

DEVELOPING A PROGRAM FOR HISTORIC STRUCTURES THREATENED BY DEMOLITION BY NEGLECT

CLARKE COUNTY, VA

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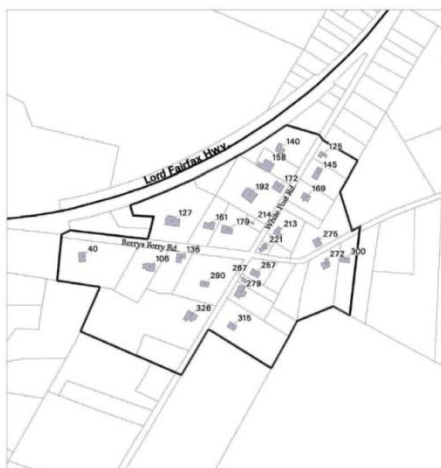
2017/18 CLG Grant awarded by the Virginia Department of Historic Resources

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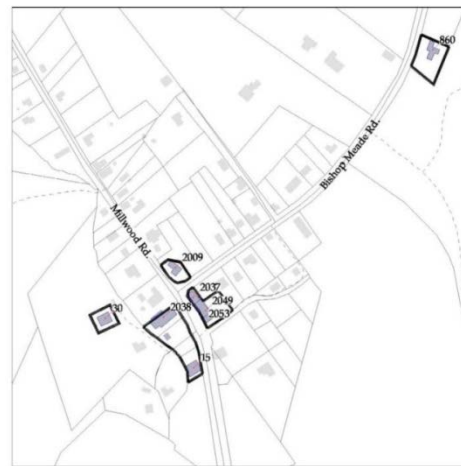
I. PURPOSE AND BACKGROUND:

After extensive research, including data supplied by other Certified Local Government (CLG) communities, the Clarke County Historic Preservation Commission (HPC) has identified some options Clarke County, Virginia, may want to implement to mitigate “demolition by neglect.”

The Virginia Department of Historic Resources (DHR) awarded a 2017/18 CLG grant of \$5,366 to the Clarke County HPC for the study of “demolition by neglect” of its historic resources. One of the options includes the establishment of a county fund to help owners of buildings that are in desperate need of repair. Currently, Clarke County has two local historic districts-- the White Post Historic District and the Millwood Commercial Historic District that are regulated by the Historic District Overlay (Section 3-E-3-e (2) of the Clarke County Zoning Ordinance and allowed by Section 15.2-2306 of the Code of Virginia). A local historic district is located within the Town of Berryville but is administered by the Berryville Architectural Review Board, not the HPC.



HISTORIC OVERLAY DISTRICT BOUNDARIES IN WHITE POST, VIRGINIA



offer their property for sale, he/she can intentionally stop maintaining the structure and let it deteriorate to a point where repair is no longer feasible and would have to be demolished for health and safety reasons, thereby circumventing the historic preservation regulations regarding demolition permits.

If the condition of a building is so poor it endangers the public's health, safety, or welfare, then it can be deemed a derelict building. Standards are required by which this determination is made. In making this judgment, the condition of architectural elements such as roofs, foundations, exterior walls, doors, and windows are considered the most significant parts. Some localities define buildings that are boarded up or not lawfully connected to water, electric, or sewer services as derelict. Others allow property owners up to six months (or longer) to remedy these situations before citing the structures as derelict buildings.

Defining *willful* neglect can be as difficult as proving demolition by neglect. If the result of neglect stems from an owner's financial inability to maintain a building, is that also considered demolition by neglect? If so, how and by whom would that measure and judgment be made? The nuance of the definition and whether the neglect is being willfully committed is more significant when a locality has adopted an ordinance addressing derelict buildings. Clarke County has no such ordinance, nor does the current adopted building code mandate the maintenance of buildings.

"Demolition by neglect" occurs for a variety of reasons and can either be the result of a deliberate strategy or of benign indifference. The most common and obvious explanation for not maintaining a building is an owner's lack of financial ability to repair the structure. In some cases, properties have clouded titles and are owned by multiple heirs, making it unclear who is financially responsible for the work. In other instances, properties are in poor condition when they are inherited, and the new owners believe it is easier (and cheaper) to do nothing. The complexity of maintenance and other requirements such as insurance or the presence of renters makes some cases not worth pursuing. Some title holders may be waiting to rezone or repurpose their properties and do not want to invest in buildings when demolition is part of the ultimate plan. An owner's emotional attachment can also contribute to a reluctance to sell a property, even though he/she she may not have the funds to repair it.

The HPC recently identified that "demolition by neglect" is becoming more widespread, and the loss of historic resources has a negative impact on the overall historic character of Clarke County. A number of contributing structures have deteriorated to the point where the cost of rehabilitation exceeds their value, and owners consider demolition preferable to maintenance or repair.

As part of this study, an inventory was conducted to better understand the extent of the problem of vacant buildings in Clarke. The buildings range in the level of their condition with the primary

factor being the amount of time they have been uninhabited. Only properties that could be photographed from a public right-of-way were documented. There are many others that are either not visible or are located in more remote parts of the county. Of the 60 properties identified, only three are located within the boundaries of a local historic district (White Post Historic District): one is currently being restored, another is on the market, and the third has been vacant and boarded up for at least 10 years. The remaining 57 properties are not located within local historic districts so they are not subject to review by the HPC. The majority, however, are contributing resources within National Register historic districts including Greenway, Chapel, and Long Marsh Run rural historic districts, and the Berryville, Boyce, and Josephine City historic districts. Fewer than 20 percent are not located within either a National Register or local historic district. Why these buildings are not maintained remains unclear.

Over the years, the HPC has struggled with finding effective means of encouraging the stabilization and/or rehabilitation of contributing historic resources within the two local historic districts before the buildings reach a point where demolition seems to be the most effective treatment. Efforts to date include direct mailings to property owners to raise awareness and provide information as follows:

1. State and Federal Rehabilitation Tax Credit incentives
dhr.virginia.gov/tax_credits/tax_credit.htm;
2. Proper ways to temporarily close up a building until a time that it can be rehabilitated
(*Preservation Brief 31: Mothballing Historic Buildings*)
nps.gov/tps/how-to-preserve/briefs/31-mothballing.htm;
3. General methods to maintain historic buildings (*A Handbook and Resource Guide for Owners of Virginia's Historic Houses*)
dhr.virginia.gov/pdf_files/A_Handbook_Resource_Guide_For_Owners_of_VA_Historic_Homes_2008.pdf;
4. A partial local real estate tax exemption for rehabilitated buildings at their pre-rehab value for 10 years (*Code of Clarke County; Chapter 165- Taxation Article XIII, Exemption for Rehabilitated Historic Real Estate*).

