

# **EAST MADISON WATER ASSOCIATION**

**LEROY LACY**  
**President**

**ROBERT BILBREW**  
**Vice President**

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P.O. Box 535 Canton, Mississippi 39046

September 20, 2019

Bobby Long, Attorney  
Herring, Long & Crews  
129 East Peace Street  
Canton, MS 39046

Dear Attorney Long:

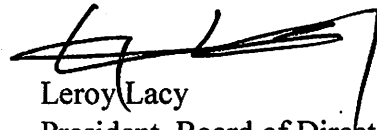
In response to your email of July 18, 2019, this is to provide an answer to your inquiry concerning the Endress Road project of Drew Smith:

At a regular meeting of the Board of Directors of East Madison Water Association, Inc., held on September 20, 2019, the following was decided.

- (1) That East Madison Water Association would commit to provide water service to the subject subdivision, limited only by the following conditions:
  - (a) Water services to the subdivision will be limited to the pressure and capacity currently provided by the 3" line present in place.
  - (b) Only one (1) 3" meter connection will be made for each of the 8 platted lots.
  - (c) Any future need for fire hydrants would require at least a 4" meter, which the water association cannot provide.

If you require more, please let me know.

Yours Truly,



Leroy Lacy  
President, Board of Directors  
East Madison Water Association

**PREPARED BY AND RETURN TO:**

**HERRING, LONG & CREWS, P.C.  
ATTORNEYS AT LAW  
P. O. BOX 344  
CANTON, MS 39046  
TELEPHONE: 601-859-2573**

**STATE OF MISSISSIPPI**

**COUNTY OF MADISON**

**INDEXING INSTRUCTIONS: Endris Estates Subdivision-Property situated in the SW ¼ of the SW ¼ of Section 2 and the SE ¼ of the SE ¼ of Section 3 and the NE ¼ of the NE ¼ of Section 10 and the W ½ of the NW ¼ of Section 11, Township 8 North, Range 2 East, Madison County, Mississippi**

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
ENDRIS ESTATES**

**THIS DECLARATION** is made this the \_\_\_\_ day of June, 2019, by **OAK TRACE PROPERTY, LLC, A MISSISSIPPI LIMITED LIABILITY COMPANY**, hereinafter called "Declarant":

**WITNESSETH:**

**WHEREAS**, Declarant is the owner of certain real property situated in Madison County, Mississippi, more particularly described on Exhibit "A" attached hereto, and desires to create and develop thereon a residential community known as "Endris Estates", hereinafter referred to as the "Property"; and

**WHEREAS**, Declarant desires to provide for the preservation of the values in said community and, to this end, desires to subject the Property to the covenants, conditions and restrictions hereinafter set forth, each and all of which is and are for the benefit of said Property and each Owner thereof; and

**NOW, THEREFORE**, Declarant declares that the Property is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, conditions, restrictions and liens (sometimes referred to as "Covenants and Restrictions") hereinafter set forth.

## **ARTICLE I.**

### **DEFINITIONS**

The following words when used in the Declaration or any Supplemental Declaration (unless the context shall otherwise prohibit) shall have the following meanings:

- (A) **Association** shall mean and refer to any non-profit corporation, incorporated under the laws of the State of Mississippi, for the purpose of effecting the intents and objectives herein set forth, in the event the Owners of the subject property desire to establish said association.
- (B) **Declarant** shall mean and refer to Oak Trace Property, LLC, a Mississippi Limited Liability Company, its successors and assigns.
- (C) **Declaration** shall mean this instrument as it is from time to time amended.
- (D) **Dwelling** shall mean a single family residential detached house with attached or detached garage.
- (E) **Lot** shall mean and refer to any plot or tract of land as may be shown upon a recorded subdivision map or plat of the Property, or any part thereof, containing not less than five (5) acres, which is designated as a lot therein and which is or may be improved with a residential dwelling.
- (F) **Mortgagee** shall mean a bank, savings and loan association, insurance company, mortgage company, real estate investment trust, pension fund, corporation, recognized institutional type lender or its loan correspondent, agency of institutional type lender or its loan correspondent, agency of the United States Government, or individual(s) which own and which is the holder of a recorded first mortgage.
- (G) **Owner** or **Property Owner** shall mean and refer to the record Owner, whether one or more persons or entities, of a fee or undivided fee interest in any Lot which is part of the Property, including contract sellers, but excluding those persons or entities who hold an interest merely as security for the performance of an obligation.
- (H) **Community** shall mean that area contained within the Property as described on Exhibit "A".

