

Tomoka Oaks Times

An Independent Newsletter Focused on Preventing Residential Development of the Tomoka Oaks Golf Course

What happened at the Planning Board Hearing held July 13, 2023?

A lot happened at the hearing. But first let's back up and talk about the city's **Staff Report** which was received by each Board member for review prior to the hearing. This 802 page report can be viewed at <https://www.ormondbeach.org/Archive.aspx?ADID=10425>

The report is separated into different areas such as the traffic analysis, site plans, correspondence received, environmental analysis, and the City staff's recommendation to the Planning Board.

Keep in mind, the Planning Board only makes a recommendation to the City Commissioners on whether the Planning Board believes the Commission should accept or deny the development application.

The City Staff Report advised the Planning Board recommend **DENIAL** of the issuance of a development order based on certain conditions and staff requests for associated site plan improvements.

Page 11 of the report contains an Analysis which identifies 8 key issues the Site Plan Review Committee and the Applicant (Developer) were unable to agree on (see box below).

Key unresolved issues with potential for resolution by the Applicant include: lot sizes, density, compatibility, planting of the 50' natural buffer, project setbacks, lot separation note (sheet PD6), key traffic issues (diamond intersection at St. Andrews Drive & Tomoka Oaks Boulevard, and sidewalks on both sides Tomoka Oaks Boulevard), and acceptance of outdoor recreation areas.

The **Staff Report** provides options, where available, to assist the Planning Board in their formulation of the policy direction and their resolution of key issues. Alternative options can also be created through the public hearing process. And the Planning Board's recommendation to the Commission can be to 1) approve, 2) approve with conditions, or 3) deny the application.

With this understanding of the function of the **Staff Report**, we can examine the Planning Board hearing held July 13, 2023. Highlights of the hearing begin on page two of the *Tomoka Oaks Times*.

NOTE: Links to articles written by local journalists Clayton Park, *Daytona Beach News-Journal* and Jarleene Almenas, *Observer* contain comprehensive coverage.

MEDIA COVERAGE

area within our neighborhood. If you are one of those homeowners,

WATCH: Residents, Tomoka Reserve developer speak at Ormond Beach Planning Board meeting

Ormond Beach's planning board hears from residents, developer on plans to build a new gated community on the site of the old Tomoka Oaks golf course.

Clayton Park Clayton Park, The Daytona Beach News-Journal
Published 1:35 p.m. ET July 14, 2023

Watch [video excerpt](#).

Read the 7/14/23 [Daytona Beach News-Journal article](#) written by Clayton Park.

[Subscription Info](#)



Too important to rush through: Planning Board asks developers of Tomoka Oaks golf course to reevaluate plans

The Planning Board will continue reviewing the development proposal at a meeting on Monday, Aug. 21.

By Jarleene Almenas | 12:00 p.m. July 14, 2023

Board members Mike Scudiero, Angeline Schull, Chair Doug Thomas, Barry du Moulin, Al Jorczak and G.G. Galloway. Photo by Jarleene Almenas.

Read the 7/14/23 [Observe article](#) written by Jarleene Almenas.

[Subscription Info](#)



Carolyn's Message

Dear Neighbors,

Well, we did it again! We united and we came out in force at the July 13 Planning Board hearing. Hundreds of us attended to express concern and opposition to the PRD zoning application for residential development of the Tomoka Oaks golf course property.

During the hearing, passionate residents from Tomoka Oaks, Escondido, The Trails and other Ormond Beach neighborhoods, spoke with conviction as to why we oppose building 276 homes in the "green heart" of our established Tomoka Oaks neighborhood.

And prior to the hearing, 48 of you sent me letters which I proudly had included in the City's 802 page [Planning Board packet](#). Our letters begin on page 127 of the packet.

Much has happened in a short amount of time. This newsletter provides highlights related to our efforts to prevent this intrusive development.

It also provides links to several resources so you can educate yourself on the many factors that impact where we are at the time I am writing our August newsletter.

In the future, you may see more short email blasts, rather than full issues of the **Tomoka Oaks Times**, as I strive to keep you up-to-date on new information.

Not giving in or up,

Carolyn Davis
46 Oakmont Circle
CarolynDavis3@gmail.com



Key Unresolved Issues

The applicant and the Site Plan Review Committee have been unable to reach a consensus on several issues. These issues are policy issues that need a recommendation from the Planning Board and final action from the City Commission.

