

VIRGINIA :

IN THE CIRCUIT COURT FOR THE COUNTY OF ROANOKE

**IN RE: APPEAL OF SEPTEMBER 25, 2018 DECISION OF THE BOARD OF SUPERVISORS OF ROANOKE COUNTY, VIRGINIA
Special Use Permit Application PZ-1800595**

STAN SEYMOUR, JANE SEYMOUR,)
ADRIAN MAVER, BLAINE CREASY &)
SEYMOUR2, LLC)
)
Plaintiffs,)

v.)
)
5985 COLEMAN ROAD, LLC,)
)
SOUTHWEST VIRGINIA WILDLIFE)
CENTER OF ROANOKE, INC., and)
)
THE ROANOKE COUNTY BOARD)
OF SUPERVISORS,)
)
Defendants.)

Case No. CL18-1555

**SECOND AMENDED COMPLAINT FOR DECLARATORY RELIEF,
WRIT OF CERTIORARI AND PETITION FOR APPEAL**

Petitioners, Stan and Jane Seymour (the “Seymours”); Adrian Maver and Blaine Creasy (“Maver and Creasy”), and Seymour2, LLC (collectively, “Petitioners”), by and through counsel, submit the following as their Second Amended Complaint for Declaratory Relief, Writ of Certiorari and Petition for Appeal from the September 25, 2018 decision of the Roanoke County Board of Supervisors (the “Board of Supervisors”) to “grant[] a special use permit to allow construction of additional structures at 5985 Coleman Road” (the “SUP”) to the Southwest Virginia Wildlife Center of Roanoke, Inc. (“SVWC”).

Introduction

1. This is a Second Amended Complaint for Declaratory Relief, brought under Virginia Code Sections 8.01-184 et seq., 15.2-2204 and 15.2-2285. It challenges the validity of the Board of Supervisors' grant of the SUP to the SVWC allowing for the erection and operation of a large raptor cage at SVWC's wildlife rehabilitation facility and veterinarian hospital located at 5985 Coleman Road, Roanoke, Virginia 24018 (the "SVWC Property"). Additionally, the Board of Supervisors and the SVWC (together with 5985 Coleman Road, LLC the "Respondents") have taken the position that the Board of Supervisors' grant of the SUP also encompassed and grandfathered in all currently existing accessory structures located on the Property. At the very least, this Court must provide clarity on this issue.

2. In its original and first amended complaints, Petitioners only addressed the potential for particularized harm that could arise from the construction of the proposed raptor building. Because the ordinance granting the SUP, as well as all the statutorily required advertisements, only discuss "a special use permit to allow construction of additional structures," Petitioners did not set forth the particularized harm they are suffering as a result of the "existing" accessory structures on the SVWC Property, which Respondents now incredulously claim are also included within the scope of the SUP. Respondents apparent reading of the SUP essentially would give the SVWC *carte blanche* to construct as many structures on the SVWC Property as they choose.

3. This particularized harm is set forth in detail below, but includes the danger and damages arising from the rapid and extensive increase in use by the SVWC of the shared easement to access the SVWC Property over the last few years. Petitioners tried on numerous occasions to communicate their concerns to the SVWC, to no avail.

4. Moreover, to refer to the easement as “Coleman Road” is a complete misnomer. The easement which the Petitioners and the SVWC jointly use to access their respective properties is nothing more than a single lane dirt driveway that crosses over the Petitioners’ front lawns and at certain points is only 11 feet wide and at most is 16 feet wide. The easement (i.e. driveway) is not maintained by the state or the county; requires constant maintenance and upkeep; is too narrow for school buses to access; and passes within two car lengths of Maver and Creasy’s home. Indeed, Maver and Creasy’s children have to cross the driveway to get to the public road in order to ride the school bus. The clear and present danger suffered by Maver and Creasy’s children because of the multifold increase of traffic on the easements – the children have almost been hit in their own front yard on multiple occasions trying to get to school by people rushing animals to the wildlife center – is due solely to the SVWC’s continued construction of structures on the SVWC Property. This is a particularized harm suffered by the Respondents and the Respondents alone; no other children are put in danger trying to cross the easement to get to school.

5. In reviewing a challenge to a local governing body’s land use decision, courts apply the same standards set forth in Va. Code § 15.2-2314 pertaining to board of zoning appeals. *See Friends of Rappahannock v. Caroline County Bd. Of Sp’rs*, 286 Va. 38, 46 (2013).

6. Petitioners state that the Board of Supervisors erred in granting the SUP to the SVWC, and the action is invalid for, among others, the following reasons:

- a. Petitioners are aggrieved parties who have standing to challenge the SUP;
- b. The Ordinance (No. 092518-5) does not encompass or grandfather in the existing non-conforming buildings on the Property; thus, the issuance of the SUP is void and a

- violation of the Roanoke County Code (“County Code”) and the Roanoke County Zoning Ordinance (the “Zoning Ordinance”);
- c. The two conditions set forth in the Ordinance – that a staggered row of large evergreens be planted to obstruct the view from the Petitioners’ property and the raptor complex be built in conformance with the building plans – does not address all the particularized harm suffered by Petitioners;
 - d. A new raptor complex cannot be substituted as the “principal structure” without violating § 30-28 of the Zoning Ordinance;
 - e. The use for which the SUP was purportedly sought and granted is not a “use by right”;
 - f. The statutory public notice of the September 25, 2018 Board of Supervisors’ meeting was insufficient because it did not notify the public that the SUP was intended to encompass and grandfather in existing nonconforming accessory structures;
 - g. In its Ordinance purporting to grant the SUP (the “Ordinance”), the Board of Supervisors failed to make the necessary factual findings required by the Zoning Ordinance, especially in light of the Respondents’ position that the SUP covers all existing accessory structures on the SVWC Property;
 - h. Some of the factual findings that the Board of Supervisors did make in support of its purported grant of the SUP were facially inaccurate and internally inconsistent; and
 - i. The Board of Supervisors’ actions in granting the Special Use Permit were arbitrary and capricious.

Parties

7. Petitioners Stan and Jane Seymour are the owners of property and a residence located at 5942 Coleman Road, Roanoke, Virginia 24018, Tax Map No. 096.08-02-06.00-0000 (the “5942 Coleman Road Property”). A true copy of the deed evidencing the Seymours’ ownership interest in the 5942 Coleman Road Property is attached hereto as **Exhibit A**.

8. The Seymours were also the owners of property located at 5960 Coleman Road, Roanoke, Virginia 24018, Tax Map No. 096.08-02-04.00-0000 (the “5960 Coleman Road Property”). On or about November 30, 2018, the Seymours transferred the 5960 Coleman Road Property to Seymour2, LLC, a Virginia limited liability company. A true copy of the deed evidencing Seymour2, LLC’s ownership interest in the 5960 Coleman Road Property is attached hereto as **Exhibit B**. The Seymours are the sole owners and members of Seymour2, LLC. The 5960 Coleman Road Property contains a single-family residence requiring upkeep and which is currently being rented.

9. Petitioners Adrian Maver and Blaine Creasy own and reside on property located at 5946 Coleman Road, Roanoke, Virginia 24018, Tax Map No. 096.08-02-06.01-0000 (the “5946 Coleman Road Property”). A true copy of the deed evidencing Maver’s and Creasy’s ownership interest in the 5946 Coleman Rd. Property is attached hereto as **Exhibit C**.

10. Southwest Virginia Wildlife Center of Roanoke, Inc. operates a wildlife rehabilitation facility and veterinary hospital for the rehabilitation of wildlife in the Roanoke Valley and surrounding areas.

11. 5985 Coleman Road, LLC is the owner of the SVWC Property, Tax Map No. 096.08-02-03.00-0000.

12. Upon Information and belief, 5985 Coleman Road, LLC allows SVWC to use the SVWC Property. It is unclear whether SVWC's use of the SVWC Property is pursuant to a lease with 5985 Coleman Road, LLC.

13. The Board of Supervisors is the governing body of Roanoke County, Virginia, and is authorized to exercise all powers explicitly delegated to it in accordance with state law.

14. Defendants George G. Assaid, Phil C. North, Joseph P. McNamara, Martha B. Hooker, and P. Jason Peters are the members of the Board and are joined as Defendants only in their official capacities as members of that Board.

Procedural Posture

15. Any failure to follow the mandatory procedures set forth in the Virginia zoning ordinance enabling statutes when considering a zoning action results in a zoning decision which is a nullity. See generally, Va. Code Ann. §15.2-2200 et seq. This includes, but is not limited to, requirements to properly advertise the proposed zoning action under Virginia Code §15.2-2204.

16. The Board of Supervisors applied erroneous principles of law in granting the SUP. Its decision was erroneous and plainly wrong, contravened the applicable statutes, and violated the purpose and intent of the County Code and Zoning Ordinance. Additionally, the record does not support the Board of Supervisors' decision to grant the SUP or the Respondents' interpretation of the SUP to encompass and grandfather in the existing accessory structures.

17. On March 9, 2018, SVWC filed an application for a special use permit with Roanoke County for the purpose of erecting a large raptor building (also referred to as a raptor complex) at 5985 Coleman Road, Roanoke, Virginia (the "Application"). A true copy of the Application is attached hereto as **Exhibit D**.

18. Petitioners the Seymours and Maver and Creasy filed an administrative appeal on April 27, 2018 challenging certain determinations of Mr. John Murphy, the Roanoke County Zoning Administrator (the “Zoning Administrator”) outlined in his March 30, 2018 letter, including his finding that the SVWC is properly classified as a veterinary hospital/clinic and is not “boarding” animals in violation of the Zoning Ordinance. A copy of the Zoning Administrator’s March 30, 2018 letter is attached hereto as **Exhibit E**.

19. Petitioners the Seymours and Maver and Creasy filed a second administrative appeal, again challenging certain determinations made by the Zoning Administrator outlined in his May 17, 2018 letter, including finding that the proposed raptor building will not violate the Zoning Ordinance’s setback requirements and that a variance is not required under the County Code. A copy of the Zoning Administrator’s May 17, 2018 letter is attached hereto as **Exhibit F**.

20. On or about August 15, 2018, the Board of Zoning Appeals (the “BZA”) dismissed Petitioners the Seymours’ and Maver’s and Creasy’s appeals finding, pursuant to the Zoning Administrator’s opposition to the appeals, on the ground that they lacked standing because they are not “aggrieved parties.”

21. On September 13, 2018, Petitioners the Seymours, as well as Maver and Creasy, filed an appeal of the BZA decision with this Court. That appeal is currently pending before this Court as Case No. CL18001377.

22. On September 25, 2018, the Board of Supervisors granted the SUP to SVWC purportedly allowing SVWC to construct a large raptor complex on the SVWC Property and which also purportedly encompasses the then-existing accessory structures located on the SVWC Property. A copy of the Ordinance granting the SUP is attached hereto as **Exhibit G**.

23. It is this decision of the Board of Supervisors, to issue the SUP, which Petitioners appeal and seek a declaration that the SUP is invalid.

COUNT I – STANDING, DAMAGES RESULTING FROM IMPROPER AND UNLAWFUL APPROVAL OF THE SUP

24. Paragraphs 1-23 are incorporated herein by reference as if fully set forth herein.

25. Petitioners are aggrieved parties who have standing to challenge the SUP, and have suffered damages from the invalid SUPs approval.

26. Coleman Road is a partially public and partially private drive. The only access to the SVWC Property is through Coleman Road and across two easements (collectively the “Driveway Easement”). The public portion of Coleman Road fronts the 5942 Coleman Road Property and comes to an end just past the property line with the 5946 Coleman Road Property. From there, Coleman Road turns into a one lane gravel driveway that is 476 feet long and only 11 feet wide at points.

27. The first easement that constitutes the Driveway Easement is a 15-foot prescriptive easement, Instrument #200816770, which runs across the 5946 Coleman Road Property owned by Maver and Creasy. The second easement that forms the Driveway Easement is a recorded 15-foot ingress/egress easement, Instrument #201106842, which runs across the 5960 Coleman Road Property owned by Seymour2, LLC. Access to the SVWC Property across the Driveway Easement is also used by Maver and Creasy and Seymour2, LLC to access their properties.

28. Because the SVWC Property, the 5946 Coleman Road Property and the 5960 Coleman Road Property are only accessible by and through Coleman Road and the use of the Driveway Easement, which cross real property owned by Maver and Creasy and Seymour2,

LLC, Petitioners have a vested ownership interest in the Board of Supervisors' decision to grant the SUP.

29. 5985 Coleman Road LLC was formed on or about October 12, 2016. The sole member of 5985 Coleman Road is the Garvin Living Trust. John M. Garvin and Sabrina D. Leonard-Garvin (the "Garvins") are the sole trustees of the Garvin Living Trust.

30. The Garvins acquired the SVWC Property on or about September 23, 2013. On or about September 16, 2016, the Garvins conveyed the SVWC Property to the Garvin Living Trust. On or about December 13, 2016, the Garvin Living Trust conveyed the SVWC Property to 5985 Coleman Road, LLC.

31. Beginning in 2014 and continuing through 2018, the SVWC built a total of twelve accessory structures on the SVWC Property (the "Accessory Structures"). The SVWC's construction of these Accessory Structures is set forth in the SVWC's Supplemental Answers and Objections to Petitioners' First Interrogatories and Requests for the Production of Documents, a true copy of which is attached hereto as **Exhibit H**. Many of the Accessory Structures are also identified in Exhibit "A" to the Application (**Ex. D**).

32. The Accessory Structures are used primarily for the rehabilitation of small- to medium-sized mammals such as opossums, squirrels and racoons, and birds such as raptors, waterfowl and songbirds, or to permanently house "ambassador animals" that are used for educational purposes.

33. The primary use of the Accessory Structures does not include veterinary care. In their Supplemental Answers and Objections to Petitioners' First Interrogatories and Requests for the Production of Documents, the SVWC admitted that in approximately half of these Accessory Structures no veterinarian care is provided whatsoever.

34. The SVWC's conversion of the SVWC Property into a wildlife rehabilitation center began in the summer of 2014 when contractor(s), working for the Garvins, received a permit from Roanoke County to change the existing private residence on the SVWC Property into SVWC's principal wildlife rehabilitation building. Upon information and belief, until the time the permit was issued, the SVWC Property was used as a private residence and had only two accessory structures: a small shed and a well house.

35. The SVWC now sees over 2,000 wild animals annually at its wildlife center, which would not be possible without these Accessory Structures. This has resulted in a tremendous increase in traffic of anywhere from 20- to 50-fold over Coleman Road and the Driveway Easement between 2014 and the present. Prior to the SVWC Property being used as a wildlife rehabilitation center, there were days when the Easements were never used for ingress and egress to the SVWC Property. During the summer of 2018, there were around 55 car trips a day over the Driveway Easement. This dramatic increase in traffic and the use of the SVWC Property as a wildlife rehabilitation center has resulted in particularized damage to the Petitioners as set forth below.

Damages Suffered by Seymour2, LLC

36. Seymour2, LLC currently owns the 5960 Coleman Road Property which shares two common property lines with the SVWC Property. The common property lines are to the west and north of the SVWC Property and are identified in "Exhibit B Special Use Permit Concept Plan" contained within the Application (**Ex. D**). The Driveway Easement crosses over the 5960 Coleman Road Property and enters the SVWC Property through this common property line.

37. Because of the SVWC's wildlife rehabilitation activities, traffic has dramatically increased across the Driveway Easement since 2014. As a result, Seymour 2, LLC has suffered and continues to suffer particularized harm not shared by the general public. This particularized harm includes:

- a. The increased traffic crossing directly over the 5960 Coleman Road Property with its resulting traffic congestion, noise, dust, and light pollution as well as the increased activity on the neighboring SVWC Property have made the 5960 Coleman Road Property less valuable. In fact, the Seymours were able to repurchase the 5960 Coleman Road Property in 2017 for less than what they sold the property for a few years earlier, and on information and belief, the 5960 Coleman Road Property has continued to decline in value as a result of the impacts of the SVWC expansions;
- b. The increased traffic over the 5960 Coleman Road Property with its resulting traffic congestion, noise, dust, and light pollution make it more difficult to rent the improvements located on the 5960 Coleman Road Property;
- c. The increased traffic over the 5960 Coleman Road Property with its resulting traffic congestion, noise, dust, and light pollution have decreased the rental value of the improvements located on the 5960 Coleman Road Property;
- d. The increased traffic over the 5960 Coleman Road Property with its resulting traffic congestion, noise, dust, and light pollution has increased maintenance and cleaning costs of the improvements on the 5960 Coleman Road Property;
and

e. The increased traffic used to access the 5960 Coleman Road Property has resulted in increased maintenance costs, such as replacement gravel, to the easement used by Seymour2, LLC to access the 5960 Coleman Road Property.

38. These particularized damages suffered by Seymour 2, LLC will not only continue but increase as more and more accessory structures, such as the proposed raptor complex identified in the SUP, are built.

39. In addition, some of the Accessory Structures are visible from the 5960 Coleman Road Property. This particularized harm will only increase if the SVWC is allowed to build additional accessory structures, i.e. the raptor complex, to rehabilitate even more wildlife.

40. Because of the Driveway Easement, Seymour, LLC is uniquely subject to increased traffic congestion, dust, light, and noise due to the grandfathering of the existing Accessory Structures which will only increase by granting the SUP for the erection of the proposed Raptor Complex.

41. The general public will not suffer this particularized injury because Seymour2, LLC, as owners of one of the Driveway Easements' servient estates, will suffer this immediate and particularized harm.

42. Seymour2, LLC is also uniquely subject to particularized injury because the 5960 Coleman Road Property shares a common boundary line on two sides with the SVWC Property and any increased use of the property could have a deleterious effect on the value of the 5960 Coleman Road Property.

Damages Suffered by the Seymours

43. The Seymours own and occupy the 5942 Coleman Road Property, which is within close proximity to the SVWC Property and the proposed Raptor Complex. The Seymours' home is only a few hundred feet from the SVWC Property and is the last house on the state-maintained portion of Coleman Road. However, all traffic to and from the SVWC Property must pass the Seymours' home.

44. Because of the SVWC's wildlife rehabilitation activities, traffic has dramatically increased across the Driveway Easement and their home since 2014. As a result, the Seymours have suffered and continue to suffer particularized harm not suffered by the general public. This particularized harm includes:

- a. The increased number of visitors to the SVWC Property has resulted in a dramatic increase in vehicles turning around in the Seymours driveway and people knocking on their door looking for the wildlife center;
- b. The increased number of visitors to the Seymours' home is a direct result of their home being the last home on any state-maintained road and many smart phone applications do not provide directions on private driveways like the Driveway Easement;
- c. The increased number of visitors results in increased traffic congestion, noise, dust, and light pollution at the Seymours' home located on the 5942 Seymour Road Property;
- d. Because of the 5942 Coleman Road Property's close proximity to the Easements, the increased number of visitors to the SVWC has resulted in a dramatic increase in vehicles passing the Seymours' home which increases the

risk of automobile accidents or personal injury, as there have been two auto accidents on Coleman Road this year;

- e. Because of the 5942 Coleman Road Property's close proximity to the Easements, the increased number of visitors to the SVWC has resulted in a dramatic increase in dust and noise which decreases the Seymours' quality of life and ability to enjoy their home and property, especially outdoor spaces.

45. This particularized harm will only increase if the SVWC is allowed to build additional accessory structures, i.e. the Raptor Complex, to rehabilitate even more wildlife on the SVWC Property.

46. The general public will not suffer this particularized injury because the 5942 Coleman Road Property's close proximity to the SVWC Property subjects the Seymours to immediate and particularized harm as described above.

Damage Suffered by Maver and Creasy

47. Maver and Creasy own and occupy the 5946 Coleman Road Property which is within close proximity to the SVWC, the Accessory Structures and the proposed raptor complex. The Maver's and Creasy's home is located within shouting distance of the SVWC Property.

48. The 5946 Coleman Road Property is immediately adjacent to the 5960 Coleman Road Property and is the second property you pass upon exiting the SVWC Property.

49. Because of the 15-foot prescriptive easement across the 5946 Coleman Road Property, which provides the only access to the SVWC, Maver and Creasy suffer particularized injury not shared by the general public. This particularized harm includes:

- a. The dust created from the increased traffic over the 5946 Coleman Road Property where Maver and Creasy live with their children has contributed

to several asthma attacks suffered by Creasy from August 2017 through 2018;

- b. The dust created from the increased traffic over the 5946 Coleman Road Property where Maver and Creasy live with their children causes the air filters in the Maver and Creasy home to have to be replaced three times more often than is recommended;
- c. The dust created from the increased traffic over the 5946 Coleman Road Property where Maver and Creasy live with their children causes Maver and Creasy to incur expenses to have their home and deck power-washed more frequently than would otherwise be necessary;
- d. The increased traffic over the Driveway Easement where Maver and Creasy live with their children causes damages to the shared Driveway Easement making it more difficult to enter and exit the 5946 Coleman Road Property;
- e. The dust created from the increased traffic over the 5946 Coleman Road Property where Maver and Creasy live with their children has also increased maintenance costs on the Driveway Easement which Maver and Creasy use for ingress and egress to their home, including the costs of purchasing gravel which is displaced from all the traffic going to and from the SVWC Property;
- f. The increased traffic over the 5946 Coleman Road Property where Maver and Creasy live with their children also increases the danger to Maver and Creasy and their children from entering and exiting the 5946 Coleman

Road Property, especially when trying to cross the Driveway Easement to get to the school bus stop or back home after school. Maver and Creasy's children have to cross the driveway to get to the public road in order to ride the school bus. This presents a clear and present danger to Maver and Creasy's children because of the multifold increase of traffic on the easements – the children have almost been hit in their own front yard on multiple occasions trying to get to school by people rushing animals to the wildlife center – and is due solely to the SVWC's continued construction of structures on the SVWC Property;

- g. The increased traffic over the 5946 Coleman Road Property where Maver and Creasy live with their children increases the risk of bodily injury to them and their children because of the speeding traffic to and from the wildlife center, as Maver recently stopped a speeding SUV going across the Driveway Easement in front of the Maver and Creasy home endangering Maver and Creasy's children - the woman justified her reckless driving arguing she had an "injured bird";
- h. The increased traffic has disturbed Maver and Creasy's enjoyment of their home because of the increased traffic congestion, dust, noise pollution and light pollution it creates which sometimes wakes them up at night and which is within 20 feet of their outdoor pool and living area;

50. Because of the Driveway Easement, Maver and Creasy are uniquely subject to increased traffic, dust, light, and noise due to the grandfathering of the existing Accessory

Structures which will only increase by granting the SUP for the erection of the proposed raptor complex.

51. The general public will not suffer this particularized injury because Maver and Creasy, as owners of one of the Easements' servient estates, will suffer this immediate and particularized harm.

52. Accordingly, Seymour2 and Maver and Creasy have standing to bring these claims because, as the Supreme Court of Virginia has recognized "[n]eighbors who own property or reside adjacent to rezoned land ordinarily have interests sufficiently affected to confer upon them standing" Braddock, L.C. v. Bd. of Sup'rs of Loudoun County, 268 Va. 420, 424 n.1, 601 S.E.2d 552, 554 n.1 (2004). Here, Seymour2 owns property that shares a property line with the Property. Alone, this adjoining property line is ordinarily sufficient to confer standing. See, e.g., Carolinas Cement Co. GP v. County of Warren, 52 Va. Cir. 6, 2000 WL 33258759, at *7 (2000) (noting "persons who have standing are the abutting landowners") (citing Barton v. Town of Middleburg, 27 Va. Cir. 20 (Loudoun 1992) (holding that owner of adjacent land has standing to challenge site plan)).

53. Regardless, the Petitioners would have standing to challenge the Board of Supervisor's decision pursuant to the Supreme Court of Virginia's ruling in *Friends of Rappahannock v Caroline Cnty. Bd. Of Supervisors*, 286 Va. 38 (2013).

54. In *Friends of Rappahannock*, the Supreme Court of Virginia set forth the following two-part test for determining standing in land use matters:

First, the complainant must own or occupy real property within or in close proximity to the property that is the subject of the land use determination, thus establishing that it has a direct, immediate, pecuniary, and substantial interest in the decision. Second, the complainant must allege facts demonstrating a particularized harm to some real personal or property right, legal or equitable, or

imposition of a burden or obligation upon the petitioner different from that suffered by the public generally.

Id at 43 (internal citations omitted)

55. Accordingly, to meet the *Friends of Rappahannock* test, a party must allege facts showing: (1) they own or occupy real property within close proximity to the subject land and (2) “particularized harm” on a property right or a burden or obligation different from that suffered by the general public. As alleged above, Petitioners have met that burden.

