the Board is providing the approval with the decision-making authority.

151 Mr. Shaffer moved to approve the tree removal permit for all 5 requested at 4908 S. Peninsula Drive to
152 include the conditions in the staff report as well as staff's updated recommendation of approval based on
153 the two arborists' reports that were newly provided; the motion was seconded by Ms. Finch.

154
155 Chairperson Bell opened public comment - Robert Edwards- builder for 4908 S. Peninsula Drive, stated his
156 appreciation for working with Mr. Disher and Ms. Frazier on this application as well as the Town's Planning
157 and Zoning and Building department he has worked with since 1986. He stated with the flood FEMA line,
158 the house will need to be raised 3-4'. He stated that this and other construction needs would create an issue
159 for trees close to the house. He stated he discussed different designs with the applicant and the location of
160 the 28" tree does not make the design practical with the required turn around. He noted he looked at other
161 lots for the applicant's needs. Chairperson Bell asked if the trees originally planned to be saved would be
162 with these construction needs. Mr. Edwards stated the trees proposed to stay should be within the protected
163 zone and the trees to remove would not be in the protected zone and these would be the trees that would be
164 difficult to work around. Rachael Kopec, contract purchaser for 4908 S. Peninsula Drive, complimented
165 staff. She stated that they have looked for lots large enough to build a single-family home for 2 years. She
166 stated the lot is about 90 feet wide, that the canopy of an Oak tree can be 150 feet wide and this is a concern
167 of hers parking and living under the canopy this size. She thanked the Board for the opportunity to present
168 this and for trusting Town staff. Chairperson Bell closed public comment. Chairperson Bell asked if
169 requesting a survey for this park is something that can be submitted to the Town budget. Mr. Disher stated
170 that budget requests are being submitted by staff currently.

171
172 The motion PASSED 5-0, with the following vote: Ms. LaBarre - yes; Ms. Harris - yes, Mr. Shaffer - yes;
173 Ms. Finch - yes; Ms. Bell – yes.

174
175 **B. Review of LUDC Section 4.10.4 - Tree/Vegetation protection and removal regulations**
176 – Ms. French stated staff provided LUDC Section 4.10.4 as it would best address the Boards concerns of
177 tree regulations. She stated the 4 points of focus for review based on the noted concerns and revisions to
178 these requirements would require review and recommendation by both this Board as well as the Planning
179 Board before being adopted by the Town Council. She stated Mr. Disher would answer questions regarding
180 these regulations. Ms. Keese asked if replacing of native trees need to be of the same species removed. Mr.
181 Disher stated the code lists specimen tree species referenced for replacing native trees and defined within
182 the definition section. Chairperson Bell stated she was on the Board when this was last reviewed, and that
183 flexibility was desired. She spoke on the difficulty in finding certain native species. Mr. Disher stated a
184 major revision was done between this Board, Planning Board and Town Council in which direction to staff
185 was to simplify regulations and provide flexibility, which includes more choices in trees. Mr. Disher also
186 noted that many questions asked are found within the definitions section of LUDC, such as “tree removal”,
187 which would pertain to Ms. Schamay's case at 4746 Dixie Drive discussed on the Board's June 1, 2020
188 meeting. He stated referring to these definitions can prove useful in understanding the LUDC, including
189 diameter at breast height. He stated one of the goals set by Town Council for the Planning and Development
190 department is to review the LUDC to deter destruction of trees as well as the Town's fees to the tree
191 mitigation bank. He noted last year state legislature passed a law that if an existing property owner receives
192 an arborist letter stating a tree is endangering property, the resident would not need a tree removal permit
193 and Town would not require mitigation. He stated the intent is to not to have local governments prevent
194 needed action on removing dangerous trees. Ms. LaBarre asked if this law includes removal of Brazilian
195 Pepper trees. Mr. Disher stated the key point is having a letter from an arborist to provide a letter and
196 therefore would not need a permit from the Town. He stated that the Town does require a permit for the
197 removal of Brazilian Pepper tree unless there is a letter proving it is a danger to property owner, but there
198 is no fee. He also stated that there is no requirement to replace invasive species. Chairperson Bell asked if
199 Mr. Disher has heard of a tree maintenance license and referenced that Palm Coast and San Antonio to
200 guide companies to proper maintenance pertaining to tree ordinances. Mr. Disher stated he has not heard
201 of this but has been directed to Palm Coast ordinances and noted there are different avenues both ordinances