- Key issue 1: Development ability of the former golf course (more on this on page 2 of the *Tomoka Oaks Times*)
- Key issue 2: Lot size, density, and compatibility
- Key issue 3: Planting of the 50' natural buffer
- Key issue 4: Setback plan
- Key issue 5: Sheet PD6 note on lot separation
- Key issue 6: Traffic review, including St. Andrews Drive and Tomoka Oaks Boulevard diamond
- Key issue 7: Recreational areas
- Key issue 8: Environmental

Highlights of the Planning Board Hearing Held July 13th

The entire 5 hour audio and Power Point slides from the Planning Board hearing held July 13, 2023 are located at <https://www.youtube.com/watch?v=ZtdFx0FIdq8> Obviously there is a lot to listen to. Here are some highlights.

Some Quick Facts

- Length of the July 13, 2023 hearing: 5 hours
- Hearing Outcome: Continued to August 21, 2023
- Number of attendees: 300 +/-
- Number of residents who addressed the Planning Board: 30
- Total number of hours of resident testimony: 1.5
- Number of pages in the Planning Board packet: 802
- Number of resident opposition letters contained in the packet: 56
- Number of Key Issues unresolved between the SPRC and the Applicant that need to be addressed by the Planning Board: 8
- Staff's Recommendation to the Planning Board: **DENIAL** based on certain conditions and staff requests for associated site plan improvements.
- Date, time and location of next Planning Board Hearing:
 - Monday, August 21, 2023 at 6:00 pm
 - Tomoka Christian Church, 1450 Hand Ave, Ormond Beach, FL 32174 ([map](#))

A group oath was administered requesting people who were testifying to swear to tell the truth. Why? Is that normal procedure?

No, it has never been normal procedure. City Attorney Randy Hayes asked witnesses to take the oath to preserve the record for a judge in anticipation of any legal challenges that might follow.

Brent Spain, an attorney retained by Carolyn Davis and a consortium of homeowners, provided a Letter of Opinion to Chairman Thomas and the City the day before the hearing. What did it say? And why was it not allowed at the hearing?

Mr. Spain informed the Chairman and the City that cited case law would establish that, at a minimum, the use if the golf club property is limited to a golf course or similar open space purposes by virtue of an implied restrictive covenant. City Attorney Randy Hayes advised the Planning Board that if there are legal issues raised by a legal analysis, then it is incumbent on the party represented by that attorney to initiate their own civil action. (Read Spain's [Letter of Opinion](#))

Note from Carolyn: The legal opinion of attorney Brent Spain is a separate legal effort and is not associated with our voluntary HOA's development mitigation efforts represented by attorney Dennis Bayer. I am a member of our voluntary HOA, but I chose to research a separate path focusing on historical and legal records that present legal challenges to residential development of the golf course property. I disclose in every issue of the *Tomoka Oaks Times* my belief that both the voluntary HOA efforts and my efforts are necessary to address all aspects of this potential development.

What did our voluntary HOA's attorney have to say at the hearing?

Dennis Bayer presented the following concerns still unresolved after extensive

HOA negotiations:

- Excess traffic volume
- Inadequacies in the perimeter landscape buffer, it's lack of irrigation, and lack of an enforcement mechanism
- Lot sizes and unit density
- Loopholes allowing the applicant to self-amend lot sizes and number of lots without any official review.
- Applicant's identification of the project as "infill" which is taking a blighted area with rundown houses and putting in a new development. This application is not infill; it is filling a green space with residential development.
- Argues a PRD denial should not allow straight R-2 zoning. "Its current zoning is PRD, it's not R2, this does not behold it from process."

What is the difference between PRD and R-2?

If the developer's PRD application is denied, the developer has a back up application for an R-2 zoning map amendment. The City Attorney ruled against any Planning Board discussion of the R-2 alternative, although the applicant attorney raised the R-2 threat throughout the hearing.

Note from Carolyn: This newsletter does not contain enough space to address the differences between PRD and R-2. At a very basic level:

- The PRD application increases the buffer between existing Tomoka Oaks golf course homes and the proposed development. But it reduces the rear set back of the new homes so there is less footage at the back of the structure where it backs up to the buffer. By contrast, an R-2 has a smaller buffer between the new homes and the existing Tomoka Oaks homes, but the rear setback of the R-2 home requires more footage between the home's rear structure and the buffer.
- The PRD allows smaller lot sizes such

as 50' - 80' widths. But the R-2 requires all lots be 100' wide as is standard in Tomoka Oaks.