56. First, Petitioners own or occupy real property within or in close proximity to the 5985 Property. See, e.g., Riverview Farm Associates Virginia Gen. P'ship v. Bd. of Sup'rs of Charles City County, 259 Va. 419, 427, 528 S.E.2d 99, 103 (2000) (finding that "plaintiffs live within sufficiently close proximity to the property . . . to possess a 'justiciable interest' in the litigation" where all plaintiffs "owned property located within about 2,000 feet of **either** the [property at issue] or **the access road serving the [property at issue]**") (emphasis added). Here, the Petitioners have alleged that they either own or occupy real property immediately adjacent to or within close proximity to the SVWC Property, thus satisfying the first prong of the *Friends of Rappahannock* test.

57. Second, for the numerous reasons set forth above, the Petitioners are suffering and will continue to suffer “particularized harm” to their property rights or a burden or obligation different from that suffered by the general public. Petitioners have alleged increased traffic congestion, noise, lights and dust which has caused a decrease in the value of their property; increased safety risks for them and their children; an increase in home maintenance costs; health problems including asthma; and an increase in maintenance costs to the Driveway Easement used to access their properties, thus satisfying the second prong of the *Friends of Rappahannock* test.

58. Moreover, because the only access to the SVWC Property is via the Driveway Easement across the 5946 Coleman Road Property and the 5960 Coleman Road Property, Maver and Creasy's and Seymour2, LLC's property rights are directly affected by the use of, and any increase in traffic on (among other impacts) on Coleman Road and the Driveway Easement. Indeed, Virginia law recognizes that ownership or interest in an easement affected by a decision of a zoning board of appeals is, by itself, sufficient to confer standing. *See, e.g., Tran v. Fairfax County Bd. of Supervisors*, 87 Va. Cir. 344, 2013 WL 9576574, at *3 (2013) (in a case involving a shared easement, the Court found that "ownership interest in the subject property where the affected property is readily apparent" can confer standing.) Here, while the Driveway Easement is not directly mentioned in the SUP, the Driveway Easement is directly implicated because it is the only way to access the SVWC Property and all the structures located thereon.

59. The ruling in *Tran* is supported by County Code Sec. 30-23-2 which provides that:

No nonconforming use shall be enlarged, intensified or increased, nor intensified to occupy a larger structure or building than was occupied at the effective date of adoption or subsequent amendment of this ordinance, with the exception that an existing, nonconforming, single-family residential structure and use in a commercial or industrial zoning district shall be allowed a 50 percent increase (either one time or cumulative) in the square footage of the use or structure in existence at the time of the adoption of this ordinance.

60. Because the SVWC Property is only accessible by the Driveway Easement and has no public road frontage, it is considered a non-conforming lot under County Code Section Sec. 30-23-5, and thus, subject to County Code Sec. 30-23-2 above. Petitioners have standing to challenge this constant increase in non-conforming use of the SVWC Property, such as the Raptor Complex, because it has a readily apparent effect on the Driveway Easement, and

because they have been damaged by the actions complained of herein, and seek recovery for same and injunctive relief to prevent further damages and unlawful use of the SVWC Property.

COUNT II – EXISTING NON-CONFORMING USES

61. Paragraphs 1-60 are incorporated by reference as if fully set forth herein.

62. In the Ordinance, the Board of Supervisors found that the “proposed use is in conformance with the comprehensive plan of the County, as amended, pursuant to the provisions of Section 15.2-2232 of the 1950 Code of Virginia, as amended, and with official County policies adopted in relation thereto, including the purpose of the zoning ordinance.” Ex. D.

63. At no time does the Board of Supervisors find nor does the Ordinance state that the existing use of the SVWC Property as a wildlife rehabilitation facility, which use includes the Accessory Structures, is in conformance with the comprehensive plan of the County. The Board of Supervisors and the Ordinance only address the “proposed use” of the SVWC Property.

64. As a result, the Board’s finding that the “proposed use” is in conformance with Roanoke County’s Comprehensive Plan is inaccurate because it never addresses the SVWC’s use of the SVWC as a wildlife rehabilitation center, separate and apart from any veterinarian services.

65. Further, the existence of non-conforming Accessory Structures on the SVWC Property at the time of the Board of Supervisor’s action rendered the issuance of the SUP a violation of the County Code and applicable law.

66. Section 30-14(C) of the County Code requires an applicant to first obtain a variance from the Board of Zoning Appeals where road frontage requirements are not met. The ordinance states in pertinent part:

(C) The administrator shall not accept any amendment application for a lot or parcel that does not comply with the minimum lot area, width, or frontage requirements of the

requested zoning district. In such situations, the applicant shall first seek a variance from the board of zoning appeals. If a variance is granted, the administrator shall thereafter accept the amendment application for the consideration of the commission and board.

(emphasis added).

67. It is undisputed that the SVWC Property does not comply with the road frontage requirement because it has no public street frontage and is only accessible via the Driveway Easement.

68. SVWC did not seek, nor was it granted, a variance in accordance with § 30-14(C) prior to its application being considered by the Board of Supervisors.

69. The Zoning Administrator, in his May 17, 2018 letter, opined that a variance was not necessary because this requirement of the ordinance only applies where an applicant is seeking to rezone a parcel. It is axiomatic that government enactments, including ordinances, should be read as a whole, giving effect to every word. *See Monument Associates v. Arlington County Bd.*, 242 Va. 145, 149 (1991). In so finding, the Zoning Administrator failed to give effect to language of the ordinance as a whole. Section 30-14(C) provides that “any amendment application” which does not comply with the frontage requirements shall not be accepted unless and until the applicant is granted a variance. The ordinance does not state that only amendment applications pertaining to rezoning shall require a variance. The Zoning Administrator’s conclusion was a perversion of the ordinance. This is confirmed by the County’s special use permit form itself which very plainly states, “Does the parcel meet the minimum lot area, width, and frontage requirements of the requested district? . . . **IF NO, A VARIANCE IS REQUIRED FIRST.**” *(emphasis in original).*

70. Significantly, the County’s special use permit form also states in the same section, “*If rezoning request, are conditions being proffered with this request?*” *(emphasis added).*

Clearly, the intent of the County Code is to require variances for any amendment application, not just rezoning requests. If the Zoning Administrator's interpretation were correct, there would be no need for the County's special use permit application to indicate, in the same section setting forth the requirement to obtain a variance, additional requirements for rezoning requests specifically. There can be no dispute that the intent of the § 30-14(C) is to require a variance for "any amendment application" which does not comply with the frontage requirements.

71. The Board of Supervisors' determination that the SUP complies with the County Code is clearly erroneous.

72. Wildlife rehabilitation, which often requires boarding animals outside in pens for long periods of time, is a non-conforming use that was not and cannot be brought into conformance through an SUP. Wildlife rehabilitation is separate and distinct from providing veterinarian services.

73. The SUP permits the SVWC to erect a raptor complex for the purpose of holding raptors for extended periods of time for "rehabilitation" purposes, not veterinarian purposes.

74. The Zoning Administrator opined in his letter dated March 30, 2018 that the SVWC would not be "boarding" animals, as any overnight stay would be incidental to the medical treatment of wild animals and its license to operate prohibits "boarding." *See* Ex. B. This is incorrect. For example, young mammals and birds are brought to the SVWC Property simply because they are too young to survive on their own in the wild. These animals never see a veterinarian, because they are not sick. Rather, they are fed and housed, i.e. boarded, until old enough to be released into the wild.

75. The Zoning Ordinance also prohibits veterinary hospital/clinics from holding animals "incidental to" hospital or clinical care both outside and long term.

76. Section 30-29-5 defines “Veterinary hospital/clinic” as “Any establishment rendering surgical and medical treatment of animals. Boarding of animals shall only be conducted indoors, on a short term basis, and shall only be incidental to such hospital/clinic use, unless also authorized and approved as a commercial kennel.” (*emphasis added*).

77. Assuming *arguendo* that the SVWC qualifies as a veterinary hospital/clinic under the Zoning Ordinance, it may only hold animals indoors, for short periods of time, and where such boarding is incidental to veterinarian care. This is common knowledge. Veterinarians do not hold animals in outdoor cages for up to six months in order to “rehabilitate” them or as part of veterinarian care.

78. Thus, the erection of an outdoor raptor complex, which is likely to be used almost exclusively, or exclusively, for rehabilitation purposes, as permitted by the SUP violates the clear language of the Zoning Ordinance. The County cannot exempt SVWC from these requirements by SUP. Setback requirements are the only non-conforming use which may be excepted by the SUP.

79. The Zoning Ordinance permits the development of nonconforming properties by issuance of an SUP. However, such development of nonconforming properties is only available when the sole nonconformity is the lack of public street frontage.

80. Section 30-23-5(B) of the Zoning Ordinance provides:

Any lot of record that is nonconforming because it has no public street frontage may be developed, or an existing structure on the lot may be expanded, provided the county reviews and grants a special use permit for the proposed development, expansion, and use in accord with the standards and procedures contained in section 30-19 of this ordinance.

81. This is the only section of the Zoning Ordinance that permits a nonconforming use to be cured by an SUP. Additionally, § 30-23-5(B) applies only where an existing structure is

sought to be expanded. The raptor complex is not an expansion of any existing structure, but rather, is an entirely new structure.

82. Further, the pre-existing non-conforming structures, i.e. the Accessory Structures, bar the granting of the SUP.

83. The Zoning Administrator confirmed in his May 17, 2018 letter that the Accessory Structures on the SVWC Property were either improperly-granted zoning permits or had not been granted permits at all. (Ex. F.) The Zoning Administrator further determined that these nonconforming and pre-existing accessory structures would require a special use permit. *Id.* This is exactly why the Respondents are now attempting to argue that the SUP encompassed and grandfathered in these Accessory Structures, because the SUP would be void otherwise.

84. Despite having the Accessory Structures which do not conform to the Zoning Ordinance, SVWC applied for, and the Board of Supervisors granted SVWC the SUP solely for the construction of an additional structure, a raptor complex. Granting the SUP while the SVWC property already encompassed multiple nonconforming structures violates the Zoning Ordinance.

85. Section 30-23-2 of the Zoning Ordinance states in pertinent part:

(B) No nonconforming use shall be enlarged, intensified or increased, nor intensified to occupy a larger structure or building than was occupied at the effective date of adoption or subsequent amendment of this ordinance...

...

(D) No building or structure not conforming to the requirements of this ordinance shall be erected in connection with the nonconforming use of land.

86. Despite Respondents' assertions, the Board of Supervisors failed to even address the Accessory Structures in granting the SUP. The Ordinance and SUP only address the "proposed use" in permitting the SVWC to construct an additional structure, a large raptor complex. Permitting an additional non-conforming use cannot be done without first remedying

the existing nonconforming uses, i.e. the Accessory Structures. Otherwise, the SUP is in direct contravention of Section 30-23-2 of the Zoning Ordinance.

87. The SUP cannot allow the SVWC to do precisely what Section 30-23-2 prohibits – enlarge, intensify and increase a nonconforming use and to erect a nonconforming structure in connection with its already nonconforming use of land. The Board of Supervisors’ finding that granting the SUP conforms to the Roanoke County Code was arbitrary and capricious, plainly wrong, and applied erroneous principles of law.

88. The Board of Supervisors exceeded its authority by granting the SUP without addressing the pre-existing non-conforming structures.

89. Moreover, the Accessory Structures on the SVWC Property do not meet the Zoning Ordinance’s setback requirements and another accessory structure is only partially completed and thus a nonconforming structure. This was recognized by the Zoning Administrator in his May 17, 2018 letter (Ex. F.).

90. Pursuant to § 30-23-2(D) of the Zoning Ordinance, no structure may be erected in connection with the nonconforming use of land. Because the SVWC was never granted a special use permit for the Accessory Structures, they are in clear non-conformance.

91. In granting the SUP without requiring SVWC to bring the Accessory Structures into compliance with the Zoning Ordinance, the Board of Supervisors applied erroneous principles of law in violation of the purposes and intent of the Zoning Ordinance.

COUNT III – PRINCIPAL STRUCTURE

92. Paragraphs 1-91 are incorporated by reference as if fully set forth herein.

93. A new raptor building cannot be substituted here as the “principal structure” because the raptor complex is not and cannot be the principal structure, or one of two principal

structures as alleged by the County, under the Ordinance.

94. The Site Plan approved by the Board of Supervisors states that the “Current & Proposed Use” of the SVWC is a veterinary clinic. In its supplemental responses to Petitioners’ First Set of Interrogatories (**Exhibit H**), the SVWC stated that they do not know how the new raptor complex will be used other than to allow birds fly inside .

95. While Petitioners disagree that the SVWC is operating a veterinarian clinic and not a wildlife rehabilitation center, which are two distinct things, it is undisputable that use of the SVWC Property as a veterinarian clinic is the only by-right use of the two under the Zoning Ordinance. The only place where any veterinarian services arguably are being provided is in the existing principal structure. If the SVWC is unsure if they will use the raptor complex to provide veterinarian, as opposed to rehabilitation services, then it cannot be substituted as the principal structure.

96. Section 30-34-3(B)(5) requires that where the principal structure is 150 feet from the street, accessory buildings may be located 150 feet from the street.

97. This is why, in his May 17, 2018 letter, the Zoning Administrator advised that if the new raptor complex is built, it will be considered to the principal building. Otherwise it would not meet the setback requirements of the Zoning Ordinance.

98. The Zoning Ordinance defines “principal building” as “[a] building or structure in which the primary use of the lot on which the building is located is conducted.” § 30-28.

99. The purported primary use of the property is as a veterinary clinic.

100. Significantly, SVWC did not indicate in any supporting documentation to its application that the raptor complex was intended to be the principal building. SVWC’s filings

indicated, only, that the proposed raptor complex was intended to be the “primary raptor building.”

101. The evidence simply does not support any finding that the raptor complex, an outdoor building built for the rehabilitation of raptors, will replace the purported primary use of the SVWC Property as a veterinary clinic. The evidence directly contradicts such a finding, including SVWC’s own admission that they do not know how the raptor complex will be used.

102. The Zoning Administrator’s conclusion that the raptor complex would be the principal building was a results-driven conclusion wholly unsupported by the evidence.

103. The Board of Supervisor’s reliance on this unfounded claim by the Zoning Administrator was in clear error and therefore is arbitrary and capricious.

COUNT IV – NO USE BY RIGHT

104. Paragraphs 1-103 are incorporated by reference as if fully set forth herein.

105. The use for which the SUP was granted is not a “use by right” under the Zoning Ordinance.

106. The SVWC is improperly classified as a veterinary hospital/clinic.

107. The Board of Supervisors erroneously determined that SVWC has operated a veterinary hospital/clinic on the property.

108. The Zoning Ordinance defines a veterinary hospital/clinic as:

Any establishment rendering surgical and medical treatment of animals. Boarding of animals shall only be conducted indoors, on a short term basis, and shall only be incidental to such hospital/clinic use, unless also authorized and approved as a commercial kennel.

109. The Application and its literature make it clear that SVWC provides some veterinary services, but mostly serves as a wildlife rehabilitation center providing long-term

boarding or of captive wildlife - sometimes for the lifetime of the animal, as SVWC's website indicates certain animals reside permanently on the SVWC Property.

110. Moreover, by her own admission during her deposition in this matter, the SVWC's veterinarian may go weeks or months without even visiting the SVWC Property, and she does not provide any treatment to many if not most of the wildlife rehabilitated at SVWC's center.

111. A wildlife rehabilitation center is not a permitted use under the Zoning Ordinance.

112. Section 30-4(A) of the Zoning Ordinance provides that "Uses and activities not provided for or addressed by the terms of this ordinance, shall be considered prohibited uses and activities...."

113. Because wildlife rehabilitation is not a permitted use under the Zoning Ordinance¹ and there has been no finding of whether such use is consistent with the ordinance, SVWC's use of the property for wildlife rehabilitation is a nonconforming use which cannot be cured by the SUP as discussed above.

114. The Board of Supervisor's finding that SVWC operates a veterinary hospital/clinic was clear error.

115. SVWC use of the SVWC Property as a wildlife rehabilitation center is not a use by right under the Zoning Ordinance.

116. Accordingly, the Board of Supervisors applied erroneous principles of law and the granting of the SUP was in clear error.

¹ If Roanoke County intended to permit wildlife rehabilitation under the Zoning Ordinance, it would have provided for such. For example, the City of Roanoke's Zoning Ordinance expressly provides for "Wildlife rescue shelter or refuge area." See Roanoke City Zoning Ordinance § 36.2-300, *et seq.*

COUNT V – INSUFFICIENT NOTICE

117. Paragraphs 1- 116 are incorporated by reference as if fully set forth herein.

118. The statutory public notice of the September 25, 2018 Board meeting was insufficient as a matter of law (the “Notice”).

119. Respondents have taken the position that the SUP encompasses and grandfathers in the Accessory Structures on the SVWC Property. Nowhere does the statutory public notice state that the SUP is for this purpose.

120. A copy of the statutory public notice is attached hereto as **Exhibit I**. Specifically, the Notice states that the purpose of the meeting is for the “Southwest Virginia Wildlife Center of Roanoke, Inc. to obtain a Special Use Permit in an AR, Agricultural/Residential, District **to construct buildings on** a parcel without public road frontage . . .” (**emphasis added**).

121. Because of the clear deficiencies in the Notice, the SUP is void.

COUNT VI – BOARD FAILED TO MAKE FACTUAL FINDINGS

122. Paragraphs 1-121 are incorporated by reference as if fully set forth herein.

123. In its Ordinance purporting to grant the Special Use Permit, the Board failed to make the factual findings required by the Zoning Ordinance.

124. The Zoning Ordinance required the Board to make certain findings that the SUP meets certain standards including that granting of the SUP will have a “minimum adverse impact on the surrounding neighborhood or community.” See County Code Sec. 30-19-1(B)(2).

125. This “minimum adverse impact” shall be evaluated with consideration of such things as “traffic congestion, noise, lights, dust, drainage, water quality, air quality, odor, fumes and vibrations.” *Id.* This also includes consideration of site design and “access.” *Id.*

126. At no time did the Board of Supervisors make any factual findings concerning the impact of all the existing Accessory Structures on the SVWC Property on the surrounding community and neighbors. Since 2014, the amount of traffic crossing the Driveway Easement has increased dramatically, and this is due in large part to the existing Accessory Structures.

127. As set forth above, the Petitioners have alleged that the SVWC's use of the SVWC Property has resulted in increased dust, noise, lights and vibrations on their properties. Yet, despite being required to make factual findings and to mitigate such effects resulting from "traffic congestion, noise, lights, and dust," the Board of Supervisors made no such factual findings.

128. It is difficult to imagine the Petitioners not having standing to challenge a Special Use Permit when they specifically allege that granting the SUP will result in increased traffic, noise, lights and dust, and testified to such impacts from the growth of the Center and structures that are now being approved retroactively by the SUP. The Board of Supervisors is required by the County Code to make factual findings regarding these exact types of harm, and the impacts of the retroactively approved structures and the proposed new structure(s) which the Board of Supervisors failed to do.

129. If, as Respondents allege, the SUP encompasses and grandfathers in the Accessory Structures, then the Board of Supervisors were required to address the impacts that these Accessory Structures have had on such things as "traffic congestion, noise, lights, dust, drainage, water quality, air quality, odor, fumes and vibrations." *Id.*

130. Because the Board of Supervisors failed to make any such factual findings, the SUP is in violation of the Zoning Ordinance and is void.

COUNT VIII – ERRONEOUS FACTUAL FINDINGS

131. Paragraphs 1-130 are incorporated by reference as if fully set forth herein.

132. The cursory factual findings that the Board of Supervisors did make in support of its purported grant of the SUP were facially inaccurate and internally inconsistent.

133. The Board of Supervisors' conclusory statement that the SUP will have minimum adverse impact on the surrounding neighborhood and community was in plain error.

134. In so finding, the Board of Supervisors failed to estimate, evaluate or even consider the increased traffic, dust, light and noise that will impact the surrounding properties if the expansion is allowed.

135. In so finding, the Board of Supervisors also failed to estimate, evaluate or even consider the increased traffic, dust, light and noise that has impacted surrounding properties because of the Accessory Structures built on the SVWC Property since 2014.

136. The SVWC Property is accessible only by the Driveway Easement and has no public street frontage. As explained above, the Petitioners' properties are directly and significantly affected in a manner different than the general public, and the Board of Supervisors failed to address these impacts in relation to both the existing Accessory Structures and the proposed uses for the SVWC from the SVWC Property.

137. The Board of Supervisors accepted, over the Seymours' and Maver and Creasy's objections, SVWC's factually unsupported, and false, statements that the expansion would have minimal impact and attestations to the alleged benefits to the community.

COUNT IX – ARBITRARY AND CAPRICIOUS

138. Paragraphs 1-137 are incorporated by reference as if fully set forth herein.

139. The Application itself was defective for the reasons set forth above.

140. The Board of Supervisor's granting of the SUP was also procedurally defective and in contravention of the County Code and Zoning Ordinance as discussed above.

141. The proposed raptor complex is not permitted under the County Code and the Board of Supervisors granted the SUP in violation of the Zoning Ordinance for the reasons set forth above.

142. The Board of Supervisors acted without adequate study, analysis, or identification of the true nature of the proposed use, the existing non-conforming uses on the SVWC Property, including the Accessory Structures, and the impact on the County and surrounding properties.

143. The Board of Supervisors did not conduct or consider any reliable analysis of the light, noise, dust or traffic effects that will occur as a result of granting the SUP or from the SVWC's existing use of the Property.

144. The Board of Supervisors did not conduct or consider any reliable analysis of the burden the SUP places on the neighboring properties.

145. Because of the arbitrary, capricious, and unreasonable and unlawful acts of the Board of Supervisors in granting the SUP, this Court should declare the SUP invalid.

Requested Relief

WHEREFORE, the Petitioners respectfully request that the Court determine:

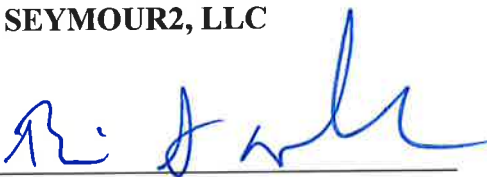
- 1) That the purported Special Use Permit be declared invalid, null and void, arbitrary, capricious, unreasonable, unlawful, and without force or effect and that the requirements of the applicable zoning designation of the SVWC Property remain in effect;
- 2) That the Board of Supervisors require 5985 Coleman Road, LLC to come into compliance with the zoning ordinance before any Special Use Permit is granted expanding the use of the SVWC Property;

3) That the Special Use Permit approved by the Board of Supervisors on September 25, 2018 granting SVWC the right to construct buildings on a parcel without public road frontage at 5985 Coleman Road in the Cave Spring Magisterial District is void;

4) That the actions of the Board of Supervisors violated the law and are invalid as alleged above; and

5) To grant Petitioners all such other relief as is warranted by the pleadings and evidence as the Court deems appropriate, including by awarding them their damages resulting from the foregoing actions of the Board of Supervisors and the SVWC, and granting them injunctive relief to maintain the *status quo* and to prevent further harm to the Petitioners.

**STAN SEYMOUR, JANE SEYMOUR,
ADRIAN MAVER, BLAINE CREAMY,
and SEYMOUR2, LLC**

By: 

James K. Cowan, Jr. (VSB #37163)
Brian S. Wheeler (VSB #74248)
Blair N.C. Wood (VSB #81101)
Eric D. Chapman (VSB #86409)
CowanPerry PC
250 South Main Street, Suite 226
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jcowan@cowanperry.com
bwheeler@cowanperry.com
bwood@cowanperry.com
echapman@cowanperry.com

Counsel for Plaintiffs

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and exact copy of the foregoing Second Amended Complaint for Declaratory Relief, Writ of Certiorari, and Petition for Appeal was emailed and mailed, postage prepaid, this 8th day of November, 2019, to counsel of record, as follows:

Peter S. Lubeck, Acting Roanoke County Attorney
5204 Bernard Drive, Suite 431
Roanoke, Virginia 24018
plubeck@roanokecountyva.gov

Counsel for the Roanoke County Board of Supervisors

James I. Gilbert, IV, Esq.
Adam L. Miller, Esq.
Gilbert, Bird, Sharpes & Robinson
310 South Jefferson Street
Roanoke, Virginia 24011
jgilbert@gbsrattorneys.com

*Counsel for 5985 Coleman Road, LLC and Southwest Virginia Wildlife Center of
Roanoke, Inc.*

G. Harris Warner, Esq.
P.O. Box 21584
2404 Electric Road, Suite A
Roanoke, Virginia 24018
hwarner@warnerrenick.com

Co-counsel for Plaintiffs



ROANOKE COUNTY TAX MAP NO. 96.8-2-6

CONSIDERATION \$300,000.00

THIS DEED, made and entered into this 5th day of July, 2006 by and between John W. SOURS, III, David L. SOURS, Stuart L. SOURS, and Taboth S. BOCH, being all of the beneficiaries of the Estate of John W. Sours, Jr., deceased, Grantors, parties of the first part; and Stanley A. SEYMOUR, III, and Jane L. SEYMOUR, husband and wife, or the survivor, Grantees, parties of the second part;

:W I T N E S S E T H:

WHEREAS, by Deed dated May 21, 1965, of record in the Clerk's Office of the Circuit Court of the County of Roanoke, Virginia, in Deed Book 774, page 158, John W. Sours, Jr., and Nomeka B. Sours, husband and wife, acquired the hereinafter described property as tenants by the entireties, retaining the right of survivorship as at common law; and,

WHEREAS, the said Nomeka B. Sours died on October 17, 1986, and title to the hereinafter described property vested solely in the said John W. Sours, Jr.; and,

WHEREAS, the said John W. Sours, Jr., died testate on October 7, 2005, and by his Will of record in the aforesaid Clerk's Office in CWF200500445, he devised and bequeathed

Carter, Osborne & Miller
ATTORNEYS AT LAW
 1401 Franklin Road, SE
 P. O. Box 19205
 Roanoke, Virginia 24092-4205
 541-983-7234

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the hereinafter described property unto his children, John W. Sours, III, David L. Sours, Stuart L. Sours, and Martha T. Sours (now known as Taboth S. Boch); and,

WHEREAS, the Grantees have entered into a contract to purchase the hereinafter described property from the Grantors.