Unfortunately, these measures have not been effective and Clarke County continues to lose its historic resources.

The HPC recognizes Clarke County is not the only community facing this challenge. The HPC has informally reached out to other localities to ask how their historic district ordinances address the issue. One of the main obstacles in Clarke County to enforcing a “demolition by neglect” ordinance relates to the fact Clarke has adopted only Part I of the *Virginia Uniform Statewide Building Code* (USBC) titled the *Virginia Construction Code* (2012). Part II of the USBC is the *Virginia Rehabilitation Code*. Part III is the *Virginia Maintenance Code*, which directly addresses “unsafe structures” (Part III, Section 105) and gives building officials a means of

determining when a building has reached a point where it is deemed a public safety hazard. As it now stands, that power is held by the Clarke County Board of Supervisors (BoS).

In March 2018, the BoS sent a certified letter to the out-of-state heirs who own a property in the village of Millwood. A building on the property (a contributing resource in the Chapel Rural Historic District) had been neglected for many years. The building's advanced derelict state posed a safety hazard as it was partially collapsed, sat feet from a public road, and was close to a utility pole. The supervisors asked for the building to be removed. It was demolished in June 2018. This was the first time the BoS took such a measure. The board made clear this was an isolated incident and not something that will become a standard practice.

In 2016, the HPC proposed the creation of a fund financed by the BoS to which owners could apply for aid to either repair their historic buildings or mothball them for future rehabilitation. The HPC hoped establishing such a grant program would encourage the preservation of decaying historic buildings, especially within its two local historic districts.

With this in mind, the HPC requested \$10,000 from the BoS for Fiscal Year 2018 to establish a program to aid property owners in the stabilization of contributing structures both within and outside of the county's two local historic districts. The board denied the request, saying a program should be developed to identify buildings that are in disrepair, develop criteria for prioritizing these buildings based on owner income, rate the importance of the buildings, and assess the degree of their deterioration. To that end, the board agreed to provide \$1,500 toward development of such a program by first studying its feasibility. This funding was used as matching funds for part of this CLG grant.

Primary areas of concern for the BoS about establishing such a fund include: 1). the justification of using public funds to improve private properties; 2). the type of caveats to be included with the funding, such as placing easements on the buildings; and 3). the burden it would place on county personnel to administer such a program.

Clarke County Architectural Historian Maral S. Kalbian, who is intimately familiar with the county's historic resources, completed the work for this grant. She has worked on a contractual basis with Clarke County for 30 years and has prepared the majority of National Register nominations for the county's historic districts and many of the individual properties.

II. METHODOLOGY:

The original purpose of this CLG grant was to investigate how Clarke County can mitigate "demolition by neglect" by developing a competitive program that would offer funds to owners of derelict buildings. However, as part of this study, a closer examination of the subject was addressed, including defining the term, investigating how other localities are tackling the subject,

identifying which properties in Clarke County fall into the category, and offering recommendations on what the county should do to treat the problem.

As part of this study, the consultant completed the following tasks:

1. Conversations with the Clarke County Building official, the Commissioner of the Revenue, and the Treasurer in order to gain a better understanding of their views on derelict buildings.
2. Development of a questionnaire that was sent via e-mail to all CLG localities within the Commonwealth (35 total).
3. Discussions with planners from other communities, including the City of Charlottesville and the City of Winchester.
4. Discussions with Preservation of Historic Winchester and Preservation Virginia, both of which have “revolving funds” used to purchase historic properties in order to preserve them.
5. Identification of vacant buildings in the county and the creation of a spreadsheet documenting their location and status.
6. Research into the subject using tools of the National Trust for Historic Preservation, the National Alliance of Preservation Commissions, and other Historic Preservation organizations.

III. RESULTS OF THE QUESTIONNAIRE SENT TO ALL THE CLGS IN VIRGINIA:

A questionnaire was sent to all 35 CLGs on October 27, 2017, by Aubrey Von Lindern, architectural historian at the Northern Regional Office of DHR in Stephens City. Because Von Lindern runs the CLG program for DHR, the hope was more localities would reply to the questionnaire if it was sent from her office. She also transmitted the questionnaire to other localities that have expressed interest in this subject, but are not CLGs. The questionnaire (below) was developed by Maral Kalbian in collaboration with Betsy Arnett, chairwoman of the HPC, and Clarke County Natural Resource Planner Allison Teetor. Only 14 of 35 Virginia CLGs responded.

1. What is the name of your locality?

14 responses:

Town of Blacksburg

Clarke County

Town of Culpeper

City of Danville

City of Fairfax

Town of Herndon
Town of Leesburg
City of Lexington
City of Manassas
Prince William County
Spotsylvania County
City of Virginia Beach
Town of Warrenton
City of Winchester

2. Is your locality a Certified Local Government (CLG)?

14 responses:
All Yes

3. Does your locality have a Demolition by Neglect ordinance?

14 responses:
11 respondents said “No”
Warrenton, Leesburg, and the City of Manassas responded “Yes”

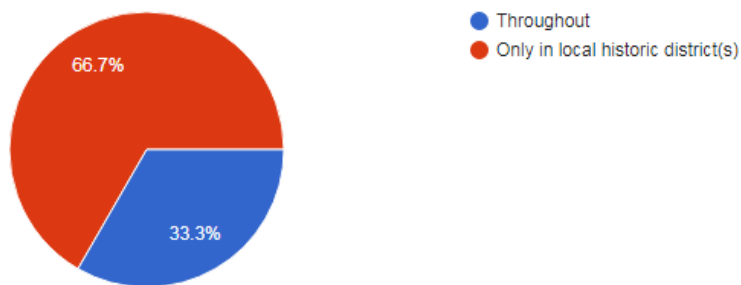
4. If your ordinance is available online, please provide a link.

