

Mayor

Michael C. O'Connor



Aldermen  
Kelly Russell  
President Pro Tem

Derek T. Shackelford  
Roger A. Wilson  
Donna Kuzemchak  
Ben MacShane

March 7, 2019

Valerie Cummings  
NV5 Transaction Services- Zoning Division  
3000 S. Berry Rd. Ste. 150  
Norman, OK 73072

**Re: ZD19-156: Zoning Determination 798-800 Motter Avenue, Catoctin View and Catoctin Manor**

Dear Ms. Cummings,

In response to your letter dated February 19, 2019, Staff has prepared the following information:

The subject property (the "Property") is zoned Medium Density Residential (R8), which is intended to provide for residences in an urban residential environment with a maximum density of eight dwelling units per acre. The Property is also located in the Wellhead Protection Overlay District, (WHO). This overlay is established to protect the public health, safety, and welfare through the preservation of the ground water resources of community public water supplies to ensure a future supply of safe and healthful drinking water. Development in the WHO is regulated under Section 743 of the Land Management Code (LMC). The site is adjacent to other R8 zoned properties to the south, west and east. The property to the north is zoned Mixed Use (MU-2), to the northeast is zoned Institutional (IST), and to the southeast is zoned Downtown Commercial/Residential (DB)

There are two multifamily buildings on the roughly 1.6 acre lot, Catoctin View and Catoctin Manor. Multifamily dwelling units are permitted "by right" in the R8 zoning district. According to the State Tax Assessment records, the initial multifamily building containing 100 dwelling units, Catoctin View, was constructed in 1971. A site plan for the construction of another building containing 23 additional units, Catoctin Manor, was reviewed and approved in May of 2005 (Case PC05-133FSI) in accordance with the 1986 Zoning Ordinance. At that time the Property was zoned R6 and per Section 4.04(9) of the 1986 Zoning Ordinance, multifamily units for the elderly was permitted at a density of 650 square feet of lot area per dwelling unit, allowing for the 23 units and bringing the total number of units on the Property to 123.

In August of 2005, the City adopted the LMC and conducted a comprehensive rezoning, which changed the Property's zoning to R8 and eliminated additional density allowances specific to housing for the elderly. Through this action, the structures on the Property were rendered nonconforming.

A site plan to reduce the number of units in the Catocin View building from 100 to 76 units along with associated site improvements was approved by the Department on March 5, 2019. (Case STF18-158FSI). Building permits for the renovations in accordance with the approved site plan have been filed and are currently in the review process but have not yet been issued. With the completion of the renovations, the number of dwelling units on the site will be reduced to 99, still greatly exceed the maximum allowable under the current R8 zoning district.

Per Section 902, an existing structure not conforming to maximum density, yard or height requirements of this Code may be continued so long as it remains otherwise lawful, provided no such structure shall be modified so as to increase its nonconformity or to make it less suitable for a permitted use in that district. In addition, Section 902(d), states that in all districts, excluding the downtown districts, any building that is destroyed, damaged, or deteriorated by any means to the extent of 50 percent or more of its market value, or if relocated, no such structure shall be reconstructed or relocated except in conformance with the LMC.

A complete site inspection of the Property was not conducted as part of this evaluation and therefore, Staff cannot confirm compliance with all applicable standards of the LMC, nor guarantee that there are no other nonconforming features on the site. Per Section 900, nonconforming features may be continued provided that no action shall be taken that increases the degree or extent of the nonconforming feature. Any enlargement, extension or structural alteration shall conform to all current requirements of this Code.

There are no open code violations on record for the subject Property and the site was not subject to any variances, special permits or exceptions.

If you have any further questions please feel free to contact me at (301) 600-3187 or by email me at [tbutler@cityoffrederick.com](mailto:tbutler@cityoffrederick.com).