NOW, THEREFORE, for and in consideration of the premises and the sum of TEN DOLLARS (\$10.00) cash in hand paid by the parties of the second part to the parties of the first, and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties of the first do hereby GRANT, BARGAIN, SELL and CONVEY, with General Warranty of Title and English Covenants of Title unto Stanley A. Seymour, III, and Jane L. Seymour, husband and wife, as tenants by the entirety with the right of survivorship as at common law, all that certain tract or parcel of land lying and being situate in the County of Roanoke, State of Virginia, and more particularly described as follows, to-wit:

See Attached Exhibit "A"

This conveyance is made subject to all easements, restrictions, and conditions of record affecting the hereinabove described property.

Carter, Osborne & Miller
 1411 Franklin Road, S.W.
 P.O. Box 17206
 Roanoke, Virginia 24012-3206
 540-993-0234

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WITNESS the following signatures and seals:

John W. Sours, III (SEAL)
John W. Sours, III

David L. Sours (SEAL)

Stuart L. Sours (SEAL)
Stuart L. Sours

Taboth S. Boch (SEAL)

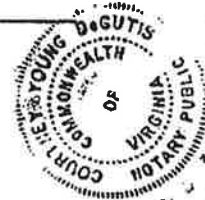
STATE OF VIRGINIA AT LARGE

CITY/COUNTY OF ROANOKE, TO-WIT:

The foregoing instrument was acknowledged before me this
11 day of July, 2006, by John W. Sours, III.

My commission expires: 5-31-09

Lucy DeGutis
Notary Public



ross, Osborne & Miller
attorneys at law
1401 Franklin Road, SW
P.O. Box 11206
Roanoke, Virginia 24002-9206
540-981-0234

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WITNESS the following signatures and seals:

John W. Sours, III (SEAL)

David L. Sours

David L. Sours (SEAL)

Stuart L. Sours (SEAL)

Taboth S. Boch

Taboth S. Boch (SEAL)

STATE OF VIRGINIA AT LARGE

CITY/COUNTY OF ROANOKE, TO-WIT:

The foregoing instrument was acknowledged before me this
____ day of _____, 2006, by John W. Sours, III.

My commission expires: _____

Notary Public

Carter, Osborne & Miller
ATTORNEYS AT LAW
1401 Franklin Road, S.W.
P.O. Box 13304
Roanoke, Virginia 24002-3304
703-993-0134

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STATE OF IOWA

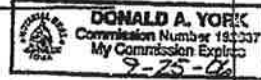
COUNTY OF Polk, TO-WIT:

The foregoing instrument was acknowledged before me this

5th day of JULY, 2006, by David L. Sours.

My commission expires: SEPTEMBER 25, 2006

[Signature]
Notary Public



STATE OF VIRGINIA AT LARGE

CITY/COUNTY OF ROANOKE, TO-WIT:

The foregoing instrument was acknowledged before me this

13th day of March, 2006, by Stuart L. Sours.

My commission expires: May 31, 2009

Katrina Marie Ellis
Notary Public

STATE OF VIRGINIA AT LARGE

CITY/COUNTY OF ROANOKE, TO-WIT:

The foregoing instrument was acknowledged before me this

13th day of March, 2006, by Taboth S. Boch.

My commission expires: September 30, 2009

[Signature]
Notary Public

Carter, Osborne & Miller
104 Franklin Road, S.W.
P.O. Box 10226
Roanoke, Virginia 24002-1106
540-982-0114

EXHIBIT "A"
 SITUATE IN THE COUNTY OF ROANOKE, STATE OF VIRGINIA:

All that certain tract or parcel of land, situate off Coleman Road (Virginia Secondary Route 735), containing 10.5563 acres, as more particularly shown on "Boundary Survey for Stanley A. Seymour, III & Jane L. Seymour", dated July 1, 2006, made by Caldwell White Associates, Engineers-Surveyors-Planners, and recorded in the Clerk's Office of the Circuit Court of the County of Roanoke, Virginia, in Plat Book 30, page 86.

Carter, Osborne & Miller
 ATTORNEYS AT LAW
 1411 Franklin Road, S.W.
 P.O. Box 18216
 Roanoke, Virginia 24012-1216
 540-983-0234

INSTRUMENT #200611593
 RECORDED IN THE CLERK'S OFFICE OF
 ROANOKE COUNTY VA
 JULY 18, 2006 AT 11:15AM
 \$300.00 GRANTOR TAX WAS PAID AS
 REQUIRED BY SEC 58.1-902 OF THE VA. CODE
 STATE: \$150.00 LOCAL: \$150.00
 STEVEN A. MCGRAW, CLERK

RECORDED BY: FRB

**VIRGINIA LAND RECORD COVER SHEET
FORM A - COVER SHEET CONTENT**

PETRS000775

000012

INSTRUMENT 2018-11761
RECORDED IN THE CLERK'S OFFICE OF
ROANOKE COUNTY CIRCUIT COURT ON
DECEMBER 11, 2018 AT 09:18 AM
STEVEN H. MOHRAM, CLERK
RECORDED BY: BRG

Instrument Date: 11/30/2018
Instrument Type: DBS
Number of Parcels: 1 Number of Pages: 3
 City County

ROANOKE COUNTY

TAX EXEMPT? VIRGINIA/FEDERAL LAW

Grantor: 58.1-811(A).10

Grantee: 58.1-811(A).10

Consideration: \$0.00

Existing Debt: \$0.00

Actual Value/Assumed: \$0.00

PRIOR INSTRUMENT UNDER § 58.1-803(D):

Original Principal: \$0.00

Fair Market Value Increase: \$0.00

Original Book Number:

Original Page Number:

Original Instrument Number:

Prior Recording At: City County

Percentage In This Jurisdiction: 100%

BUSINESS / NAME

1 Grantor: SEYMOUR, III, STANLEY A

2 Grantor: SEYMOUR, JANE L

1 Grantee: SEYMOUR2, LLC

Grantee:

GRANTEE ADDRESS

Name: SEYMOUR2, LLC

Address: 5942 COLEMAN ROAD

City: ROANOKE

State: VA Zip Code: 24018

Book Number:

Page Number:

Instrument Number:

Parcel Identification Number (PIN): 096.08-02-04.00-0000 Tax Map Number: 096.08-02-04.00-0000

Short Property Description:

Current Property Address

City: ROANOKE

State: VA Zip Code: 24018

Instrument Prepared By: SUZANNE Y. PIERCE

Recording Paid By: COWANPERRY P.C.

Recording Returned To: SUZANNE Y. PIERCE

Address: 1328 3RD STREET, SW

City: ROANOKE

State: VA Zip Code: 24018



000013

Prepared by and return to:

Suzanne Y. Pierce, Esq. (VSB No. 92944)
 CowanPerry P.C.
 1328 3rd St. S.W.,
 Roanoke, VA 24016

Tax Map No. 096.08-02-04.00-0000
 Parcel ID No.: 096.08-02-04.00-0000
 Title Insurer: No title insurance
 Consideration: \$0.00
 Assessed Value: \$189,700.00

THIS DEED IS EXEMPT FROM RECORDING TAXES PURSUANT TO VIRGINIA CODE SECTION 58.1-811A.10.

GENERAL WARRANTY DEED

This DEED is dated as of November ~~30~~^{31st} 2018, by and between Stanley A. **SEYMOUR**, III and Jane L. **SEYMOUR**, husband and wife, ("Grantors"), and **SEYMOUR2, LLC**, a Virginia limited liability company ("Grantee").

WITNESSETH:

THAT FOR AND IN CONSIDERATION of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby expressly acknowledged, Grantors do hereby bargain, sell, grant and convey with General Warranty and English Covenants of Title unto Grantee, all their right, title and interest in and to the following described property, lying and being in the County of Roanoke, Commonwealth of Virginia, to-wit:

All of that certain tract or parcel of land designated as Tract A-1A and containing 4.819 acres, more or less, as more fully shown on that certain "Lot Line Adjustment & Combination Plat From Records For Andrew C. Kartesz Shannon M. Shaffer Showing 1.144 Acres From Records Of Tract 1A (Tax Map #096.08-02-06.01) Being Combined With Tract A-1 (Tax Map #096.08-02-04.00) Creating Hereon Tract 1A1 (1.634 Acres) From Records & Tract A-1A (4.819 Acres) Situate Off Coleman Road Cave Spring Magisterial District Roanoke County, Virginia," dated March 16, 2017 and prepared by John R.

000014

McAden, L.S., of Balzer & Associates, Inc., Planners-Architects-Engineers- Surveyors, a copy of which is recorded in the Clerk's Office of the Circuit Court of Roanoke County, Virginia, as Instrument Number 201703377.

TOGETHER WITH AND SUBJECT TO the 30 ft. right-of-way (gravel drive) as shown on the hereinafter referred to Revised Plat (recorded as Inst. #200816770) and that portion of the Gravel Drive that crosses Grantor's property at the southern most portion of New Tract B where the "New Division Line of 339.48" begins, shown on the aforesaid Revised Plat, as granted by Stanley A. Seymour, III & Jane L. Seymour, husband and wife, in Deed dated December 22, 2008, recorded as Deed Book Instrument Number 200816771, and Deed of Correction dated December 31, 2008, recorded as Deed Book Instrument Number 200900065.

TOGETHER WITH AND SUBJECT TO a New 15 ft. Ingress/Egress Easement for the Benefit of Tract A-1 (Instrument No. 201106842), as shown on plats dated June 1, 2011, and prepared by David A. Perfater, L.S., of DOC Land Surveying, Inc., recorded in the aforesaid Clerk's Office as Instrument No. 201106842 and survey dated March 16, 2017 prepared by John R. McAden, LS, of Balzer & Associates, Inc., Planner-Engineers- Surveyors, recorded in the aforesaid Clerk's Office as Instrument No. 201703377.

AND BEING the same property conveyed to Stanley A. Seymour, III and Jane L. Seymour by Deed dated December 12, 2017, and recorded in the Clerk's Office of the Circuit Court of Roanoke County, Virginia, as Instrument Number 201713019.

This conveyance is made subject to easements, conditions and restrictions of record insofar as they may lawfully affect the Property.

**THIS DEED WAS PREPARED WITHOUT THE
BENEFIT OF A TITLE EXAMINATION.**

[signature page to follow]

000015

WITNESS the following signature:



Stanley A. Seymour, III




Jane L. Seymour

COMMONWEALTH OF VIRGINIA:

COUNTY OF MONTGOMERY, to-wit:

The foregoing instrument was acknowledged before me this 30th day of November, 2018, by Stanley A. Seymour, III and Jane L. Seymour.

My commission expires: 10-31-2022



Notary Public

The mailing address of the Grantee is:

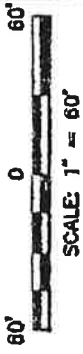
5942 Coleman Road
Roanoke, Virginia 24018



PETRS000779

EXHIBIT "A" SPECIAL USE PERMIT CONCEPTUAL PLAN

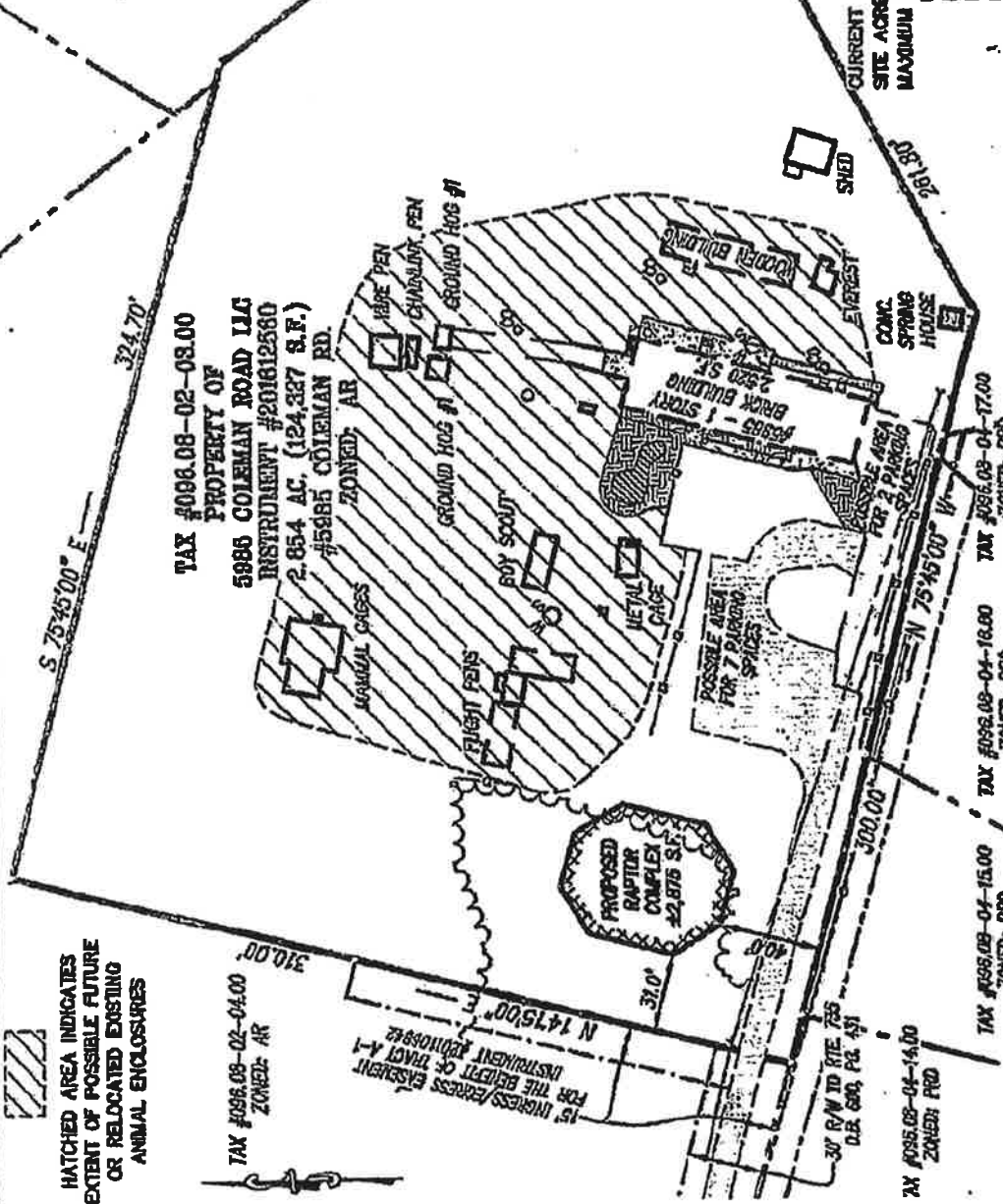
Roanoke Wildlife Rescue



TAX #098.08-02-01.00
ZONED: AR

TAX #195.02-01-46.01
ZONED: AR

CURRENT & PROPOSED USE: VETERINARY CLINIC
 SITE ACRES: 2.654 AC. (124,327 SF)
 MAXIMUM COVERAGE (AR ZONING):
 MAX. BUILDING COVERAGE: 25%
 PROPOSED BUILDING COVERAGE: 8.5%
 MAX. LOT COVERAGE: 50%
 PROPOSED LOT COVERAGE: 14.8%



HATCHED AREA INDICATES
 EXTENT OF POSSIBLE FUTURE
 OR RELOCATED EXISTING
 ANIMAL ENCLOSURES

TAX #098.08-02-03.00
 PROPERTY OF
 5985 COLEMAN ROAD LLC
 INSTRUMENT #201612560
 2.654 AC. (124,327 S.F.)
 #5985 COLEMAN RD.
 ZONED: AR

		EXHIBIT A	
LUMSDEN ASSOCIATES, P.C. ENGINEERS-SURVEYORS-PLANNERS ROANOKE, VIRGINIA		DATE: April 25, 2016	SCALE: 1" = 60'
4644 BRAMBLETON AVENUE P.O. BOX 20569 ROANOKE, VIRGINIA 24016 PHONE: (540) 774-4411 FAX: (540) 773-9445 E-MAIL: MAIL@LUMSDENPC.COM		COMM. NO.:	18-088

**VIRGINIA LAND RECORD COVER SHEET
FORM A - COVER SHEET CONTENT**

000278

13
0

Instrument Date: 7/20/2017
Instrument Type: DBS
Number of Parcels: 1 Number of Pages: 2
 City County
ROANOKE COUNTY

TAX EXEMPT? VIRGINIA/FEDERAL LAW
 Grantor: _____
 Grantee: _____
Consideration: \$422,500.00
Existing Debt: \$0.00
Actual Value/Assumed: \$327,800.00

PRIOR INSTRUMENT UNDER § 58.1-803(D):
Original Principal: \$0.00
Fair Market Value Increase: \$0.00

Original Book Number: _____ Original Page Number: _____ Original Instrument Number: _____

Prior Recording Act City County Percentage In This Jurisdiction: 100%

BUSINESS / NAME
1. Grantor: SHAFFER, SHANNON M
 Grantor: _____
1. Grantee: MAVER, ADRIAN A
2. Grantee: CREASY, BLAINE M

GRANTEE ADDRESS
Name: ADRIAN A MAVER
Address: 5946 COLEMAN RD
City: ROANOKE State: VA Zip Code: 24018

Book Number: _____ Page Number: _____ Instrument Number: _____
Parcel Identification Number (PIN): 96.08-02-06.01 Tax Map Number: 96.08-02-06.01
Short Property Description: TRACT 1A RESUBD FOR KARTESZ

Current Property Address: BACK CREEK
5946 COLEMAN RD
City: ROANOKE State: VA Zip Code: 24018

Instrument Prepared By: DANIEL F LAYMAN Recording Paid By: CENTURY TITLE SERVICES INC
Recording Returned To: CENTURY TITLE SERVICES INC
Address: 4725 GARST MILL RD STE 1
City: ROANOKE State: VA Zip Code: 24018



INSTRUMENT 201707592
RECORDED IN THE CLERK'S OFFICE OF
ROANOKE COUNTY CIRCUIT COURT ON
July 26, 2017 AT 01:45 PM
\$422.50 GRANTOR TAX WAS PAID AS
REQUIRED BY SEC 58.1-802 OF THE VA. CODE
STATE: \$211.25 LOCAL: \$211.25
STEVEN A. MCGRAW, CLERK
RECORDED BY: LMA

(Area Above Reserved For Deed Stamp Only)

3

000279

Return Recorded Document to:

Century Title Services, Inc.
4725 Garret Mill Road
Suite 1

Roanoke, VA 24018

CS - 8411

Tax Map No. 096.08-02-06.01-0000
 Consideration: \$422,500.00
 Assessed Value: \$327,800.00

Title Underwriter:

Fidelity

Prepared By:
 Daniel F. Layman, Jr.
 VSB #: 14650
 File #: 29419

THIS DEED made and entered into on July 20, 2017, by and between Shannon M. SHAFFER, Grantor, and Adrian A. MAVER and Blaine M. CREASY, husband and wife, as tenants by the entirety, with the right of survivorship as at common law, Grantees.

- WITNESSETH -

THAT FOR AND IN CONSIDERATION of the sum of TEN DOLLARS (\$10.00) cash in hand, and other good and valuable consideration, the receipt whereof is hereby acknowledged, the Grantor does hereby grant, bargain, sell and convey with General Warranty and Modern English Covenants of Title unto the Grantees, husband and wife, as tenants by the entirety, with the right of survivorship as at common law, all of that certain lot or parcel of land lying and being in the County of Roanoke, Virginia, and being more particularly described as follows:

BEING Tract 1A1, containing 1.634 acres, as shown on plat entitled "Lot Line Adjustment & Combination Plat for records for Andrew C. Kartesz and Shannon M. Shaffer..." dated March 16, 2017, by John R. McAden, L.S., Balzer and Associates, Inc., recorded in the Clerk's Office of the Circuit Court for the County of Roanoke, Virginia, as Instrument Number 201703377.

000280

TOGETHER WITH ingress and egress easement over new 11' private drive, extending to Coleman Road (Route 735) between corners 6, 7 and 8, as shown on plat by B. Lee Henderson, Jr., L.S., dated August 2, 2001, recorded in Plat Book 24 at page 158.

BEING a portion of the same property conveyed to the Grantor by deed dated June 2, 2015, and recorded in the Clerk's Office of the Circuit Court for the County of Roanoke, in the State of Virginia, as Instrument Number 201505335.

This conveyance is made subject to all easements, conditions, restrictions and reservations of record now affecting said property.

WITNESS the following signature and seal:

Shannon M. Shaffer (SEAL)
Shannon M. Shaffer

STATE OF VIRGINIA)
)
COUNTY OF ROANOKE)

The foregoing instrument was acknowledged before me on July 26, 2017

by Shannon M. Shaffer.

Registration #: 203504

My commission expires: 3-31-18



Alison R. Charles
Notary Public

Grantee Address:
5946 Coleman Rd.
RKc, VA 24018

P2-1800595



County of Roanoke
Community Development
Planning & Zoning

5204 Bernard Drive
P O Box 29800
Roanoke, VA 24018
(540) 772-2068 FAX (540) 776-7155

For Staff Use Only

Date received: 03-09-2018	Received by: B. HUGHES
Application fee: 40.00	PC/BZA date: 5/1/2018
Placards issued:	BOS date: 5/22/2018
Case Number 3-5/2018	

ALL APPLICANTS

Check type of application filed (check all that apply)
 Rezoning Special Use Variance Waiver Administrative Appeal Comp Plan (15.2-2232) Review

Applicants name/address w/zip: SABRINA GARVIN
500 West Virginia Wildlife Center of Rke.
5985 Coleman Rd
Roanoke, VA 24018
Phone: 540-798-9836
Work: _____
Cell #: _____
Fax No.: _____

Owner's name/address w/zip: 5985 Coleman Rd, LLC
5815 Coleman Rd
Roanoke, VA 24018
Phone #: 540-725-9836
Work: N/A
Fax No. #: 540-725-9836

Property Location: 5985 Coleman Rd.
Roanoke, VA 24018
Magisterial District: Cave Spring
Community Planning area: 510190

Tax Map No.: 0916.08-07-03.00-0000
Existing Zoning: County - AR

Size of parcel(s): Acres: 2.85 acres
Existing Land Use: Veterinary Clinic

REZONING, SPECIAL USE PERMIT, WAIVER AND COMP PLAN (15.2-2232) REVIEW APPLICANTS (R/S/W/CP)

Proposed Zoning: same - County AR
Proposed Land Use: special use permit

Does the parcel meet the minimum lot area, width, and frontage requirements of the requested district?
Yes No IF NO, A VARIANCE IS REQUIRED FIRST. 30-23-5
Does the parcel meet the minimum criteria for the requested Use Type? Yes No
IF NO, A VARIANCE IS REQUIRED FIRST
If rezoning request, are conditions being proffered with this request? Yes No

VARIANCE, WAIVER AND ADMINISTRATIVE APPEAL APPLICANTS (V/W/AA)

Variance/Waiver of Section(s) _____ of the Roanoke County Zoning Ordinance in order to:
Appeal of Zoning Administrator's decision to _____
Appeal of Interpretation of Section(s): _____ of the Roanoke County Zoning Ordinance
Appeal of Interpretation of Zoning Map to _____



Is the application complete? Please check if enclosed. APPLICATION WILL NOT BE ACCEPTED IF ANY OF THESE ITEMS ARE MISSING OR INCOMPLETE.