- The PRD has requirements for recreational areas; R-2 does not.
- The PRD requires 20% natural preservation of the land; R-2 requires 15%.
- Prior to issuing a development order, the PRD requires a Neighborhood Meeting, Site Plan Review Committee submissions, and public hearings by the Planning Board and Commission. The R-2 does not have these same requirements but still must meet city codes and technical criteria.
- With a PRD, the Preliminary Plat review is the next step after the Commission has approved a development order, whereas the Preliminary Plat review is the first step in the R-2 process. Neighborhood meetings are suggested (but not required) at this step for both PRD and R-2.
- The last step for both the PRD and the R-2 is review and approval of the Final Plat by the Planning Board and Commission. Public comments regarding plat details are allowed.

Why didn't the Planning Board render a recommendation to the Commission?

Planning Board Chairman Doug Thomas indicated that during his 33 years on the board, this is in the top five of the most important issues he has ever heard. And he is not going to go along with forcing this through even if it takes the board two or three months.

Chairman Thomas also stated at the end of the five hour hearing that, "Something is going to go in there, and so we've got to compromise. We've got to find something because there is a hard core group of residents who don't want anything in there. But I'm gonna tell you something, that is just not going to happen cause something *will* go in there." [Meeting Minute Marker 4:51:50 - 4:52:13](#)

Note from Carolyn: I emailed City Attorney Randy Hayes expressing my concern the Chairman's comments implied "denial" was not an option this board was considering.

Mr. Hayes responded in part, "Chairman Thomas was only stating his personal opinion . . . And I customarily provide cautionary advice to all decision-makers not to pre-determine an outcome prior to receiving all evidence at a public hearing."

Our "core group" currently numbering 500+ households (over half living in Tomoka Oaks and many being members of the voluntary HOA such as I am) believes the Planning Board should heed Mr. Hayes' advice.



Provided by Tomoka Oaks resident djcorley

Public Comments - July 13 Planning Board Hearing

Members of the audience were allowed 3 minutes to make public comments. All 30 speakers are listed in the order they testified along with a brief summary of their comments. Only 1 speaker was in favor of the PRD.

1. **Carolyn Davis** (Tomoka Oaks): Reported Attorney Brent Spain's [letter of opinion](#) which questions the legality of any development, PRD or R-2.

2. **Stephanie Cox** (Volusia County): Board should seriously consider problems of growth, traffic, schools and infrastructure.

3. **Len Gaspary** (Tomoka Oaks): Builder of original custom Tomoka Oaks homes stated golf course lots were substantially more expensive.



Provided by Tomoka Oaks resident djcorley

4. **Jeff Boyle** (Ormond Beach): Identified development issues that are in conflict with 7 of the City's Comprehensive Plan policies.

5. **Denise White** (Trails): Has issues with traffic analysis not accurately assessing flow and impact on the Trails two-lane, narrow roads laden with medians.

6. **Ashley Dufrene** (Tomoka Oaks): Purposely paid more for a golf course-fronting home. Proposed use will violate all aspects of OB LDC 1-15, article 2.

7. **Michelle Zirkelbach** (Tomoka Oaks): Is a real estate agent who never had a buyer ask to, "find me a house on a 50', 60' or 80' lot." Proposal seeks max profits/acre without regard for quality of life of current residents.

8. **Ellen Cook** (Escondido): Current traffic impacted by RR crossing on Nova will only get worse and result in excess stacking and accidents.

9. **Adele Shaw** (Escondido): The sign for "Tomoka Reserve" makes her think of nature, not a residential development.

10. **Tom Fitzgibbon** (Tomoka Oaks): Traffic concerns with a) FDOT expecting 2 years to install traffic light at Nova & Tomoka Oaks Blvd. b) FDOT rebuild of Nova during Tomoka Reserve development, and c) inaccurate analysis of traffic at Granada & Main Trail.

11. **Denise Corley** (Tomoka Oaks): Concerned soil remediation may simply redistribute toxic golf course chemicals to open space, berms, rec areas, and drainage ponds.

12. **Jane Eddy** representing **Julie Freidus** (Tomoka Oaks): Lack of critical medical care infrastructure, including physician shortage, creating life threatening hardships for current Ormond Beach population.

