

June 8, 2016

560 S. Mason Street

Harrisonburg, VA 22801

Adam Fletcher, Director of Planning and Community Development

409 South Main Street

Harrisonburg, VA 22801

Dear Mr. Fletcher:

I request a re-zoning for the lot referenced on the attached application. The lot is currently zoned R-3 and my partners and I request the re-zoning to B-2C. I believe this to be in compliance with the Comprehensive Plan as Planned Business. We have had the property on the market for a number of years and find that the R-3 zoning is too restrictive.

We hereby proffer that the development of the subject property at 2205 Evelyn Byrd Avenue shall be in strict accordance with the conditions set forth in this submission.

- 1) The site shall only permit business and professional office uses.
- 2) All uses allowed by an approved special use permit shall be permitted
- 3) The existing vegetation (trees and shrubbery) parallel to and within 45 feet from the southern property boundary shall be maintained to provide a vegetated buffer to protect the adjacent residential uses from uses on the subject site; or, an evergreen vegetative buffer shall be created parallel to and within 10 feet from the existing shared access driveway edge of pavement with the intent to create a dense screen, where such evergreens shall be planted at no less than 5 feet on center and 6 feet in height at the time of planted.

If any other information is needed from me or my partners, please do not hesitate to contact us.

Sincerely,

A handwritten signature in black ink, appearing to read "C. L. Whitten". The signature is fluid and cursive, with a long horizontal stroke at the end.

Carl L. Whitten, MD

Date Application Received: 4-27-2014

Total Paid: 435<sup>00</sup> ✓/6.

## Application for Change of Zoning District City of Harrisonburg, Virginia

### Section 1: Property Owner's Information

Name: Harrisonburg Ob/Gyn Associates, LLC  
Street Address: 2205 Evelyn Byrd Ave Email: kawhitten@comcast.net  
City/State/Zip: H'burg, VA 22801  
Telephone (work): See below (home or cellular): See below (fax): \_\_\_\_\_

### Section 2: Owner's Representative Information

Name: Kathy Whitten  
Street Address: 560 S. Mason St. Email: kawhitten@comcast.net  
City/State/Zip: Harrisonburg, VA 22801  
Telephone (work): 540-433-3463 (home or cellular): 540-476-4202 (fax): \_\_\_\_\_

### Section 3: Description of Property

Location (street address): 2205 Evelyn Byrd Avenue  
Tax Map Number: Sheet: 77 Block: L Lot: 12(A) Total Land Area (acres or square feet): 1.27 acres  
Existing Zoning District: R-3 Proposed Zoning District \* : B-2  
Existing Comprehensive Plan Designation: Planned Business

*\*If applying for conditional rezoning, provide a letter stating proffers on separate sheet of paper*

### Section 4: Application Fee

\$375.00 plus \$30.00 per acre, and if applicable, Fees for a Traffic Impact Analysis (TIA) Review (see below)

60  
\$ 435 (a). Would the development from this rezoning require a Traffic Impact Analysis by VDOT?  
Yes \_\_\_\_\_ No \_\_\_\_\_

*If yes, then fees must be made payable to VDOT to cover costs associated with the TIA review.*

*PLEASE NOTE - If a TIA is required, this application shall not be considered accepted until the TIA has been reviewed.*

(b). Would the development from this rezoning require a Traffic Impact Analysis review by the City?  
Yes \_\_\_\_\_ No \_\_\_\_\_


*If yes, then an additional \$1,000.00 must be made payable to the City to cover costs associated with the TIA review.*

*PLEASE NOTE - If a TIA is required, this application shall not be considered accepted until the TIA has been reviewed.*

### Section 5: Names and Addresses of Adjacent Property Owners (Use separate sheet for additional names)

North: \_\_\_\_\_  
East: \_\_\_\_\_  
South: \_\_\_\_\_  
West: \_\_\_\_\_

### Section 6: Certification

I certify that the information contained herein is true and accurate. Signature:  Property Owner