R/S/W/CP	V/AA	Consultation	R/S/W/CP	V/AA	8 1/2" x 11" concept plan	R/S/W/CP	V/AA	Application fee
<input type="checkbox"/>	<input type="checkbox"/>	Application	<input type="checkbox"/>	<input type="checkbox"/>	Metes and bounds description	<input type="checkbox"/>	<input type="checkbox"/>	Proffers, if applicable
<input type="checkbox"/>	<input type="checkbox"/>	Justification	<input type="checkbox"/>	<input type="checkbox"/>	Water and sewer application	<input type="checkbox"/>	<input type="checkbox"/>	Adjoining property owners

I hereby certify that I am either the owner of the property or the owner's agent or contract purchaser and am acting with the knowledge and consent of the owner.

Owner's Signature

CONCEPT PLAN CHECKLIST

A concept plan of the proposed project must be submitted with the application. The concept plan shall graphically depict the land use change, development or variance that is to be considered. Further, the plan shall address any potential land use or design issues arising from the request. In such cases involving rezonings, the applicant may proffer conditions to limit the future use and development of the property and by so doing, correct any deficiencies that may not be manageable by County permitting regulations.

The concept plan should not be confused with the site plan or plot plan that is required prior to the issuance of a building permit. Site plan and building permit procedures ensure compliance with State and County development regulations and may require changes to the initial concept plan. Unless limiting conditions are proffered and accepted in a rezoning or imposed on a special use permit or variance, the concept plan may be altered to the extent permitted by the zoning district and other regulations.

A concept plan is required with all rezoning, special use permit, waiver, community plan (15.2-2232) review and variance applications. The plan should be prepared by a professional site planner. The level of detail may vary, depending on the nature of the request. The County Planning Division staff may exempt some of the items or suggest the addition of extra items, but the following are considered minimum:

ALL APPLICANTS

- a. Applicant name and name of development
- b. Date, scale and north arrow
- c. Lot size in acres or square feet and dimensions
- d. Location, names of owners and Roanoke County tax map numbers of adjoining properties
- e. Physical features such as ground cover, natural watercourses, floodplain, etc.
- f. The zoning and land use of all adjacent properties
- g. All property lines and easements
- h. All buildings, existing and proposed, and dimensions, floor area and heights
- i. Location, widths and names of all existing or platted streets or other public ways within or adjacent to the development
- j. Dimensions and locations of all driveways, parking spaces and loading spaces

Additional information required for REZONING and SPECIAL USE PERMIT APPLICANTS

- k. Existing utilities (water, sewer, storm drains) and connections at the site
- l. Any driveways, entrances/exits, curb openings and crossovers
- m. Topography map in a suitable scale and contour intervals
- n. Approximate street grades and site distances at intersections
- o. Locations of all adjacent fire hydrants
- p. Any proffered conditions at the site and how they are addressed
- q. If project is to be phased, please show phase schedule

I certify that all items required in the checklist above are complete.

Signature of applicant

Date



POTENTIAL OF NEED FOR TRAFFIC ANALYSIS AND/OR TRAFFIC IMPACT STUDY

The following is a list of potentially high traffic-generating land uses and road network situations that could elicit a more detailed analysis of the existing and proposed traffic pertinent to your rezoning, subdivision waiver, public street waiver, or special use permit request. If your request involves one of the items on the ensuing list, we recommend that you meet with a County planner, the County traffic engineer, and/or Virginia Department of Transportation staff to discuss the potential additional traffic related information that may need to be submitted with the application in order to expedite your application process.

(Note this list is not inclusive and the County staff and VDOT reserve the right to request a traffic study at any time, as deemed necessary.)

High Traffic-Generating Land Uses:

- Single-family residential subdivisions, Multi-family residential units, or Apartments with more than 75 dwelling units
- Restaurant (with or without drive-through windows)
- Gas station/Convenience store/Car wash
- Retail shop/Shopping center
- Offices (including: financial institutions, general, medical, etc.)
- Regional public facilities
- Educational/Recreational facilities
- Religious assemblies
- Hotel/Motel
- Golf course
- Hospital/Nursing home/Clinic
- Industrial site/Factory
- Day care center
- Bank
- Non-specific use requests

Road Network Situations:

- Development adjacent to/with access onto/within 500-ft of intersection of a roadway classified as an arterial road (e.g., Rte 11, 24, 115, 117, 460, 11/460, 220, 221, 419, etc)
- For new phases or changes to a development where a previously submitted traffic study is more than two (2) years old and/or roadway conditions have changed significantly
- When required to evaluate access issues
- Development with ingress/egress on roads planned or scheduled for expansion, widening, improvements, etc. (i.e. on Long Range Transportation Plan, Six-Yr Road Plan, etc.)
- Development in an area where there is a known existing traffic and/or safety problem
- Development would potentially negatively impact existing/planned traffic signal(s)
- Substantial departure from the Community Plan
- Any site that is expected to generate over one hundred (100) trips during the peak hour of the traffic generator or the peak hour on the adjacent streets, or over seven hundred fifty (750) trips in an average day

Effective date: April 19, 2005



NOTICE TO APPLICANTS FOR REZONING, SUBDIVISION WAIVER, PUBLIC STREET WAIVER, OR SPECIAL USE PERMIT PETITION

PLANNING COMMISSION APPLICATION ACCEPTANCE PROCEDURE

The Roanoke County Planning Commission reserves the right to continue a Rezoning, Subdivision Waiver, Public Street Waiver or Special Use Permit petition if new or additional information is presented at the public hearing. If it is the opinion of the majority of the Planning Commissioners present at the scheduled public hearing that sufficient time was not available for planning staff and/or an outside referral agency to adequately evaluate and provide written comments and suggestions on the new or additional information prior to the scheduled public hearing then the Planning Commission may vote to continue the petition. This continuance shall allow sufficient time for all necessary reviewing parties to evaluate the new or additional information and provide written comments and suggestions to be included in a written memorandum by planning staff to the Planning Commission. The Planning Commission shall consult with planning staff to determine if a continuance may be warranted.

POTENTIAL OF NEED FOR TRAFFIC ANALYSES AND/OR TRAFFIC IMPACT STUDY

The Roanoke County Planning Commission reserves the right to continue a Rezoning, Subdivision Waiver, Public Street Waiver, or Special Use Permit petition if the County Traffic Engineer or staff from the Virginia Department of Transportation requests further traffic analyses and/or a traffic impact study that would be beneficial in making a land use decision (*Note: a list of potential land uses and situations that would necessitate further study is provided as part of this application package*).

This continuance shall allow sufficient time for all necessary reviewing parties to evaluate the required traffic analyses and/or traffic impact study and to provide written comments and/or suggestions to the planning staff and the Planning Commission. If a continuance is warranted, the applicant will be notified of the continuance and the newly scheduled public hearing date.

Effective date: April 19, 2005

Southwest Virginia Wildlife Center of Roanoke

 Name of Petition

[Handwritten Signature]

 Petitioner's Signature

3/9/18

 Date

The property located at 5985 Coleman Road is currently zoned AR and falls under Article III-District Regulations, Section 30-3-2. AR Agricultural/Residential District Permitted Uses. (A) Commercial Uses-Veterinary Hospital/Clinic. The Building located at 5985 is currently used as a Wildlife Veterinary Clinic.

The nonconforming development on the 2.85 acres falls within the applicable use and design under the District regulations Section 30-23-5- Nonconforming Lots of Record. Expansion is allowed providing the county reviews and grants a special use permit set forth in the standards and procedures contained in Section 30-19 of this ordinance.

The impact on the property at 5985 Coleman Road is minimal. The proposed primary Raptor building will be situated beyond the set back line stated in 30-34-3 Site Development Regulations. The building will also be located over 31 feet behind the building line. The selected location will be 31 feet from the side yard meeting the regulation. The height is 20 feet which is less than the maximum of 45 feet in height per the regulations. The total building coverage, including accessory structures, is approximately 6.5% which remain well below the maximum allowable (25%) by zoning code for this district. Additionally, the total proposed lot coverage is approximately 14.8% which also remain well below the maximum allowable (50%) by zoning code for this district. These totals are based off the total surveyed lot acreage of 2.854 acres (124,327s.f.).

The impact to allow the wildlife center's expansion of a primary building is minimal. As stated in the above paragraph the building meets all requirements, and is smaller than the allowed size. The building is a state of the art design, becoming an asset to the Roanoke County and the community. The request for a building is necessary to lessen the time needed to rehabilitate raptors, and the time each hawk or owl spends at the veterinary center. It allows for multiple species to receive necessary flight time at the same time, building pectoral muscles and stamina for release and returning vital wildlife much quicker to their original habitat and allowing the species to continue to flourish.

Impacting the private well on the property will increase only slightly, raptors are not large consumers of water, typically they only bathe, and the wildlife is already in our care at the center. A fence was added on one side of the driveway nearest the closest adjoining neighbor after we opened to lessen the view. These neighbors actually expressed how disheartened they were when the fence was placed between our properties; they actually expressed a desire to watch our rehab efforts, especially after the numerous improvements made to the site and building. Roanoke County Animal Control, Conservation Officers and the Police Department will still be able to use our facility as they do now, for dropping off injured or orphaned wildlife in need of our services. The wildlife center greatly benefits the environment: County, Parks, and Greenway with our release of species in decline. The center's rehab of endangered, threatened and migratory species has a profound effect on our environment and well-being. Southwest Virginia Wildlife Center of Roanoke is an asset that few localities have. The public's need for wildlife care has been met and daily, their gratification is expressed for our volunteer work and hours provided free for the community. The center provides invaluable education programs to the area elementary and middle schools, churches and civic groups and is in constant and growing demand, teaching the youth about their environment and wildlife and coexisting.

When an injured or orphaned wild animal is admitted the patient is placed in an appropriate sized containment. Depend on the needs the animal may be placed in ICU for intensive treatment and possible surgery, x-rays. The animal is moved to the appropriate room to be housed with similar species.

Once the animal is at the proper stage (age) or eating on its own, it is then placed outside in appropriate sized building for that species to flourish, while gaining strength for release. This stage is necessary for the animal's viability in nature. Once the patient is deemed releasable by the staff veterinarian or the Category III, they are taken back to the location of rescue or a suitable habitat for release; returning needed and declining species that help decrease our foot print on our environment and the cycle of life. Different sized buildings are required for different species. We do not place a Buteo (one species of hawk) in a 10' X 10' cage; it requires an area larger than its wing span to strength pectoral muscles required for capturing small mammals and rodents. We following building requirements set forth by the VDGIF and USFWS.

The Special Use is in accordance with the current and approved use of the property at 5985 Coleman Road. Requesting a special use permit for a primary building to house raptors will allow the center to properly exercise native species and return them to their proper habitat in a timely manner. The building is less than what the Special Use Permit allows. The building will be built by a Class A contractor. This property was vacant and in need of many repairs when purchased in 2013. The center continually maintains the grounds and building. In 2017 the center was awarded Federal Money from an environmental lawsuit against a local company. The United States Attorney then selected our center as beneficiary, due to our work with raptors. Precedent was set in State of Virginia when the center was awarded the Federal funds for Capital improvements to the veterinary clinic. The government felt the money for the damages inflicted in our area, should stay here.

The addition of a raptor building is in the best interest of the community, assuring the County of Roanoke is investing in the diverse and threatened wildlife needed to sustain a healthy environment in Roanoke County. The wildlife veterinary center is vital to the County of Roanoke community, providing necessary help and solutions to wildlife conflict.

The building will not be detrimental to the surrounding community. The property at 5985 Coleman Road has been in use as a Wildlife Veterinary Center since 2014, serving the community, receiving wildlife from the public of Roanoke County, Animal Control to Conservation Officers in need of our services. The building will be high quality, enhancing the wooded and natural look of the property currently Zoned AR. Height of 20 feet is less than the allowed 45 feet per the regulations and less than a two story home. The center at 5985 Coleman Road is located at the end of Coleman Road. The addition of a building of this quality will not affect any adjoining properties. The center's acreage is surrounded on three sides by properties zoned AR with outdoor building on each. One side is a residential area and a privacy fence was placed between these properties.

Supporting the request, Southwest Virginia Wildlife Center of Roanoke went to extra steps to acquire plans for a quality and ecstatically pleasing building. The cost to build this building exceeds \$82,000.00, and the center has made applications for grants and private funding to complete this state of the art building. \$55,000.00 has been granted to begin the building and the public is already sending in donations earmarked for this project. Plans were selected with care to make this a professional and quality project that will not affect any surrounding areas. Adjacent properties have outdoor buildings and sheds that do not reflect the high standard or appearance of this building.

3-9-18

Southwest Virginia Wildlife Center of Roanoke

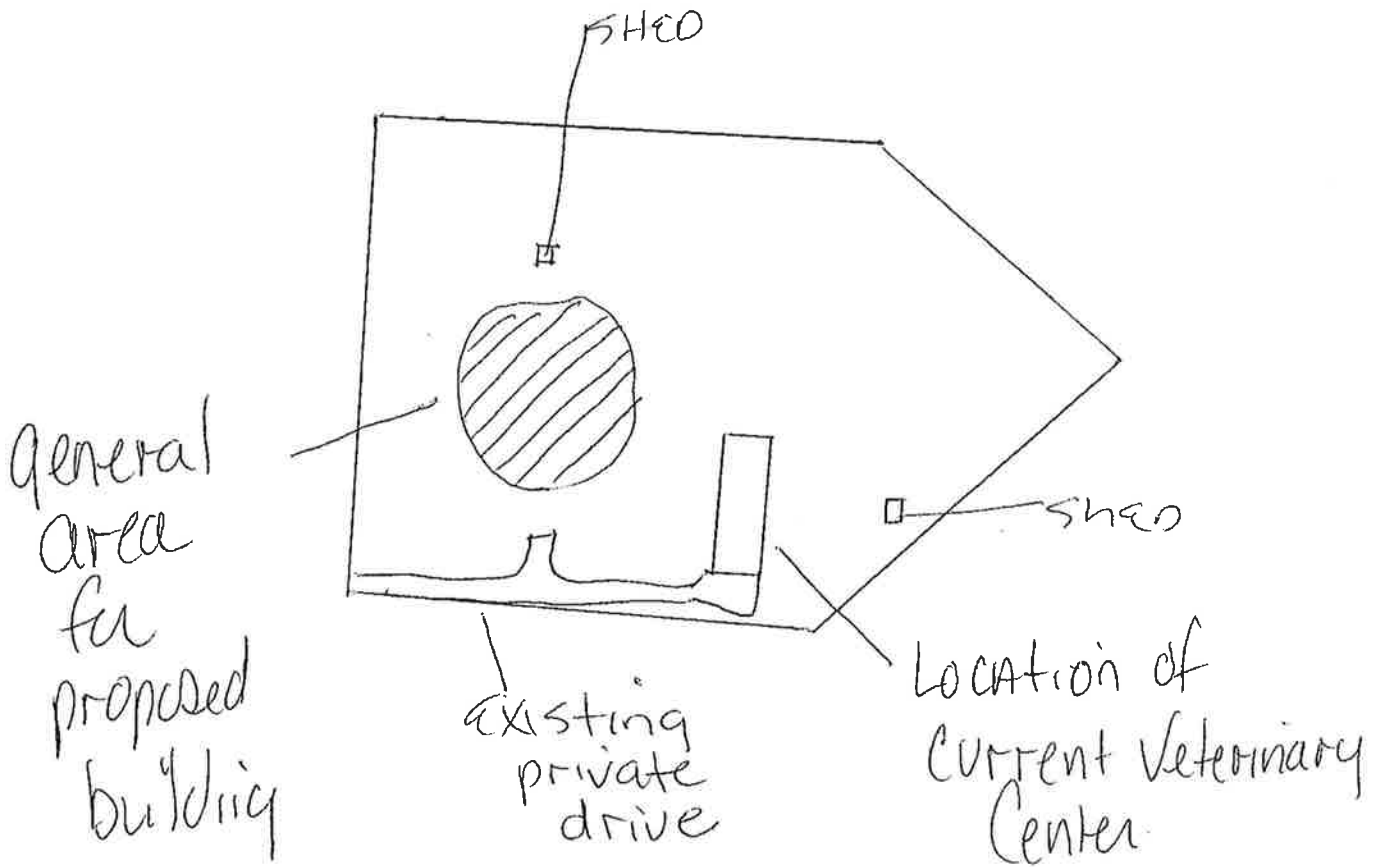


EXHIBIT "A" SPECIAL USE PERMIT CONCEPTUAL PLAN

Roanoke Wildlife Rescue



TAX #096.08-02-01.00
ZONED: AR

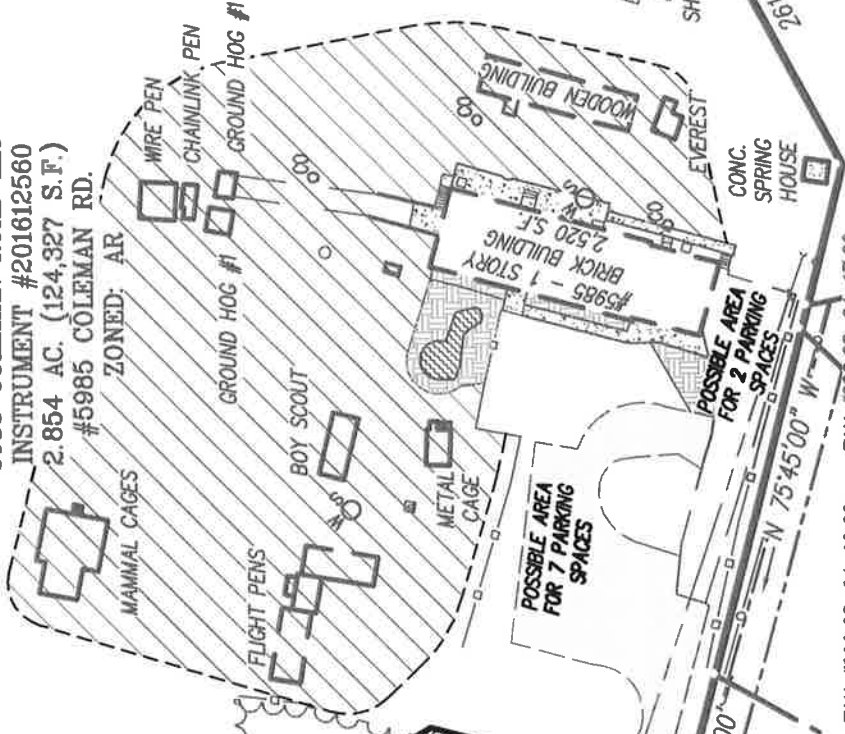
TAX #096.02-01-46.01
ZONED: AR

CURRENT & PROPOSED USE: VETERINARY CLINIC
SITE ACREAGE: 2.854 AC. (124,327 SF)
MAXIMUM COVERAGE (AR ZONING):
MAX. BUILDING COVERAGE: 25%
PROPOSED BUILDING COVERAGE: 6.5%
MAX. LOT COVERAGE: 50%
PROPOSED LOT COVERAGE: 14.8%

DATE: April 25, 2018
SCALE: 1" = 60'
COMM. NO.: 18-088

S 75°45'00" E — 324.70'

TAX #096.08-02-03.00
PROPERTY OF
5985 COLEMAN ROAD LLC
INSTRUMENT #201612560
2.854 AC. (124,327 S.F.)
#5985 COLEMAN RD.
ZONED: AR



HATCHED AREA INDICATES
EXTENT OF POSSIBLE FUTURE
OR RELOCATED EXISTING
ANIMAL ENCLOSURES

TAX #096.08-02-04.00
ZONED: AR

FOR THE BENEFIT OF TRACT A-1
INSTRUMENT #201106842
15' INGRESS/EGRESS EASEMENT

30' R/W TO RTE. 735
D.B. 600, PG. 431

TAX #096.08-04-14.00
ZONED: PRD

TAX #096.08-04-15.00
ZONED: PRD

TAX #096.08-04-16.00
ZONED: PRD

TAX #096.08-04-17.00
ZONED: PRD

4664 BRAMBLETON AVENUE
P.O. BOX 20669
ROANOKE, VIRGINIA 24018
PHONE: (540) 774-4411
FAX: (540) 772-9445
E-MAIL: MAIL@LUMSDENPC.COM

LUMSDEN ASSOCIATES, P.C.
ENGINEERS-SURVEYORS-PLANNERS
ROANOKE, VIRGINIA

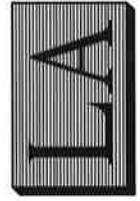
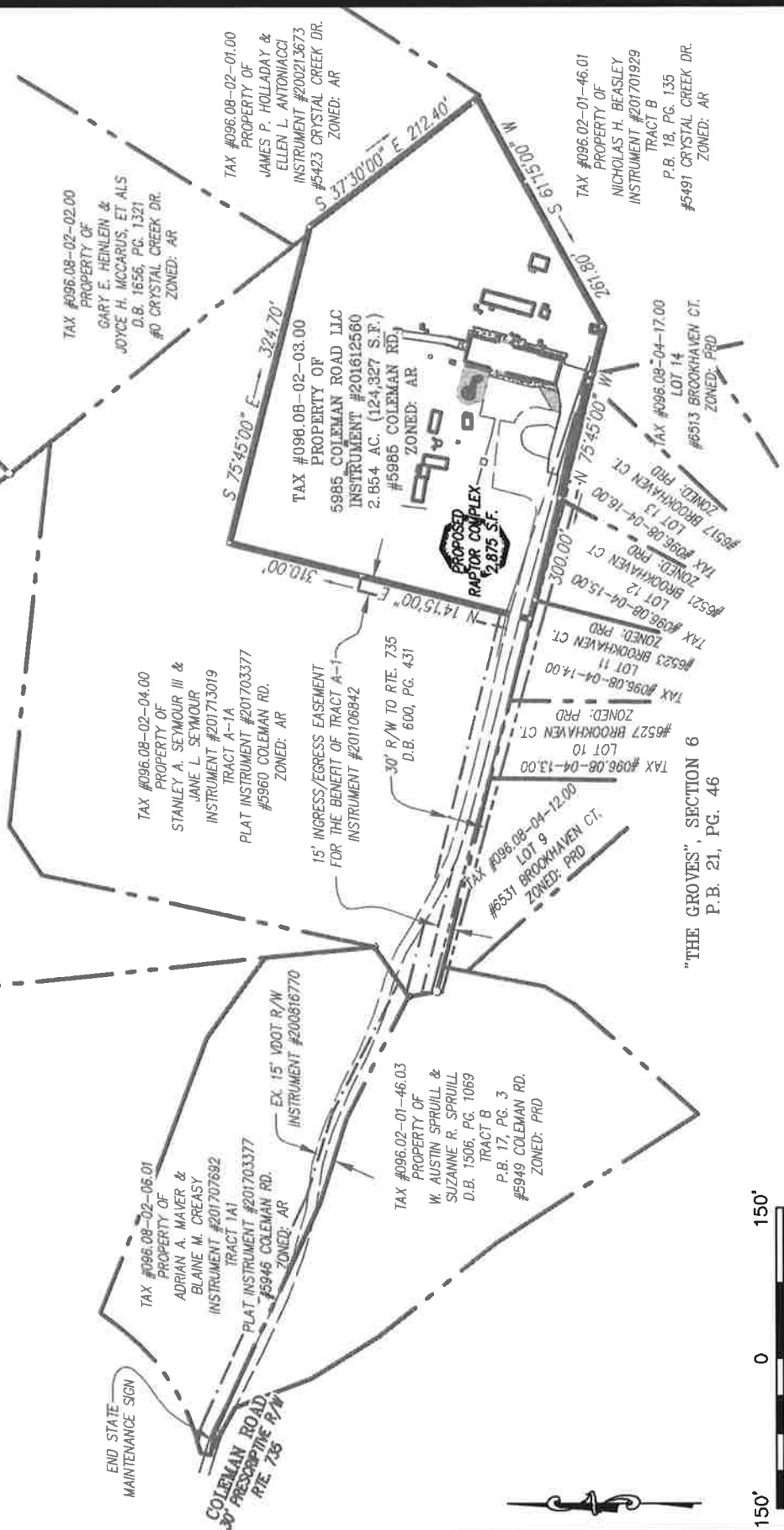


EXHIBIT "B" SPECIAL USE PERMIT CONCEPTUAL PLAN

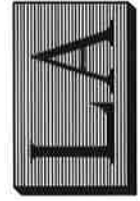
Roanoke Wildlife Rescue



DATE: April 25, 2018
SCALE: 1" = 150'
COMM. NO.: 18-088

4664 BRAMBLETON AVENUE
P.O. BOX 20669
ROANOKE, VIRGINIA 24018
PHONE: (540) 774-4411
FAX: (540) 772-9445
E-MAIL: MAIL@LUMSDENPC.COM

LUMSDEN ASSOCIATES, P.C.
ENGINEERS-SURVEYORS-PLANNERS
ROANOKE, VIRGINIA



THIS DEED, made this the 5th day of August, 1958, by and between Walter J. Martin, unmarried, party of the first part; and Albert Akers Martin and Elizabeth Fuller Martin, husband and wife, as tenants by the entirety with the right of survivorship, parties of the second part;

- W I T N E S S E T H -

THAT FOR AND IN CONSIDERATION of the sum of TEN DOLLARS (\$10.00) cash and other good and valuable consideration paid by the parties of the second part unto the party of the first part, the receipt whereof is hereby acknowledged, Walter J. Martin, unmarried, party of the first part doth hereby bargain, sell, grant and convey with covenants of General Warranty of Title unto Albert Akers Martin and Elizabeth Fuller Martin, husband and wife, as tenants by the entirety with the right of survivorship, as at common law and as provided for under the laws and statutes of Virginia, parties of the second part, all of that certain lot or parcel of land located in the County of Roanoke, Virginia, and more particularly described as follows; to-wit:

BEGINNING at an old iron pipe at Corner No. 1 by a chestnut stump at the southwest corner of Wright property; thence with the northwest line of Thomas Beasley property S. 61° 15' W., 261.8 feet to an iron pin corner set between poplar stumps 3 feet apart at Corner No. 2; thence continuing with the north line of the Thomas Beasley property N. 75° 45' W., 300.0 feet to an iron pin at Corner No. 3; thence with two new division lines and with the easterly terminus of a 30-foot width road right-of-way to be hereinafter mentioned N. 14° 15' E., passing the northeast corner of said road right-of-way at 30 feet in all a total distance of 310.0 feet to iron pin at Corner No. 4; thence S. 75° 45' E., 324.7 feet to an iron pin at the southwest line of Wright property at Corner No. 5; thence with the same S. 37° 30' E., 212.4 feet to the PLACE OF BEGINNING containing 2.85 acres; and

BEING a southeast portion of property an undivided interest in which was conveyed to Walter J. Martin by

Albert Akers Martin by deed dated November 14, 1952, of record in the Clerk's Office of the Circuit Court of Roanoke County, Virginia, in Deed Book 481, page 396.