13. **Scott Ryals** (Tomoka Oaks): as a former golf course owner family member involved in the 2006 PRD application, he understands current developer's mitigation promises might later be identified as "not doable" resulting in unforeseen approvals of developer alterations. Residents' individual freedoms will decrease over time.

14. **Peter Tupas** (Tomoka Oaks): Real estate broker for 30 years disagrees with appraiser's valuation that golf course-fronting homes won't depreciate in any way. In the real estate business, anything that happens behind you will change the value of your property. Plus more traffic on our 2 lane-roads will impinge upon infrastructure.

15. **Ned and Lauren Huhta** (Tomoka Oaks): Second and third generation living in golf course home built by Len Gaspary supported all points made by Dennis Bayer. Believe applicant should fund 100% of Tomoka Oaks Blvd reconfiguration since they are the cause for it.

16. **Richard Goldhair** (Trails): Construction traffic lasting 3-5 years, 7am-7pm, Monday - Saturday will adversely impact the safety and quality of the Trails and compromise Misner Branch bridge as residents and contractors avoid the construction entrance at Tomoka Oaks Blvd. and use Trails roads instead.

17. **Barbara Doliner** (Tomoka Oaks): "We do not want cookie cutter homes. This just doesn't fit our community. This Cinderella will never have that shoe fit, no matter how many different ways its going to be packaged to us, it doesn't fit."

18. **Jim Cameron** (Ormond Beach): Only audience member to support this development. "It's important that we hopefully find a happy medium that everybody can agree on."

19. **Renee Herrero** (Tomoka Oaks): Moved here with expectation of always being outdoors and playing the Tomoka Oaks golf course. That changed, but golf is not going anywhere. Could relaunch the 18 hole course if accompanied by a financially supported development.

20. **Caroline Herrero** (Tomoka Oaks): Grew up in a Tomoka Oaks home built by Len Gaspary. Loves being outside in our neighborhood and taking evening walks with her grandmother, but the years of growth in Ormond Beach have changed the experience of living here. Does not want proposed density.



Provided by Tomoka Oaks resident djcorley

21. **Adam Kipi** (Tomoka Oaks): His background in environmental mitigation makes him question how contaminated soil will be mitigated and how 2 feet of clean fill will create drainage issues if not sloped and graded properly. Also bought home believing the golf course property would not be built on.

22. **Tyler Brown** (Tomoka Oaks): Developer's density numbers (1.87/acre) do not accurately represent their claims of compatibility with Tomoka Oaks density (which they claim is 2.09/acre). Tomoka Oaks originally built around 147

acres of a green space golf course which results in original Tomoka Oaks density of 1.27/acre which is quite a bit lower than the applicant's claim of 2.09/acre.

23. **Missy Herrero** (Tomoka Oaks): Asked Board to clarify whether any sworn witnesses who were recruited and paid by the applicant should disclose that when testifying. Board and City Attorney stated they had no evidence of paid testimony and did not answer what the City's hearing policy is on this issue.

Ms. Herrero shared that an overburdened medical infrastructure compromised hospital care for her critically ill father. And a shortage of hospice nurses resulted in a 5 day care gap requiring the family to provide home care unaided until medical professionals arrived prior to his passing.

24. **Paul Hughes** (Tomoka Oaks) Logic is missing regarding emergency, back door access which ultimately leads vehicles back to the main Tomoka Oaks Blvd entrance. If the main entrance is blocked during a natural disaster, any traffic flowing from the emergency exit still faces the main entrance bottleneck. This impacts Escondido too. Also, residents paid dearly for golf course-fronting property and should remain entitled to that green space right.

25. **Janice Rose** (Tomoka Oaks): Development order should contain provision Tomoka Reserve HOA be required to preserve and maintain the buffer. Tomoka Oaks residents should have right to sue if not maintained.

26. **Leah Washington** (Tomoka Oaks): She and her husband are a military family who purchased in Tomoka Oaks for the peaceful stability it affords their children. This will be gone forever if the property is developed. Also, finding local pediatric medical care is extremely challenging.

27. **Logan Pigliacampi** (Tomoka Oaks): The beauty of nature and the serene green space of the Tomoka Oaks golf course property are critical to our fundamental way of living. They should not be compromised by industrialization and money.

28. **Darla Widnall** (Trails): The City spent \$125,000 for a Parks & Recreational Survey which identified the Top 10 needs for Ormond Beach; 8 of those needs can be solved by retaining the golf course green space for uses such as parks and a golf course.