*The purpose of the service provided by the Zoning Administrator regarding determinations/interpretations is to identify the zoning of a particular property, to verify that a use is permitted or permissible in a specific Zoning District and to clarify and interpret the Land Management Code. Any questions regarding specific regulations and requirements for a site or sites' compliance with the Land Management Code not addressed in this letter shall not be the responsibility of the Zoning Administrator. It is the responsibility of the applicant, property owner and/or property purchaser to review the project site plan and the Land Management Code for compliance.*

*This determination applies solely to the referenced property and is not binding upon the City, the Zoning Administrator or any other official with respect to any other property. No person may rely upon this determination with respect to any property other than the referenced property. Please be advised that any person aggrieved, or any officer, department or agency of The City of Frederick affected by an order, requirement, decision, or determination made by an administrative officer in the administration or enforcement of the provisions of the Land Management Code may appeal said decision within thirty days to the Zoning Board of Appeals.*

Sincerely,



Tierre Butler  
Planner II

In Concurrence,

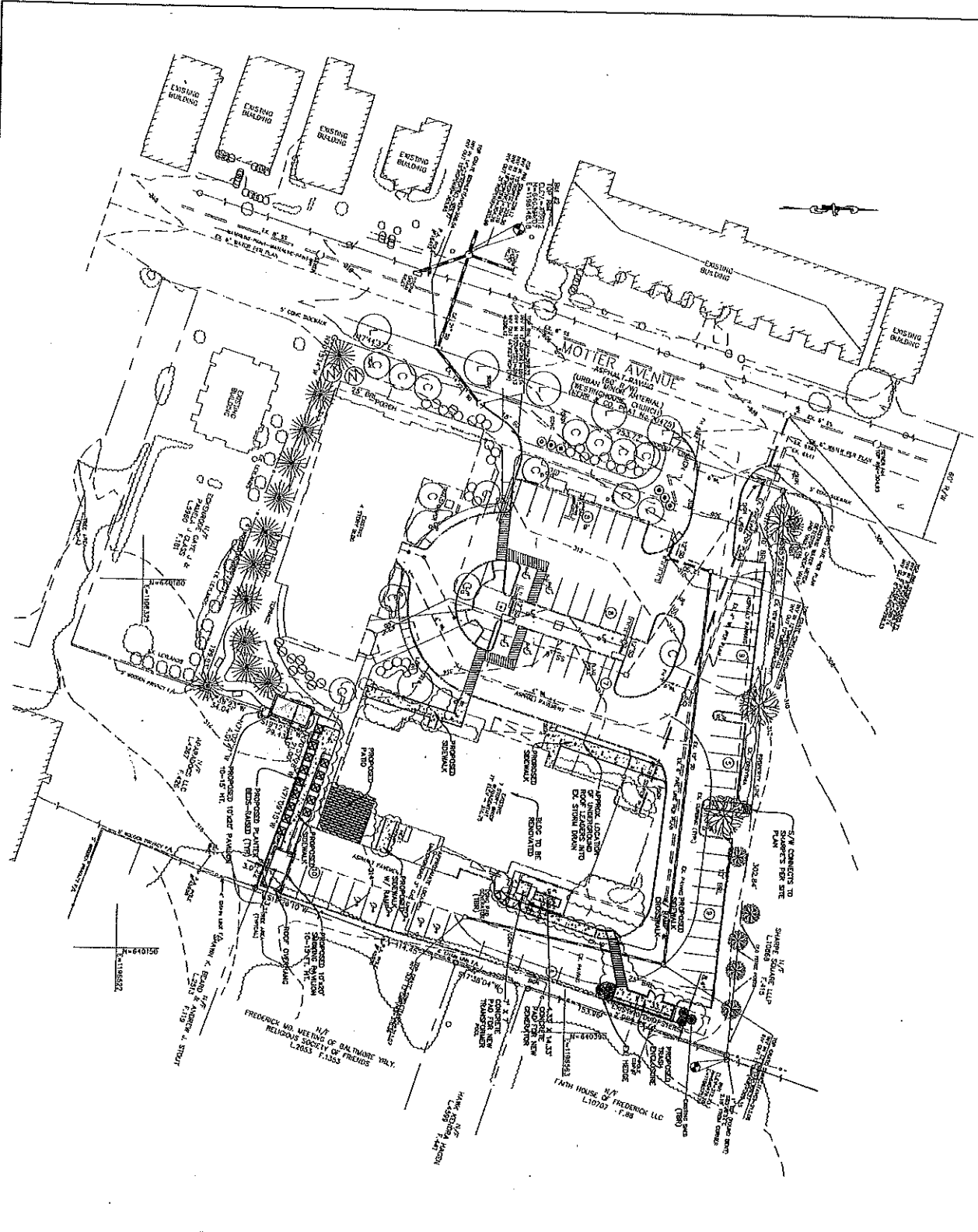


Joseph A. Adkins, AICP  
Zoning Administrator/Deputy Director for  
Planning

Cc:

Chron File  
DET PROJ





DATE: 11/11/2014  
 TIME: 10:00 AM  
 DRAWN BY: J. SMARIGA  
 CHECKED BY: J. SMARIGA  
 PROJECT: CATOCLIN VIEW  
 SHEET: 1 OF 2

