

**APPLICATION FOR REZONING  
TO THE CITY OF SMYRNA**

Type or Print Clearly

(To be completed by City)

Ward: \_\_\_\_\_

Application No: \_\_\_\_\_

Hearing Date: \_\_\_\_\_

**APPLICANT:** Martinello Group, LLC

Name: SAMS, LARKIN & HUFF, LLP by Garvis L. Sams, Jr.  
(Representative's name, printed)

Address: Suite 100, 376 Powder Springs Street, Marietta, GA 30064

Business Phone: 770-422-7016 Cell Phone: \_\_\_\_\_ Fax Number: 770-426-6583

E-Mail Address: gsams@samslarkinbuff.com

Signature of Representative: 

**TITLEHOLDER**

Name: Martinello Group, LLC  
(Titleholder's name, printed)

Address: P.O. Box 813099, Smyrna, GA 30081

Business Phone: 770-434-9883 Cell Phone: \_\_\_\_\_ Home Phone: \_\_\_\_\_

E-mail Address: cmartinello@ffbuilders.com

Signature of Titleholder:   
(Attach additional signatures, if needed)

(To be completed by City)

Received: \_\_\_\_\_

Heard by P&Z Board: \_\_\_\_\_

P&Z Recommendation: \_\_\_\_\_

Advertised: \_\_\_\_\_

Posted: \_\_\_\_\_

Approved/Denied: \_\_\_\_\_


**ATTACHMENT TO REZONING APPLICATION**

Ward: \_\_\_\_\_  
Application No.: \_\_\_\_\_  
Hearing Date: \_\_\_\_\_

Applicant: Martinello Group, LLC  
Titleholder: B.J. Conway and Betty Conway  
Tax ID #: 17048700480 and 17048700590

**PROPERTY OWNER'S CERTIFICATION**


The undersigned(s) below, or as attached, are the owners of the properties considered in this application.

 \_\_\_\_\_ 2/13/2020  
Signature of Owner Date

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

Address: \_\_\_\_\_  
\_\_\_\_\_

Telephone No.: 470- \_\_\_\_\_

 \_\_\_\_\_ 2/13/2020  
Signature of Notary Public Date

(Notary Seal)