202 address tree ordinances. Chairperson Bell stated there were some positive changes made to these last
203 revisions and likes Palm Coasts clear statements of what is not allowed. Ms. Keese noted the LUDC can be
204 difficult to understand to nonexperts and cannot always rely on tree companies to check on the ordinances.
205 Chairperson Bell stated this is the intent of the tree maintenance license as it would place tree companies
206 in communication with the appropriate people. Ms. Keese stated LUDC is also difficult to find. Mr. Disher
207 stated Municode hosts the Town's ordinances and that ordinances can encompass many different sections
208 and chapters within the code. Ms. Harris suggested the potential of pairing certain seasonal occurrences,
209 such as tree trimming, with a campaign prior to these seasons that notify and educate residents of those
210 seasonal misconceptions or notifications. She stated Facebook receives a lot of traction with residents and
211 this could be done in the form of an education series and it could be shared. Ms. Finch noted this has been
212 done on the Ponce Inlet newsletter and referenced their new website, c4pi.org. Discussion was had on the
213 importance of different avenues to share Town news and notifications to reach diverse audiences.
214 Chairperson Bell stated she liked the idea of educational campaign come next winter to prepare for spring.
215 Discussion was had that there are seasonal residents or residents that are not from Volusia county.
216 Chairperson Bell confirmed with Mr. Disher that changes are being made to LUDC and updates would be
217 provided. Mr. Disher stated that fee schedules currently used were established around 2002 and prices have
218 since changed that propose the need to revise.

219

220 **11. PUBLIC PARTICIPATION:** None

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222 **12. BOARD DISCUSSION:**

223

224 Mr. Shaffer requested that vines along S. Peninsula Drive near Ponce Preserve be cleared. Chairperson Bell
225 noted Muscadine grape vines can also be naturally part of the canopy. Mr. Shaffer also asked if the Town
226 has any plans or capital expenditures for Wilbur Bay Wetlands Park as past discussions had mentioned a
227 canoe/ kayak launch. Ms. French stated staff can research this. He noted there have been many maintenance
228 expenditures within other parks and suggested possible capital expenditures for parks. He noted to launch
229 a kayak in Wilbur requires people to park elsewhere. Ms. French stated staff have addressed removing
230 Muscadine grape vine growth within Timucuan Oaks but kept the vines that became part of the canopy.
231 She stated staff can assess this situation at Ponce Preserve. Chairperson Bell stated it is part of the ecosystem
232 but that with rain, vines can grow in excess. Chairperson Bell asked if the Town is still considered a Tree
233 City USA and asked if staff is keeping up with the active requirements of remaining a Tree City. Mr. Disher
234 stated this would be the Cultural Services Department. He stated there are a few requirements; one is having
235 a tree protection ordinance, which the Town has; the Town would also need to observe Arbor Day and if
236 we did not, we would be among other cities that could not due to COVID-19. Ms. French stated Arbor Day
237 Foundation contacted Tree City designations and that this requirement would be waived due to COVID this
238 year. Chairperson Bell stated that past discussion was had on the importance of land acquisition in
239 preserving what we have in the Town. She suggested the Board and the Town remain mindful of any vacant
240 lots that go up for sale adjacent to Town parks or properties for future preservation of our natural areas.

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242 **13. ADJOURNMENT:** Chairperson Bell adjourned the meeting at 6:50 PM.

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244 Prepared and submitted by:

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Jackie French, Cultural Services Manager