



Community Development Committee

MEETING AGENDA

Regular Meeting

Monday, November 16, 2020

1:00 p.m.

Main Meeting Room, Second Floor – Berryville-Clarke County Government Center

101 Chalmers Court - Berryville VA 22611

Item

Page

1. Call to Order – Kara Rodriguez, Chair

2. Approval of Agenda

3. Unfinished Business

Blight Abatement

Discussion – Branding Update

2

4. New Business

Discussion – Budget for downtown improvements

Town support of downtown events

5. Other

6. Closed Session

7. Adjourn

Community Development Committee Agenda Item Report Summary

November 16, 2020

Item Title

Blight Abatement

Prepared By

Christy Dunkle

Background/History/General Information

The Community Development Committee discussed this matter at their September 28, 2020 meeting.

The properties identified include:

- 25 Cattleman's Lane
- 12 First Street
- 112 Josephine Street
- 114 Josephine Street
- 203 Josephine Street
- 225 Josephine Street
- 227 Josephine Street
- 229 Josephine Street

At that time, staff presented photos of the properties. There was a discussion about engineering reports, public input, and the expense of the former.

Findings/Current Activity

Staff discussed Town Code §5-3 Removal, repair, etc. of buildings and other structures and §5-5 Spot blight abatement at the September 28 meeting.

Staff previously recommended the review of this matter and development of recommendations on action to be taken by the Town.

Financial Considerations

No financial considerations have been determined at this time.

Schedule/Deadlines

N/A

Other Considerations

N/A

Recommendation

Discuss recommendations to be forwarded to Town Council for consideration.

- Attachments:
- vicinity maps and photos of addresses identified above
 - §5-3 Removal, repair, etc. of buildings and other structures
 - §5-5 Spot blight abatement
 - September 28, 2020 Community Development Staff Report

Blight Abatement

September, 2020

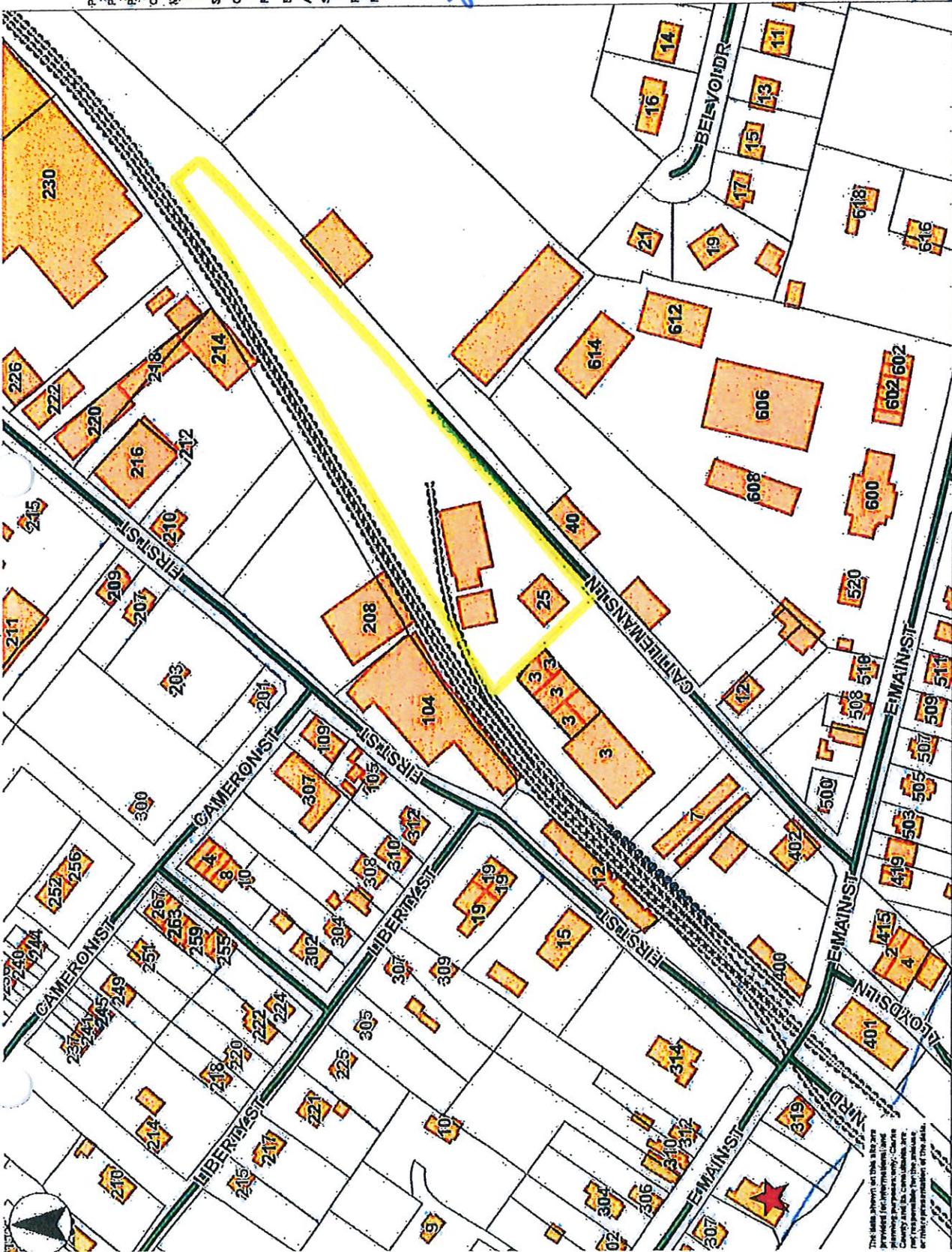
Properties identified:

- **25 Cattleman's Lane**
- **12 First Street**
- **112 Josephine Street**
- **114 Josephine Street**
- **203 Josephine Street**
- **225 Josephine Street**
- **227 Josephine Street**
- **229 Josephine Street**



- Public
- Points of Interest
- Parcels
- Charge County Boundary
- Water Bodies
- Interstate
- US Highway
- State Highway
- Surrounding Counties
- Charge County Roads
- Charge County
- Buildings
- Amalgamated Trail
- Streams
- Perennial Streams
- Intermittent Streams
- Rivers

25 Cattleman's Ln



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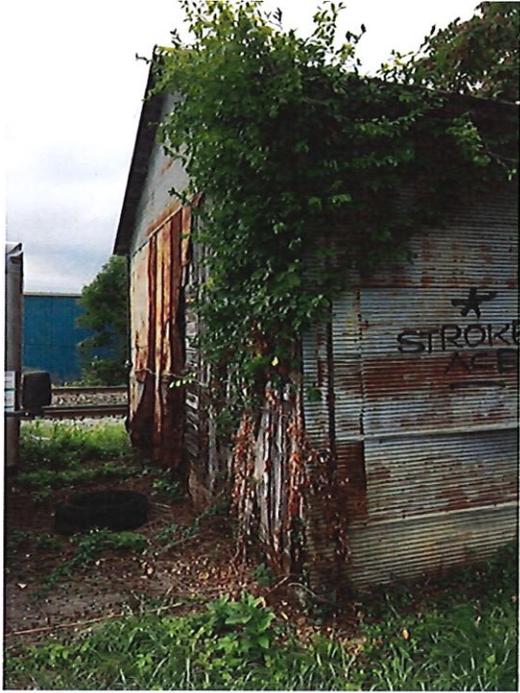
25 Cattleman's Lane





12 First Street









- Public
- Points of Interest
- Parks
- Clarke County Boundary
- Major Roads
- Interstate
- US Highway
- State Road
- Surrounding Counties
- Clarke County Roads
- Private Roads
- Rail
- Bridges
- Appalachian Trail
- Streams
- Perennial Streams
- Intermittent Streams
- Ponds
- Rivers

112 Josephine St



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530 1060 ft

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112 Josephine Street





- Public
- Points of Interest
- Streets
- Parks
- Clarke County Boundary
- Water
- Roads
- US Highway
- State Highway
- Summitville, Columbia, Ope
- Clarke County Roads
- Clarke County
- Park
- Buildings
- Water
- Abandonment Trail
- Streams
- Perennial Streams
- Intermittent Streams
- Ponds
- Rivers