### GEORGIA DEATH CERTIFICATE

State File Number **2019GA000078625**

1. DECEDENT'S LEGAL FULL NAME (First, Middle, Last) <b>BETTY FAYE CONWAY</b>		1a. IF FEMALE, ENTER LAST NAME AT BIRTH <b>JONES</b>		2. SEX <b>FEMALE</b>		2a. DATE OF DEATH (Mo., Day, Year) <b>ACTUAL DATE OF DEATH 12/14/2019</b>	
3. SOCIAL SECURITY NUMBER <b>254-66-7693</b>		4a. AGE (Years) <b>82</b>		4b. UNDER 1 YEAR Mos. Days Hours Mins.		5. DATE OF BIRTH (Mo., Day, Year) <b>07/08/1937</b>	
6. BIRTHPLACE <b>GEORGIA</b>		7a. RESIDENCE - STATE <b>GEORGIA</b>		7b. COUNTY <b>GILMER</b>		7c. CITY, TOWN <b>ELLIJAY</b>	
7d. STREET AND NUMBER <b>464 DOGWOOD RIDGE</b>		7e. ZIP CODE <b>30536</b>		7f. INSIDE CITY LIMITS? <b>NO</b>		8. ARMED FORCES? <b>NO</b>	
9a. USUAL OCCUPATION <b>SELF-EMPLOYED</b>		8b. KIND-OF INDUSTRY OR BUSINESS <b>RETAIL FURNITURE</b>					
9. MARITAL STATUS <b>MARRIED</b>		10. SPOUSE NAME <b>BOBBY JOE CONWAY</b>		11. FATHER'S FULL NAME (First, Middle, Last) <b>CICERO HOLLMAN JONES</b>			
12. MOTHER'S MAIDEN NAME (First, Middle, Last) <b>VERA COLTRAINE</b>		13a. INFORMANT'S NAME (First, Middle, Last) <b>BOB CONWAY</b>		13b. RELATIONSHIP TO DECEDENT <b>SPOUSE</b>			
13c. MAILING ADDRESS <b>464 DOGWOOD RIDGE ELLIJAY GEORGIA 30536</b>		14. DECEDENT'S EDUCATION <b>HIGH SCHOOL GRADUATE OR GED COMPLETED</b>					
15. ORIGIN OF DECEDENT (Italian, Mex, French, English, etc.) <b>NO, NOT SPANISH/HISPANIC/LATINO</b>		16. DECEDENT'S RACE (White, Black, American Indian, etc.) (Specify) <b>WHITE</b>					
17a. IF DEATH OCCURRED IN HOSPITAL		17b. IF DEATH OCCURRED OTHER THAN HOSPITAL (Specify) <b>NURSING HOME-LONG TERM CARE FACILITY</b>					
18. HOSPITAL OR OTHER INSTITUTION NAME (if not in either give street and no.) <b>BLUE RIDGE ASSISTED LIVING AND MEMORY CARE</b>		19. CITY, TOWN or LOCATION OF DEATH <b>BLUE RIDGE</b>		20. COUNTY OF DEATH <b>FANNIN</b>			
21. METHOD OF DISPOSITION (specify) <b>BURIAL</b>		22. PLACE OF DISPOSITION <b>GEORGIA NATIONAL CEMETERY, 2025 MOUNT CARMEL CHURCH LANE CANTON GEORGIA 30114</b>		23. DISPOSITION DATE (Mo., Day, Year) <b>12/20/2019</b>			
24a. EMBALMER'S NAME <b>AALIYAH SHARPE</b>		24b. EMBALMER LICENSE NO <b>5225</b>		25. FUNERAL HOME NAME <b>WINKENHOFER PINE RIDGE F H INC</b>			
25a. FUNERAL HOME ADDRESS <b>2950 NORTH COBB PKWY P O BOX 571 KENNESAW GEORGIA 30152</b>		26a. SIGNATURE OF FUNERAL DIRECTOR <b>STEVE PRICE</b>		26b. FUN DIR LICENSE NO <b>05394</b>		AMENDMENTS	
27. DATE PRONOUNCED DEAD (Mo., Day, Year) <b>12/14/2019</b>		28. HOUR PRONOUNCED DEAD <b>10:02 PM</b>					
29a. PRONOUNCER'S NAME <b>BOBBIE KANDICE HANSON</b>		29b. LICENSE NUMBER <b>257692</b>		29c. DATE SIGNED <b>12/14/2019</b>			
30. TIME OF DEATH <b>10:02 PM</b>		31. WAS CASE REFERRED TO MEDICAL EXAMINER <b>NO</b>					
32. Part I. Enter the chain of events, disease, injuries, or complications that directly caused the death. DO NOT enter terminal events such as cardiac arrest, respiratory arrest, or ventricular fibrillation without showing the etiology. DO NOT ABBREVIATE.  IMMEDIATE CAUSE (Final disease or condition resulting in death)		A. <b>MALNUTRITION</b> Due to, or as a consequence of				Approximate interval between onset and death <b>— MONTHS</b>	
		B. Due to, or as a consequence of					
		C. Due to, or as a consequence of					
		D. Due to, or as a consequence of					
Part II. Enter significant conditions contributing to death but not related to cause given in Part I. If female, indicate if pregnant or birth occurred within 90 days of death. <b>ALZHEIMER'S DISEASE</b>		33. WAS AUTOPSY PERFORMED? <b>NO</b>		34. WERE AUTOPSY FINDINGS AVAILABLE TO COMPLETE THE CAUSE OF DEATH?			
35. TOBACCO USE CONTRIBUTED TO DEATH <b>NO</b>		36. IF FEMALE (range 10-54) PREGNANT <b>NOT APPLICABLE</b>		37. ACCIDENT, SUICIDE, HOMICIDE, UNDETERMINED (Specify) <b>NATURAL</b>			
38. DATE OF INJURY (Mo., Day, Year)		39. TIME OF INJURY		40. PLACE OF INJURY (Home, Farm, Street, Factory, Office, Etc.) (Specify)		41. INJURY AT WORK? (Yes or No)	
42. LOCATION OF INJURY (Street, Apartment Number, City or Town, State, Zip, County)		43. DESCRIBE HOW INJURY OCCURRED					
44. IF TRANSPORTATION INJURY							
45. To the best of my knowledge death occurred at the time, date and place and due to the cause(s) stated. Medical Certifier (Name, Title, License No.) <b>TERESA MICHELE BRADFORD, MD, 068850</b>		46. On the basis of examination and/or investigation, in my opinion death occurred at the time, date and place and due to the cause(s) stated. Medical Examiner/Coroner (Name, Title, License No.)					
45a. DATE SIGNED (Mo., Day, Year) <b>12/16/2019</b>		45b. HOUR OF DEATH <b>10:02 PM</b>		46a. DATE SIGNED (Mo., Day, Year)		46b. HOUR OF DEATH	
47. NAME, ADDRESS, AND ZIP CODE OF PERSON COMPLETING CAUSE OF DEATH <b>TERESA MICHELE BRADFORD 63 PLEASANT HILL ROAD BLAIRSVILLE GEORGIA 30612</b>							
48. REGISTRAR (Signature) <b>/S/ CHRISTOPHER JP HARRISON</b>		49. DATE FILED - REGISTRAR (Mo., Day, Year) <b>12/19/2019</b>					