(I) **Property or Properties** shall mean and refer to that certain real property described herein which is subject to the covenants.

(J) **Residential Purpose** shall be defined as all single family residential uses permitted by the Madison County, Mississippi Zoning Ordinance Use District Classification for the parcel.

(K) **Recorded First Mortgage** shall be deemed to mean a mortgage or deed of trust, properly recorded in the office of the Chancery Clerk of Madison County, Mississippi, or other public Office designated by the statutes and the laws of the State of Mississippi for the recording of mortgages in Madison County, Mississippi, or other public office designated by the statutes and laws of the State of Mississippi, for the recording of mortgages in Madison County, Mississippi, the lien of which is prior, paramount and superior to the lien of all other mortgages and deeds of trust.

## ARTICLE II

### **USE RESTRICTIONS**

The property shall be subject to the following use restrictions:

**SECTION I. Use of Lots and Dwellings.** Each lot and dwelling shall be used for single family residential purposes only, and no trade or business of any kind may be carried on therein. The use of a portion of a dwelling as an office by an Owner shall not be considered to be a violation of this Covenant if such use does not create regular customer, client or employee traffic and is not advertised on the face of the home, fence, or appurtenant structure, provided that in no event shall any lot or dwelling be used as a storage area for any building contractor or real estate developer.

**Land Use and Building Type:** No structure shall be erected, altered, placed or permitted to remain on any of the lots on the subject property other than a one single family dwelling not exceeding two and one-half (2-1/2) stories in height, together with the usual and customary outbuildings, including, but not limited to, barns, garages and storage sheds. Every outbuilding shall be placed behind a line extending from the rear wall of the residential dwelling to the side lot lines. All buildings shall be provided with a complete foundation curtain wall except those with a concrete slab foundation. No building or outbuilding on any parcel shall be used for commercial purposes.

### **SECTION II. Exterior Appearances:**

(A) The structures and grounds of each lot shall be maintained in a neat and attractive manner. Upon the Owner's failure to maintain same, the Declarant may, as its option, after giving the Owner fifteen (15) days written notice sent to his last known address, have the grass, weeds and vegetation cut and remove dead trees, shrubs, and plants as often as, in the Declarant's judgment, it is necessary to properly maintain the lot.

(B) Upon the Owner's failure to maintain the exterior of any structure in good repair and appearance, the Declarant may, at its option, after giving the Owner sixty (60) days

written notice at his last known address, make repairs and do what is necessary to improve the appearance of said structure.

(C) The cost of such maintenance referred to in the above subsections shall be assessed against the lot and the improvements thereon and shall be billed to the Owner of said lot, which lien shall be subordinate to any first mortgage lien on said lot. If the Owner fails to pay the Declarant for said maintenance and/or improvements within thirty (30) days from the billing thereof, the Declarant may file notice of said lien in the records of the Madison County, Mississippi Chancery Clerk's Office and enforce said lien according to the laws of the State of Mississippi.

**SECTION III: Building Sites/Subdividing:**

No lot may be partitioned, divided or conveyed so as to create lots less than 5 acres. Only one single family dwelling which may include a pool house, a mother-in-law suite, a barndominium, a shop with living quarters or any other structure with heated or cooled living space may be built on any one of such lots. Lots as set forth in the plat of Endris Estates may be combined or divided so long as such combination or division complies in all respects with these covenants and the Madison County, Mississippi Zoning Ordinances and Subdivision Regulations and contains at least 5 acres and such combined area shall be considered as one building lot, in which event the setback lines for building purposes and easements shall be construed and interpreted to apply to the outside lines of such combined area and not to any lot line or lines common to such lots which compose such combined area.

**SECTION IV: Building Location:**

Every residence shall face the street on which the lot fronts. No building shall be located on any lot nearer than thirty feet (30') to the front lot line, no closer than ten feet (10') to any interior lot line or nearer than twenty-five feet (25') to any rear lot line.