8 responses:
Town of Culpeper: Many years ago the Town did have a demolition by neglect ordinance, and it was taken out of the ordinance.
City of Lexington: <https://ecode360.com/LE2692?needHash=true>
City of Fairfax: NA
City of Winchester: See Spot Blight abatement Ordinance at: Sec 6-132 of City Code
http://www.winchesterva.gov/sites/default/files/documents/government/city_code/ch06-july2016.pdf
Town of Warrenton:
http://www.warrentonva.gov/document_center/Planning/Article%203%20Zoning%20Districts_Amended.pdf
City of Virginia Beach:
https://library.municode.com/va/virginia_beach/codes/code_of_ordinances?nodeId=CO_CH16HOBUMACO_ARTIIIUNST
Town of Leesburg: <http://www.leesburgva.gov/home/showdocument?id=4543>
City of Manassas: <http://manassascity.org/DocumentCenter/View/22323>

5. Does the ordinance apply throughout your locality or only within your local historic districts(s)?

6 responses:

(Only the cities of Winchester and Virginia Beach have ordinances that address derelict buildings outside of local historic districts).



6. How long has the ordinance been in effect?

7 responses:

City of Lexington: 2003

City of Fairfax: NA

City of Winchester: Spot Blight Abatement code adopted in 2009

Town of Warrenton: 2004

City of Virginia Beach: Since 1993

Town of Leesburg: unknown

City of Manassas: 1984

7. What section of the Code of Virginia does your ordinance cite as enabling legislation?

7 responses:

City of Lexington: Does not cite enabling legislature

City of Fairfax: NA

City of Winchester: §36-49.1:1

Town of Warrenton: §15.2-2201; § 15.2-2306

City of Virginia Beach: §15.2-906

Town of Leesburg: §15.2-2306

City of Manassas: §15.2-2306

8. Has your locality adopted Part II or III of the Uniform Statewide Building Code?

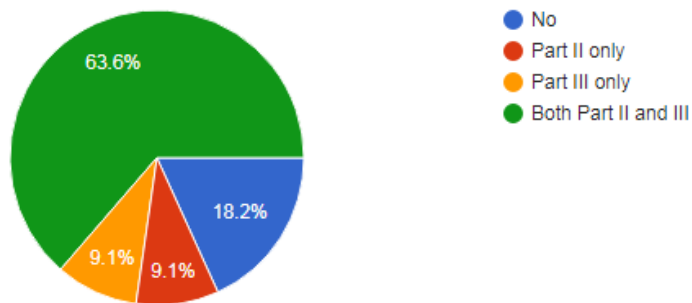
12 responses:

Clarke County and Spotsylvania County: No

City of Fairfax: Part II only

City of Virginia Beach: Part III only

Cities of Winchester, Fairfax, Danville, and Manassas; Towns of Blacksburg, Warrenton, Herndon, and Culpeper: Both Parts II and III



9. Who oversees the program?

9 responses:

City of Lexington: City Planner

City of Fairfax: NA

City of Winchester: Zoning Administrator

Town of Warrenton: Building Official

Town of Herndon: Building Official

City of Virginia Beach: Department of Housing and Neighborhood Preservation's (DHNP) Code Enforcement Division

Town of Leesburg: Loudoun County

City of Danville: Building Code Official

City of Manassas: Building Official and Zoning Administrator

10. Approximately how many cases a year do you handle?

9 responses:

City of Lexington: Two to three

City of Fairfax: NA

City of Winchester: Average less than two a year

Town of Warrenton: 1 demo by neglect cases on average

Town of Herndon: 200

City of Virginia Beach: 3-5

Town of Leesburg: 2

City of Danville: 275

City of Manassas: 2

11. Do you enforce the ordinance proactively or is the enforcement complaint driven?

8 responses:

Cities of Lexington and Danville; Towns of Warrenton and Leesburg: Complaint-driven
Cities of Winchester, Virginia Beach, and Manassas; Town of Herndon: Proactive enforcement

12. How is the ordinance enforced? What are the fines or other methods of gaining compliance?

9 responses:

City of Lexington: Issuance of citations

City of Fairfax: NA

City of Winchester: See Spot Blight abatement Sec 6-133 of City Code

Town of Warrenton: Notice(s) followed by legal action, including §15.2-2306 (A) (3)

Town of Herndon: Violation notices and court summons if necessary

City of Virginia Beach: Contractual abatement (using a private contractor secured through a bid process to perform the demolition) or criminal court action

Town of Leesburg: Enforced through Loudoun County Building & Development Department

City of Danville: Property Maintenance Code. Violations/violators face civil penalties, \$100 first offense per violation. Fees increase if not abated in a timely manner.

City of Manassas: Violations are considered criminal misdemeanors and prosecuted by the City Attorney's office.

13. Do you have incentives to encourage people to repair/maintain their properties? If so, please describe.

9 responses:

Cities of Lexington and Virginia Beach; Towns of Herndon and Leesburg: No

City of Fairfax: We have a program to perform emergency repairs for residential property. No tax incentive program for commercial properties.

City of Winchester: 10-year Substantial Rehab RE tax abatement, State & Federal tax credits, façade loans, Enterprise Zone incentives.

Town of Warrenton: We direct them to other resources to the best of our ability

City of Danville: Month of May is "Make Danville Shine" when City departments promote clean up, maintenance and rehabilitation through education programs and reduced fees on specific City services.

City of Manassas: The City maintains a resource list for property owners including local, state and federal programs: <http://manassascity.org/557/Housing-Neighborhood-Resources>

14. Do you have a grant program or revolving loan fund to assist people with repairing or mothballing their properties? If so, please describe.

8 responses:

Cities of Lexington and Fairfax; Towns of Warrenton, Herndon, and Leesburg: No

City of Winchester: façade loans and limited loans thru Enterprise Zone

City of Virginia Beach: Yes, DHNP's Development Division administers homeowner rehab grant and loan programs to assist with repairs.

City of Danville: The City of Danville uses CDBG and HOME funds to assist homeowners with repairs.

City of Manassas: There is a facade improvement program and participates in the County administered Neighborhood Rehab Program. See link in previous question.

**15. How effective do you think your Demolition by Neglect program is?
(From 1 to 5, with 5 being the most effective)**

4 responses:

Town of Warrenton: 1

City of Virginia Beach: 5

Town of Leesburg: 3

City of Manassas: 4

16. If the program is not effective, what in your opinion prevents it from being effective?

4 responses:

City of Fairfax: NA

Town of Warrenton: Legal assistance; active enforcement

Town of Leesburg: Needs to be proactive

City of Manassas: Staffing resources

17. Do you have any advice to localities looking to implement a new Demolition by Neglect program?

6 responses:

Prince William County and City of Fairfax: No.