- NOTES:**
1. ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.
  2. ALL UTILITIES SHOWN ARE BASED ON RECORD DRAWINGS AND FIELD SURVEY. VERIFY ALL UTILITIES PRIOR TO CONSTRUCTION.
  3. ALL EXISTING UTILITIES TO REMAIN SHALL BE PROTECTED AND DEEPENED TO A MINIMUM OF 48" BELOW FINISHED GRADE.
  4. ALL NEW UTILITIES SHALL BE INSTALLED TO A MINIMUM OF 48" BELOW FINISHED GRADE.
  5. ALL UTILITIES SHALL BE INSTALLED IN ACCORDANCE WITH THE CITY OF FREDERICK UTILITIES DEPARTMENT SPECIFICATIONS.
  6. ALL UTILITIES SHALL BE INSTALLED IN ACCORDANCE WITH THE MARYLAND PUBLIC UTILITIES CODE.
  7. ALL UTILITIES SHALL BE INSTALLED IN ACCORDANCE WITH THE MARYLAND ELECTRICAL CODE.
  8. ALL UTILITIES SHALL BE INSTALLED IN ACCORDANCE WITH THE MARYLAND GAS CODE.
  9. ALL UTILITIES SHALL BE INSTALLED IN ACCORDANCE WITH THE MARYLAND WATER CODE.
  10. ALL UTILITIES SHALL BE INSTALLED IN ACCORDANCE WITH THE MARYLAND SEWER CODE.
  11. ALL UTILITIES SHALL BE INSTALLED IN ACCORDANCE WITH THE MARYLAND TELEPHONE CODE.
  12. ALL UTILITIES SHALL BE INSTALLED IN ACCORDANCE WITH THE MARYLAND CABLE CODE.
  13. ALL UTILITIES SHALL BE INSTALLED IN ACCORDANCE WITH THE MARYLAND BROADCASTING CODE.
  14. ALL UTILITIES SHALL BE INSTALLED IN ACCORDANCE WITH THE MARYLAND TELEVISION CODE.
  15. ALL UTILITIES SHALL BE INSTALLED IN ACCORDANCE WITH THE MARYLAND RADIO CODE.
  16. ALL UTILITIES SHALL BE INSTALLED IN ACCORDANCE WITH THE MARYLAND TELECOMMUNICATIONS CODE.
  17. ALL UTILITIES SHALL BE INSTALLED IN ACCORDANCE WITH THE MARYLAND ELECTRONIC CODE.
  18. ALL UTILITIES SHALL BE INSTALLED IN ACCORDANCE WITH THE MARYLAND OPTICAL CODE.
  19. ALL UTILITIES SHALL BE INSTALLED IN ACCORDANCE WITH THE MARYLAND MECHANICAL CODE.
  20. ALL UTILITIES SHALL BE INSTALLED IN ACCORDANCE WITH THE MARYLAND PLUMBING CODE.
  21. ALL UTILITIES SHALL BE INSTALLED IN ACCORDANCE WITH THE MARYLAND HEATING AND AIR CONDITIONING CODE.
  22. ALL UTILITIES SHALL BE INSTALLED IN ACCORDANCE WITH THE MARYLAND REFRIGERATION CODE.
  23. ALL UTILITIES SHALL BE INSTALLED IN ACCORDANCE WITH THE MARYLAND FIRE AND ALARM CODE.
  24. ALL UTILITIES SHALL BE INSTALLED IN ACCORDANCE WITH THE MARYLAND ELEVATOR AND ESCALATOR CODE.