**SECTION V: Dwelling Cost, Quality and Size:**

All dwellings shall meet all codes and restrictions imposed by Madison County, Mississippi. It being the intention and purpose of the covenants to assure that all such dwellings shall be of a high quality workmanship and material. The ground floor of the main structure, exclusive of one-story open porches and garages, shall not be less than 1,800 heated and cooled square feet for a one-story dwelling, or less than 1,400 heated and cooled square feet for a two-story dwelling. There shall be no manufactured housing or mobile homes on said lot.

**SECTION VI: Unsightly Conditions and Nuisances:**

It shall be the responsibility of each Property Owner to prevent the development of any unclean, unsightly or unkempt conditions of buildings or grounds on the Property which shall tend to substantially decrease the beauty of the community as a whole or as a specific area. No rubbish or debris of any kind shall be dumped, placed, or permitted to accumulate upon any portion of the Property. Nor shall any nuisance or odor be permitted to operate upon or arise from the Property, so as to render any portion thereof unsanitary, unsightly, offensive or

detrimental to persons using or occupying any other portions of the Property. Noxious or offensive activity shall not be carried on in any lot, dwelling, or any part of the subject property, and each Owner, his family, invitees, guests, servants and agents shall refrain from any act or use of a lot or dwelling which would cause disorderly, unsightly or unkempt conditions. Trash, garbage or other waste shall not be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition.

**SECTION VII: Sanitation:** There shall be no surface toilets or privies erected or maintained upon the subject property and unless sewage service is available and used, the dwellings and other buildings thereon shall meet the requirements of Madison County, Mississippi and the Mississippi Department of Health.

**SECTION VIII: Vehicles:**

All automobiles, farm machinery, equipment, trailers, tractors, recreational vehicles, utility vehicles and trucks larger than one-ton pick-up trucks shall be parked behind a line extending from the rear wall of the residential dwelling to the side lot lines. This restriction shall not apply to vehicles delivering goods, supplies, services, or providing maintenance to the residence or used in the construction of any residence or outbuildings.

**SECTION IX: Pets:**

No kennels or pens may be constructed or used for the care and housing of more than four (4) dogs and no more than four (4) dogs may be regularly housed at the residence of the Owner. Regardless of number, the keeping of said animals shall be such as to not constitute an annoyance or nuisance to the neighborhood. No kennels will be allowed unless the Owner resides on the premises. No commercial kennels or commercial stables of any nature shall be permitted on the Property. The maximum number of horses or cattle to be kept and maintained on any lot shall be one (1) per every acre of property contained within any such lot. No swine shall be kept on or about the property.

**SECTION X: Signs:**

No sign or signs advertising of any kind shall be maintained or permitted within any windows, on the exterior of any windows located within the development or elsewhere on any portion of the Property by anyone, including, but not limited to, the Property Owner, a Realtor, Contractor or Sub-Contractor. Notwithstanding the foregoing, the restrictions of this Section do not prohibit one (1) sign denoting the names of the Owners of the lot which shall be no more than two (2) square feet and one (1) sign no larger than six (6) square feet advertising the property for sale, and signs used by a builder to advertise during the construction period.

**SECTION XI: Driveways:**

All driveways shall be constructed of concrete, asphalt, gravel or slag.

**SECTION XII: Garages:**

Any attached garage or detached garage constructed must be at least a two (2) car garage and enclosed if facing the street.

**SECTION XIII: Fences:**

No chain link fence shall be permitted on the subject Property.

**SECTION XIV: Temporary Structures:**

Except as set forth herein, no structure of a temporary character, trailer, tent, shack or garage shall be used on any lot at any time as a residence except while a main residence is being constructed for a period not to exceed one and one-half (1-1/2) years from the date said building permit was obtained by said Owner.

**SECTION XV: Architectural Review:**

The Declarant does hereby reserve the right to review and approve all plans for construction of any building in Endris Estates. The Declarant's approval shall not be unreasonably withheld.

**ARTICLE III**

**GENERAL PROVISIONS**

**SECTION I: Duration:**

The Declaration of Covenants, Conditions and Restrictions shall run with and bind the land subject to this Declaration, and shall inure to the benefit of and be enforceable by the Owners of any land subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of twenty-five (25) years from the date this Declaration is recorded in the Office of the Chancery Clerk of Madison County, Canton, Mississippi, after which time said covenants shall be automatically extended for the successive periods of five (5) years unless an instrument signed by a majority of the Owners has been recorded in the land deed records in said Chancery Clerk's Office agreeing to abolish the said Covenants, Conditions and Restrictions in whole or a substantial portion thereof; provided, however, that no such agreements to abolish shall be effective unless made and recorded one (1) year in advance of the effective date of such abolishment.