114 Josephine St



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114 Josephine Street

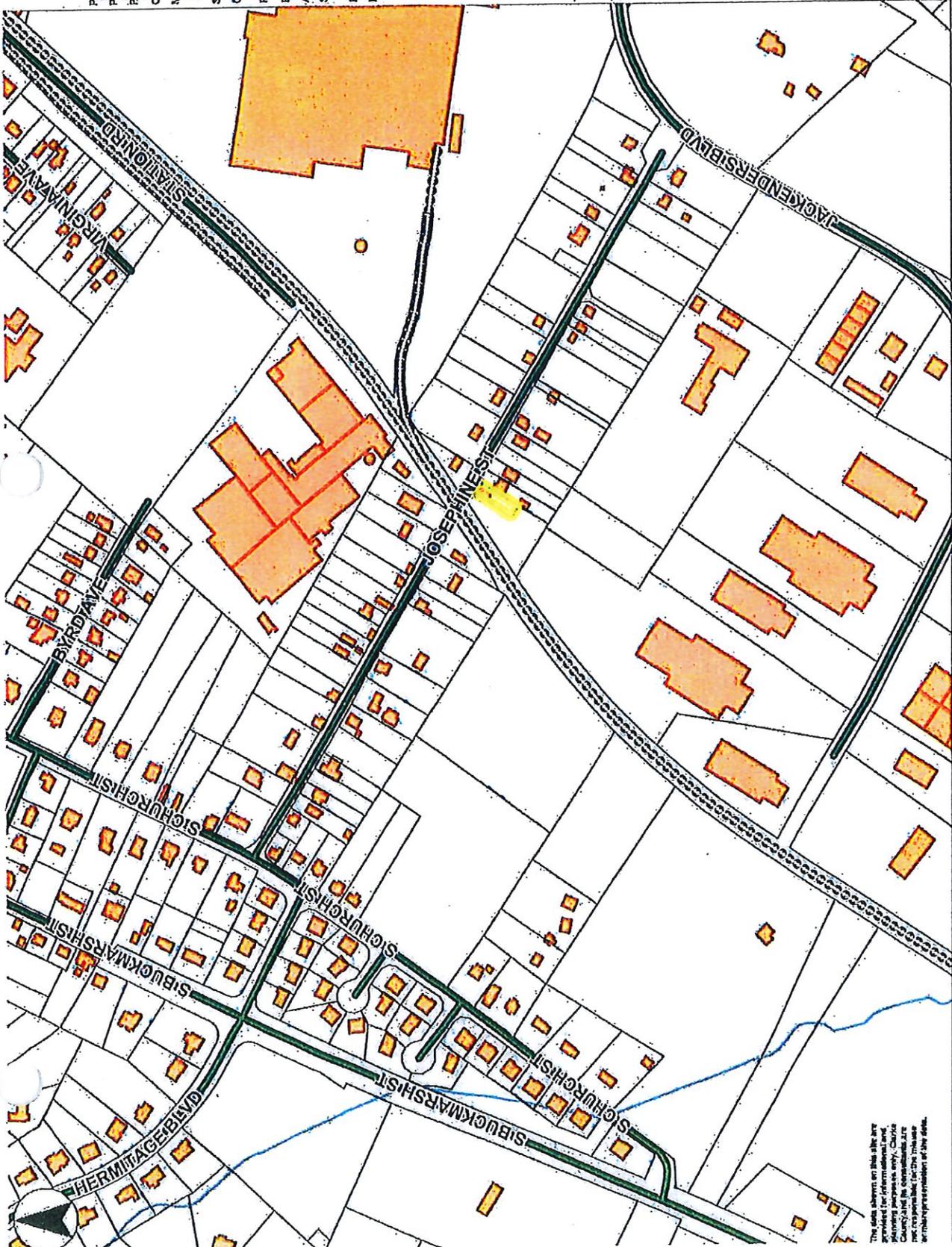






- Public
- Point of Interest
- Water
- Park
- Clarke County Boundary
- Major Road
- Interstate
- US Highway
- State Highway
- Surrounding Counties/Town
- Clarke County Roads
- County Road
- Road
- Trail
- Buildings
- Appalachian Trail
- Stream
- Perennial Stream
- Intermittent Stream
- Pond
- River
- Lake

203 Josephine St



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530
1060 ft

203 Josephine Street







- Public
- Parks of Interest
- Parks
- Clarke County Boundary
- Major Roads
- Interstate
- US Highway
- State Highway
- Surrounding Counties Overlay
- Clarke County Roads
- Private Road
- Road
- Buildings
- Appalachian Trail
- Stream
- Perennial Stream
- Intermittent Stream
- Pond
- Flow
- River