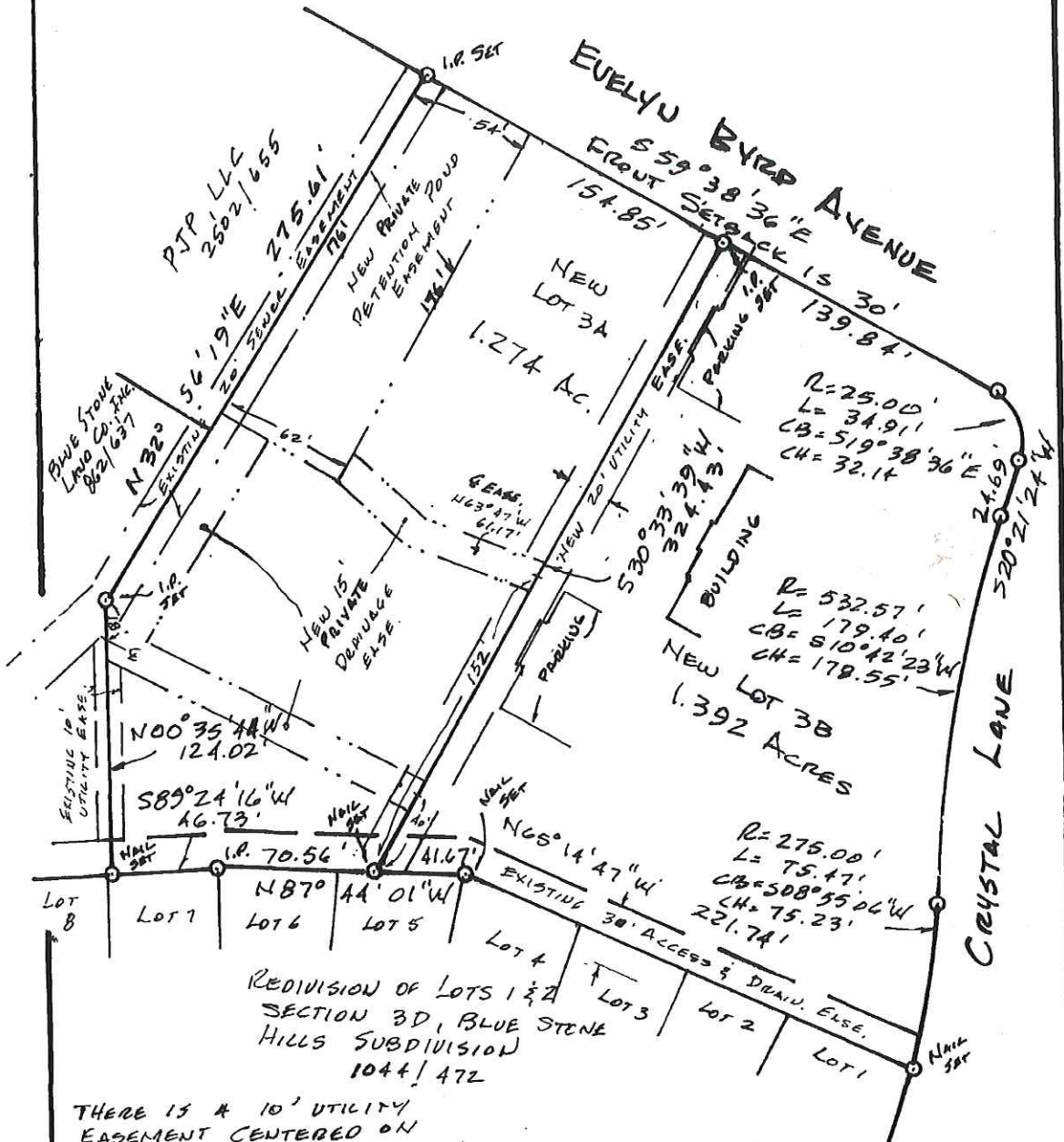
**See Back for Items Required for Submission**