  25. ALL UTILITIES SHALL BE INSTALLED IN ACCORDANCE WITH THE MARYLAND CONSTRUCTION CODE.
  26. ALL UTILITIES SHALL BE INSTALLED IN ACCORDANCE WITH THE MARYLAND SAFETY CODE.
  27. ALL UTILITIES SHALL BE INSTALLED IN ACCORDANCE WITH THE MARYLAND HEALTH AND SAFETY CODE.
  28. ALL UTILITIES SHALL BE INSTALLED IN ACCORDANCE WITH THE MARYLAND ENVIRONMENTAL CODE.
  29. ALL UTILITIES SHALL BE INSTALLED IN ACCORDANCE WITH THE MARYLAND HISTORIC PRESERVATION CODE.
  30. ALL UTILITIES SHALL BE INSTALLED IN ACCORDANCE WITH THE MARYLAND CULTURAL HERITAGE CODE.
  31. ALL UTILITIES SHALL BE INSTALLED IN ACCORDANCE WITH THE MARYLAND ARCHITECTURAL CODE.
  32. ALL UTILITIES SHALL BE INSTALLED IN ACCORDANCE WITH THE MARYLAND LANDMARKS AND HISTORIC PRESERVATION CODE.
  33. ALL UTILITIES SHALL BE INSTALLED IN ACCORDANCE WITH THE MARYLAND MONUMENTS AND HISTORIC PRESERVATION CODE.
  34. ALL UTILITIES SHALL BE INSTALLED IN ACCORDANCE WITH THE MARYLAND NATIONAL HISTORIC LANDMARKS CODE.
  35. ALL UTILITIES SHALL BE INSTALLED IN ACCORDANCE WITH THE MARYLAND NATIONAL HISTORIC TRAILS CODE.
  36. ALL UTILITIES SHALL BE INSTALLED IN ACCORDANCE WITH THE MARYLAND NATIONAL HISTORIC MONUMENTS CODE.
  37. ALL UTILITIES SHALL BE INSTALLED IN ACCORDANCE WITH THE MARYLAND NATIONAL HISTORIC SCENIC AREAS CODE.
  38. ALL UTILITIES SHALL BE INSTALLED IN ACCORDANCE WITH THE MARYLAND NATIONAL HISTORIC STRUCTURES CODE.
  39. ALL UTILITIES SHALL BE INSTALLED IN ACCORDANCE WITH THE MARYLAND NATIONAL HISTORIC DISTRICTS CODE.
  40. ALL UTILITIES SHALL BE INSTALLED IN ACCORDANCE WITH THE MARYLAND NATIONAL HISTORIC LANDSCAPES CODE.
  41. ALL UTILITIES SHALL BE INSTALLED IN ACCORDANCE WITH THE MARYLAND NATIONAL HISTORIC SITES CODE.
  42. ALL UTILITIES SHALL BE INSTALLED IN ACCORDANCE WITH THE MARYLAND NATIONAL HISTORIC MONUMENTS AND HISTORIC PRESERVATION CODE.
  43. ALL UTILITIES SHALL BE INSTALLED IN ACCORDANCE WITH THE MARYLAND NATIONAL HISTORIC MONUMENTS AND HISTORIC PRESERVATION CODE.
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  50. ALL UTILITIES SHALL BE INSTALLED IN ACCORDANCE WITH THE MARYLAND NATIONAL HISTORIC MONUMENTS AND HISTORIC PRESERVATION CODE.