225 Stephanie St

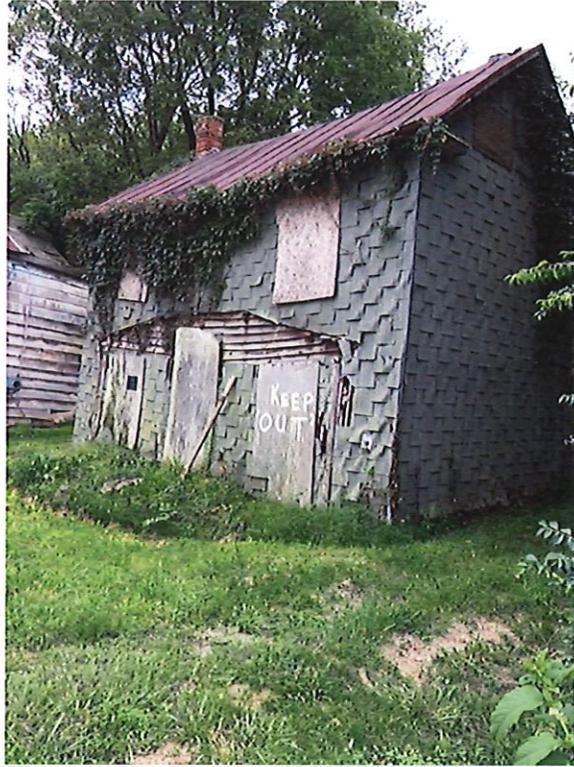


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1000 ft
500

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225 Josephine Street





- Public
- Points of Interest
- Water
- Clark County Boundary
- Major Roads
- Interstate
- US Highway
- State Highway
- Supermajor Corridor
- Clark County Roads
- Private Roads
- Flat
- Buildings
- Appalachian Trail
- Stream
- Perennial Stream
- Intermittent Stream
- Ponds
- Wetlands

227 Josephine St



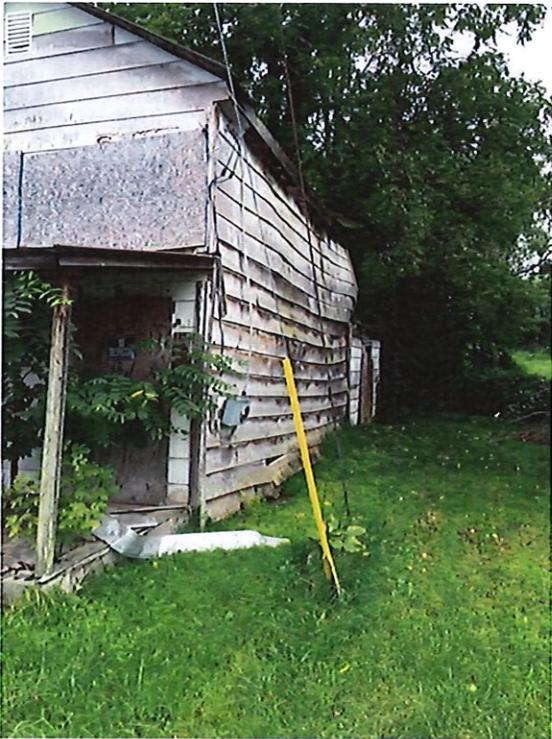
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550 1050 ft

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Clarke County MapsOnline

227 Josephine Street







- Public
- State of Interest
- Parcel
- County Boundary
- Major Roads
- Interstate
- Highway
- State Road
- Surrounding Counties, Open
- Clarke County Roads
- Private Roads
- Rail
- Buildings
- Appalachian Trail
- Streams
- Perennial Streams
- Intermittent Streams
- Ponds
- Rivers

229 Josephine St.



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Clarke County MapsOnline

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500 1000 ft

229 Josephine Street





Sec. 5-3. - Removal, repair, etc., of buildings and other structures.

