

June 26, 2015

Via Email: kristyeanes@yahoo.com

Kristy Eanes
Co-Chair, Little Italy Incorporation Task Force
1712 N. Tyler Street
Little Rock, AR 72207

Dear Ms. Eanes,

Thank you for taking time to meet with Central Arkansas Water (CAW) on behalf of the Little Italy Incorporation Task Force (the Task Force) to discuss the incorporation effort for Little Italy. As we stated in our meeting, we greatly appreciate your willingness to speak with us and try to find a compromise that will allow each of our organizations to meet our respective goals.

We value your letter and passionate description of the purpose of the incorporation effort. We are pleased to learn that the Task Force's overarching priorities are to enhance services to the community and to honor and protect the historic and rural character of the community. These are laudable goals which we support. Furthermore, we are glad to learn that the Task Force does not oppose the Lake Maumelle Watershed Zoning Code or other watershed protections nor does the Task Force desire to circumvent the application of existing watershed protections to the area contained within the proposed Little Italy boundaries. We understand that you and the Task Force view incorporation and watershed protection as separate issues.

However, as discussed in our meeting, CAW views the incorporation and watershed protection as intimately intertwined. Should the incorporation of Little Italy be successful, the existing watershed protections on over 5,000 acres of land in Pulaski County within the Lake Maumelle Watershed would immediately be eliminated. This acreage represents 25% of the developable area that currently has these watershed protections. Given that water quality protection is CAW's core priority and that we have invested significant time and resources in water quality protection through land purchases, property restoration, and collaborative work with Pulaski County and the Zoning Taskforce, CAW has significant concerns regarding the loss of these protections on 25% of the area in the Pulaski County portion of the Maumelle Watershed.

As you stated in your letter, the Task Force lacks the authority to enter binding agreements on behalf of Little Italy. While we appreciate the sincerity and comment of the Task Force to advocate for the adoption of watershed protection ordinances to a newly formed Little Italy Mayor and Town Council, CAW continues to have significant concerns regarding the likelihood of such ordinances ever being adopted. Throughout numerous public hearings and debates regarding the Pulaski County Subdivision

and Development Code, the Lake Maumelle Watershed Zoning Code, the Zoning Code Taskforce, and other public debates, the residents in the proposed area of Little Italy stated numerous times that they view zoning and land use planning efforts as infringing on their individual property rights. In fact, many publically stated that the specific reason they live in the unincorporated areas of western Pulaski County is to avoid additional government regulation and restrictions. As a result, we question if the political support would ever exist throughout the Little Italy community for a newly formed Town Council and Mayor to support subdivision, development, and zoning regulations.

CAW does, however, agree with your statements that the protection of the historic and rural character of the community is a shared goal of both the Task Force and CAW because of the water quality protections that a protected rural landscape provides. That said, CAW can offer two compromise solutions for achieving each of our goals:

1. If the Task Force withdraws its petition for incorporation, CAW will work hand-in-hand with the Task Force to adopt a historic and rural community overlay district for the Little Italy community, will work with the Task Force to submit an application for Little Italy's listing on both the State and National Register of Historic Places, and will work to try improve services to the community.

An overlay district could modify the existing Lake Maumelle Watershed Zoning Code provisions to preserve the historic appearance of the area and also limit the ability of high-density development that would threaten the historic and rural character of the community. Currently, the majority of the area within Little Italy can develop with lots as small as 0.5 acres. Given your desire to maintain the rural character of the community, we would imagine that a density of 1 unit per 5 acres would align more with your stated goals and would ensure that the current average lot size in this area of 5.5 acres continues to be the norm well into the future. As you know, a significant number of the watershed residents that served on the Zoning Code Taskforce are engaged in the incorporation effort. Given the support that the Zoning Code Taskforce received from the Quorum Court, we are confident that a joint request from CAW and those involved in the incorporation effort to the Quorum Court to modify the Zoning Code as described above would be well received and would likely be adopted.

A designation of Little Italy on the State and National Register of Historic Places would provide the Little Italy community with the historic recognition that it deserves. In addition, a successful listing would then allow community members to obtain grants for historic preservation or restoration as well as rehabilitating aging historic structures that contribute to the historic nature of the community.

While CAW cannot directly contribute funding to the improvement of non-water services in the Little Italy community, CAW will support any efforts of Pulaski County and the Task Force to secure grant and other funds for development of the infrastructure that you noted in our meeting. In addition, CAW will continue to provide high quality water services to the Little Italy community as part of our merger/consolidation with the Wye Mountain Water Association.

2. If withdrawing the petition for incorporation is not possible, CAW would consider removing our objections to the incorporation if water quality protections on 75% of the acreage in the

proposed Little Italy are maintained by a “Declaration of Historic and Rural Character Covenants” executed for each parcel.