Together with the perpetual right of egress

TO HAVE AND TO HOLD unto Walter J. Martin and Elizabeth Fuller Martin, husband and wife, as tenants by the entirety, and unto the survivor of them and his or her heirs and assigns, forever, in fee simple.

The party of the first part covenants that he is seized in fee simple of the said land; that he has the right to convey the same to the parties of the second part; that he has done no act to encumber the said land; that the parties of the second part shall have quiet and peaceable possession of the same, free from all encumbrances, and that he will execute such other and further assurances of title as may be requisite.

WITNESS the following signature and seal this the day and year first hereinabove written.

Walter J. Martin (SEAL)
Walter J. Martin

STATE OF VIRGINIA }
County } to-wit:
~~CITY~~ OF ROANOKE }

I, W. Greggs, a Notary Public in and for the County of Roanoke, State of Virginia, do hereby certify that Walter J. Martin, unmarried, whose name is signed to the foregoing writing bearing date the 5th day of August, 1958, has personally appeared before me and acknowledged the same in my County and State aforesaid.

GIVEN under my hand this the 19th day of August, 1958.

W. Greggs
Notary Public

My commission expires:
June 14, 1959

HAZLEROVE,
SHACKELFORD & CARR
ATTORNEYS AT LAW
ROANOKE, VA.

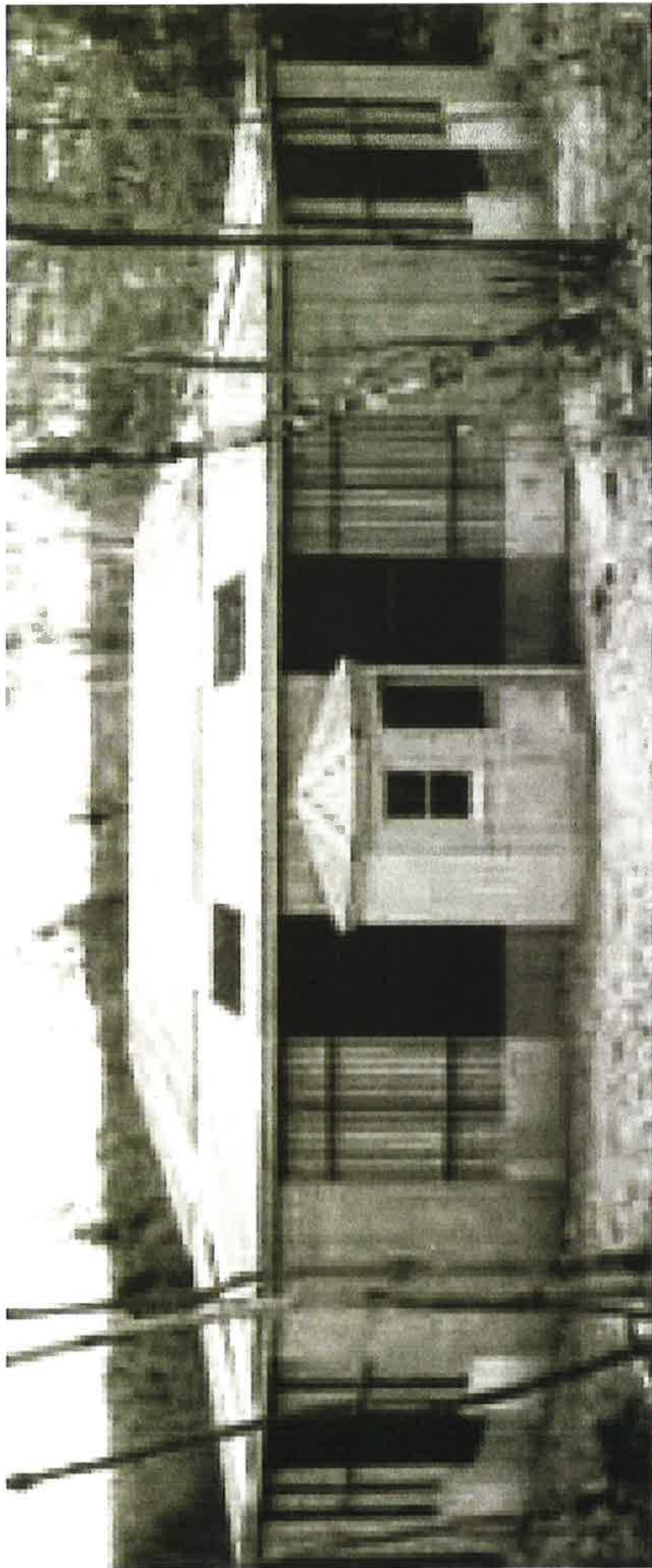
Plat \$ _____
Tax \$ 1.50
Fee \$ 3.50
Transfer \$ 1.00
Total \$ 6.00

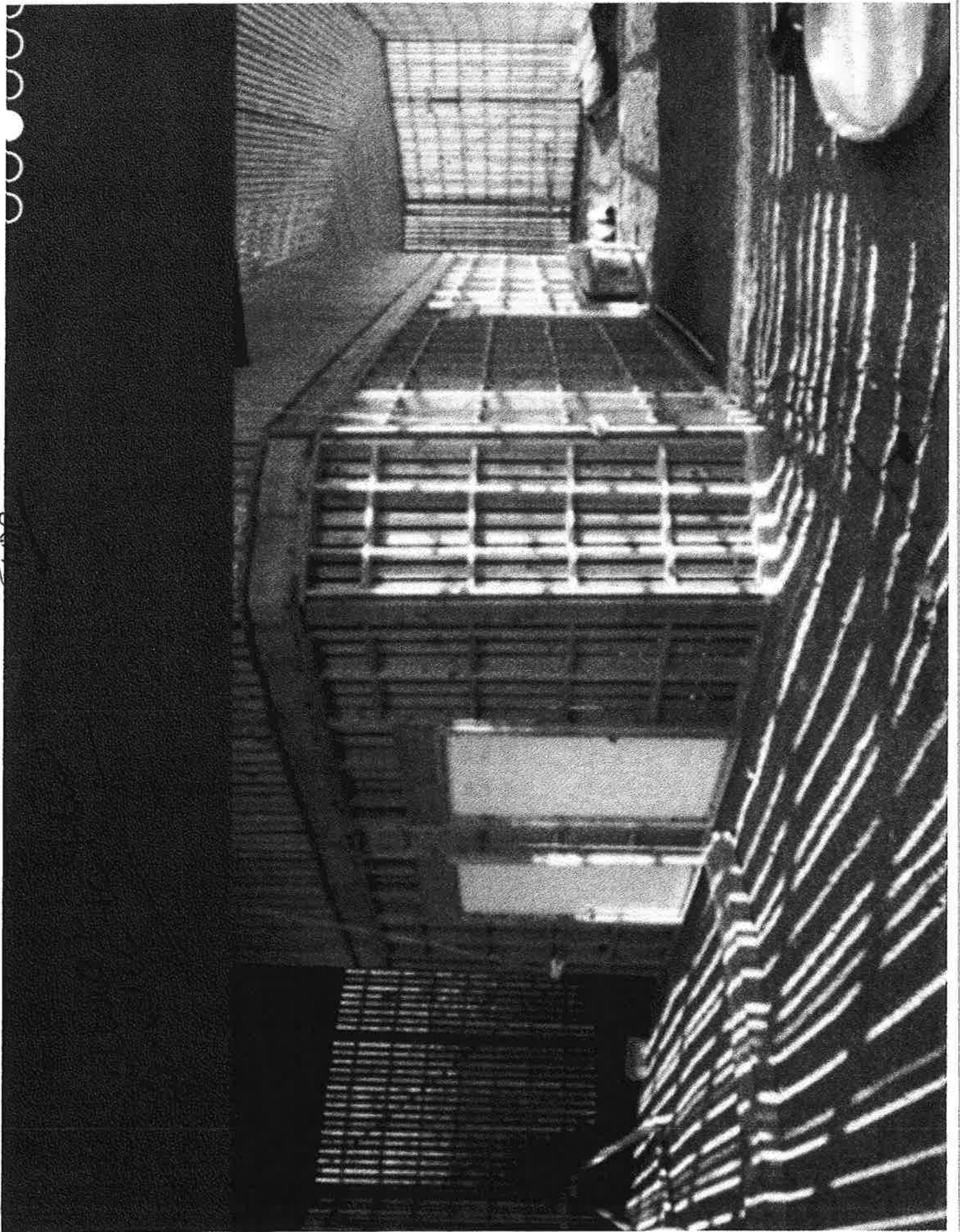
In the Clerk's Office of the Circuit Court for the County of Roanoke, Va., this 21 day of August, 1958, this deed was presented, and with the Certificate of acknowledgment thereto annexed, admitted to record at 12:35 o'clock P. M. Having affixed thereto duly cancelled United States Internal Revenue Stamps of the value of \$1.10
Wests: W. J. Brown Clerk

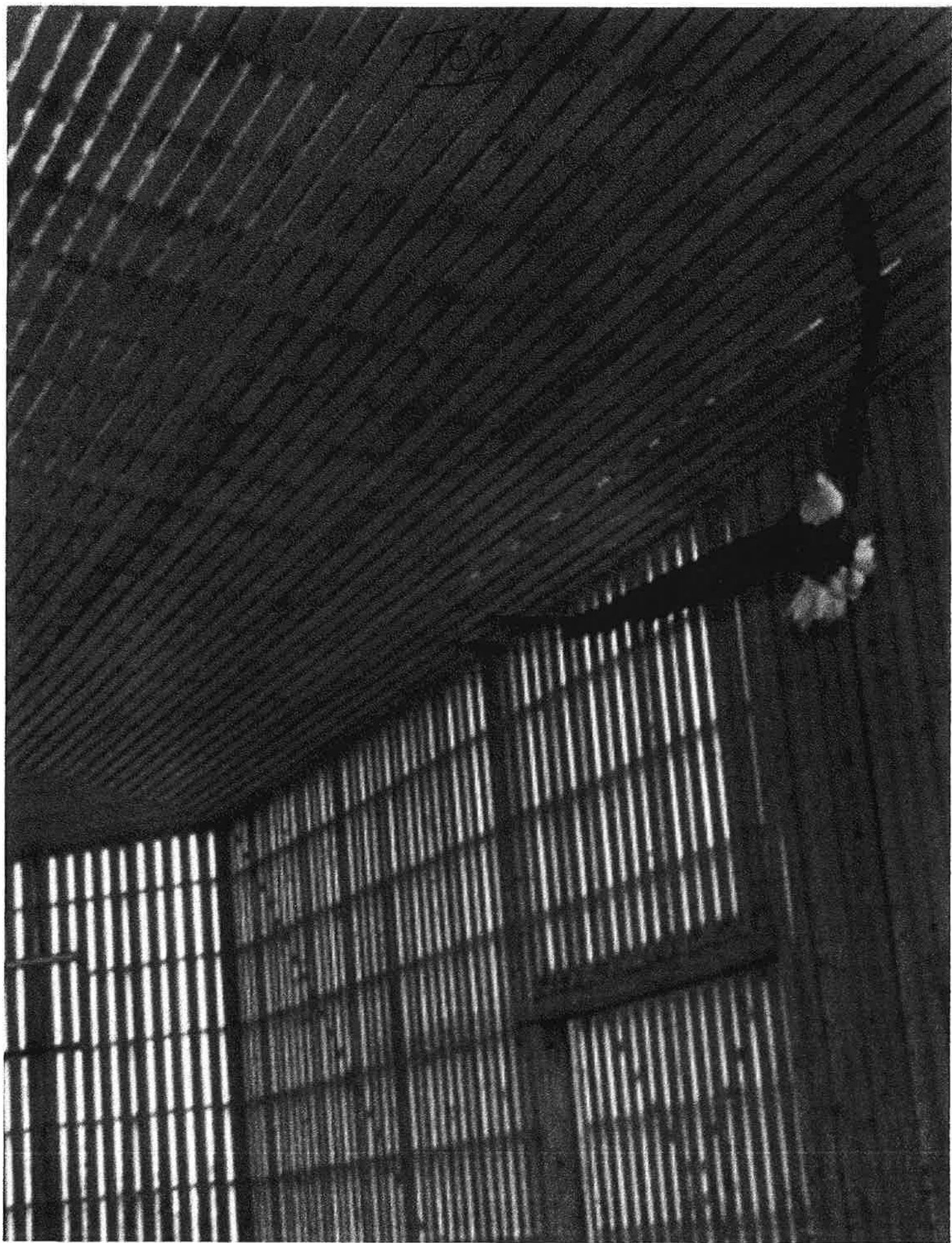


76.2
Sunny
Day

Amman in desert







March 8, 2018

To Whom It May Concern:

The Southwest Virginia Wildlife Center provides veterinary care and rehabilitation for injured, orphaned, and sick native wildlife. As the veterinarian of record for the facility, it is my responsibility to see that we provide the best medical care possible within the constraints of our resources. That includes from the time an animal is admitted to our facility until it is released back to the wild, transferred to another permitted facility, or humanely euthanized.

In captivity, wild animals not only have to endure the extent of their injuries, but also the stress of being vulnerable to predators (the humans who are trying to help them). Birds have a high rate of metabolism compared to mammals. They lose muscle tone and stamina rapidly as a result of being in captivity. Song birds must be able to evade predators and the predators such as raptors (birds of prey) have to be able to catch prey to survive. As a result, the flight conditioning to increase strength and stamina is an essential part of the medical treatment that we need to provide.

Southwest Virginia Wildlife Center needs a large raptor flight building to give our patients the best chance possible at returning to the wild by providing the necessary flight conditions to strengthen muscle tone and improve stamina. It would also provide a large enough space to determine if the raptors can hunt. We only release birds who can sustain appropriate flight for their species and who can feed themselves successfully.

Sincerely,



Diane H. D'Orazio, DVM

Southwest Virginia Wildlife Center

5985 Coleman Rd.

Roanoke, Va. 24018

Work: 540-798-9836

Cell: 540-797-9886

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF HEALTH PROFESSIONS

David E. Brown, D.C., Director

Leslie L. Knachel, MPH
Executive Director
(804) 367-4497

Board of Veterinary Medicine

9960 Mayland Drive, Suite 300
Henrico, VA 23233-1463
www.dhp.virginia.gov/vet

Veterinary Establishment - Restricted
Wildlife Rehabilitation Center

Southwest Virginia Wildlife Center

5985 Coleman Rd
Roanoke VA 24018

Veterinarian-in-Charge
DIANE H. D'ORAZIO
0301002892

Expires
12/31/2018

Number
0340005422

For Information About This License, visit our website: www.dhp.virginia.gov
To File a Complaint About a Licensee, Call: 1-800-533-1560

REGISTERED ANIMAL FACILITY
SCOPE OF PRACTICE RESTRICTED

Southwest Virginia Wildlife Center
Name of Facility

LIMITED SERVICES ONLY

- FARM AMBULATORY
- HOUSE CALL
- OUTPATIENT
- WILDLIFE

NO SURGERY

NO HOSPITALIZATION

NO BOARDING

BOARD OF VETERINARY MEDICINE
Department of Health Professions
Perimeter Center
9960 Mayland Drive, Suite 3000
Henrico, VA 23233-1463

DATE OF ISSUE: 07/06/2015
COMPLAINTS AGAINST HEALTH CARE
PRACTITIONERS: 1-800-533-1560

-- Must Be Posted Conspicuously --

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF HEALTH PROFESSIONS
David E. Brown, D.C., Director

Leslie L. Knachel, MPH
Executive Director
(804) 367-4497

Board of Veterinary Medicine

Perimeter Center
9960 Mayland Drive, Suite 300
Henrico, VA 23233-1463
www.dhp.virginia.gov/vet

License to Practice as a Veterinarian

Diane H. D'Orazio, DVM

Expires
12/31/2018

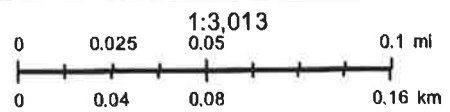
Number
0301002892

**For Information About This License, visit our website: www.dhp.virginia.gov
To File a Complaint About a Licensee, Call: 1-800-533-1560**

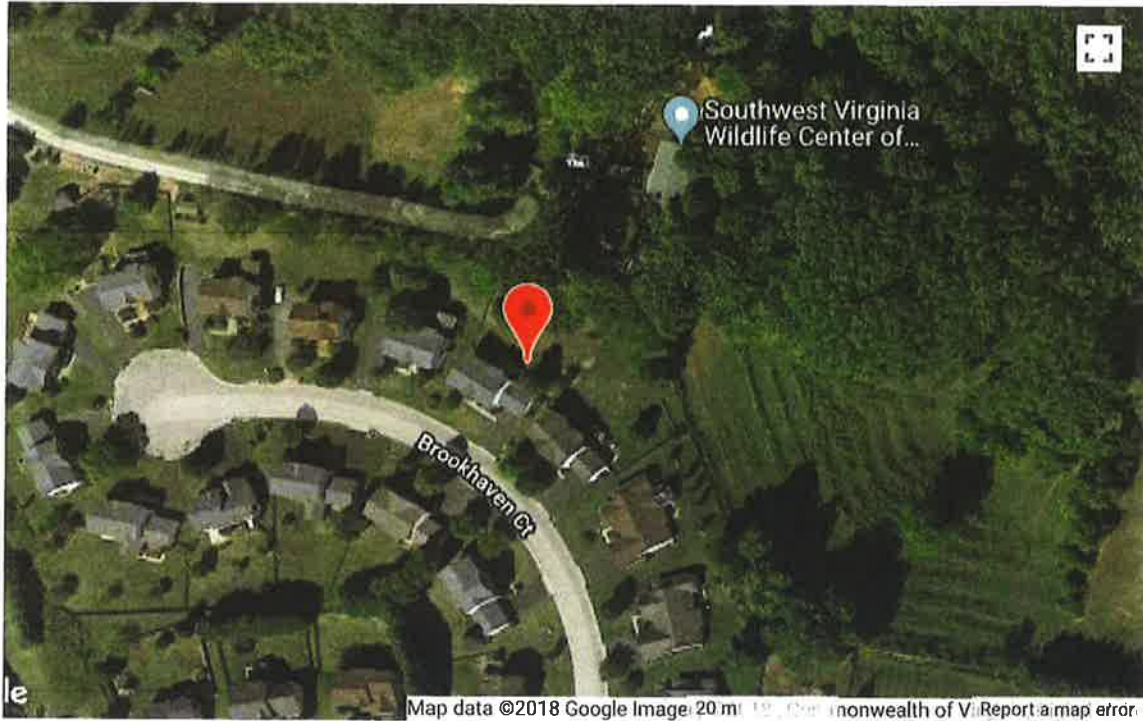
5985 Coleman Rd



January 9, 2018



X



Find nearby homes

[View Neighbors](#)

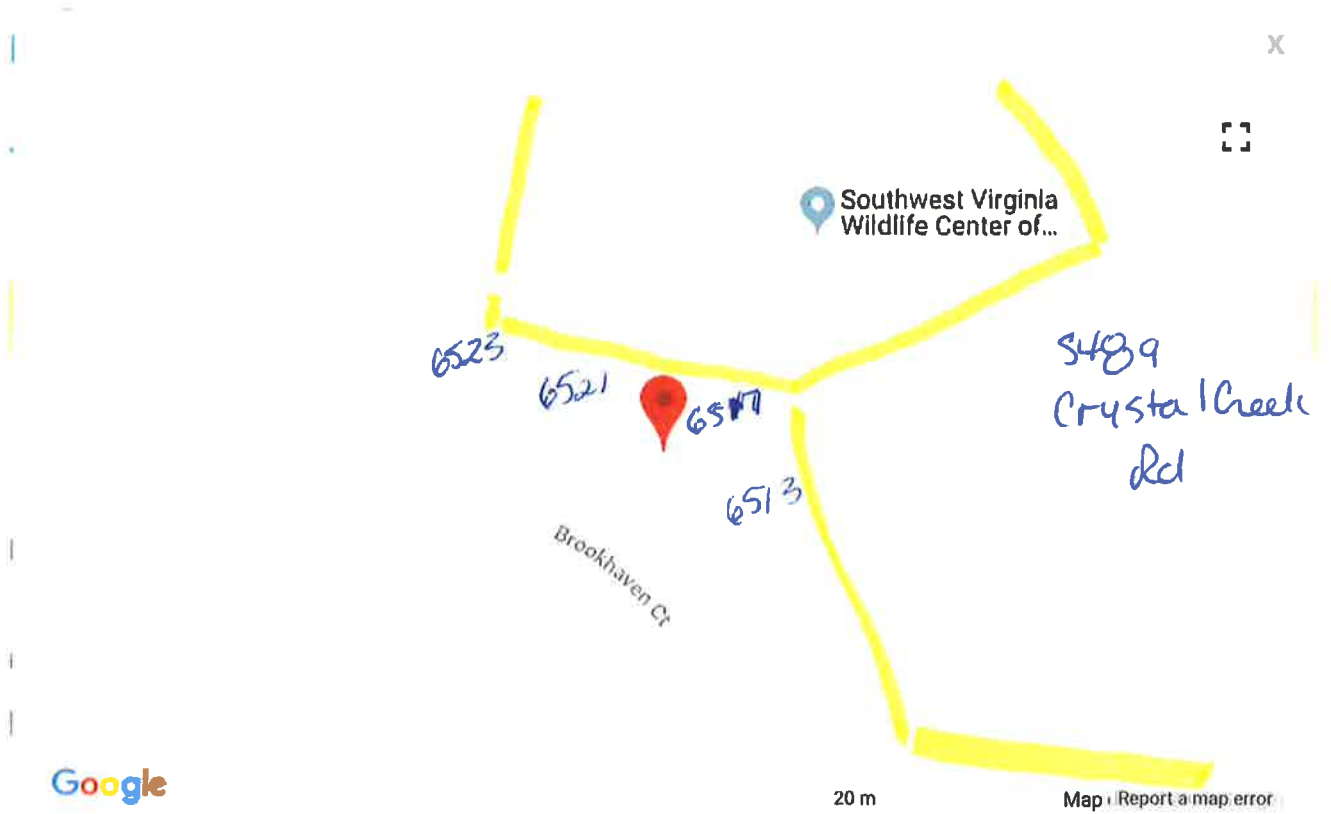
Single Family Residential

4 beds 2 baths Lot: 0.33 acres

PUBLIC RECORDS

Facts

- Built in 2000
- Exterior walls: Combination
- Lot size: 0.33 acres
- Basement: Improved Basement (Finished)
- Bedrooms: 4
- Foundation: Footing
- Bathrooms: 2