**REDIVISION OF NEW LOT 3  
ADDITION TO AND REDIVISION OF LOT 3  
BLUE STONE HILLS, SECTION 3D  
HARRISONBURG, VIRGINIA**

SURVEYED PARCELS STANDING IN NAME OF  
HARRISONBURG DB-GYN BUILDING, L.L.C.  
1590/39

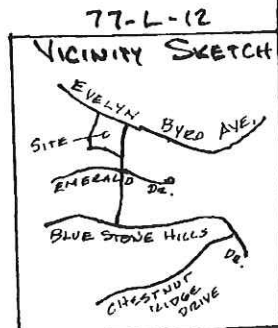
TOTAL AREA  
2.666 ACRES

SCALE: 1"=60'  
DATE: 23 MAY 06



THERE IS A 10' UTILITY  
EASEMENT CENTERED ON  
ALL SIDE LINES AND A 10'  
UTILITY EASEMENT WITHIN  
THE PROPERTY ALONG ALL  
REAR LINES.

REVISION OF LOTS 1 & 2  
SECTION 3D, BLUE STONE  
HILLS SUBDIVISION  
1044/472





Metes and Bounds Description

Beginning at an iron pin set in the southwest line of Evelyn Byrd Avenue, a corner with PJP, LLC, thence with said road  
 S 59° 38' 36" E 294.69'  
 to the P.C. of a curve to the right with a radius of 25.00', thence with the arc of said curve 34.91'  
 chord S 19° 38' 36" E 32.14'  
 to the P.T. of said curve in the southwest line of Crystal Lane, thence with said Lane the following 3 courses  
 S 20° 21' 24" W 24.69'  
 to the P.C. of a curve to the left having a radius of 532.57', thence with the arc of said curve 179.40'  
 chord S 10° 42' 23" W 178.55'  
 to the P.R.C. of a curve to the right having a radius of 275.00', thence with the arc of said curve 75.47'  
 chord S 08° 55' 06" W 75.23'  
 to a nail set, a corner with the redivison of Lots 1 & 2, Section 3D, Blue Stone Hills Subdivision, thence with said Subdivision the following 3 courses  
 N 65° 14' 47" W 221.74'  
 to a nail set, thence  
 N 87° 44' 01" W 112.23'  
 to a nail set, thence  
 S 89° 24' 16" W 46.73'  
 to a nail set, a corner with Blue Stone Land Company, Inc., thence  
 N 00° 35' 44" W 124.02' thence  
 N 32° 56' 19" E 275.61'  
 to the beginning and enclosing an area of 2.666 Acres.

Owner's Consent and Dedication

Know all men by these presents, that the Redivision of land shown on this plat and designated as "Redivision of New Lot 3, Addition to and Redivision of Lot 3, Blue Stone Hills, Section 3D", situated in the City of Harrisonburg, Virginia, is with the free consent and in accordance with the desires of the undersigned owner thereof. The new easements shown on the plat are hereby dedicated to public use. The surveyed lots are the property conveyed to Harrisonburg Ob-Gyn Building, L.L.C. and recorded in the Clerk's Office of the Circuit Court of Rockingham County, Virginia in Deed Book 1590, Page 39

June 5, 2006

C. Larry Whitten  
 C. Larry Whitten, Partner

Commonwealth of Virginia  
 City of Harrisonburg, to wit:

The foregoing instrument was acknowledged before me this 5<sup>th</sup> day of June, 2006 by C. Larry Whitten, Partner of Harrisonburg Ob-Gyn Building, L.L.C..

10/31/2006  
 My Commission expires

Shula Lomax  
 Notary

Surveyor's Certificate

I hereby certify that to the best of my knowledge and belief, all of the requirements of the Planning Commission, City Council and ordinances of the City of Harrisonburg, Virginia, regarding the platting of Subdivisions within the City have been complied with.