As we stressed in our discussion, CAW needs to have certainty of the protection of Lake Maumelle water quality for us to withdraw our objections to the incorporation of Little Italy. We cannot achieve that certainty through the Task Force because you cannot bind the Town of Little Italy and, even if the Task Force is successful in convincing the new town council to adopt identical subdivision and zoning codes, those measures could be easily overridden by a vote of the people within Little Italy who so vehemently opposed adoption of the Pulaski County Subdivision and Development Code, and the Lake Maumelle Watershed Zoning Code. Therefore, the certainty that CAW needs would have to be achieved through individual agreements with the property owners in the proposed town of Little Italy. An example of CAW’s proposed “Declaration of Historic and Rural Character Covenants” (the Declaration) is attached to this letter for your consideration as a template for each of these Declarations.

In summary, the Declaration is a legal contract between CAW and individual property owners in which the property owner would agree to abide by watershed quality protection regulations as they exist today. The Declaration also requires that the water quality impacts associated with any property that develops outside of the current water quality protection regulations would be mitigated by properties that sign the Declaration. The Declaration would be recorded with the deed of a property, would carry forward to all future property owners, and would be enforceable by CAW. The Declaration also has a sunset provision where the requirement to abide by the watershed protection regulations would go away if Lake Maumelle ever ceased to be used as a drinking water source. If the Task Force decides to pursue this option, the Declarations should be executed by the necessary parties and then returned to CAW for recording.

To provide adequate assurances regarding the long-term protection of water quality in Lake Maumelle, CAW would need 75% of the acreage within the proposed Little Italy area within the Maumelle Watershed to agree and execute a Declaration. This represents 3,783 acres. Given that the individuals that signed the petition for incorporation only own or represent 28% of the acreage within the Little Italy boundaries, additional property owners will likely need to be contacted to pursue this option. Given the time required to explain and obtain this number of executed Declarations, the Task Force may want to consider a request to the County Judge to postpone the July 13 hearing until you are able to determine if this is a viable option or if you will need to pursue another option in order to recognize the centennial of Little Italy.

Again, as we stated in our meeting, CAW believes that protecting the current rural character of the Little Italy area would not only fulfill your historic preservation goals but also CAW’s watershed protection goals. We would like to accept the Task Force’s offer to join CAW in our efforts to protect the water quality of Lake Maumelle. We view the two paths described above as viable options that would allow the Task Force to join CAW’s efforts while achieving your goals of recognizing and preserving the historic and rural character of the area.

Thank you, again, for meeting with us earlier this week and for your willingness to work together to achieve our collective goals. I look forward to continued discussions and would be happy to answer any questions you may have about the options outlined in this letter or the attached Declaration template. Please do not hesitate to call at any time regarding these important issues.

Sincerely,

A handwritten signature in blue ink, consisting of a stylized 'J' followed by 'Tynan'.

John Tynan

Director, Customer Relations & Public Affairs

CC: Chris Dorer, Co-Chair, Little Italy Incorporation Task Force (electronic delivery)
Graham W. Rich, Chief Executive Officer, CAW
Tad Bohannon, Chief Legal Counsel, CAW

Prepared by and return upon filing to:

C. Tad Bohannon
Central Arkansas Water
221 East Capitol Ave.
Little Rock, AR 72202

Declaration of Historic and Rural Character Covenants

This Declaration of Historic and Rural Character Restrictive Covenants (the "Declaration") is entered into as of the ___ day of _____, 2015, by Central Arkansas Water ("Grantee") and _____ ("Grantor(s)", which collectively with Grantee may be referred to as "the Parties").

WHEREAS, Grantor(s) is the owner(s) of real property more particularly described in Exhibit A ("the Property") and that is located within the Lake Maumelle Watershed in Pulaski County, Arkansas; and

WHEREAS, Grantee is a consolidated municipal water system created and existing under the Consolidated Waterworks Authorization Act, Act 982 of the 83rd General Assembly of the State of Arkansas, which is governed by the Board of Commissioners, and is a land owner within the Lake Maumelle Watershed in Pulaski County, Arkansas; and

WHEREAS, Lake Maumelle is the primary water source for central Arkansas and Grantee has authority to operate the intake, treatment, and distribution of waters pumped from Lake Maumelle; and

WHEREAS, Grantor(s) acknowledge the following regarding the Property:

- (a) Grantor(s) desires to protect the rural and historic character of the Property;
- (b) Grantor(s) acknowledges that the Property is subject to the terms, conditions, and restrictions contained within the Lake Maumelle Watershed Zoning Code and the Pulaski County Subdivision and Development Code, specifically including Chapter 8 of the Pulaski County Subdivision and Development Code and the associated restrictions of the Site Evaluation Tool, as they exist as of the 1st day of July, 2015 (collectively referred to as "Watershed Regulations"); and

(c) Grantor(s) supports the efforts of Grantee to ensure the continued protection and conservation of the water quality of Lake Maumelle, including the protections provided by the Watershed Regulations, regardless whether the Property is under the jurisdiction of Pulaski County, Arkansas, and the Watershed Regulations; and

WHEREAS, the Parties acknowledge that the purpose and intent of this Declaration is to protect the rural and historic character of the Property as well as water quality in Lake Maumelle and the Parties desire the Property to continue to be in subject to the Watershed Regulations into perpetuity, or as otherwise provided herein.