City of Winchester: Start with property maintenance code and spot blight abatement code first.

Town of Warrenton: Work closely with legal assistance

Town of Leesburg: Adopt a detailed step-by-step procedure with clear outcomes

City of Manassas: A locality needs to be prepared to exercise all legal remedies to gain compliance in the event proactively working with the property owner is unsuccessful.

Conclusions from the questionnaire:

Information provided by the CLG localities that took time to reply is appreciated. They are either cities or incorporated towns. No rural counties responded. Half of the respondents have an ordinance, and fewer than half believe it is effective. They are equally divided as to whether the enforcement of the ordinance was complaint-driven or proactive. Most of the localities have either adopted Part II or Part III (or both) of the USBC and/or have implemented a spot blight abatement program. Except for the cities of Winchester and Virginia Beach, the ordinance is applied only to the local historic district.

In most cases, enforcement is carried out by the building official or in tandem with the zoning administrator. The City of Virginia Beach has a Department of Housing and Neighborhood Preservation with its own Code Enforcement Division. Although it did not respond to the CLG questionnaire, the City of Charlottesville has a similar program with a property maintenance code compliance division (with three inspectors) that is part of its Neighborhood Development Services.

Most of the respondent municipalities offer incentives to property owners, including façade loans and enterprise zone credits, both of which are primarily set up for commercial districts. The City of Manassas and Prince William County have a Neighborhood Housing Rehabilitation Program (NHRP) that offers financial assistance to homeowners to preserve and improve their properties and bring them up to modern building codes and standards. The program is financed by the U.S. Department of Housing and Urban Development and goes to the county as an “Urban Entitlement.”

A significant difference between Clarke County and the responding localities with programs that address “demolition by neglect” has to do with staffing. Those localities have population greater than Clarke’s and they have larger government departments. While Clarke County offers some of the same incentives to property owners, including a local real estate tax abatement, other localities do better at promoting these programs on their websites. Links to DHR and the National Park Service about rehabilitation tax credits, as well as the Commissioner of the Revenue’s tax abatement form are generally posted. This is something Clarke County could improve, especially now that it has a public information officer (effective May 2018).

Most of the localities report fewer than three violations a year. The exceptions are the Town of Herndon and the City of Danville, both reporting more than 200 annual violations. The severity of those violations is unclear.

IV. DISCUSSIONS WITH CLARKE COUNTY BUILDING OFFICIAL:

According to a January 2018 interview with the Clarke County Building Official James Royston, his main concerns regarding how to monitor and enforce against demolition by neglect are:

1. Clarke County has not adopted Parts II and III of the USBC.

2. The county does not have the staff required to identify derelict buildings and enforce their repair.
3. Since the county does not have a procedure in place by which owners could be cited for not maintaining their buildings, one must be developed.
4. A set of standards defining a “derelict building” would also have to be established.

Royston sometimes receives complaints from tenants about the condition of rental buildings. He usually contacts the property owners and requests they address the issues. In some cases, neighbors will call and complain, but Royston does not currently have the authority to make people maintain their properties.

Royston is diligent about alerting the county’s Planning Department whenever someone has request a Demolition Permit for a building, even if it is outside the local historic district. If the building is historic (more than 50-years old), it is documented by the county architectural historian before it is razed. That information is then shared with DHR and entered into V-CRIS.

V. INFORMATION FROM THE COMMISSIONER OF THE REVENUE’S OFFICE:

In February 2018, the Clarke County Commissioner of the Revenue Donna M. Peake was asked whether her office keeps track of vacant and abandoned buildings that are not livable. Peake was able to query the last assessment (2016) and developed a list of 72 derelict buildings in the county.

TAX MAP NO	OWNER NAME1	TAX MAP NO	OWNER NAME1
3 A 11	UNGER KENNETH R SR & VIRGINIA D	30 A 5	WILLIAMS JOHN ESTATE
3 A 15	RIDGEWAY RICHARD O III & JOAN C	30 A 88	SIPE MAYNARD & WILLIAM W
6 A 3	JONES WILLIAM C & MICHAEL L	30 A 88	SIPE MAYNARD & WILLIAM W
7 A 2	MCNAMARA STUART B & DONNA L	30A A 6	AGURS TANYA DOREAN
7 A 4	MCNAMARA STUART BLAINE	30A A 18	JACKSON MARY DORSEY ET ALS
7 A 34	TOMBLIN DOUGLAS W JR & JERRY	30A A 22	EDWARDS LLOYD G
9 A 60	OAKLAND ORCHARD	30A A 48	MASON-SMITH BETTY
9 A 37D	LABASBAS LILLIE	30A A 56	LOCKE AND COMPANY LLC
9 A 46A	PROFUNDUS HOLDINGS INC	30A A 69	BOLDEN JOHN MRS
9 A 46A	PROFUNDUS HOLDINGS INC	30A A 74	MARTIN DAVID A & BETTY FARMER
12 A 17	FREDERICK CO &	30A A 80	RANDOLPH NATHANIEL
12 A 29	PEARSON WILLIAM L	31 1 36	NOLTER JOSEPH C REVOCABLE TRUST
13 A 21	HERNANDEZ-TORRES ANA DAISY	32 A 20	SCHAFF BOYD T
13 A 38	MUNDINE MARCIA LEE	32 A 21	SNEDDEN JOHN B
14 A 63	ERICKSON ERIC W & CHET W	32A 1 16	REYES ANA E
14 A 69B	COMMONWEALTH OF VIRGINIA	32A 2 3A	FLICKINGER JAMES A & NANCY O TRS
14A2 A 58	CANWOOD FARMS BERRYVILLE LLC	37 A 13	GIRoux TERRENCE & BARBARA KEBBLER
14A5 8 A 10A	NELSON JACOB ESTATE	37A2 3 38	SAMS MELONIE
14A6 3 B 5	JENKINS RICHARD A ESTATE	37A4 1 38	BROWN JEREMY E & AMY M
14A6 3 B 5A	PAIGE ALBERT ESTATE	38 A 34	HELLMUTH CAMILLE C
14A6 3 B 9B	LEWIS AND BURKE REAL ESTATE LLC	38 A 37	IDLEWILD RIVER FARM LLC
17 A 9	ROCKWOOD RIDGE LLC	38 A 44	BELL KENNETH U
17A1 2 54	WHEATNEY WILLIS E JR	38A 2 1	VAN GORDEN PAUL S & JANICE M
17A1 9 15	STRADMAN ROBERT M & SANDRA K	39 A 4	THOMPSON WILLIAM B & EDITH D
21 A 70	LONGERBEAM JESSE K & MARY P	39 A 9	SECHRIST WOODROW W & SHIRLEY W
22 A 57	BURWELL CEMETERY INC	39 3 C2	GRAY EUGENE R & BINA P TRSTES
22 A 120	MORGAN ROBERT C JR & SHIRLEY L	40 A 2	POTOMAC APPALACHIAN TRAIL CLUB
23 A 37	SUROWE LLC	39 13 6	JACOB JOHN J JR
23A 2 23	PULLEN JESSE L & LUCILLE	25 A 25C	TURKEL JONATHAN MICHAEL
24 A 25A	BELL ROBERT LEE		
25 A 47	GUSTA JEAN L & SUSAN M DELLINGER		
26 A 80	SNALLWOOD PEGGY V		
26 A 114	SMITH TIMOTHY HOLT & LYNN GERBER		
26 A 127	HARRIS KIMBERLY R & ANDY E MOODY		
26 1 8	SFERA NICHOLAS A		
27 A 5	GIBSON MONTIE W JR & PEARL E		
27A 1 3	ROBERTS GRITCHEN DOLEMAN		
27A 1 4	JOHNSON JAMES C & CONSTANCE D		
27A 1 5	TIGNEY JOHN ARCHIE ET ALS		
27A 1 7	WRIGHT RENOVATIONS INC		
28 A 28	WYCHE IDA S		
28 A 29	RICKEL JACK & GLORIA TRUSTERS		
28A A 39	SHAFFER SHANNON C & SARAH B		
28A A 48	MORTON JOHN HAROLD & BETTY		
28A A 49	WILLIAMS ROBERT		
28A A 83	ROSEY GARY O		
28A A 85	BUCKLEY RANDOLPH M		
29 A 33	HISSONG FAMILY LLC		
30 A 3	BANKS ARTHUR		
30 A 4	WILLIAMS JACK ESTATE		