23 May 06  
 Date

Robert F. Jelium  
 Robert F. Jelium

Approval

This Subdivision known as "Redivision of New Lot 3, Addition to and Redivision of Lot 3, Bluestone Hills, Section 3D" is approved by the undersigned pursuant to Section 10-2-8 of the Harrisonburg City Code and may be admitted to record. Said plat shall be recorded in the Clerk's Office of the Circuit Court of Rockingham County, Virginia, within the time period as set forth in Section 10-2-27 of this Chapter.

12/13/06  
 Date

Stacy H. Turner  
 Director of Community Development

ROCKINGHAM COUNTY  
L. WAYNE HARPER  
CLERK OF COURT  
Harrisonburg, VA 22801



60 2006 00040920

Instrument Number: 2006- 00040920

As

Recorded On: December 21, 2006

Deed of Easement (State)

Parties: HARRISONBURG OB GYN BUILDING LLC

To

HARRISONBURG CITY OF

Recorded By: HARRISONBURG OB GYN

Num Of Pages: 11

Comment: PARCEL HBURG

**\*\* Examined and Charged as Follows: \*\***

Deed of Easement (State)	1.50	10 or Fewer Pages	14.50
Recording Charge:	16.00		

**\*\* THIS PAGE IS PART OF THE INSTRUMENT \*\***

I hereby certify that the within and foregoing was recorded in the Clerk's Office For: ROCKINGHAM COUNTY, VA

**File Information:**

**Record and Return To:**

Document Number: 2006- 00040920	HARRISONBURG OB GYN
Receipt Number: 35939	
Recorded Date/Time: December 21, 2006 09:37:16A	HARRISONBURG VA 22801
Book-Vol/Pg: Bk-OR VI-3006 Pg-135	
Cashier / Station: B Huffman / Cash Station 3	



THE STATE OF VIRGINIA }  
COUNTY OF ROCKINGHAM }

I certify that the document to which this authentication is affixed is a true copy of a record in the Rockingham County Circuit Court Clerk's Office and that I am the custodian of that record

CLERK OF COURT  
ROCKINGHAM COUNTY, VIRGINIA



THIS DEED WAS PREPARED WITHOUT THE  
BENEFIT OF A TITLE EXAMINATION BY:  
FREEMAN, DUNN, ALEXANDER, YEATTS & TILLER, P.C.  
1045 COTTONTOWN ROAD, LYNCHBURG, VA 24503

TAX MAP NUMBER: 77-L-12

THIS CONVEYANCE IS EXEMPT FROM RECORDATION TAXES PURSUANT TO  
SECTION 58.1-811.A.3. OF THE CODE OF VIRGINIA (1950), AS AMENDED.

THIS DEED OF EASEMENT, made this 26<sup>th</sup> day of October, 2006, by and between HARRISONBURG OB-GYN BUILDING, L.L.C., a Virginia limited liability company, and WSN, LLC, a Virginia limited liability company, Grantors; CITY OF HARRISONBURG, a Virginia municipal corporation, Grantee; and MARTHA D. SHIFFLETT and STEVEN C. KROHN, as Trustees, either or both of whom may act; f/b/o SUNTRUST BANK, as Beneficiary;

WITNESSETH:

WHEREAS, HARRISONBURG OB-GYN BUILDING, L.L.C. is the owner of certain real property, situate in the City of Harrisonburg, Virginia, described as New Lot 3B, containing 1.392 acres, as shown and described on a plat, entitled "Redivision of New Lot 3 Addition to and Redivision of Lot 3 Blue Stone Hills, Section 3D Harrisonburg, Virginia", dated May 23, 2006, made by Robert F. Jellum, Certified Land Surveyor, which Plat is attached hereto and made a part hereof. This property is situate in the City of Harrisonburg, Virginia; HARRISONBURG OB-GYN BUILDING, L.L.C. having acquired this property by deed dated April 8, 1998, which deed is recorded in the Clerk's Office of the Circuit Court of Rockingham County, Virginia, in Deed Book 1590, Page 039;