Approved By: TUE  
 DATE: 11/11/2014

CONDITIONS OF APPROVAL MET  
 Date Printed: 11/11/2014

DESIGNED BY: J. SMARIGA  
 CHECKED BY: J. SMARIGA  
 PROJECT: CATOCLIN VIEW  
 SHEET: 1 OF 2

SCALE: 1/8" = 1'-0"  
 SHEET: 1 OF 2  
 PROJECT: CATOCLIN VIEW  
 SHEET: 1 OF 2

**HARRIS SMARIGA**  
 ARCHITECT  
 1000 W. MARKET STREET, SUITE 100  
 FREDERICK, MD 21701  
 TEL: 301-797-1111  
 FAX: 301-797-1112  
 WWW.HARRIS-SMARIGA.COM

February 19, 2019

**Subject Property: 800 Motter Ave.,  
 Frederick, MD**

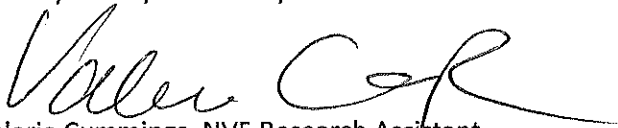
Dear municipality,

At our client's request, we are seeking the following information:

- **Zoning Compliance/Verification Letter:** Please supply a letter (or use the enclosed template and copy onto letterhead) stating in which zoning district the subject property is currently located, if there are any overlay districts applicable to the subject property, permissiveness of current use and any compliance information you may be able to provide. Please use municipality letterhead, or, if this is not possible for some reason, please enclose a municipality fax coversheet showing that the zoning letter is enclosed.
- **Adjacent Property Designations and Uses (if known):** Current zoning district in which properties adjacent to the subject property (North, South, East & West) are located.
- **Any Variances, Special Permits, Conditions, etc:** Please note the existence of these items as they relate to the subject property and supply documentation, if available.
- **Code Violations:** Please note whether or not there are currently any open/outstanding zoning, building or fire code violations of record that apply to the subject property
- **Certificates of Occupancy:** Please supply copies of any existing certificates of occupancy for the subject property. If none are available, please state the reason for this and whether there is any expected enforcement action due to the lack of certificate copies.
- **Approved Site Plan and/or Conditions of Approval,** if applicable: Please supply available documents, particularly if the subject property is located in a Planned Development.

Enclosed, please find a check in the amount of ~~\$200.00~~ to process this request. Please advise us at your earliest convenience of any additional fees or forms, if any of these items is not available or if I should be directing any portion of my request to another party. We are on a strict timeline, and your prompt attention to this request is greatly appreciated. Upon completion, please forward the information via email or toll free fax (877) 324-8133. We truly appreciate your help with this request and look forward to your reply. Please feel free to contact me toll-free at (800) 787-8390 or via email at Valerie.cummings@NV5.com with any questions or concerns you may have regarding this request.

Thank you very much for your assistance!



Valerie Cummings, NV5 Research Assistant



\_\_\_\_\_, 2019

Valerie Cummings  
NV5 Transaction Services – Zoning Division  
3000 S. Berry Rd., Ste. 150  
Norman, OK 73072

**Subject Property: 800 Motter Ave.,  
Frederick, MD**

In response to your request for information regarding the above-referenced property, we have researched our files and present the following:

1. **The current zoning classification for the subject property is:** \_\_\_\_\_

2. **Adjacent property zoning designations:**

North: \_\_\_\_\_ South: \_\_\_\_\_

East: \_\_\_\_\_ West: \_\_\_\_\_

3. **According to the zoning ordinances and regulations for this district, the current use of the subject property is a:**