View Neighbors

Single Family Residential

4 beds 2 baths Lot: 0.33 acres

PUBLIC RECORDS

Facts

- Built in 2000
- Exterior walls: Combination
- Lot size: 0.33 acres
- Basement: Improved Basement (Finished)
- Bedrooms: 4
- Foundation: Footing
- Bathrooms: 2

Concept Plan

A.) Sabrina Garvin, Executive Director
Southwest Virginia Wildlife Center of Roanoke

B.) March 2, 2018,

C.) 2.85 acres or 124,146 square feet

D.) 5985 Coleman Road, Roanoke, VA 24018

Owners: 5985 Coleman Road, LLC

Tax Map # 096.08-02-03.00-0000

Adjoining properties:

**5423 Crystal Creek Road, James Holladay
Tax Map # 096-08-02-01.00-0000 Zoned AR**

**5423 and 5485 Crystal Creek Road, Nick Beasley
Tax Map # 096.02-01.05-0000 Zoned AR**

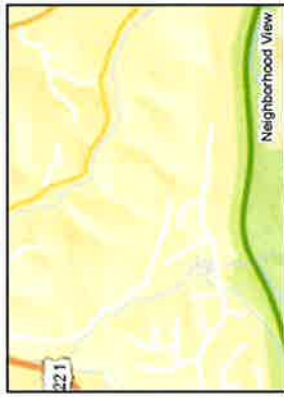
**6517 Brookhaven Court, Brian and Jocassa Loop
Tax Map # 096.08-04-16.00-0000, Zoned PRD**

**6513 Brookhaven Court, Richard Lovegreen
Tax Map # 096-08-04-1700-0000 Zoned PRD**

**6521 Brookhaven Court, Jim and Kim Bradshaw
Tax Map# 096.08-04-05.00-0000 Zoned PRD**

**6523 Brookhaven Court, Big Lick Ventures, Charles and Sara Crocket
Tax Map # 096.08-04-14.00-0000 Zoned PRD**

**5960 Coleman Road, Mr. & Mrs. Stan Seymour (purchased 2018)
Tax Map # 096.08-02-02.00-0000 Zoned AR**



5985 Coleman Road

Applicant Name: Southwest Virginia Wildlife Center

Existing Zoning: AR

Existing Use: Veterinary Hospital / Clinic

Proposed Activity: SUP to Construct Building on Parcel without Public Road Frontage

Tax Map Number: 096.08-02-03.00-0000

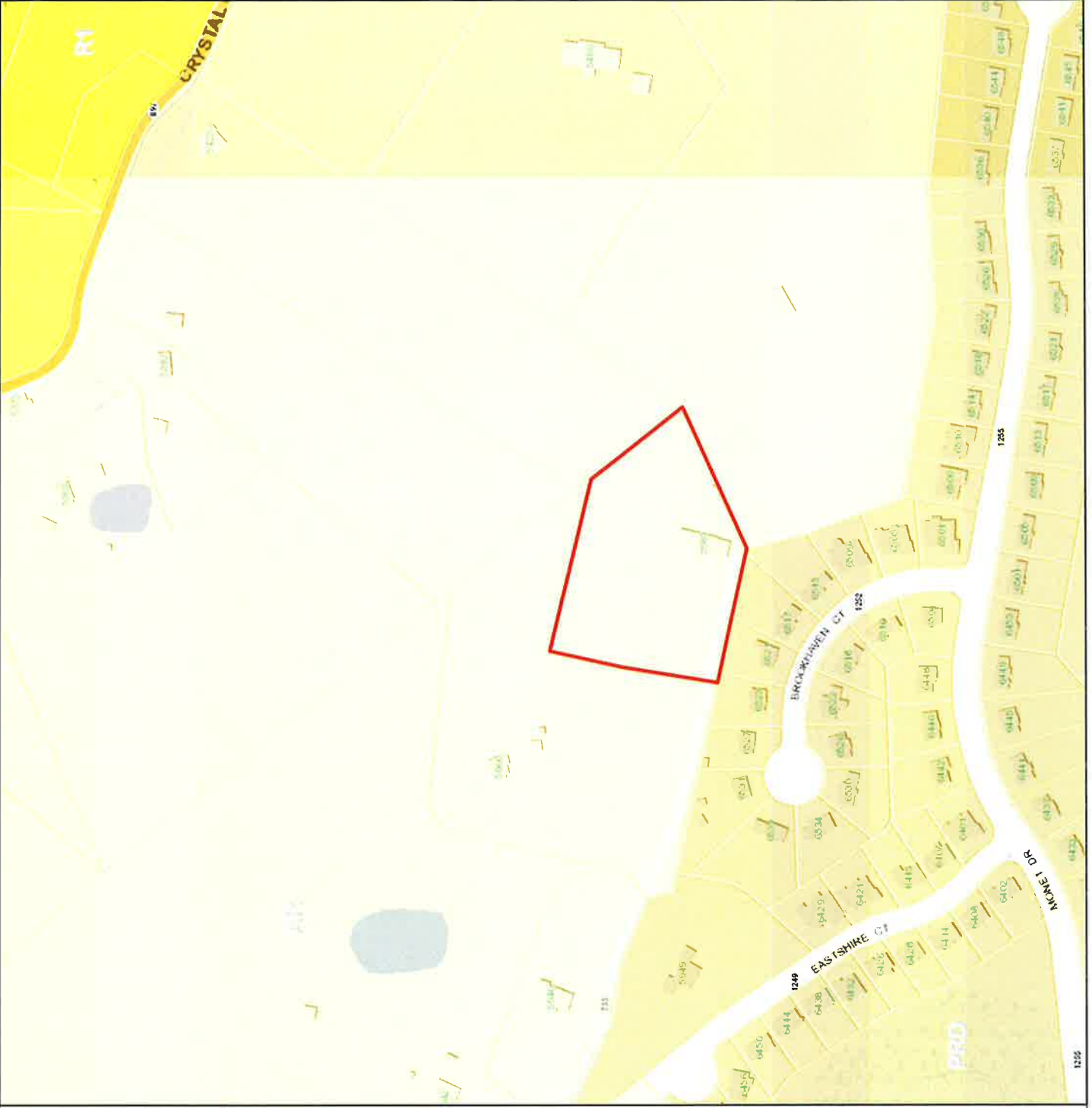
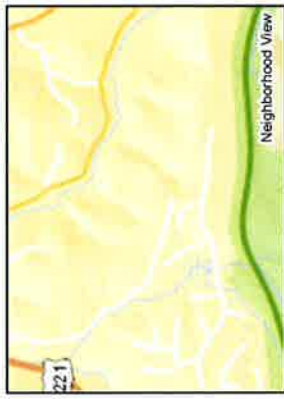
Area: 2.85 acres

Magisterial District: Cave Spring



Scale: 1 inch = 248 feet
Date: February 22, 2013





5985 Coleman Road

Applicant Name: Southwest Virginia Wildlife Center

Existing Zoning: AR

Existing Use: Veterinary Hospital / Clinic

Proposed Activity: SUP to Construct Building on Parcel without Public Road Frontage

Tax Map Number: 096.08-02-03.00-0000

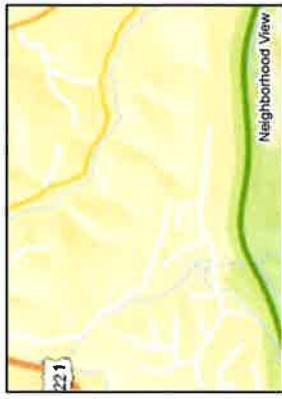
Area: 2.85 acres

Magisterial District: Cave Spring



Scale: 1 inch = 248 feet
Date: February 22, 2013





5985 Coleman Road

Applicant Name: Southwest Virginia Wildlife Center

Existing Zoning: AR

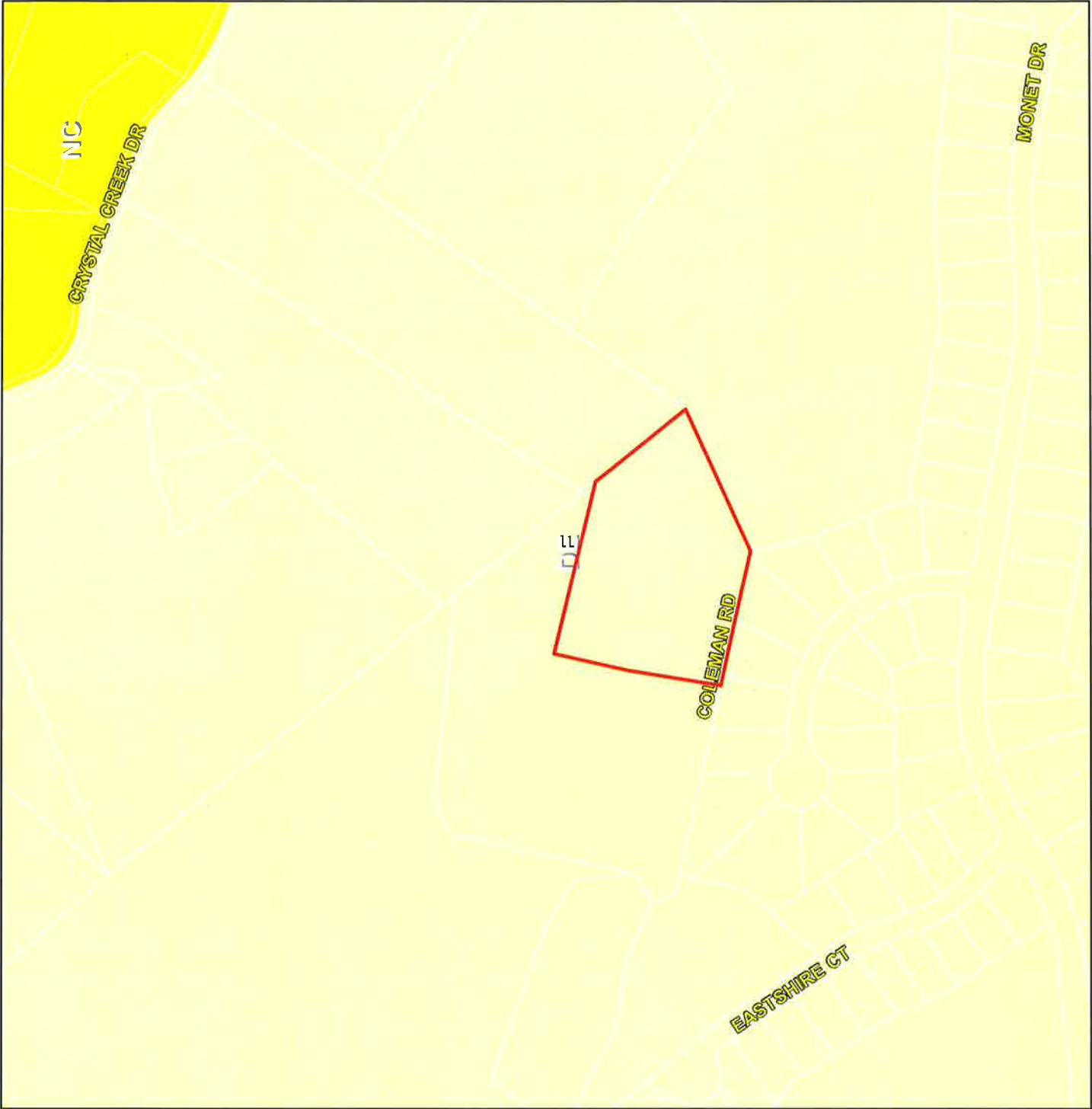
Existing Use: Veterinary Hospital / Clinic

Proposed Activity: SUP to Construct Building on Parcel without Public Road Frontage

Tax Map Number: 096.08-02-03.00-0000

Area: 2.85 acres

Magisterial District: Cave Spring



Scale: 1 inch = 248 feet
Date: February 22, 2013



County of Roanoke

DEPARTMENT OF COMMUNITY DEVELOPMENT

DIRECTOR, ARNOLD COVEY
DEPUTY DIRECTOR OF DEVELOPMENT SERVICES, TAREK MONEIR
DEPUTY DIRECTOR OF PLANNING, PHILIP THOMPSON

BUILDING PERMITS/INSPECTIONS
DEVELOPMENT REVIEW
ENGINEERING
ENVIRONMENTAL MANAGEMENT
PLANNING & ZONING
TRANSPORTATION

March 30, 2018

Mr. Stanley A. Seymour, III
5942 Coleman Road
Roanoke, Virginia 24018

RE: Written Zoning Determination for 5985 Coleman Road
Tax Map Number: 096.08-02-03.00-0000
AR Agricultural/Residential District
5985 COLEMAN ROAD LLC
Southwest Virginia Wildlife Center

Dear Mr. Seymour:

I have received your letter with additional information that was delivered to the Roanoke County Administration Center on February 27, 2018. Since the request pertains to a property not under your ownership or control I will also provide a copy of my written determination to the owners of 5985 Coleman Road (the "Property").

Your letter includes a request for zoning determinations related to the use of the Property.

The first category of your letter was "Nonconforming Use." I understand your question to be whether the present use of the property (as a veterinary hospital/ clinic) is a nonconforming use. It is my opinion that the present use is conforming. In 2014, the zoning administrator approved the use as a veterinary hospital/ clinic. The construction of the proposed raptor building and partially constructed building on the Property will require a Special Use Permit, due to a lack of public road frontage. The Special Use Permit is a public hearing process through the Planning Commission and Board of Supervisors.

The second category of your letter was "Zoning". I understand your question presented in this section to be whether the present use is *properly classified* as a veterinary hospital/ clinic. You specifically question whether the fact that animals stay at the facility overnight prevents the use from being thus classified.

It is my opinion that the use is properly classified as a veterinary hospital/ clinic use and that animals who remain at the facility overnight (whether indoors or outdoors) are not boarding. Although the term "boarding" is not defined in the County Code, I understand the term to refer to

P.O. BOX 29800 · ROANOKE, VIRGINIA 24018 · PHONE (540) 772-2080 · FAX (540) 776-7155

EXHIBIT E

situations in which owners of domestic animals drop their animals off at the facility for a set amount of time in exchange for a fee.

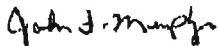
In the situation at hand, the animals who stay at the facility are not domestic animals and do not stay at the facility for a set amount of time in exchange for payment. All animals who stay overnight at the facility are receiving veterinary care. There are no boarding activities conducted at the facility that are incidental to the medical treatment of wild animals. This conclusion is supported by the finding made by the Commonwealth of Virginia Department of Health Professions, Board of Veterinary Medicine. The license approved for the Property is a Veterinary Establishment, Wildlife Rehabilitation Center and has a specific restriction stating "No Boarding."

The last category listed in your letter is "Setbacks". I understand that your question pertaining to setbacks is regarding the location of the front property line. After conducting extensive research originating with information on the County GIS and then reviewing plat and deed information, it is my determination that the front property line for the Property is the common property line (309.93' in length) between the Property and the adjacent parcel identified by Tax Map Number 096.08-02-04.00-0000, addressed as 5960 Coleman Road. This determination is different than what I advised you in our original discussion about this issue.

Please be aware that this written determination is issued by the Roanoke County Zoning Administrator. Any person aggrieved by a written determination of the Zoning Administrator may appeal the decision to the Board of Zoning Appeals. Appeals must be made within thirty (30) days of the entry of the written determination which is the date of receipt of this letter. Also please note that this written determination of the Roanoke County Zoning Administrator shall be final and unappealable if not appealed by the deadline noted in this letter {Sec 15.2-2311 Code of Va}. It is the applicant's responsibility to submit a complete administrative appeal application within the required deadline in order for the appeal request to become valid. In addition, there is a \$275 administrative appeal application fee and required legal advertisement fees shall be the responsibility of the appellant.

I will include an Administrative Appeal Application for your reference.

Sincerely,



John F. Murphy, CZA
Zoning Administrator

Attachment: Administrative Appeal Application

CC: 5985 COLEMAN ROAD LLC
5985 Coleman, Road
Roanoke, Virginia 24018

SCHEDULE C

Administrative Appeal

Written Zoning Determination for 5985 Coleman Road dated March 30, 2018

Tax Map Number: 096.08-02-03.00-0000

AR Agricultural/Residential District

5985 Coleman Road LLC

Southwest Virginia Wildlife Center

Adjoining Property Owners:

Stanley A. Seymour, III and Jane L. Seymour

5942 Coleman Road

Roanoke, VA 24018

Parcel ID: 096.08-02-04.00-0000

Property Address: 5960 Coleman Road
Roanoke, VA 24018

James P. Holladay and Ellen L. Antoniaci

6546 Sugar Ridge Drive

Roanoke, VA 24018

Parcel ID: 096.08-02-01.00-0000

Property Address: 5423 Crystal Creek Drive
Roanoke, VA 24018

Nicholas H. Beasley

5489 Crystal Creek Drive

Roanoke, VA 24018

Parcel ID: 096.02-01-46.01-0000

Property Address: 5491 Crystal Creek Drive
Roanoke, VA 24018

Richard N. Lovegreen and Erika E. Long

6513 Brookhaven Court

Roanoke, VA 24018

Parcel ID: 096.08-04-17.00-0000

Property Address: 6513 Brookhaven Court
Roanoke, VA 24018

Brian T. Loop and Jocassar Loop
6517 Brookhaven Court
Roanoke, VA 24018
Parcel ID: 096.08-04-16.00-0000
Property Address: 6517 Brookhaven Court
Roanoke, VA 24018

James Robert Bradshaw and Kimberly Mooney Bradshaw
6521 Brookhaven Court
Roanoke, VA 24018
Parcel ID: 096.08-04-15.00-0000
Property Address: 6521 Brookhaven Court
Roanoke, VA 24018

Russell P. Reiter
6523 Brookhaven Court
Roanoke, VA 24018
Parcel ID: 096.08-04-14.00-0000
Property Address: 6523 Brookhaven Court
Roanoke, VA 24018



County of Roanoke

COMMUNITY DEVELOPMENT
5204 Bernard Drive, Second Floor, P.O. Box 29800
Roanoke, Virginia 24018-0798
TEL: (540) 772-2080
FAX: (540) 776-7155

Arnold Covey, DIRECTOR
Tarek Monelr,
DEPUTY DIRECTOR OF DEVELOPMENT SERVICES
Philip Thompson,
DEPUTY DIRECTOR OF PLANNING

BUILDING PERMITS / INSPECTIONS
DEVELOPMENT SERVICES
ENGINEERING
PLANNING & ZONING
STORMWATER MANAGEMENT
TRANSPORTATION

May 17, 2018

Mr. Stanley A. Seymour, III
5942 Coleman Road
Roanoke, Virginia 24018

RE: Second Written Zoning Determination for 5985 Coleman Road
Tax Map Number: 096.08-02-03.00-0000
AR Agricultural/Residential District
5985 COLEMAN ROAD LLC
Southwest Virginia Wildlife Center
"The Property"

Dear Mr. Seymour:

In response to my first zoning determination written to you (on March 30, 2018) relating to the above noted Property, I received your request, dated March 30, 2018 (your "second request"), made through your attorney, Mr. Johnson, requesting additional zoning opinions related to the Property. Since the request is for a property not under your ownership or control I will also provide a copy of my written determination to the owners of the Property.

Setbacks

You requested information on several items regarding setbacks. Section 30-34-3(B) of the Roanoke County Code sets forth the applicable minimum setback requirements (for AR Agricultural/ Residential Districts).

The required setback for the proposed raptor building: If the raptor building is approved and constructed as proposed, it will be considered the principal structure (because the Property's principal use (veterinary care and rehabilitation of wildlife) will be conducted within it and because it will be larger in size than the existing principal structure). Accordingly, the minimum front yard setback for the proposed raptor building would be 30 feet, the side yard setback would be 15 feet and the rear yard setback would be 25 feet.

The setback for the partially constructed building: Where the principal structure is more than 150 feet from the street, accessory buildings may be located 150 feet from the street and 20 feet from any side property line.

The other cages on the property will fall within the same setback category as the other accessory structures as the "partially constructed building." If a Special Use Permit is approved and the raptor building is constructed where proposed, the setback distances for the accessory structures will then be located behind the rear building line of the raptor building and the accessory structures will need to meet a minimum 10 feet side setback.

The need for a special use permit

The requirement for a special use permit for the proposed raptor building and the partially constructed building is based on Zoning Ordinance Section 30-23-5(B), Nonconforming Lots of Record. (B) *Any lot of record that is nonconforming because it has no public street frontage may be developed, or an existing structure on the lot may be expanded, provided the county reviews and grants a special use permit for the proposed development, expansion, and use in accord with the standards and procedures contained in Section 30-19 of this ordinance. This provision shall not apply to the use and development of such parcels for any agricultural and forestry use type, or for single family or two family dwellings.* (Emphasis added).

A variance is not required

In your request for a determination, you also shared your opinion that because the proposed projects appear to require "a modification of the road frontage ordinance," you believe that the County Code requires that the applicants obtain a variance, rather than a special use permit.

Section 30-19-1 of the County Code, General Standards, states: *The administrator shall not accept a special use permit application for a lot or parcel that does comply with the minimum requirements contained in Article IV, use and design standards, for that use. In such situations, the applicant shall first seek a variance from the board of zoning appeals. If a variance is granted, the administrator shall thereafter accept the special use permit application for the consideration of the commission and board.*

Article IV of the Zoning Ordinance outlines additional, modified or more stringent standards for uses that have an asterisk (*) beside the permitted uses list. In Section 30-34-2 of the County Code (which sets forth permitted uses in the AR Agricultural/Residential District), the Veterinary Hospital/Clinic use does not have an asterisk; **it does not have any use and design standards.** Site development regulations, which are set forth in Section 30-34-3 of the County Code (including frontage requirements), are not use and design standards; the variance requirement applicable to use and design standards does not apply. As noted above, Section 30-23-5(B) states that nonconforming lots (including those that lack public street frontage) may be developed or expanded, "provided the county reviews and grants a **special use permit** for the proposed development, expansion"

Further, Section 30-14(C) of the County Code (Amendments to Ordinance) states: *The administrator shall not accept any amendment application for a lot or parcel that does not comply with the minimum lot area, width or frontage requirements of the requested zoning*

district. In such situations, the applicant shall first seek a variance from the board of zoning appeals. If a variance is granted, the administrator shall thereafter accept the amendment application for the consideration of the commission and board. (Emphasis added). This section refers to situation in which an applicant is requesting a rezoning from one zoning district to another. An application for a special use permit for a nonconforming lot of record (pursuant to Section 30-23-5) is the pending request. Based on the above, it is my determination that a variance was not required prior to the acceptance of this special use permit application.

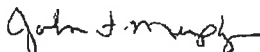
The other cages also require a special use permit

The Property does have multiple animal enclosure structures that were constructed, but were not large enough to require building permits. A zoning permit was initially issued for these structures. However, after further review of the information originally submitted for the zoning permit, I determined that the zoning permit for the accessory structures was issued in error and those structures will also require a special use permit.

Please be aware that this written determination is issued by the Roanoke County Zoning Administrator. Any person aggrieved by a written determination of the Zoning Administrator may appeal the decision to the Board of Zoning Appeals. Appeals must be made within thirty (30) days of the entry of the written determination which is the date of receipt of this letter. Also please note that this written determination of the Roanoke County Zoning Administrator shall be final and unappealable if not appealed by the deadline noted in this letter {Sec 15.2-2311 Code of Va}. It is the applicant's responsibility to submit a complete administrative appeal application within the required deadline in order for the appeal request to become valid. In addition, there is a \$275 administrative appeal application fee and required legal advertisement fees shall be the responsibility of the appellant.

I will include an Administrative Appeal Application for your reference.

Sincerely,



John F. Murphy, CZA
Zoning Administrator

Attachment: Administrative Appeal Application

CC: 5985 COLEMAN ROAD LLC
5985 Coleman, Road
Roanoke, Virginia 24018

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF ROANOKE COUNTY, VIRGINIA, HELD AT THE ROANOKE COUNTY ADMINISTRATION CENTER ON TUESDAY, SEPTEMBER 25, 2018

ORDINANCE 092518-5 GRANTING A SPECIAL USE PERMIT IN AN AR (AGRICULTURAL/ RESIDENTIAL) DISTRICT TO CONSTRUCT BUILDINGS ON A PARCEL WITHOUT PUBLIC ROAD FRONTAGE, AT 5985 COLEMAN ROAD (TAX MAP NO. 096.08-02-03.00-0000), IN THE CAVE SPRING MAGISTERIAL DISTRICT

WHEREAS, since 2014, Southwest Virginia Wildlife Center of Roanoke, Inc. (SVWC) has operated a veterinary hospital/ clinic at 5985 Coleman Road (Tax Map No. 096.08-02-03.00-0000), a 2.85 acre parcel in the Cave Spring Magisterial District; and

WHEREAS, Section 30-23-5(B) of the Roanoke County Code requires that on parcels without public road frontage, a special use permit must be obtained prior to new development or expansion of existing structures; and

WHEREAS, SVWC desires to construct additional structures, including a raptor rehabilitation structure, on the property, and have petitioned for a special use permit; and

WHEREAS, the Roanoke County Planning Commission held a public hearing on this matter on September 4, 2018, and subsequently recommended approval of the special use permit, with conditions; and

WHEREAS, the first reading of this ordinance was held on August 28, 2018, and the second reading and public hearing were held on September 25, 2018; and

WHEREAS, legal notice and advertisement has been provided as required by law.