Since not all these buildings are historic, Kalbian used the list and drove around the county to see if the buildings are still standing. Additionally, she documented historic buildings that may not currently be in a derelict state, but have been vacant for more than three years and are therefore candidates for “demolition by neglect.” Because the ultimate goal of this project is to help prevent the decay of buildings, knowing which buildings may be at risk was another request of the HPC. Some of the properties identified during Kalbian’s windshield survey are not listed on the Commissioner of the Revenue’s list. In most cases, photographs were taken from the public right of ways, so as not to trespass. This is by no means a comprehensive list of vacant properties in Clarke County, but it does provide a good basis for evaluation.

Peake said since fieldwork for the next assessment will be conducted in 2019, there is an opportunity to better identify vacant and derelict properties. She expressed a willingness to work with the HPC and the assessor to develop a more detailed method of identifying these buildings.

A spreadsheet of the 60 identified properties, along with thumbnail photographs can be found in Appendix A of this report. Of the three properties located within the White Post local historic district, only one has been vacant for more than 10 years and is in poor condition. Even within local historic districts, the HPC does not have the authority to ask the owners to maintain their buildings to any specific standard, but can only comment if owners ask to demolish or rehabilitate their buildings. Three vacant properties within the Berryville Local Historic District are regulated by the Berryville Architectural Review Board.

All the other properties are located outside any local historic district boundaries; most are considered “contributing” buildings within the Chapel, Greenway, or Long Marsh Run Rural National Register historic districts. Six properties are within the boundaries of the Josephine City National Register Historic District. Nearly 15 are located within the village of Millwood as parts of the Chapel and Greenway rural historic districts. Although solely honorific designations, being a “contributing” building allows for use of state and federal Rehabilitation Tax Credits (dhr.virginia.gov) that can help defray the costs of repairing buildings.

This list is intended to inform the HPC of locations, types, and conditions of vacant historic buildings in the county, anticipating this list should be updated on a regular basis.

VI. CONVERSATION WITH SHARON KEELER, CLARKE COUNTY TREASURER:

Sometimes these vacant and derelict buildings may have clouded titles or multiple owners. County Treasurer Sharon Keeler explained the process her office uses to deal with properties where taxes are delinquent. If taxes are delinquent after two years, the Treasurer’s Office can legally begin the process of putting the property up for sale. Keeler said she usually waits three years and tries to contact the property owners to set up payment schedules or agreements. If those efforts are not successful, she turns the case over to a law firm. The law firm investigates

the matter and does all the work to put the property up for public auction. Fees for the law firm come from the sale. Any excess proceeds are held in the Circuit Court Clerk's office and the owners have three years to claim the money.

VII. POTENTIAL TOOLS FOR CONTROLLING DEMOLITION BY NEGLECT:

In addition to those who responded to the "demolition by neglect" questionnaire, a review was conducted of what some other localities in the Commonwealth are doing to help discourage demolition. Several different programs have been implemented that Clarke County may want to consider. The county should also continue to seek input from the Virginia CLG communities that did not respond to the questionnaire.

Some tools other communities have used successfully include:

1. Minimum or Affirmative Maintenance Provisions in the Historic Overlay District: A minimum maintenance requirement could be added to the Historic Overlay District, mandating that a contributing building or structure not be allowed to deteriorate due to neglect to a point where it is no longer habitable. This ordinance provision would be developed in coordination with the building official in order to establish minimal criteria. These would include condition of structural members, the roof, siding, doors, and windows.

Once in place, the HPC could identify buildings within the local historic districts that are not being maintained, and request reports from the building official that would be specific in identifying what repairs are required. After this, owners would be notified with a timetable in which to complete the repairs. If these requirements are not met, then either a penalty would be incurred or, in some cases, the work would be completed and the owner be billed. A provision could be written into the ordinance preventing owners from claiming that spending more on a building than what it is worth constitutes economic hardship.