- Permitted Use by Right
- Permitted Use by Special/Specific Use Permit  Copy Attached  Copy Not Available (see comment)
- Legal Non-Conforming Use (no longer permitted by right due to amendments, re-zoning, variance granted or other changes. See comments)
- Non-Permitted Use

Comment: \_\_\_\_\_

4. **To the best of our knowledge, the subject structure(s) was developed:**

- in accordance with Current Zoning Code Requirements and is
  - Legal Conforming
  - Non-conforming (see comments)
- in accordance with Previous Zoning Code Requirements (amendments, rezoning, variance granted) and is Legal Non-conforming to current zoning requirements.
- Prior to the adoption of the Zoning Code and is Grandfathered/Legal Non-conforming to current zoning requirements.
- in accordance with Approved Site Plan and is Legal Conforming to approved site plan. If any nonconforming issues exist with respect to current zoning requirements; the subject property would be considered legal non-conforming.

Comment: \_\_\_\_\_

5. **Information regarding variances, special permits/exceptions, ordinances or conditions:**

- There do not appear to be any variances, special permits/exceptions, ordinances or conditions that apply to the subject property.
- The following apply to the subject property (see comments):
  - Variance - Documentation attached or is otherwise, no longer available (see comment)
  - Special Permit/Exception Documentation attached or is otherwise, no longer available (see comment)
  - Ordinance Documentation attached or is otherwise, no longer available (see comment)
  - Conditions Documentation attached or is otherwise, no longer available (see comment)

Comment: \_\_\_\_\_



**6. Rebuild: In the event of casualty, in whole or in part, the structure located on the subject property:**

- May be rebuilt in its current form (i.e. no loss of square footage, same footprint, with drive through(s), if applicable).
- May not be rebuilt in its current form, except upon satisfaction of certain conditions, limitations or requirements. Please see section \_\_\_\_\_ of the current zoning code/ordinance for details.

**7. Code Violations Information:**

- There do **NOT** appear to be any outstanding/open zoning, building or fire code violations that apply to the subject property.
- The following outstanding/open  zoning /  building /  fire code violations apply to the subject property:

Comment: \_\_\_\_\_

**8. Certificate of Occupancy, status:**

- A valid Certificate of Occupancy has been issued for the subject property and is attached.
- Certificates of Occupancy have been issued and are in effect for all buildings and, if required, for all units at the Property; however, we are unable to locate a copy in our records. The absence of a copy of the Certificate(s) of Occupancy will not give rise to any enforcement action affecting the property.
- Certificates of Occupancy for projects constructed prior to the year \_\_\_\_\_ are no longer on file with this office. The absence of a copy of the Certificate(s) of Occupancy will not give rise to any enforcement action affecting the property. A Certificate of Occupancy will only be required for new construction.
- A Certificate of Occupancy is not required for the subject property.

Comment: \_\_\_\_\_

**9. Site Plan Information:**

- The subject property was not subject to a site plan approval process.
- The subject property was subject to site plan approval; a copy of the approved site plan is attached.
- The subject property was subject to site plan approval, but a copy of the approved site plan is no longer in existence (*was lost or destroyed*). All other existing documents applicable to site plan approval for the site are attached if available.
- An approved site plan for the subject property is on file, but our office does not have the necessary resources to reproduce and distribute copies of the plan. All other existing documents applicable to site plan approval are attached if available.
- Other, (as noted here): \_\_\_\_\_

This information was researched on \_\_\_\_\_, 2019, by the undersigned, per request and as a public service. The undersigned certifies that the above information contained herein is believed to be accurate and is based upon, or relates to, the information supplied by the requestor. The Authority assumes no liability for errors and omissions. All information was obtained from public records, which may be inspected during regular business hours.

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Department: \_\_\_\_\_

Phone: \_\_\_\_\_