**ZONING REQUEST**

From RM-10 and R-15 to RAD Conditional  
Present Zoning Proposed Zoning

**LAND USE**

From MDR to MDHR  
Present Land Use Proposed Land Use

For the Purpose of Single-family Detached Residential Subdivision

Size of Tract 1.6 ac

Location 3655 Love Street, 1080 and 1096 Church Street  
(Street address is required. If not applicable, please provide nearest intersection, etc.)

Land Lot (s) 487 District 17

We have investigated the site as to the existence of archaeological and/or architectural landmarks. I hereby certify that there are no X there are      such assets. If any, they are as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(To be completed by City)

Recommendation of Planning Commission:  
\_\_\_\_\_  
\_\_\_\_\_

Council's Decision:  
\_\_\_\_\_  
\_\_\_\_\_

**CONTIGUOUS ZONING**

**North:** R-15

**East:** R-15

**South:** RHR

**West:** RAD

**CONTIGUOUS LAND USE**

**North:** MDR

**East:** MDR

**South:** HDR

**West:** MDR

**INFRASTRUCTURE**

**WATER AND SEWER**

A letter from Frank Martin, Director of Public Works Department is required stating that water is available and the supply is adequate for this project.

A letter from Frank Martin, Director of Public Works Department is required stating that sewer is available and the capacity is adequate for this project.

- If it is Cobb County Water, Cobb County must then furnish these letters.

Comments:

See attached letter from Ernest Frank Martin, Director of Public Works, City of Smyrna.

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**TRANSPORTATION**

Access to Property? Church Street

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Improvements proposed by developer? The development and construction of a 14-lot, single-family detached residential subdivision.

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Comments:

The Subject Property is located in an area under the City's Future Land Use Map within an area that contains a preponderance of High Density Residential ("HDR") and Medium Density Residential ("MDR") properties.

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**ZONING DISCLOSURE REPORT**

Has the applicant\* made, within two years immediately preceding the filing of this application for rezoning, campaign contributions aggregating \$250 or more or made gifts having in the aggregate a value of \$250 or more to the Mayor or any member of the City Council or Planning and Zoning Board who will consider this application?

