



February 17, 2009

To Darling Homeowners in Village of Oak Ridge Grove:

Over the last week, Darling Homes has received calls and other communications from several of you expressing concern about construction by the South Montgomery County Municipal Utility District (SMCMUD) in the Restricted Reserve to the south of Oak Ridge Grove Drive. We have since learned that SMCMUD has leased the Restricted Reserve from the City of Oak Ridge North ("the City") for development of a water tower and related facilities. Until we were notified of this construction activity by our homeowners, Darling was not aware of any plans to build a water tower in the Reserve.

In the calls and emails from Oak Ridge Grove homeowners we heard anger and frustration regarding not only the planned construction, but also the lack of notice and opportunity for meaningful public comment. Darling Homes shares your concern with what we believe is an illegal use of the Restricted Reserve. This property was deeded to the City by the developer in 2005 as a restricted reserve for recreational use only. This restriction was also noted on the plat approved and accepted by the City. Darling Homes believes that construction of a water tower and related facilities violates both the deed restriction and the platted use.

Many of you have said that you were misled by Darling Homes. While we regret that you feel that way, we have carefully and critically reviewed what took place and do not agree. Darling Homes relied on the City-approved plat that restricted the reserve for recreational purposes only. The very reason for going through the platting process and obtaining a restricted use is to prevent someone from disturbing that use without adequate notice to interested parties, following by meaningful public discourse and a vote of your elected representatives. Neither Darling Homes nor the developer were notified about the current construction and, like each of you, we have never seen an approved site plan.

Darling Homes

10255 Richmond Ave., • Suite 150
Houston, TX 77042

Phone: 713-690-6902

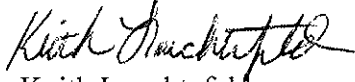
Fax: 713-690-4503

www.darlinghomes.com

By allowing construction in the Restricted Reserve, the City is not only violating the deed restriction and its own zoning ordinance, but is also denying Village of Oak Grove citizens the right to meaningful public debate on a proposal the City claims is necessary for the City at large. While Darling does not have the information or even expertise to comment on whether additional water reserves are required, it does believe that in an area with City zoning, the adjacent residents should have been presented with notice of a zoning change, a proposed site plan and an opportunity to be heard before any decision was made to change the platted use of the Restricted Reserve. While none of us can control the outcome of a political process, that process is meaningless if we are denied the right to even participate.

Attached to this letter is a letter we have prepared for distribution to the Mayor and City Council for Oak Ridge North opposing construction in the Restricted Reserve and requesting a meaningful public hearing followed by a public vote.

Sincerely,

A handwritten signature in black ink, appearing to read "Keith Luechtefeld", written over a horizontal line.

Keith Luechtefeld
Vice President of Operations

Enclosure (as stated)



February 17, 2009

Via E-mail & U.S. first-class mail
Honorable Mayor Fred O'Connor
City of Oak Ridge North
27424 Robinson Road
Oak Ridge North, Texas 77385

To The Honorable Mayor and Members of the City Council of Oak Ridge North:

This letter is written on behalf of Darling Homes, a builder and landowner in the Village of Oak Ridge Grove, and VORG, Ltd., the developer of the Village of Oak Ridge Grove. The purpose of this letter is to express our opposition to what we believe is illegal construction underway by the South Montgomery County Municipal Utility District (SMCMUD) in Restricted Reserve B to the south of Oak Ridge Grove Drive.

Until the recent construction activities, Restricted Reserve B was a wooded area at the entrance of the Village of Oak Ridge Grove. This area served as a buffer between the subdivision and Maplewood Drive, and is the only entry and exit point to the subdivision. The plat for the Village of Oak Ridge Grove specifies the use for this area as a "Recreational Reserve". This plat was approved by the City and filed of record in February of 2005. Darling Homes and the developer relied on the approved plat in selling single-family homes to new residents of Oak Ridge North.

In April of 2005, the developer deeded Restricted Reserves A, B and D to the City for maintenance. The deed was recorded on April 27, 2005. According to the deed, the conveyance was, "made and accepted expressly subject to all applicable zoning laws, regulations and ordinances of municipal and/or governmental authorities and is further made subject to all restrictions, covenants, conditions, assessments, maintenance charges, easements, and previously conveyed or reserved mineral and royalty interests, if any, relating to the Property, but only to the extent that they are still in effect and shown of record in the hereinabove County and State." Because Restricted Reserve B was shown of record on the plat at the time the conveyance was made, it is the position of Darling Homes and the Developer that the Restricted Reserves were conveyed subject to the platted restrictions.

Darling Homes

10255 Richmond Ave., • Suite 150
Houston, TX 77042

Phone: 713-690-6902

Fax: 713-690-4503

www.darlinghomes.com

According to Chapter 70, Article II, Section 70-52 of the Code of Ordinances for the City of Oak Ridge North, "Reservations" are platted as follows:

- (a) *Permitted purposes.* No land contained in a proposed subdivision shall be reserved for any use other than a use permitted by the city council for the zoning in which the land to be reserved is located.
- (b) *Designation on plat.* The specific use for which each piece of land is to be used must be shown by appropriate label or description on the plat; provided that land to be used for any purpose other than residential uses, may, if the specific use is not known, be described as a restricted or unrestricted reserve.

...

- (f) *Restricted reserves.* Where a specific purpose is established for a reserve tract, such intended use must be noted and identified on the plat. The building of noted improvements within the restricted reserve will require a site plan to be submitted to the city zoning commission and approved by the commission and city council before construction commences. Where public facilities or rights-of-way will be dedicated during future development of restricted reserves, a replat of the restricted reserve will be necessary.

The area in which SMCMUD is constructing their facility was platted as "Restricted Reserve B – Recreational Reserve." We are not aware of, nor have we received notice of, a re-plat or change in zoning of Restricted Reserve B. Darling Homes and the developer believe that the current construction activities by the SMCMUD are a clear violation of the recreational use restriction.

After the City Council meeting on February 9, 2009, we requested and received a copy of the lease between the City and the SMCMUD ("the Lease"). The Lease provided by the City is dated July 1, 2005. However, according to the Montgomery County records, the Lease was not filed in the County records until January 2, 2009. Upon review of the Lease approved by the City in 2005 and the one filed in 2009, we discovered that the legal description of the land subject to the Lease had been replaced by a new survey dated October 29, 2008. We do not know whether the modified Lease (which adds additional acreage) was ever approved by the City.

Moreover, the Lease states that the SMCMUD shall, "Construct, drill and maintain a potable water well facility on the Property." The Lease does not mention a water tower and this use is not reflected in the minutes of the 2005 City Council meetings where the Lease was approved. To date, none of the Village of Oak Ridge Grove owners have been provided with a site plan for the intended facilities and we continue to question whether one even exists and whether it has been formally reviewed and approved in accordance with normal City procedures.

Honorable Mayor Fred O'Connor
February 17, 2009
Page: 3

From the lease of the property for activities in violation of the deed restrictions to the current unlawful clearing of Restricted Reserve B by the SMCMUD, the City has shown total disregard for the rights of the Village of Oak Ridge Grove property owners. On behalf of Darling Homes and the developer of the Village of Oak Ridge Grove, we request the City cease and desist further construction on Restricted Reserve B, require the SMCMUD to present a site plan for consideration in a meaningful public hearing, and reset the matter for a vote by the City Council.

Sincerely,



Keith Luechtefeld
V.P. Operations
Darling Homes



Cheryl C. Turner
V.P. Customer Relations & General Counsel
Darling Homes



Bill Dalton
VORG, Ltd.
Developer of Village of Oak Ridge Grove