NOW, THEREFORE, for and in consideration of the sum of One Hundred Dollars (\$100.00), to be paid in hand by Grantee and the respective mutual representations, warranties, covenants, commitments, promises, and conditions contained herein, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. The Property. Grantor(s) represents and warrants that Grantor(s) is the owner of the Property located within Pulaski County, Arkansas, and more specifically described on Exhibit A, attached hereto and incorporated herein by this reference. Grantor(s) also represents and warrants that the Property is not subject to any liens or mortgages, other than those who have consented to and subordinated their interest by their signatures below.

2. Application of Watershed Regulations. The Property shall be subject to, and any and all activities on the Property shall be in compliance with, the Watershed Regulations at all times whether or not the property is within the jurisdiction of Pulaski County, Arkansas.

3. Mitigation of Non-Complying Development. Should any landowner develop any property within the corporate boundaries of a municipality with jurisdiction over the Property, as such boundaries may exist now or at any time in the future, out of compliance with the Watershed Regulations (a "Non-Conforming Development"), and such property is not subject to a Declaration of Historic and Rural Character Covenants of the kind and nature of this Declaration and enforceable by Grantee (a "Similar Declaration"), Grantor(s) shall provide within the Property, on a pro-rata basis with all other Grantor(s) subject to a Similar Declaration, an area of land necessary to offset the impact of the Non-Conforming Development (the "Mitigation Land"). To determine the amount of Mitigation Land required by each Grantor(s) subject to this Declaration or a Similar Declaration, Grantee will run the Site Evaluation Tool (SET) as it exist as of the date of the Watershed Regulations to determine to total amount of Mitigation Land required and then allocate a pro-rata share to the Property by multiplying the total amount of Mitigation Land required by a fraction with the acreage of the Property as the numerator and the total amount of acreage under this Declaration plus the total amount of acreage under all Similar Declarations as the denominator. Development shall not occur on Mitigation Land. Mitigation Land shall be an undesignated portion of the Property and shall not be included in the total acreage of the Property when determining compliance with the Watershed Regulations. The amount of acreage dedicated as Mitigation Land shall be in addition to any land that must be set aside under the Watershed Regulations for development on the Property. Grantor(s) acknowledges that this paragraph

applies to any and all Non-Conforming Development and that a pro-rata share of Mitigation Land may be imposed upon the Property for multiple Non-Conforming Developments over time. Of course, if a municipal entity with jurisdiction over the Property adopts a planning code identical to or stricter than the Watershed Regulations, and the municipal entity enforces such code against future development, Mitigation Land will not be required under this paragraph.

4. Enforcement of Watershed Regulations. In the event the Property is no longer within the primary planning jurisdiction of Pulaski County, Arkansas, Grantor(s) agrees that the Property shall remain subject to the Watershed Regulations, incorporated herein by reference, and that Grantee, or its successors or assigns, shall have all approval and enforcement rights granted to Pulaski County, Arkansas, under the Watershed Regulations with respect to the Property.

Grantee shall have the right to enforce, by any proceedings at law or in equity, all of the restrictions, conditions and covenants imposed by this Declaration, including the right to sue for and obtain an injunction, prohibitive or mandatory, or such other relief available at law or in equity, to prevent the breach of or to enforce the observance of the Covenants and Restrictions set forth in this Declaration. Grantor's right to an injunction or any other equitable remedy shall remain in full force and effect notwithstanding the existence of an adequate remedy at law.

Each owner of all or any portion of the Property, their assigns, transferee, and heirs, and all mortgagees, lessees, licensees, and all other persons occupying or holding any other interest in all or any portion of the Property upon the acceptance of their respective estate or occupancy, shall be deemed to have waived and relinquished any right to assert the availability of an adequate remedy at law as a defense to any injunction granted for the purpose of enforcing the Covenants and Restrictions. The failure of Grantee to enforce any Covenant and Restriction or condition herein contained shall in no event be deemed as a waiver of the right to do so thereafter. Grantee shall have no affirmative duty to enforce the provisions of this Declaration in any way and the failure of Grantor to enforce the provisions of this Declaration shall not subject it to any liability arising from any type of action, claim or proceeding by any party.