**SECTION II: Amendments:**

Notwithstanding Section I of this Article III, the Covenants, Conditions and Restrictions of this Declaration may be amended by the Declarant prior to January 1, 2023. Thereafter, this Declaration may be changed in part with the consent of at least seventy-five percent (75%) of the lot Owners; and in each case, such amendment shall be evidenced by a document in writing bearing the signatures of such Owners. All amendments, if any, shall be recorded in the office of the Chancery Clerk of Madison County, Mississippi.

**SECTION III: Enforcement of Declaration:**

(A) **Compliance:** If any provision of this Declaration is breached or violated or threatened to be breached or violated by any Owner or other persons, then each of the other Owners shall have the right, but not the obligation, to proceed at law or in equity to compel a compliance with, or to prevent the threatened violation or breach of, the provisions of this Declaration. If any structure or other improvement located on any portion of the Property, including any lot, violates any provisions of this Declaration, then the Declarant and/or the other Owners, jointly or severally, shall have the right, but not the obligation, to enter upon any portion of the Property, including any lot, to abate or remove such structure or the improvement at the cost and expense of the Owner(s) of the lot where such structure or improvement is located or who otherwise causes such violation, if the violation is not corrected by such Owner within thirty (30) days after written notice of such violation. Any person entitled to file or maintain a legal action or proceeding for the actual or threatened violation or breach of this Declaration shall be entitled to recover attorney's fees and other costs and expenses attributable to such action or proceeding. Any such entry or abatement or removal shall not be deemed to be a trespass. The failure by any person for any period of time to enforce any provision of this Declaration shall not be deemed a waiver of the right to enforce or otherwise bar or affect the enforcement of any and all provisions of this Declaration at any time, including any future time.

(B) **Enforcement:** This Declaration shall be enforced by any appropriate proceeding at law or in equity (i) against any person who breaches or violates or threatens to breach or violate any provision of this Declaration, (ii) to recover damages for any such breach or violation, (iii) to collect any amounts payable by any Owner under this Declaration, including assessments, attorneys' fees, costs of collection, late charges, overhead charges or other amounts incurred to perform or discharge any obligation or duty of any Owner under this Declaration or as otherwise specified in this Declaration, and (iv) to enforce any lien created by this Declaration. There is hereby created and declared to be a conclusive presumption that any actual or threatened violation or breach of this Declaration cannot be adequately remedied by an action at law exclusively for recovery of monetary damages. The Declarant, the Association, and each Owner by acceptance of a deed or other conveyance document to a lot waives and agrees not to assert any claim or defense that injunctive relief or other equitable relief is not an appropriate remedy.

**SECTION IV. Severability.** Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provision which shall remain in full force and effect.

**SECTION V. Headings.** The headings contained in this Declaration are for reference purposes only and shall not in any way affect the meaning or interpretation of this Declaration.

**SECTION VI. Notices to Owner.** Any notice required to be given to any Owner under the provisions of this Declaration shall be deemed to have been properly delivered when deposited in the United States mail, postage prepaid, addressed to the last known address of the person who appears as Owner of record in the land deed records in the office of the Chancery Clerk of Madison County, Mississippi.



WITNESS THE SIGNATURE of the undersigned, this the \_\_\_\_ day of June, 2019.

**OAK TRACE PROPERTY, LLC,  
A MISSISSIPPI LIMITED LIABILITY  
COMPANY**

**BY:** \_\_\_\_\_  
**ANDREW I. SMITH,  
MANAGER/MEMBER**

**STATE OF MISSISSIPPI**

**COUNTY OF \_\_\_\_\_**

**PERSONALLY APPEARED BEFORE ME**, the undersigned authority in and for the said county and state, on this the \_\_\_\_ day of June, 2019, within my jurisdiction, the within named **ANDREW I. SMITH**, personally known to me to be the **Manager/Member of Oak Trace Property, LLC, a Mississippi Limited Liability Company**, and that for and on behalf of said company, and as its own act and deed, he executed and delivered the above and foregoing instrument for the purposes therein mentioned, he having been duly authorized so to do.

\_\_\_\_\_  
**NOTARY PUBLIC**

**MY COMMISSION EXPIRES:**

\_\_\_\_\_