29. **Debra Gatz** (Tomoka Oaks): Buffer will contain existing trees which go down during storms and are overgrown with invasive vines that grow onto her property. This is not acceptable. Tomoka Reserve HOA should have responsibility for maintaining the buffer.

30. **Beth Rabitaille** (Trails): Sees, firsthand, vehicles speeding down Rio Pinar Trail to Tomoka Oaks. It will get even busier and less safe with new development. Questioned accuracy of traffic analysis which did not report on Rio Pinar Trail impacts.

An Open Letter to the Applicant

Dear Partners of Triumph Oaks of Ormond Beach I, LLC,

You have a lot on your plates at the moment regarding your Tomoka Reserve application. You have a Planning Board saying this current site plan is just not going to cut it. Do you increase your lot sizes? Do you irrigate the buffer? Are you willing to accept lower profits? Do you throw in the towel on the PRD application and push forward with R2? Decisions, decisions.

I understand you are in this to make a profit. And you want a zoning that maximizes that profit. But you are facing a lot of resistance.

What if you could still realize a profit and, at the same time, become respected partners with the citizens of Ormond Beach? If you could pay off the Mortgage and Security Agreement, make a few million in profit, PLUS have your names identified as part of a positive legacy in the history of Ormond Beach, would you be willing to add that to your plate of options? How might this look?

What if you retained the Tomoka Reserve property as dedicated green space? You could sell the Reserve's **Naming Right** to one of our local businesses or private philanthropic residents who desires to keep this area green.

Would you consider partnering with businesses who could help design and fund the green space? The property could provide:

- The Sheldon Rubin Environmental Education Center where visitors could learn about the value of nature and preserving the environment.
- Perhaps the grounds surrounding the Center could be showcased with the Emily Rubin Rose Garden.
- Maybe the Center could contain the Velie Sustainable Living exhibit where visitors could learn how to reduce their ecological footprint when building or redesigning homes.
- And there could be a Barshay Community Vegetable Garden where residents can grow and share food for themselves and the less fortunate.

What other **Naming Opportunities** could provide revenue for your company which is aptly named Triumph Oaks?

- A botanical garden perhaps maintained by one of our state universities
- Separately designed walking paths and bike paths
- Recreational areas for tennis and swimming as were original amenities for Tomoka Oaks
- A recreational and educational area designed specifically for our special needs residents
- A children's playground and learning area
- A dog park
- An outdoor plaza and fountain
- A meditation garden
- A butterfly house
- A caretaker's cottage

Once Triumph Oaks and any potential business partners have realized a return on investment, perhaps the property could be sold to the City? And the city might be able to use grants and/or Parks and Recreation funds for buying and maintaining the land, structures, and legacy naming rights?

And of course, the last obvious option to consider - what about restoring the golf course, or a portion of it? If partners came forward to fund and manage the restoration, would Triumph Oaks like to partner with them? Or outright sell to them?

Please know this "Open Letter to the Applicant" is meant with respect. As I told Mr. Rubin months ago, my home is always open to him. And that invitation is extended to Ms. Emily Rubin, Mr. Barshay and Mr. Velie.

Nothing has been decided yet. Nothing has been set in stone. As hockey legend Wayne Gretzky said, "You miss 100% of the shots you don't take." So I am taking a shot and reaching out to suggest options for the win-win being sought by the Planning Board, the City, our residents, and yourselves.

Respectfully,

Carolyn Davis

COMMISSION CORNER

Dear Mayor and Commissioners,

Public sentiments expressed at the July Planning Board hearing itemized concerns with traffic, density, medical infrastructure, and the lose of implied restrictions protecting our green space.

City planning staff recommended denial of the application on a number of key issues,

still unresolved after four site plans. With the Planning Board hearing now in a 39-day recess, these issues are currently being negotiated out of the public sunshine. That concerns me. Residents will find out at the next Planning Board hearing on August 21 the results of these closed-door negotiations.

What will the Board ultimately place in your hands to vote on?

Carolyn

The Tomoka Oaks Times is an independent newsletter whose goal is to prevent residential development of the Tomoka Oaks Golf Course property. This newsletter is separate from the voluntary Tomoka Oaks HOA Golf Course Committee whose efforts are directed only at mitigating development. It is our belief that our development opposition is necessary to accurately and fairly represent Tomoka Oaks residents who desire no **residential** development.

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