BE IT ORDAINED by the Board of Supervisors of Roanoke County, Virginia, as follows:

1. The Board finds that the granting of a special use permit to allow construction of additional structures at 5985 Coleman Road (Tax Map No. 096.08-02-03.00-0000), a 2.85 acre parcel in the Cave Spring Magisterial District, meets with the requirements of Section 30-19-1 of the Roanoke County Code; the proposed use conforms with the standards set forth in article IV, use and design standards, and further conforms with the following general standards:
 - a. The proposed use is in conformance with the comprehensive plan of the County, as amended, pursuant to the provisions of Section 15.2-2232 of the 1950 Code of Virginia, as amended, and with official County policies adopted in relation thereto, including the purposes of the zoning ordinance.
 - b. The proposed use will have a minimum adverse impact on the surrounding neighborhood and community;
2. The Board grants a special use permit to allow construction of additional structures at 5985 Coleman Road (Tax Map No. 096.08-02-03.00-0000), a 2.85 acre parcel in the Cave Spring Magisterial District, subject to the following conditions:
 - a. Concept Plan Conformance. The site shall be developed in general conformance with Special Use Permit Concept Plan (Exhibit A) for Roanoke Wildlife Rescue prepared by Lumsden Associates, P.C. dated April 25, 2018, except the proposed raptor complex shall be setback 60 feet from the southern property line instead of 40 feet.

- b. Screening. A double staggered row of large evergreen trees shall be planted along the western property line from the existing driveway to the existing vegetation shown on the Special Use Permit Concept Plan, which is approximately one hundred (100) feet. Additionally, a double staggered row of large evergreen trees shall be planted parallel to the southern property line from the western property east to the line of existing vegetation, between the driveway and proposed raptor building shown on the Special Use Permit Concept Plan. The large evergreen trees shall be a minimum of eight (8) feet tall when planted and shall be spaced twenty (20) feet on center.
- c. Raptor Complex Building. The proposed raptor complex building shall be designed in substantial conformance with the preliminary building plans, except for those changes that may be required as part of the building plan review process. The proposed raptor complex building shall be constructed mostly of wood, synthetic wood like materials, and/or wood composite materials. The exterior walls of the building shall have a natural wood appearance similar to a barn, and shall not include any sheet metal. The roof of the building shall be constructed with the same materials as the exterior walls, but may also be constructed with skylights, translucent panels, roofing shingles and tin sheeting.


3. That this ordinance shall be in full force and effect upon its final passage. The Zoning Administrator is directed to amend the zoning district map to reflect the change in zoning classification authorized by this ordinance.

On motion of Supervisor Assaid to adopt the ordinance, seconded by Supervisor McNamara and carried by the following roll call and recorded vote:

AYES: Supervisors Assaid, North, McNamara, Peters, Hooker

NAYS: None

A COPY TESTE:

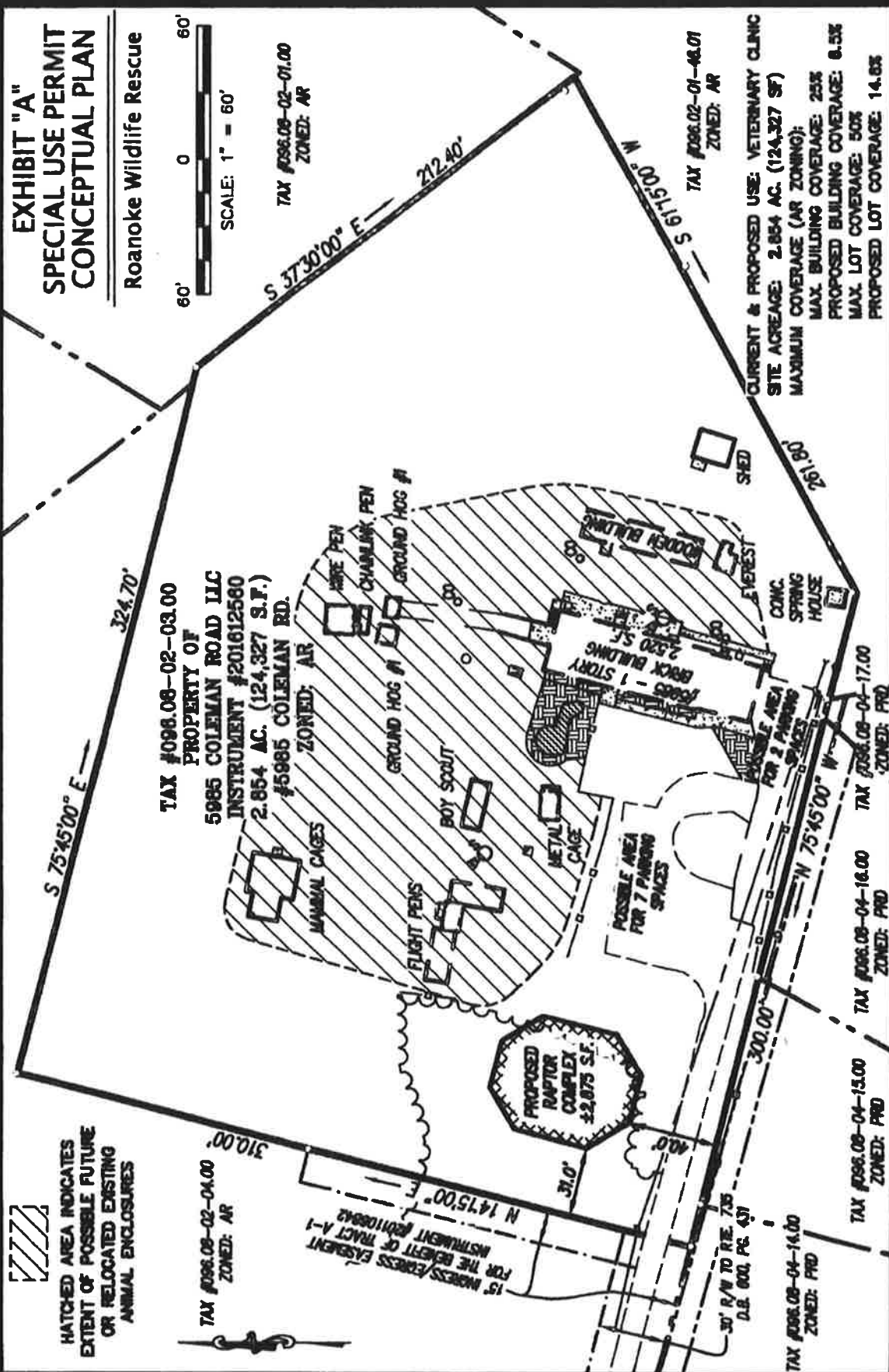


Deborah C. Jacks
Chief Deputy Clerk to the Board of Supervisors

cc: Philip Thompson, Acting Director of Planning
Tarek Moneir, Acting Director of Development Services
William Driver, Director of Real Estate Valuation
Peter Lubeck, Senior Assistant County Attorney
John Murphy, Zoning Administrator

EXHIBIT "A" SPECIAL USE PERMIT CONCEPTUAL PLAN

Roanoke Wildlife Rescue



HATCHED AREA INDICATES
EXTENT OF POSSIBLE FUTURE
OR RELOCATED EXISTING
ANIMAL ENCLOSURES

TAX #098.08-02-03.00
PROPERTY OF
5985 COLEMAN ROAD LLC
INSTRUMENT #201612580
2.854 AC. (124,327 S.F.)
#5985 COLEMAN RD.
ZONED: AR

TAX #098.02-01-48.01
ZONED: AR
CURRENT & PROPOSED USE: VETERINARY CLINIC
SITE ACRES: 2.854 AC. (124,327 SF)
MAXIMUM COVERAGE (AR ZONING):
MAX. BUILDING COVERAGE: 25%
PROPOSED BUILDING COVERAGE: 8.5%
MAX. LOT COVERAGE: 50%
PROPOSED LOT COVERAGE: 14.5%

TAX #098.08-02-04.00
ZONED: AR
15' WARESS/ERESS EASEMENT
FOR THE BENEFIT OF TRACT A-1
INSTRUMENT #201108242

TAX #098.08-04-16.00
ZONED: PRD
N 75°45'00" W

TAX #098.08-04-15.00
ZONED: PRD

TAX #098.08-04-17.00
ZONED: PRD

DATE:	April 25, 2018
SCALE:	1" = 60'
COMM. NO.:	18-088

4664 BRAMBLETON AVENUE
P.O. BOX 20669
ROANOKE, VIRGINIA 24018
PHONE: (540) 774-4411
FAX: (540) 772-9445
E-MAIL: MAIL@LUMSDENPC.COM

LUMSDEN ASSOCIATES, P.C.
ENGINEERS-SURVEYORS-PLANNERS
ROANOKE, VIRGINIA



VIRGINIA:

IN THE CIRCUIT COURT FOR THE COUNTY OF ROANOKE

STAN SEYMOUR, *et al.*,
Plaintiffs,

v.

Case No. CL18001555-00

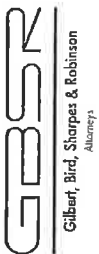
5985 COLEMAN ROAD, LLC, *et al.*,
Defendants.

**Supplemental Answers and Objections of
Defendant Southwest Virginia Wildlife Center of Roanoke, Inc.
to Plaintiffs' First Interrogatories**

Pursuant to Rules 4:1 and 4:8 of the Rules of the Supreme Court of Virginia, defendant Southwest Virginia Wildlife Center of Roanoke, Inc. provides supplements the answers to the first set of interrogatories, and its counsel's objections, as follows.

Defendant's answers to these interrogatories are based upon the information and documents currently available to Defendant and Defendant's counsel after reasonable investigation. These answers are provided with the advice of counsel and do not purport to be the verbatim language of Defendant. Defendant reserves the right to supplement these answers in the time and manner prescribed in the Rules of the Supreme Court of Virginia. Defendant reserves all objections to admissibility that may be interposed at any hearing.

Defendant objects by standing objection to any interrogatory or request for production of document that seeks to obtain information that is protected by the attorney client and/or attorney work product doctrines.



INTERROGATORY NO. 6: Explain in detail your intended uses for the raptor cage including, but not limited to, the times in which it will be occupied by wildlife or persons and whether and what types of medical treatment will be administered in the raptor cage.

SUPPLEMENTAL ANSWER:

Defendant still cannot specifically and presently foresee intended use of raptor building other than allowing bird(s) inside to fly for rehabilitation purposes, meaning to develop the muscles necessary to fly and survive in the wild.

INTERROGATORY NO. 7: Explain the times in which the raptor cage will be occupied by wildlife or persons, including the amount of time that an individual bird or raptor will be allowed to remain in the cage.

SUPPLEMENTAL ANSWER:

Defendant cannot specifically and presently foresee the timing of when the raptor building would be used as it depends on a bird's rehabilitation treatment needs and the number of birds needing rehabilitative treatment.

INTERROGATORY NO. 8: Identify and describe SVWC's primary use for each of the buildings or structures located on the Property.

SUPPLEMENTAL OBJECTION: Defendant objects that this supplemental requested interrogatory is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence for this case. Without waiving any objection, see below.

SUPPLEMENTAL ANSWER:

Please refer to the plat enclosed to the Second Request for Production of Document #1 marked with letters for each structure. Dimensions in feet and year built are approximates.

A is for small and medium mammals and birds; is approximately 16x16x8 with offset of 8x8x8; and was completed in about 2016.

B is for small and medium mammals to owls; is approximately 10x10x8; and was completed in about 2017.

C is for small and medium mammals and birds; is approximately 10x6x8; and was completed in about 2016.

D & E are for small mammals and waterfowl; are approximately 6x6x4; and were completed in about 2014.

F is for owls, small raptors, mammals, large songbirds, and waterfowl and was completed in about 2014. See produced drawing for dimensions.

G is for owls, small raptors, waterfowl, and mammals and was completed in about 2014. See produced drawing for dimensions.

H is for owls, mammals, small raptors, large songbirds, and waterfowl and was completed in about 2014. See produced drawing for dimensions.

I is for small mammals and songbirds and waterfowl; is approximately 10x12x8; and was completed in about 2016.

J is for small mammals and songbirds and waterfowl; is approximately 12x8x8; and was completed in about 2014.

K is the Center; is approximately 40x20; and was completed in the 1950s.

L is for raptors and was completed in about 2017 to 2018. See produced drawing for dimensions.

M is for songbirds and was completed in about 2014. See produced drawing for dimensions.

N is a spring house; is maybe approximately 4x4; and was completed at an unknown time.

O is a shed; is maybe approximately 6x6; and was completed at an unknown time.

Treatments are done in K, F, G, H, I, & L.

INTERROGATORY NO. 9: If you contend that SVWC qualifies as a veterinary hospital/clinic under the Roanoke County Zoning Ordinance, state in detail the basis for your position including a list of services offered, whether those services are offered to the general public, where and how treatment is administered, the types of animals treated, the typical time for which animals are cared for, where animals are or will be housed or kept during and after treatment if the raptor cage is constructed, and where or to whom animals are returned after any treatment or rehabilitation.

SUPPLEMENTAL ANSWER:

Veterinarian treatment is provided free of charge to all native wildlife permitted under VDGIF and USFWS regulations. Wildlife is rescued and brought to SVWC by the community. Veterinarian treatment rendered and its attendant length of care varies with each species, each species' stage of development, and each injury. There is no generalized treatment of wildlife. Each treatment is specific to the species, injury, and if orphaned. Injuries could include fractures, retinal detachments, toxins, dehydration, ataxia, etc. All patients arrive at various stage of life and they may not be released until they are viable based on the unique characteristics or needs of the species. Animals might be released the same day or held until the patient is old enough to forage on its own or has recovered from injuries. No patient may be kept more than

180 days unless the appropriate government entity approves. Recovery, conditioning, and placement in rehabilitation varies with each patient. When possible, adult animals are returned to their original location of rescue, unless deemed dangerous or migration has started, and juvenile animals are found appropriate habitats conducive for the species.

INTERROGATORY NO. 10: Identify the building on the Property in which any veterinary treatment is primarily administered.

SUPPLEMENTAL OBJECTION: Defendant objects that this supplemental requested interrogatory is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence for this case. Without waiving any objection, see below.

SUPPLEMENTAL ANSWER:

Please refer to the plat enclosed to the Second Request for Production of Document #1 marked with letters for each structure. Treatments are done in K, F, G, H, I, & L.

INTERROGATORY NO. 12: Explain in detail the nature and extent of wildlife rehabilitation services SVWC intends to conduct on the Property once the raptor cage is built including, but not limited to, the number of animals rehabilitated at any given time, the location where such animals are or will be housed or kept, the type of services necessary for any rehabilitation of animals, and the length of time required for the rehabilitation of animals.

SUPPLEMENTAL OBJECTION: Defendant objects to this interrogatory on the ground it is vague, overbearing, burdensome, and not calculated to lead to discoverable information relevant to the issues in this case.

SUPPLEMENTAL ANSWER:

Notwithstanding the objection, Raptors that require flying time to rebuild pectoral muscles that atrophied during treatment will be kept on site. The time needed varies with species, injury, and life stage. Different species have different sized flight areas. Defendant still cannot specifically and presently foresee the timing of when the raptor building would be used as it depends on patient load and needs. Defendant still cannot specifically and presently foresee intended use of raptor building other than allowing bird(s) inside for rehabilitation purposes, meaning the bird should fly within the raptor building to develop its muscles so it can survive in the wild.

INTERROGATORY NO. 13: Identify the number of employees that you anticipate being employed by SVWC if a raptor cage is constructed and SVWC is operating at full capacity, provide the anticipated daily schedule for all such employees, and if visitors will be permitted, identify the visiting hours and anticipated number of visitors.

SUPPLEMENTAL ANSWER:

This number is presently expected to remain unchanged at six, and I have no present plans to increase the number of employees if the raptor building is constructed. The SVWC does not allow visitors with rehabilitating wildlife.

INTERROGATORY NO. 15: Identify all documents and communications regarding nonconforming structures you have received pertaining to the Property, including formal or informal notices from Roanoke County, its staff, other representatives, or any other individual or entity.

SUPPLEMENTAL OBJECTION: Defendant objects to this interrogatory on the ground it is vague, overbearing, burdensome, and not calculated to lead to discoverable information relevant to the issues in this case.

SUPPLEMENTAL ANSWER:

As for any structures on the Property, please refer to the plat enclosed to the Supplemental Request for Production of Document #1 marked with letters for each structure. The other documents were already provided, and which were already duplicates of documents that were already in plaintiffs' custodies before being provided again by Defendant. These already produced documents include the numerous written allegations of plaintiffs and the numerous written determinations by Roanoke County representatives and staff, all which were already disclosed and already known to plaintiffs.

INTERROGATORY NO. 16: Identify all documents and communications you have received regarding non-permitted uses of the Property, including formal or informal notices from Roanoke County, its staff, other representatives, or any other individual or entity.

SUPPLEMENTAL OBJECTION: Defendant objects to this interrogatory on the ground it is vague, overbearing, burdensome, and not calculated to lead to discoverable information relevant to the issues in this case.

SUPPLEMENTAL ANSWER:

The documents were already provided, and which were already duplicates of documents that were already in plaintiffs' custodies before being provided again by Defendant. These already produced documents include the numerous written allegations of plaintiffs and the numerous written determinations by Roanoke County representatives and staff.

INTERROGATORY NO. 17: Explain in detail the manner and method in which your medical waste, animal waste and carcasses are disposed of including how such waste is collected, the location at which and length of time it is held on site, the method of transportation for removal of such waste and the location where such waste is ultimately disposed of.

SUPPLEMENTAL OBJECTION: Defendant objects that this supplemental requested interrogatory is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence for this case. Without waiving any objection, see below.

SUPPLEMENTAL ANSWER:

As for medical and animal waste, needles are placed in “sharps” containers, and other items are secured inside plastic bags and in trash receptacles for prompt disposition. Cages are cleaned with diluted bleach and hosed down or power washed. See prior answer as to bodies.

INTERROGATORY NO. 18: Identify all full-time and part-time veterinarians who work at and/or for SVWC, the qualifications of each veterinarian including their licensures, and the hours each works at SVWC.

SUPPLEMENTAL OBJECTION: Defendant objects that this supplemental requested interrogatory is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence for this case. Without waiving any objection, see below.

SUPPLEMENTAL ANSWER:

Dr. LeVan, #0301006893, is the veterinarian and presently serves part time. License information is publicly available from the Virginia Board of Veterinary Medicine. The hours vary with patient load, and no documentation memorializes hours worked. A relief veterinarian

is a volunteer, and that license would be held that veterinarian's employer. Dr. Dominguez, #0301204377, and Dr. Karras, #0301005654, are licensed veterinarians and have previously served as relief veterinarians at SWVC.

INTERROGATORY NO. 19: Provide the number of vehicle trips and/or other traffic coming and going on the Property per month since the SVWC began operations on the Property, including but not limited to the number of vehicle trips per month for animals brought to or leaving the Property for any reason; the number of visitors and associated vehicles per month; and the number of staff, volunteers, or any other person on the Property for any reason and the number of vehicle trips for each per month.

SUPPLEMENTAL ANSWER:

The specific number is still unknown because SVWC still does not keep track of traffic, deliveries, repairs, or the number of individuals in each vehicle. SVWC treats approximately 2,000 patients a year, and the patients can arrive as a single animal or in groups. Traffic is seasonal and varies per day. Traffic has seemingly increased since 2018 as a result of plaintiffs' various lawsuits against and involving the SVWC.

Oath for Supplemental Answers to Plaintiffs' First Interrogatories

I, Sabrina Leonard-Garvin, hereby state under oath that I answered the preceding Interrogatories and that the answers to the Interrogatories are true and correct to the best of my knowledge, information, and belief.

[Signature]
for Southwest Virginia Wildlife Center of Roanoke, Inc.

STATE/Commonwealth of Virginia
COUNTY/CITY OF Roanoke, to-wit:

The foregoing Supplemental Answers to Plaintiffs' First Interrogatories was acknowledged before me on this the 30th day of August, 2019, by Sabrina Leonard-Garvin, who serves as Executive Director for Southwest Virginia Wildlife Center of Roanoke, Inc.

My commission expires: July 31, 2021

CHELSEA ELIZABETH SLEDD
NOTARY PUBLIC
Commonwealth of Virginia
Registration No. 7721736
My Commission Expires July 31, 2021

Chelsea Elizabeth Sledd
Notary Public

Registration # 7721736



As to objections:



GILBERT, BIRD, SHARPES & ROBINSON
James I. Gilbert, IV (VSB #38229)
Adam Law Miller (VSB #77079)
310 South Jefferson Street
Roanoke, VA 24011
(540) 721-5110
(540) 721-5112 (Fax)
jgilbert@gbsrattorneys.com
amiller@gbsrattorneys.com

Certificate of Mailing

I hereby certify that a true and accurate copy of the foregoing Supplemental Answers and Objections to Plaintiffs' First Interrogatories was mailed by first-class mail postage prepaid this

30th day of August, 2019, to the following:

Peter S. Lubeck, Esq.
County Attorney's Office
5204 Bernard Dr., Suite 431
Roanoke, VA 24018

Counsel for defendants The
Roanoke County Board of
Supervisors

James Cowan, Esq.
Jennifer S. Friedel, Esq.
Eric Chapman, Esq.
Brian Wheeler, Esq.
CowanPerry PC
250 S. Main St.
Suite 226
Blacksburg, VA 24060

Counsel for Plaintiffs

G. Harris Warner, Esq.
P.O. Box 21584
Roanoke, VA 24018
Co-counsel for Plaintiffs



Counsel for defendant Southwest Virginia Wildlife Center of Roanoke, Inc.

VIRGINIA:

IN THE CIRCUIT COURT FOR THE COUNTY OF ROANOKE

STAN SEYMOUR, *et al.*,
Plaintiffs,

v.

Case No. CL18001555-00

5985 COLEMAN ROAD, LLC, *et al.*,
Defendants.

**Supplemental Answers and Objections of
Defendant Southwest Virginia Wildlife Center of Roanoke, Inc.
to Plaintiffs' First Request for Production of Documents**

Pursuant to Rules 4:1 and 4:9 of the Rules of the Supreme Court of Virginia, defendant Southwest Virginia Wildlife Center of Roanoke, Inc. provides supplemental responses to the first set of requests for production of documents, and its counsel's objections, as follows.

Defendant's responses to these requests are based upon the information and documents currently available to Defendant and Defendant's counsel after reasonable investigation. These answers are provided with the advice of counsel and do not purport to be the verbatim language of Defendant. Defendant reserves the right to supplement these responses in the time and manner prescribed in the Rules of the Supreme Court of Virginia. Defendant reserves all objections to admissibility that may be interposed at any hearing.

Defendant objects by standing objection to any interrogatory or request for production of document that seeks to obtain information that is protected by the attorney client and/or attorney work product doctrines.

REQUEST FOR PRODUCTION NO. 1: Any and all documents identified in, described in, related to, used in formulating, or which support or refute any of your Answers to Plaintiffs' Interrogatories.

SUPPLEMENTAL RESPONSE:

Please see enclosed.

REQUEST FOR PRODUCTION NO. 3: All documents and communications between you and 5985 Coleman Road, LLC pertaining to the Special Use Permit, the Application, raptor cage, and/or services provided by you on the Property.

SUPPLEMENTAL RESPONSE:

Other than what was already provided, there is no other documents between SVWC and 5985 Coleman Road, LLC responsive to this request.

REQUEST FOR PRODUCTION NO. 7: All documents and correspondence between you and Roanoke County or 5985 Coleman Road, LLC regarding any of the buildings or structures located on the Property.

SUPPLEMENTAL RESPONSE:

Other than what was already provided, there is no other documents between SVWC and 5985 Coleman Road, LLC or Roanoke County responsive to this request.

REQUEST FOR PRODUCTION NO. 8: All documents and correspondence between you and Roanoke County or 5985 Coleman Road, LLC regarding nonconforming structures on or non-permitted uses of the Property under the Roanoke County Zoning Ordinance.