2. Spot Blight Abatement Program: The City of Winchester has Spot Blight Abatement program whereby the city has the authority to repair or even ultimately acquire a blighted property. A similar program may be a tool Clarke County could consider and study further, especially because it can be applied across the entire county and not be limited to the local historic districts. A spot blight abatement program would have to be developed in consultation with the County Attorney, the HPC, and the local building official. www.winchesterva.gov/sites/default/files/documents/government/city_code/ch06-july2016.pdf (section 6-132, 133).

3. Revolving Loan Funds: Preservation of Historic Winchester and Preservation Virginia are two organizations that administer revolving funds. In these programs, funds are used to purchase properties, make necessary repairs as needed, place easements and covenants on them, and resell them. Since its inception in the late 1970s, PHW's Jennings Revolving Fund has purchased and resold 56 properties in the City of Winchester, spurring revitalization of many of the downtown neighborhoods. PHW partnered with the City of Winchester as well as the National Trust for Historic Preservation, and local banks to help with the funding. For more information, see phwi.org/rf.php.

Preservation Virginia is an advocacy organization. Its revolving fund was originally Virginia's Historic Preservation Fund, created in the late 1980s by the General Assembly. It was transferred to Preservation Virginia to administer in 1999. The funds are used to purchase properties that are threatened by demolition or severe neglect and place them in protective easements. They are then sold to new owners who complete the rehabilitation work. For more information see preservationvirginia.org/programs/revolving-fund-program.

Like many of the other CLG localities, Clarke County already offers a tax incentive when rehabilitating a historic property. Other forms of assistance that could potentially be offered include low-cost loans and grants such as the one HPC requested from the BoS. Some localities also offer volunteer maintenance crews that help to defray some of the costs of repair.

VIII. CONCLUSION AND RECOMMENDATIONS:

A primary objective of the HPC is to find ways to educate, encourage, and support residents, who for whatever reasons, own buildings that are vacant and in danger of falling down. This study provides a starting point for the HPC to address the issue. There does not appear to be a simple answer to the dilemma of "demolition by neglect." It is a problem with which communities across the nation struggle.

1. Building Codes: Clarke County is somewhat limited in what it can do because it has not adopted Parts II or III of the USBC, which address the maintenance of buildings. Current county staffing levels may be unable to take on the additional burden of dealing with these properties. The HPC could add language to the current historic district overlay specifying a minimum maintenance requirement for contributing buildings. The language would have to include a detailed description of what those requirements would be and who would determine if they were being met.
2. Stabilization Fund: If the Clarke County BoS provided funding to help owners with their derelict properties, a program would need to be developed to define qualification

standards, levels of funding, type of work to be completed, follow-up measures, and who administers the money. As an option, the money could be used to develop a revolving fund, whereby properties could be purchased, placed under easement, and resold, demonstrating the county's commitment to protecting important community assets. It may also be an opportunity to partner with non-profits such as Habitat for Humanity of Winchester, Frederick and Clarke, the Clarke County Historical Association, and the Josephine School Community Museum, which are already established and active in the community.

3. Clearing Titles: The county could consider funding to complete the necessary legal work to clear titles for some of these properties, so they could be sold to people who may want to repair and restore them.
4. Outreach and education: The county should at a minimum continue to educate the owners of buildings about the programs and incentives already available. This outreach can be achieved through mailings, public information meetings, and through the county's website. The HPC could also sponsor workshops about stabilizing unoccupied buildings or specific aspects of maintaining a historic building.
5. Inventory with annual update: The county could establish a detailed inventory of all vacant and neglected historic buildings in Clarke (perhaps with the Commissioner of the Revenue's office during the 2019 reassessment), which could be updated on an annual basis. The HPC could review the list and prioritize the most historically significant properties in the greatest danger, and focus its efforts on finding solutions. The HPC could reach out to all property owners on the list, express positive interest, and offer to help them come up with plans or possible funding sources. Providing owners with a history of their derelict properties may be another way to encourage preservation rather than neglect. These property histories would add to the base of historical knowledge about the county in case the buildings are ultimately demolished. Because each instance of "demolition by neglect" is unique, each requires a thoughtful individualized approach.

IX. BIBLIOGRAPHY:

Unfortunately, literature on the subject of "demolition by neglect" is limited, with much of it dealing either with the legal aspects or the reasons why "demolition by neglect" exists. Several master's theses address the subject by comparing municipalities' ordinances and their effectiveness. Guidance from the National Park Service, the National Trust for Historic Preservation and individual State Historic Preservation Offices is very limited and somewhat dated.

Becker, Dan. *Establishing a Demolition by Neglect Ordinance*. The Alliance Review, February /March 1999.

napcommissions.org/wp-content/uploads/Demo-by-Neglect_TAR_Establishing-an-Ordinance_Becker_FebMar-1999.pdf;

www.z2systems.com/neon/resource/napc/files/The%20Alliance%20Review%20Winter%202016.pdf

Although written nearly 20 years ago, this article offers good and relevant guidance on what to consider when establishing such an ordinance. Updated in 2016, the article still offers the best advice on what to consider when establishing a demolition by neglect ordinance.

Code of Virginia. Title 15.2. Counties, Cities and Towns; Chapter 22. Planning, Subdivision of Land and Zoning; § 15.2-2306. Preservation of historical sites and architectural areas.

law.lis.virginia.gov/vacode/title15.2/chapter22/section15.2-2306/.

This provides the enabling legislature regarding the establishment of historic district ordinances.

Fredericksburg Architectural Review Board. “Proceeding of an Advanced Preservation Workshop on Zoning, Infill Design and Materials.” February 5, 2008. Fredericksburg, Virginia.

Hildebrand, Rachel Ann.

repository.upenn.edu/cgi/viewcontent.cgi?article=1190&context=hp_theses

Completed in 2012 as part of a graduate degree in Historic Preservation at the University of Pennsylvania, this thesis evaluates Philadelphia’s response to demolition by neglect and how the subject of demolition by neglect has evolved since the mid-1990s.

Martin, Anna. *Demolition by Neglect: Repairing Buildings by Repairing Legislation*.

Georgetown University Law Center, 2007.

scholarship.law.georgetown.edu/cgi/viewcontent.cgi?article=1016&context=hpps_papers

This interesting study compares demolition by neglect provisions in Washington, DC, New York City, New Orleans, and Philadelphia.