- (a) Notwithstanding any provision of section 5-1 to the contrary, owners of property in the town shall, at such time or times as council may prescribe, remove, repair or secure any building, wall or any other structure which might endanger the public health or safety of other residents of the town.
- (b) Agents or employees of the town council are hereby authorized and empowered to remove, repair or secure any building, wall or any other structure which might endanger the public health or safety of other residents of the town, if the owner and lien holder of such property, after reasonable notice and a reasonable time to do so, has failed to remove, repair or secure said building, wall or other structure. The aforesaid reasonable notice shall be a written notice (i) mailed by certified or registered mail, return receipt requested, to the last known address of the property owner, or personally served on the owner by a person authorized to serve process under the Code of Virginia, and (ii) published once a week for two (2) successive weeks in a newspaper having general circulation in the town. No action shall be taken by the town to remove, repair, or secure any building, wall or other structure for at least thirty (30) days following the later of (i) the date of receipt shown on the return receipt, or the date of personal service, or (ii) the last date of newspaper publication.
- (c) In the event that the town council, through its agents or employees, removes, repairs or secures any building, wall or any other structure after complying with the notice provisions of this section, the cost or expenses thereof shall be chargeable to and paid by the owners of such property and may be collected by the town as taxes and levies are collected.
- (d) Every charge authorized by this section with which the owner of any such property shall have been assessed and which remains unpaid shall constitute a lien against such property ranking on a parity with liens for unpaid town taxes and enforceable in the same manner as provided in Articles 3 (Section 58.1-3940 et seq.) and 4 (Section 58.1-3965 et seq.) of Chapter 39 of Title 58.1, Code of Virginia, 1950, as amended. Council may waive such liens in order to facilitate the sale of the property. Such liens may be waived only as to a purchaser who is unrelated by blood or marriage to the owner and who has no business association with the owner. All such liens shall remain a personal obligation of the owner of the property at the time the liens were imposed.

(Ord. of 10-15-91; Ord. of 8-16-94; Ord. of 6-11-96; Ord. of 12-9-97; Ord. of 12-9-97; Ord. of 7-11-00, §§ 1—4; Ord. of 7-11-00; Ord. of 6-11-02)

State Law reference— Authority for above section, Code of Virginia, Section 15.2-906.

Sec. 5-5. - Spot blight abatement.

- (a) The Town of Berryville, in accordance with Code of Virginia § 36-49.1:1, may acquire or repair any blighted property, as defined in (b), below, by purchase or the exercise of the power of eminent domain provided in Chapter 2 of Title 25.1 of the Code of Virginia, and, further, shall have the power to hold, clear, repair, manage, or dispose of such property for purposes consistent with this section. In addition, the town may recover the cost of any repair or disposal of such property from the owner or owners of record, determined in accordance with Virginia Code § 36-27(B).
- (b) "Blighted property" means any individual commercial, industrial, or residential structure or improvement that endangers the public's health, safety or welfare because the structure or improvement upon the property is dilapidated, deteriorated, or violates minimum health and safety standards.
- (c) The town manager, or his/her designee, shall make a preliminary determination that a property is blighted in accordance with this section. The town manager or his/her designee shall send notice to the owner or owners of record, determined in accordance with Virginia Code § 36-27(B), specifying the reasons why the property is blighted. The owner or owners of record shall have thirty (30) days from the date the notice is sent in which to respond in writing with a spot blight abatement plan to address the blight within a reasonable time.
- (d) If the owner or owners of record fail to respond within the thirty (30) day period with a written spot blight abatement plan that is acceptable to the town manager or his/her designee, the town (i) may request the planning commission to conduct a public hearing and make findings and recommendations that shall be reported to town council concerning the repair or other disposition of the property in question; and (ii) in the event a public hearing is scheduled, shall prepare a written spot blight abatement plan for the repair or other disposition of the property.
- (e) Not less than three (3) weeks prior to the date of the public hearing before the planning commission, the commission shall provide, by regular and certified mail, notice of such hearing to (i) the owner of the blighted property or the agent designated by him for receipt of service or notices concerning the payment of real estate taxes within the town; (ii) the abutting property owners in each direction, including those property owners immediately across the street or road from the property; and (iii) the representative neighborhood association, if any, for the immediate area. The notice shall include the plan for the intended repair or other disposition of the property. The notice of the public hearing shall be published at least twice, with not less than six (6) days elapsing between the first and second publication in a newspaper published or having general circulation in the town. The notice shall be posted on the property. The notice shall specify the time and place of the public hearing at which persons affected may appear and present their views, not less than six (6) days nor more than twenty-one (21) days after the second publication.