SUPPLEMENTAL RESPONSE:

All documents between SVWC and Roanoke County or 5985 Coleman Road, LLC about any structure or use on the Property has already have been provided.

REQUEST FOR PRODUCTION NO. 18: All documents responsive to Interrogatory No.

15.

SUPPLEMENTAL RESPONSE:

Please see enclosure to supplemental response #1.

Respectfully Submitted,
Southwest Virginia Wildlife Center of Roanoke, Inc.
By counsel:



GILBERT, BIRD, SHARPES & ROBINSON
James I. Gilbert, IV (VSB #38229)
Adam Law Miller (VSB #77079)
310 South Jefferson Street
Roanoke, VA 24011
(540) 721-5110
(540) 721-5112 (Fax)
jgilbert@gbsrattorneys.com
amiller@gbsrattorneys.com

Certificate of Mailing

I hereby certify that a true and accurate copy of the foregoing Supplemental Answers and Objections to Plaintiffs' First Requests for Production of Documents was mailed by first-class mail postage prepaid this 30th day of August, 2019, to the following:

Peter S. Lubeck, Esq.
County Attorney's Office
5204 Bernard Dr., Suite 431
Roanoke, VA 24018

Counsel for defendants The
Roanoke County Board of
Supervisors

James Cowan, Esq.
Jennifer S. Friedel, Esq.
Eric Chapman, Esq.
CowanPerry PC
250 S. Main St.
Suite 226
Blacksburg, VA 24060

Counsel for Plaintiffs

G. Harris Warner, Esq.
P.O. Box 21584
Roanoke, VA 24018
Co-counsel for Plaintiffs



Counsel for defendant Southwest Virginia Wildlife Center of Roanoke, Inc.

Supplement to First RPD to SVWC

#1

HATCHED AREA INDICATES
EXTENT OF POSSIBLE FUTURE
OR RELOCATED EXISTING
ANIMAL ENCLOSURES

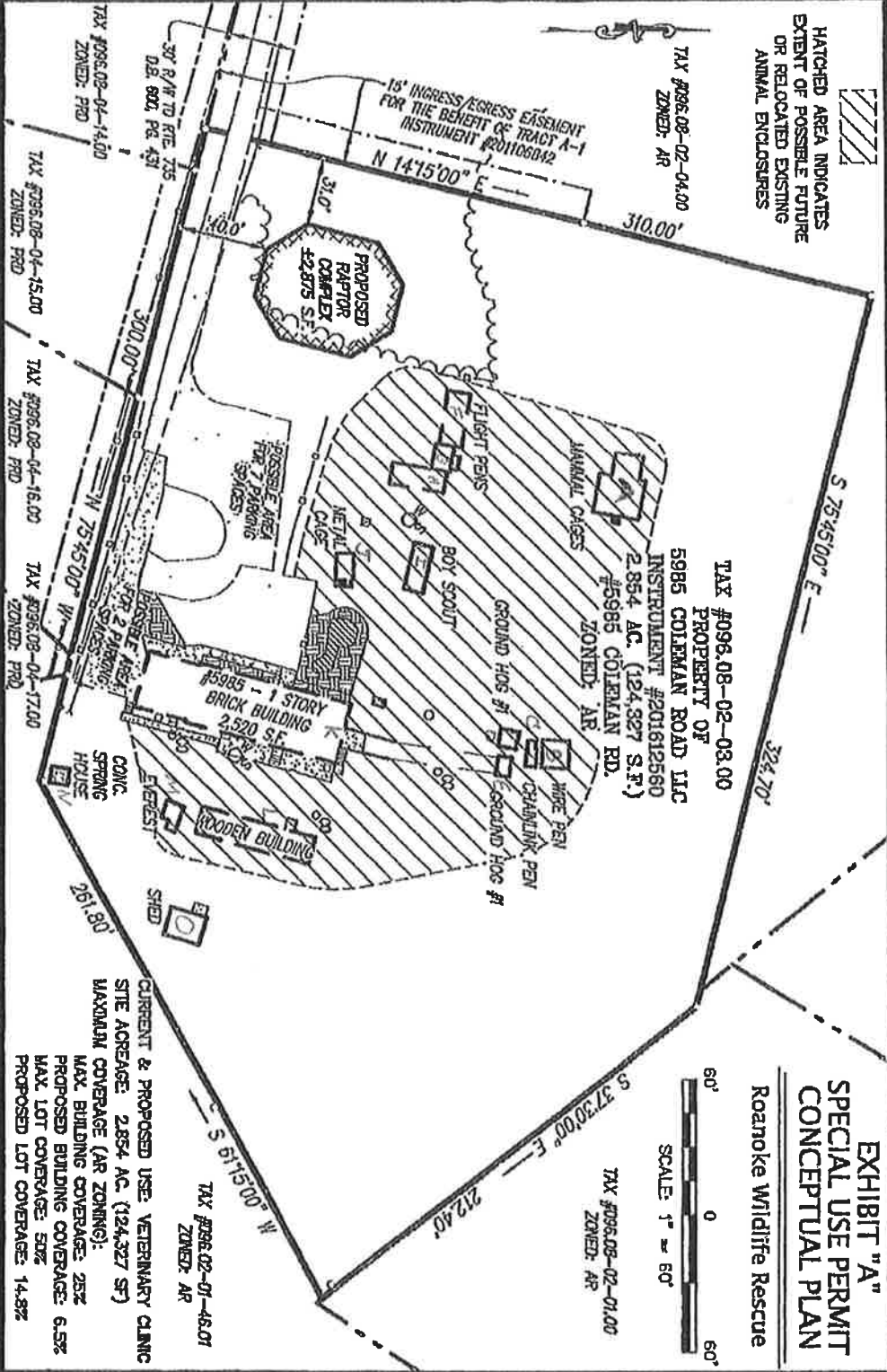


EXHIBIT "A"
SPECIAL USE PERMIT
CONCEPTUAL PLAN
Roanoke Wildlife Rescue

SCALE: 1" = 60'
60' 0 60'

CURRENT & PROPOSED USE: VETERINARY CLINIC
SITE ACREAGE: 2.854 AC. (124,327 SF)
MAXIMUM COVERAGE (AR ZONING):
MAX. BUILDING COVERAGE: 25%
PROPOSED BUILDING COVERAGE: 6.5%
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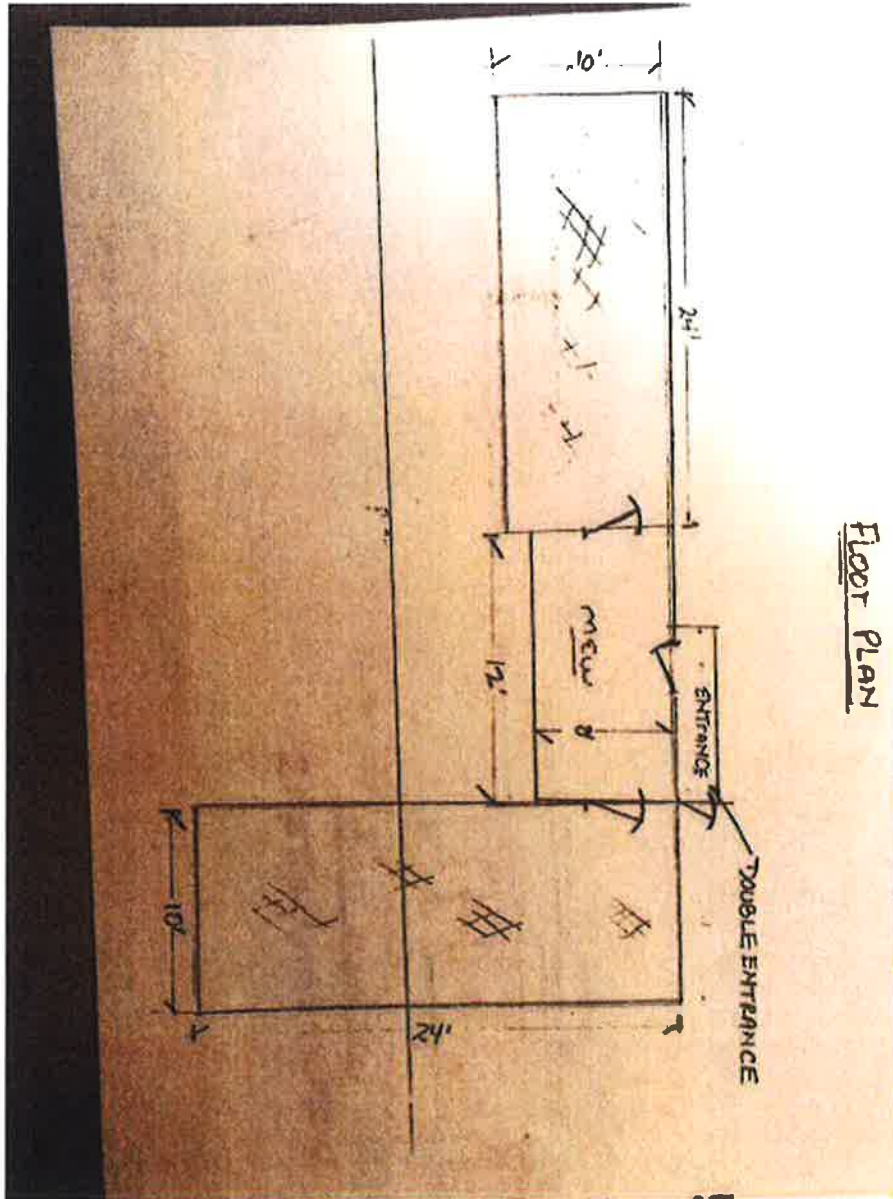


LUMSDEN ASSOCIATES, P.C.
ENGINEERS-SURVEYORS-PLANNERS
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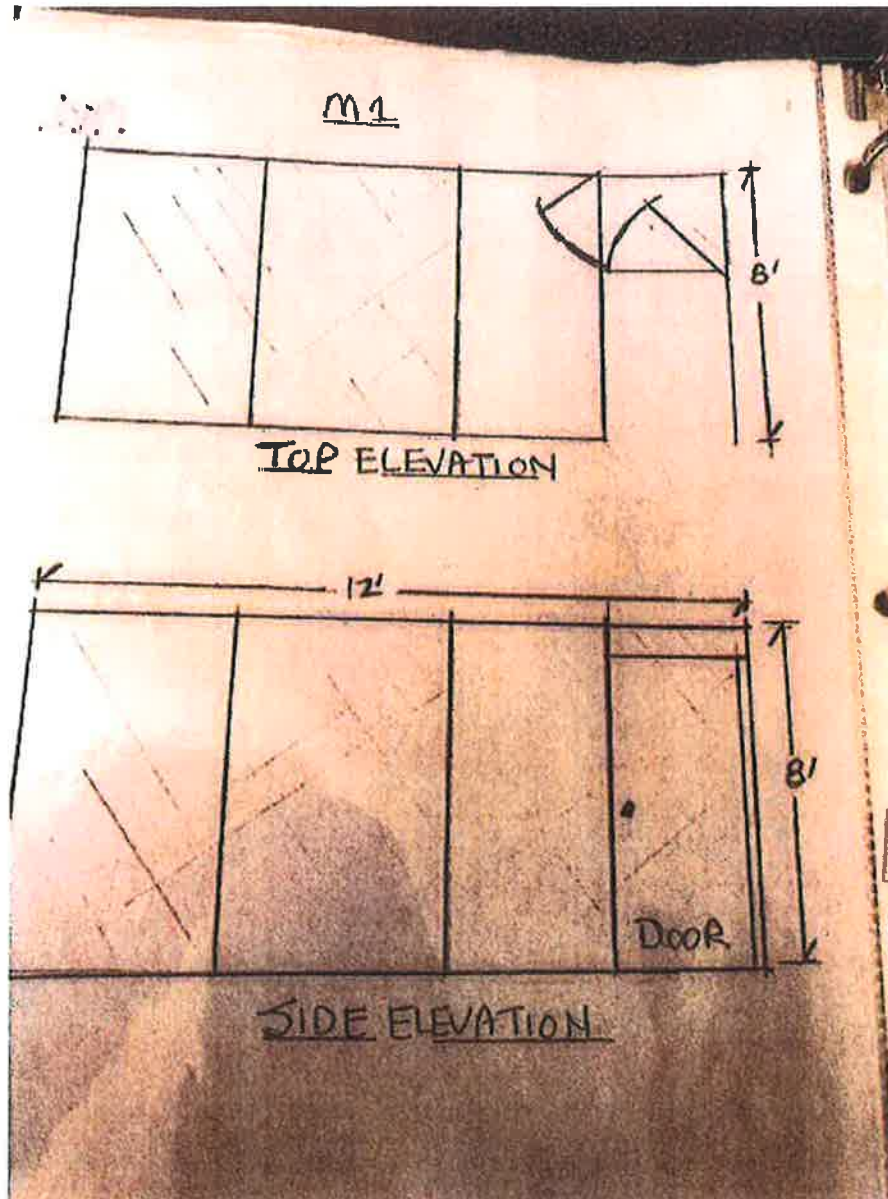
DATE:	April 25, 2018
SCALE:	1" = 60'
COMM. NO.:	18-088

Bldgs
F/G/H



FLOOR PLAN

Bldg J

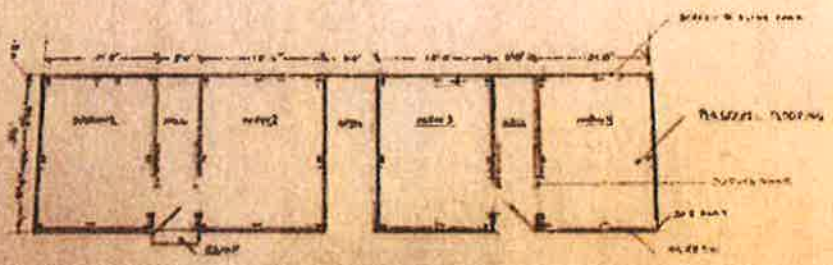


Bldg L

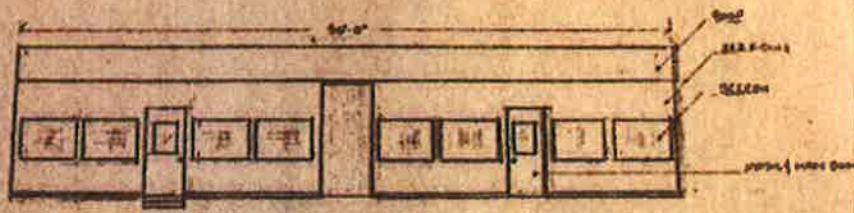
AMBASSADOR NEW



SECTION THROUGH THE ROOF



FOUNDATION

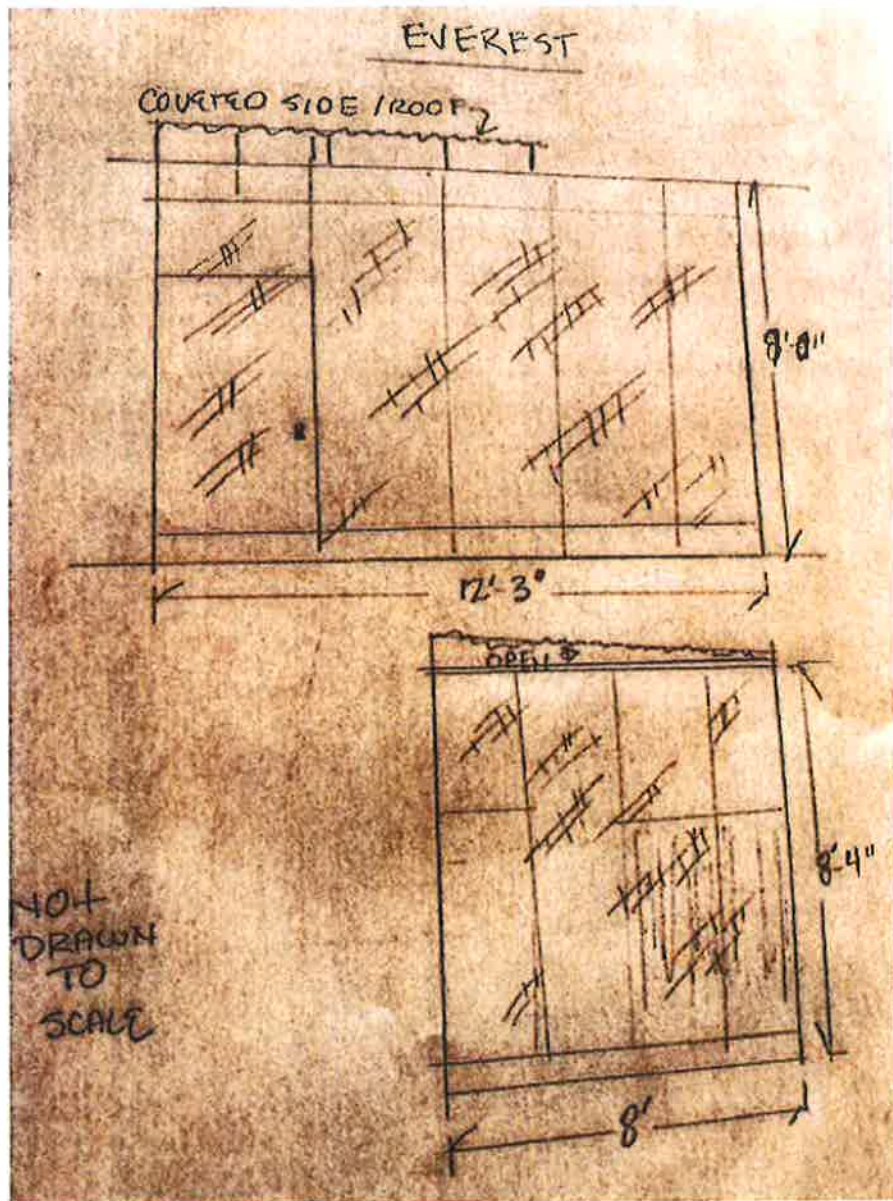


FRONT ELEVATION

SOUTHWEST VA. WOODS OFFICE OF
SCAMMEL

Bldg M

4



Details for LEGAL NOTICE

18 hrs ago

LEGAL NOTICE ROANOKE COUNTY BOARD OF SUPERVISORS The Roanoke County Board of Supervisors will hold a public hearing at 7 p.m. on Tuesday, September 25, 2018, in the Board Meeting Room of the Roanoke County Administration Center, 5204 Bernard Drive, Roanoke, VA, on the petition of Southwest Virginia Wildlife Center of Roanoke, Inc. to obtain a Special Use Permit in a AR, Agricultural/Residential, District to construct buildings on a parcel without public road frontage per Section 30-23-5(B) of the Roanoke County Zoning Ordinance on 2.85 acres, located at 5985 Coleman Road, Cave Spring Magisterial District. A copy of this application is available for inspection in the Department of Community Development, 5204 Bernard Drive, Roanoke, VA. Dated: September 5, 2018 Deborah C. Jacks, Chief Deputy Clerk (817137)

SEYM003004

https://www.roanoke.com/classifieds/community/announcements/legal/legal-notice/ad_68... 9/11/2018

EXHIBIT I

THE ROANOKE TIMES

roanoke.com

Your Community. Your Times.

Roanoke Times Order Confirmation for Ad #0000817137-01

Client	SOUTHWEST VIRGINIA WILDLIFE CENTER OF	Payor Customer	SOUTHWEST VIRGINIA WILDLIFE CE
Client Phone	540-798-9836	Payor Phone	540-798-9836
Account#	6092580	Payor Account	6092580
Address	5985 COLEMAN ROAD ROANOKE VA 24018 USA	Payor Address	5985 COLEMAN ROAD ROANOKE VA 24018
Fax		Ordered By	Acct. Exec
E-Mail		Susan Mccoy	legalsROA

Total Amount	\$407.44	Status	
Payment Amt	\$0.00	Materials	
Amount Due	\$407.44	Tear Sheets	0
Tax Amount:	\$0.00	Proofs	0
Payment Method		Affidavits	0
		Blind Box	

Text: legal notice
Order Notes:

Ad Number	Ad Type	Color
0000817137-01	CLS Legal Liner	<NONE>
Pick Up Number	Ad Size	Production Method
	1.0 X 37 Li	AdBooker (liner)
Production Color		Production Notes

Product	Placement/Class	Position	# Inserts
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ROA Roanoke Times::	C-Legal Ads - Classified	Legal Notices-Legal-Class	
LEGAL NOTICE ROANOKE COUNTY BOARD OF SUPERVISORS	The Roanoke Cour		2
9/11/2018, 9/18/2018			
LEGALNOTICEROANOKECOUNTYBOARDOF SUPERVISORSTHEROANOKECOUNTYBOARDOF			
ROA roanoke.com:Onl Any:	C-Legal Ads - Classified	Legal Notices-Legal-Class	
LEGAL NOTICE ROANOKE COUNTY BOARD OF SUPERVISORS	The Roanoke Cour		7
9/11/2018, 9/12/2018, 9/13/2018, 9/14/2018, 9/15/2018, 9/16/2018, 9/17/2018			
LEGALNOTICEROANOKECOUNTYBOARDOF SUPERVISORSTHEROANOKECOUNTYBOARDOF			

Roanoke Times Order Confirmation for Ad #0000817137-01

Ad Content Proof Actual Size

LEGAL NOTICE ROANOKE COUNTY BOARD OF SUPERVISORS

The Roanoke County Board of Supervisors will hold a public hearing at 7 p.m. on Tuesday, September 25, 2018, in the Board Meeting Room of the Roanoke County Administration Center, 5204 Bernard Drive, Roanoke, VA, on the petition of Southwest Virginia Wildlife Center of Roanoke, Inc. to obtain a Special Use Permit in a AR, Agricultural/Residential, District to construct buildings on a parcel without public road frontage per Section 30-23-5(B) of the Roanoke County Zoning Ordinance on 2.85 acres, located at 5985 Coleman Road, Cave Spring Magisterial District.

A copy of this application is available for inspection in the Department of Community Development, 5204 Bernard Drive, Roanoke, VA.

Dated: September 5, 2018
Deborah C. Jacks, Chief Deputy Clerk

(817137)

The Roanoke Times
 Roanoke, Virginia
 Affidavit of Publication

Account Number

6092580

Date

August 28, 2018

SOUTHWEST VIRGINIA WILDLIFE CENTER OF
 ROANOKE
 Attn SABRINA GARVING
 SUSAN MCCOY
 ROANOKE COUNTY DEPARTMENT OF
 COMMUNITY DEVELOPMENT
 P.O. BOX 29800

Date	Category	Description	Ad Size	Total Cost
09/03/2018	Legal Notices	LEGAL NOTICE ROANOKE COUNTY PLANNING COMMISSION	1 x 37 L	407.44

**LEGAL NOTICE
 ROANOKE COUNTY
 PLANNING COMMISSION**

The Roanoke County Planning Commission will hold a public hearing at 7 p.m. on Tuesday, September 4, 2018, in the Board Meeting Room of the Roanoke County Administration Center, 5204 Bernard Drive, Roanoke, VA, on the petition of Southwest Virginia Wildlife Center of Roanoke, Inc. to obtain a Special Use Permit in a AR, Agricultural/Residential, District to construct buildings on a parcel without public road frontage per Section 30-23-5(B) of the Roanoke County Zoning Ordinance on 2.85 acres, located at 5985 Coleman Road, Cave Spring Magisterial District.

A copy of this application is available for inspection in the Department of Community Development, 5204 Bernard Drive, Roanoke, VA.

Dated: August 7, 2018
 Philip Thompson, Secretary
 (804890)

**Publisher of the
 Roanoke Times**

I, (the undersigned) an authorized representative of the Roanoke Times, a daily newspaper published in Roanoke, in the State of Virginia, do certify that the annexed notice LEGAL NOTICE ROANOKE COUN was published in said newspapers on the following dates:

08/21, 08/28/2018

The First insertion being given ... 08/21/2018

Newspaper reference: 0000804890

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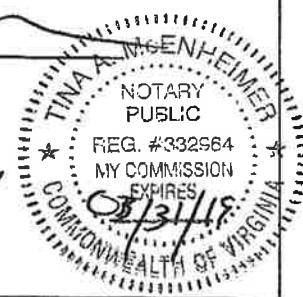
Billing Representative

Sworn to and subscribed before me this Tuesday, August 28, 2018

Tina A. McEnheimer
 Notary Public

State of Virginia
 City/County of Roanoke
 My Commission expires

Mar 31, 2019



THIS IS NOT A BILL. PLEASE PAY FROM INVOICE. THANK YOU

SEYM003007

THE ROANOKE TIMES

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Ad Number 0000804890-01 **Ad Type** CLS Legal Liner **Color** <NONE>

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