Miller, Julia. “Assessing Economic Hardship Claims Under Historic Preservation Ordinances.” *The Alliance Review*. January/February 2001; pp. 16-18.

napcommissions.org/wp-content/uploads/2013/08/06-Assessing-Econ-Hardship-Claims.pdf

This helpful article provides tools to help better define what constitutes an “economic hardship” claim within a local historic district and may be something the HPC would want to consider.

National Alliance of Preservation Commissions. (www.napcommissions.org)

napcommissions.org/wp-content/uploads/2013/08/Demo-by-Neglect_Sample-Ordinances_DC-Detroit-New-Orleans.pdf

napcommissions.org/wp-content/uploads/2013/08/Demo-by-Neglect_Regulations-to-Prevent-Demo-Avoid-Taking_Bowers.pdf

A category on the web page under Technical Assistance addresses demolition by neglect and offers three articles, one of which is the 1999 one by Dan Becker. Another includes sample ordinances (New York, Detroit, and New Orleans). The last includes a document published by the City of Dallas that provides information about regulations that can help prevent demolitions.

National Trust for Historic Preservation. *Preservation Law Educational Materials....Demolition by Neglect*. Washington DC, 2009.

This paper addresses the different reasons that lead to demolition by neglect and offers some tools to help alleviate it. It also provides selected example of Demolition by Neglect Provisions throughout the nation.

Pollard, Oliver A., III. "Demolition by Neglect." *Review Board News*. Charlottesville, VA: Preservation Alliance of Virginia, October/November 1990, No. 9 page 1.

This is considered one of the earliest articles dealing with the subject of demolition by neglect, and is still applicable.

Richardson, Meg Corbett. "Demolition by Neglect: An Examination of Charleston's Ordinance." (2008). A thesis presented to Clemson University as part of a MA in Historic Preservation.

tigerprints.clemson.edu/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=1337&context=all_theses

This paper considers the effectiveness of the demolition by neglect ordinance in Charleston, South Carolina, and compares it with those of Providence, Rhode Island, and Savannah, Georgia.

Appendix A:

	A	B	C	D	E	F	G	H	I	J
1	NAME	ADDRESS	ORIGINAL USE	DATE	LOCAL HD	NATIONAL	CONDITION	VACANT	IMAGE	ADD. INFO.
2	The Highlands	4000 Stonewall Jackson Hwy (27A12)	residential	c.1820	no	no	fair	10+		Part of the property is in Warren Co
3	Service Station, Double Tollgate	50 Highlands Corner Road (27A3A)	commercial	c.1920	no	no	fair	10+		
4	White Post Train Station	692 Berrys Ferry Road (28AA3)	commercial	c.1920	no	yes	fair	10+		
5	White Post Supply, Inc.	713 Berrys Ferry Road (28AA1)	commercial	c.1940	no	yes	fair	10+		
6	White Post Gas Station	221 Berrys Ferry Road (28AA36)	commercial	c.1920	yes	yes	good	10+		undergoing restoration

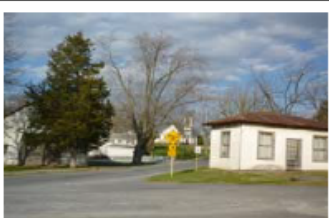
Appendix A:

1	A	B	C	D	E	F	G	H	I	J
	NAME	ADDRESS	ORIGINAL USE	DATE	LOCAL HD	NATIONAL	CONDITION	VACANT	IMAGE	ADD. INFO.
7	House, White Post Road	267 White Post Road (28AA39)	residential	c. 1880	yes	yes	fair	10+		
8	House, White Post Road	626 White Post Road (28AA49)	residential	c.1880	no	yes	fair	10+		
9	House, White Post Road	648 White Post Road (28AA48)	residential	c.1900	no	yes	fair	5+		
10	Store, 214 White Post Road	214 White Post Road (28AA61)	commercial	c.1930	yes	yes	good	5+		currently for sale
11	House, White Post Road	140 White Post Road (28AA66)	residential	c.1900	yes	yes	poor	7+		Demolished May 2018, HPC approval

Appendix A:

	A	B	C	D	E	F	G	H	I	J
1	NAME	ADDRESS	ORIGINAL USE	DATE	LOCAL HD	NATIONAL	CONDITION	VACANT	IMAGE	ADD. INFO.
12	House, Lord Fairfax Highway	Lord Fairfax Highway (28AA85)	residential	c.1930	no	no	poor	10+		
13	House, Swift Shoals Road	3377 Swift Shoals Road (37A13)	residential	c.1870	no	yes	fair	10+		
14	House, Lord Fairfax Highway	12483 Lord Fairfax Highway (21A63)	residential	c.1890	no	no	good	3+		
15	House, Old Waterloo Road	899 Old Waterloo Road (21A70)	residential	c.1920	no	no	poor	10+		
16	House, Old Waterloo Road	624 Old Waterloo Road (21A55)	residential	c.1920	no	no	fair	10+		

Appendix A:

	A	B	C	D	E	F	G	H	I	J
1	NAME	ADDRESS	ORIGINAL USE	DATE	LOCAL HD	NATIONAL	CONDITION	VACANT	IMAGE	ADD. INFO.
17	House, Old Waterloo Road	27 Old Waterloo Road	residential	c.1920	no	no	fair	10+		
18	House, S. Greenway Avenue	37 S. Greenway Avenue (21A1A101)	residential	c.1910	no	yes	fair	10+		
19	School, S. Greenway Avenue	35, S. Greenway Avenue (21A1A100)	school	c.1880	no	yes	poor	10+		African-American School
20	Buildings, E. Main Street	4 and 6 E. Main Street (21A2A48,47)	commercial and storage	c.1920	no	yes	fair to poor	10+		
21	Building, E. Main Street	East Main Street (21A1A71)	commercial	c.1910	no	yes	fair	10+		

Appendix A:

1	A	B	C	D	E	F	G	H	I	J
	NAME	ADDRESS	ORIGINAL USE	DATE	LOCAL HD	NATIONAL	CONDITION	VACANT	IMAGE	ADD. INFO.
22	House, E. Main Street	135, E. Main Street (21A1A76)	residential	c.1900	no	yes	fair	5+		
23	House, Millwood Road	1603 Millwood Road (30AA86)	residential	c.1880	no	yes	poor	10+		
24	House, Millwood Road	1554 Millwood Road (30AA6)	residential	c.1880	no	yes	fair	10+		
25	Church, Millwood Road	1680 Millwood Road (30AA12)	religious	c.1890	no	yes	good	5+?		recent new roof
26	House, Millwood Road	1682 Millwood Road (30AA13)	residential	c.1890	no	yes	good	3+		recent renovations