Grantor further acknowledges and recognizes that such restrictions are reasonable restraints upon use and hereby waives and relinquishes any and all of its rights to challenge or question the binding nature of such restrictions upon use and further agrees to indemnify Grantee and its successors and assigns, heirs, or future transferees to the full extent of all damages suffered by Grantee in the event Grantor, its successors and assigns, heirs, or future transferees shall, at any time during the period of restrictions set forth hereinabove, challenge or violate the provisions of this Declaration.

5. Forbearance. So long as the Property is subject to and developed in accordance with the Watershed Regulations, or a code of subdivisions regulations and land use adopted by a municipality with jurisdiction over the Property that is consistent with the Watershed Regulations, Grantee covenants that it, together with its successors and assigns, shall forbear to exercise its rights contained in this Declaration.

6. Duration. The Covenants and Restrictions of this Declaration shall run with and bind the Property and shall inure to the benefit of and be enforceable by the Grantee, subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for perpetuity, or until such time that Grantee, or its successors or assigns, notifies Grantor(s) that Lake Maumelle shall permanently not be used as a public water supply source, and Grantee, or its successors or assigns, files, in the real estate records of Pulaski County, Arkansas, a release of its rights under this Declaration.

7. Entire Agreement. This Declaration contains the entire understanding among the Parties in respect to the subject matter hereof. This Declaration may be amended only by a written instrument executed by each Party, or its respective successors and assigns, and properly recorded. This Declaration shall be binding upon, and inure to the benefit of, the Parties and their respective successors, assigns and heirs.

8. Successors and Assigns. All of the covenants, agreements, conditions and undertakings contained in this Declaration shall be binding upon and inure to the benefit of legal representatives, successors or assigns of the respective Parties hereto.

9. Governing Law. This Proposal shall be governed by and construed in accordance with the laws of the State of Arkansas.

10. Severability. If any of the terms or provisions of this Declaration or the application thereof to any person or circumstance shall be held by a court of competent jurisdiction to be invalid or unenforceable, this remainder of this Declaration and the application of such terms or provisions to other persons or circumstances shall not be affected thereby, but rather shall be enforceable to the greatest extent permitted by law.

11. Construction. Any ambiguity in the language of this Declaration or disagreement as to the impact or construction of the language of this Declaration shall be construed in favor of the protection of the historic and rural character of the Property, the status quo, the water quality of Lake Maumelle, and the protection of the drinking water supply of the citizens of central Arkansas.

Executed as of the day and year first written above.

GRANTOR(s)

STATE OF ARKANSAS)
)SS
COUNTY OF _____)

ACKNOWLEDGMENT
for person(s)

On this the ____ day of _____, 2015, before me, _____, a Notary Public, personally appeared _____, known to me (or satisfactorily proven) to be the person(s) whose names are subscribed in the foregoing instrument, and acknowledged that he/she/they executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public

My Commission Expires:

STATE OF ARKANSAS)
)SS
COUNTY OF _____)

ACKNOWLEDGMENT
for entity

On this the ____ day of _____, 2015, before me, _____, a Notary Public, personally appeared _____, who acknowledged himself/herself to be the _____ of _____, and that he/she as such officer, being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing his/her name on behalf of the named _____

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public

My Commission Expires:

CONSENT TO DECLARATION OF HISTORIC AND RURAL CHARACTER RESTRICTIVE COVENANTS

_____ (“Mortgagee”), whose address is _____

Is the owner of a mortgage/deed of trust (“Mortgage”) on the Property, and for valuable consideration, the sufficiency of which is hereby acknowledged, hereby consents to this Declaration of Historic and Rural Character Restrictive Covenants executed by Grantee(s) (“Declaration”). In addition, Mortgagee agrees that the Declaration shall be prior to all rights of Mortgagee and its successors or assigns under the Mortgage and that in any foreclosure of the Mortgage, transfer of the Property to any third party pursuant to a Deed-in-Lieu or similar instrument, or any other sale or transfer of the Property after a default under the Mortgage or any related instruments, whether by judicial sale or otherwise, the Property shall remain and be subject to the Declaration.

Executed as of the ____ day of _____, 2015.

MORTGAGEE (as named above)

By: _____

Name: _____

Title: _____

STATE OF ARKANSAS)
)SS
COUNTY OF _____)

ACKNOWLEDGMENT
for entity

On this the ____ day of _____, 2015, before me, _____, a Notary Public, personally appeared _____, who acknowledged himself/herself to be the _____ of _____, and that he/she as such officer, being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing his/her name on behalf of the named _____

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public

My Commission Expires:

STATE OF ARKANSAS)
)SS
COUNTY OF _____)

ACKNOWLEDGMENT
for person(s)

On this the ____ day of _____, 2015, before me, _____, a Notary Public, personally appeared _____, known to me (or satisfactorily proven) to be the person(s) whose names are subscribed in the foregoing instrument, and acknowledged that he/she/they executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public

My Commission Expires:

Exhibit A

(Insert Property Description)