WHEREAS, WSN, LLC is the owner of certain real property, situate in the City of Harrisonburg, Virginia, described as New Lot 3A, containing 1.274 acres, as shown and described on the aforesaid plat. This property is situate in the City of Harrisonburg, Virginia; WSN, LLC having acquired this property by deed dated October 25, 2006, which deed is recorded in the Clerk's Office of the Circuit Court of Rockingham County, Virginia, in Deed Book \_\_\_\_\_, Page \_\_\_\_\_ (New Lot 3A and New 3B are herein referred to as the Property);

WHEREAS, it is the desire and intent of the Grantors to grant and convey unto the Grantee, the easements in the locations as shown on the attached Plat as hereinafter provided;

WHEREAS, the Property is the subject to the lien of a certain Deed of Trust dated October 11, 2005, and recorded in the aforesaid Clerk's Office in Deed Book 2751, Page 617, (Deed of Trust), wherein the Property was conveyed unto the Trustee(s), either of whom may act, in trust, to secure a certain indebtedness to the Beneficiary, as more specifically set forth therein;

WHEREAS, the Property is further subject to an Assignment of Rents, Profits and Leases dated October 11, 2005, recorded in the aforesaid Clerk's Office in Deed Book 2751, page 626, (Assignment), wherein the rents, profits and leases were assigned to the Beneficiary, as more specifically set forth therein;

WHEREAS, Beneficiary has agreed to release its lien of the aforementioned Deed of Trust and Assignment of Rents as they pertain to New Lot 3A described above, and Beneficiary intends to execute a Certificate of Partial Satisfaction evidencing the same, which Certificate is to be executed and recorded immediately after the execution and recordation of this Deed of Easement;

NOW, THEREFORE, in consideration of the premises and the sum of One Dollar (\$1.00), cash in hand paid, receipt of which is hereby acknowledged, the Grantors do hereby grant and convey unto the Grantee, its successors and assigns, the easements as hereafter set forth in the respective locations shown on the Plat and incorporated herein by reference as follows:

#### UTILITY EASEMENT

Easement for the purpose of installing, constructing, increasing, or decreasing the size, operating, maintenance, adding to, or altering present or future utilities, including water, sanitary sewer, storm sewer, electric, natural gas, television cable, telephone cable or others as deemed utility by the City of Harrisonburg through and across the Property, said easement being more particularly bounded and described on the Plat.

The above-described utility easement is subject to the following conditions:

1. All utilities installed in the easement, shall be and remain the property of the City, its successors and assigns.
2. The City and its agents shall have full and free use of said easement for the purposes named, and shall have all rights and privileges reasonably necessary to the exercise of the rights granted in the easement including the right to access to and from the easement; Grantor agrees that City or its agents can use existing gates or entrances for the most direct access to the easement, for inspection and/or repairs.
3. The City and its assigned utilities shall have the right to trim, cut and remove trees, shrubbery, fences, structures, or other obstructions or facilities in or near the easement being conveyed, deemed by it to interfere with the proper and efficient installation, construction, operation, and maintenance of said water mains, waterlines, and appurtenant facilities; provided, however, that the City and its assigned utilities at its own expense shall restore as nearly as possible, to their original condition, all land or premises which are disturbed in any manner by the construction, operation, and maintenance of said utilities. Such restoration shall include the backfilling of trenches, the replacement of fences and shrubbery, the reseeded or resodding of lawns or pasture



areas within and outside the easements, and the replacement of structures and other facilities located outside the easement, but shall not include the replacement of structures, trees, and other facilities located within the easement.

4. Each Grantor reserves the right to make use of the respective easements herein granted which may not be inconsistent with the rights herein conveyed, or interfere with the use of said easements by the City and its assigned utilities for the purposes named; provided, however, the Grantors shall comply with all applicable City ordinances and regulations. Each Grantor shall not erect permanent buildings or structures within the respective easement except it be pavement or a fence or structure which can be readily moved.