- (f) The planning commission, following the public hearing, shall determine whether:
- (1) The property is blighted;
 - (2) The owner has failed to cure the blight or present a reasonable plan to do so;
 - (3) The plan for the repair or other disposition of the property is in accordance with the town's comprehensive plan, zoning ordinance, and any other applicable land use regulation;
 - (4) The property is located within an area listed on the National Register of Historic Places. In such instances, the planning commission shall consult with the architectural review board regarding the proposed repair or other disposition of the property by the town council.
- (g) The planning commission shall report its findings and recommendations concerning the property to the town council. The town council, upon receipt of such findings and recommendations, may, after an advertised public hearing, affirm, modify, or reject the planning commission's findings and recommendations. If the repair or other disposition of the property is approved, the town may carry out the approved plan to repair or acquire and dispose of the property in accordance with the approved plan, the provisions of this section, and applicable law.
- (h) The town shall have a lien on all property so repaired or acquired, under an approved plan to recover the cost of (i) improvements made by the town to bring the blighted property into compliance with applicable building codes and (ii) disposal, if any. The lien authorized by this section shall be filed in the circuit court of Clarke County and shall be subordinate to any prior liens of record. The town council may recover its costs of repair from the owner or owners of record of the property when the repairs were made at such time as the property is sold or disposed of by such owner or owners. If the property is acquired by the town through eminent domain, the cost of repair may be recovered when town council sells or disposes of the property. In either case, the costs of repair shall be recovered from the proceeds of any such sale.
- (i) If the blighted property is occupied for personal residential purposes, town council, in approving the spot blight abatement plan, shall not acquire by eminent domain such property if it would result in a displacement of the person or persons living in the premises. The provisions of this subsection shall not apply to acquisition, under an approved spot blight abatement plan, by the Town of property which has been condemned for human habitation for more than one year. In addition, upon the town exercising the powers of eminent domain in accordance with Title 25.1 of the Code of Virginia, it may provide for temporary relocation of any person living in the blighted property provided the relocation is within the financial means of such persons.
- (j) In lieu of the acquisition of blighted property by the exercise of eminent domain, and in lieu of the exercise of other powers granted in subsections (a) through (i), town council by ordinance, may declare any blighted property to constitute a nuisance, and thereupon abate the nuisance pursuant to Virginia Code § 15.2-900 or 15.2-1115. Such ordinance shall be adopted only after the

written notice by certified mail to the owner or owners of the property at the last known address of such owner as shown on the current real estate tax assessment books or current real estate tax assessment records.

- (k) The provisions of this section shall be cumulative and shall be in addition to any remedies for spot blight abatement that may be authorized by law.

(Ord. of 12-12-06)

Blight Abatement

Properties

Included with this report are photos of 8 properties in Berryville that should be reviewed to determine whether they are a danger to public safety or should be considered blighted.

The properties in question are (zoning designation):

25 Cattleman's Lane (L-1)	225 Josephine Street (DR-4)
12 First Street (L-1)	227 Josephine Street (DR-4)
112 Josephine Street (DR-4)	203 Josephine Street (DR-4)
114 Josephine Street (DR-4)	229 Josephine Street (DR-4)

Town Code

§5-3 – Removal, repair, etc., of buildings and other structures.

This section permits the Town Council to require a property owner to remove, repair or secure any structure which might endanger the public health or safety of residents of the Town. The section also permits the Town to take action to abate a danger if the owner refuses to do so. Costs incurred by the Town to abate the danger are charged to the owner(s). If that bill is not paid, then a tax lien is filed on the property.

§5-5 Spot blight abatement.

This section permits the Town to address issues with blighted property. This section outlines a lengthy required process that must be followed before the Town may abate the blight. The section also permits the Town to take action to abate blight if the owner refuses to do so. Costs incurred by the Town to abate blight are charged to the owner(s). If that bill is not paid, then a tax lien is filed on the property.

It is recommended that, if the Town Council determines that action to address conditions on a particular property needs to be taken, then the code section under which compliance is pursued should reflect the immediacy of the threat to the public. In other words, if the Council determines that a structure currently presents a risk to public health, then action under §5-3 would be warranted. If the threat to public health is not immediate, but the property is blighted, then action under §5-5 would be appropriate.

Attachments

- Packet containing maps and photos
- Chapter 5 of the Town Code

Recommendation

Review this matter and develop recommendations as to whether action should be taken by the Town to address the condition of the properties in question. The recommendation would be forwarded to the Town Council. The Town Council will make a determination as to whether to take action on any property under §5-3. Staff will seek guidance/direction regarding whether to take action on any properties under §5-5.