Appendix A:

	A	B	C	D	E	F	G	H	I	J
1	NAME	ADDRESS	ORIGINAL USE	DATE	LOCAL HD	NATIONAL	CONDITION	VACANT	IMAGE	ADD. INFO.
27	House, Millwood Road	1857 Millwood Road (30AA76)	residential	c.1850	no	yes	good	10+		
28	House, Millwood Road	1895 Millwood Road (30AA75)	residential	c.1900	no	yes	good	10+		
29	Store, Millwood Road	1923 Millwood Road (30AA74)	commercial	c.1900	no	yes	fair	10+		
30	House, Millwood Road	1862 Millwood Road (30AA22)	residential	c.1900	no	yes	poor	10+		CCBOS condemned demolished June 2018
31	House, Millwood Road	1983 A Millwood Road (30AA64)	residential	c.1900	no	yes	fair	10+		Shiloh Baptist Church Property

Appendix A:

	A	B	C	D	E	F	G	H	I	J
1	NAME	ADDRESS	ORIGINAL USE	DATE	LOCAL HD	NATIONAL	CONDITION	VACANT	IMAGE	ADD. INFO.
32	House, Bishop Meade Road	2228 Bishop Meade Road (30A41)	residential	c.1880	no	yes	poor	10+		
33	House, Bishop Meade Road	Bishop Meade Road (30A40)	residential	c.1900	no	yes	poor	10+		
34	House, Millwood Road	2722 Millwood Road (30A32)	residential	c.1900	no	yes	good	5+		
35	House, Bishop Meade Road	665 Bishop Meade Road (30AA67)	residential	c.1900	no	yes	poor	10+		
36	House, Linden Lane	39 Linden Lane (30AA69)	residential	c.1880	no	yes	fair	10+		

Appendix A:

1	A	B	C	D	E	F	G	H	I	J
	NAME	ADDRESS	ORIGINAL USE	DATE	LOCAL HD	NATIONAL	CONDITION	VACANT	IMAGE	ADD. INFO.
37	House, Bishop Meade Road	678 Bishop Meade Road (30AA51)	residential	c.1890	no	yes	good	1+		
38	House, Cunningham Lane	91 Cunningham Lane (30AA48)	residential	c.1890	no	yes	good	10+		
39	House, Browntown Road	1318 Browntown Road (30A4)	residential	c.1880	no	yes	fair	5+		
40	House, Browntown Road	1302 Browntown Road (30A3)	residential	c.1900	no	yes	poor	10+		
41	House, Bishop Meade Road	2387 Bishop Meade Road (22A114)	residential	c.1890	no	yes	fair	10+		

Appendix A:

	A	B	C	D	E	F	G	H	I	J
1	NAME	ADDRESS	ORIGINAL USE	DATE	LOCAL HD	NATIONAL	CONDITION	VACANT	IMAGE	ADD. INFO.
42	House, Tilthammer Mill Road	476 Tilthammer Road (30A28)	residential	c.1880	no	yes	fair	10+		
43	Southside	1550 Old Chapel Road (22A101)	residential	c.1880	no	yes	fair	10+		
44	Briggs Store	69 Lanham Lane	comm/resid	c.1890	no	yes	fair	5+		
45	Tripp's Locker Plant	6145 Lord Fairfax Highway (14A26)	commercial	1946	no	no	good	10+		
46	Byrd Orchard Camp House	443 S. Buckmarsh Street (14A11C)	multi-residential	c.1940	no	no	good	10+		

Appendix A:

	A	B	C	D	E	F	G	H	I	J
1	NAME	ADDRESS	ORIGINAL USE	DATE	LOCAL HD	NATIONAL	CONDITION	VACANT	IMAGE	ADD. INFO.
47	House, S. Church Street	512 S. Church Street (14A43)	comm/resid	c.1910	no	no	good	10+		
48	Gilleson Log House	112 Josephine Street (14A58A10A)	residential	c.1880	no	yes	poor	20+		
49	Mary Rollins House	114 Josephine Street (14A58A10)	residential	c.1880	no	yes	poor	10+		
50	Clubhouse	203 Josephine Street (14A63B9B)	residential	c.1880	no	yes	poor	10+		
51	Hampton-Page House	225 Josephine Street (14A63B5B)	residential	c.1880	no	yes	poor	10+		

Appendix A:

	A	B	C	D	E	F	G	H	I	J
1	NAME	ADDRESS	ORIGINAL USE	DATE	LOCAL HD	NATIONAL	CONDITION	VACANT	IMAGE	ADD. INFO.
52	Mansfield Page House	227 Josephine Street (14A63B5A)	residential	c.1880	no	yes	poor	10+		
53	Jenkins House	229 Josephine Street (14A63B5)	residential	c.1880	no	yes	poor	10+		
54	Battletown Inn	108 W. Main Street (14A1A50)	commerical	c.1800	yes	yes	good	3+		
55	House, Academy Street	15 Academy Street (14A2A64)	residential	c.1900	yes	yes	fair	5+		
56	Osborn House/ Rockcroft	328 N. Buckmarsh Street (14A2A2)	residential	1919	no	yes	good	10+		

Appendix A:

	A	B	C	D	E	F	G	H	I	J
1	NAME	ADDRESS	ORIGINAL USE	DATE	LOCAL HD	NATIONAL	CONDITION	VACANT	IMAGE	ADD. INFO.
57	Ebenezer Methodist Church	1075 Ebenezer Road (14A26)	church	c.1890	no	no	good	3+		
58	Anderson's Mill and House	77 Clifton Road (9A38)	house and barn (former mill)	c.1800	no	yes	fair to poor	10+		Mill was repurposed into a barn
59	Bloomfield	1528 Lewisville Road (9A5)	house	c.1775	no	yes	fair	3+		Recently purchased with plan to restore
60	House, Longmarsh Road	736 Longmarsh Road (7A121)	house	c.1920	no	no	good	1+		
61	Store, Fishpaw Road	840 Fishpaw Road (7A2)	commercial	c.1920	no	no	good	5+		