5. This easement shall be perpetual and shall run with the land.

This easement shall be binding upon each Grantor, its successors and/or assigns and shall inure to the benefit of the utilities, its successors and assigns.

This Deed further witnesseth that for and in consideration of the premises and the sum of One Dollar (\$1.00) cash in hand paid, receipt of which is hereby acknowledged, the Grantors grant and convey, in fee simple, to the City all appurtenances and facilities located with the above-described easements.

THAT for and in consideration of the premises and the sum of One Dollar (\$1.00), cash in hand paid, receipt of which is hereby acknowledged, the Trustee (s), as authorized to act by the Beneficiary, as shown by its execution hereto, do freely agree that the lien of said Deed of Trust and the Assignment of Rents, Profits and Leases, be and the same are hereby subordinated to the easements created herein.

WITNESS the following signatures and seals:

Pursuant to Section 15.2-1803 of the Code of Virginia (1950), as amended, the interest in real estate conveyed by this deed is accepted on behalf of the City of Harrisonburg,

[REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.]



Virginia, by the City Manager, as authorized by the City Council.

ACCEPTING on behalf of the City of Harrisonburg, Virginia.

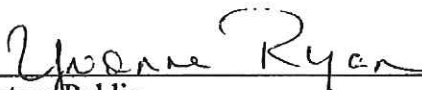


Roger D. Baker, City Manager

STATE OF VIRGINIA

COUNTY/CITY OF Harrisonburg

I, Yvonne Ryan, a Notary Public in and for the jurisdiction aforesaid, do hereby certify that this day personally appeared before me in my jurisdiction, Roger D. Baker, City Manager, whose name is signed to this Deed of Easement, this 18 day of Dec., 2006.



Notary Public

My commission expires 12-31-07.

NOTARY SEAL

HARRISONBURG OB-GYN BUILDING, L.L.C.,  
a Virginia limited liability company, Grantor

By: *C. Whitten*  
Its: Manager

STATE OF VIRGINIA,

TO-WIT:

CITY/COUNTY OF Rockingham

The foregoing instrument was acknowledged before me this 12<sup>th</sup> day of  
December, 2006, by C. Lary Whitten as Manager of HARRISONBURG  
OB-GYN BUILDING, L.L.C., a Virginia limited liability company, on behalf of said  
company.

My Commission expires October 31, 2010.

*Shila L. Lomarcoux*  
NOTARY PUBLIC

NOTARY SEAL



WSN, LLC, a Virginia limited liability company,  
Grantor

By: *M. C. Slusher*  
Its: Manager

STATE OF VIRGINIA,

TO-WIT:

CITY/COUNTY OF Rockingham

The foregoing instrument was acknowledged before me this 12<sup>th</sup> day of December, 2006, by M. Catherine Slusher as Manager of WSN, LLC, a Virginia limited liability company, on behalf of said company.

My Commission expires October 31, 2000.

*Shila L. Lamareux*  
NOTARY PUBLIC

NOTARY SEAL

Martha D. Shifflett (SEAL)  
Martha D. Shifflett or Steven C. Krohn, Trustee

STATE OF VIRGINIA,

TO-WIT:

CITY/COUNTY OF Namsonburg

The foregoing instrument was acknowledged before me this 19<sup>th</sup> day of December, 2006, by Martha D. Shifflett as Trustee f/b/o SunTrust Bank.

My Commission expires 6/30/09.

Sandi E. Baint  
NOTARY PUBLIC

NOTARY SEAL



SUNTRUST BANK, Beneficiary

By: Martha D. Shefflett  
Its: President - Harrisonburg

STATE OF VIRGINIA,

TO-WIT:

CITY/COUNTY OF Harrisonburg

The foregoing instrument was acknowledged before me this 19<sup>th</sup> day of December, 2006, by Martha D. Shefflett as President - Harrisonburg of SunTrust Bank, on behalf of said company.

My Commission expires 6/30/07.

Sandi E. Bunt

NOTARY PUBLIC

NOTARY SEAL