None.

If so, the applicant\* and the attorney representing the applicant\* must file a disclosure report with the Mayor and City Council of the City of Smyrna, within 10 days after this application is filed.

**Please supply the following information, which will be considered as the required disclosure:**

The name of the Mayor or member of the City Council or Planning and Zoning Board to whom the campaign contribution or gift was made:

N/A

The dollar amount of each campaign contribution made by the applicant\* to the Mayor or any member of the City Council or Planning and Zoning Board during the two years immediately preceding the filing of this application, and the date of each such contribution:

N/A

An enumeration and description of each gift having a value of \$250 or more by the applicant\* to the Mayor and any member of the City Council or Planning and Zoning Board during the two years immediately preceding the filing of this application:

N/A

Does the Mayor or any member of the City Council or Planning and Zoning Board have a property interest (direct or indirect ownership including any percentage of ownership less than total) in the subject property?

None.

If so, describe the natural and extent of such interest: N/A

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**ZONING DISCLOSURE REPORT (CONTINUED)**

Does the Mayor or any member of the City Council or Planning and Zoning Board have a financial interest (direct ownership interests of the total assets or capital stock where such ownership interest is 10% or more) of a corporation, partnership, limited partnership, firm, enterprise, franchise, association, or trust, which has a property interest (direct or indirect ownership, including any percentage of ownership less than total) upon the subject property?

None.

If so, describe the nature and extent of such interest:

N/A

Does the Mayor or any member of the City Council or Planning and Zoning Board have a spouse, mother, father, brother, sister, son, or daughter who has any interest as described above?

N/A

If so, describe the relationship and the nature and extent of such interest:

N/A

If the answer to any of the above is "Yes", then the Mayor or the member of the City Council or Planning and Zoning Board must immediately disclose the nature and extent of such interest, in writing, to the Mayor and City Council of the City of Smyrna. A copy should be filed with this application\*\*. Such disclosures shall be public record and available for public inspection any time during normal working hours.

We certify that the foregoing information is true and correct, this 11<sup>th</sup> day of February, 2020.

MARTINELO GROUP, LLC

By:

  
(Applicant's Signature) Registered Agent

  
(Attorney's Signature, if applicable)

Notes

\* Applicant is defined as any individual or business entity (corporation, partnership, limited partnership, firm enterprise, franchise, association or trust) applying for rezoning action.

\*\* Copy to be filed with the City of Smyrna Zoning Department and City Clerk along with a copy of the zoning application including a copy of the legal description of the property.



**CAMPAIGN DISCLOSURE REPORT<sup>1</sup>**  
**BY ATTORNEY FOR APPLICANT<sup>2</sup>**

Has the Applicant made, within two (2) years immediately preceding the filing of this Application for rezoning, campaign contributions aggregating two hundred fifty dollars (\$250.00) or more or made gifts having in the aggregate a value of two hundred fifty dollars (\$250.00) or more to a member or members of the Smyrna City Council or Planning Commission who will consider the Application?

Yes \_\_\_\_\_

If so, the Applicant and the attorney representing the Application must file a disclosure report with the Smyrna City Council within ten (10) days after this Application is first filed.

Please supply the following information which will be considered as the required disclosure:

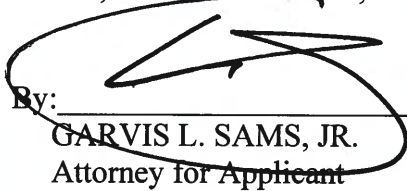
The name of the member(s) of the Smyrna City Council or Planning Commission to whom the campaign contribution or gift was made: Derek A. Norton.

The dollar amount of each campaign contribution made by the Applicant to the member(s) of the Smyrna City Council or Planning Commission during the two (2) years immediately preceding the filing of this Application and the date of each such contribution: On 2/21/18, a check in the sum of \$2,000.00 to the Committee to Elect Derek Norton, Mayor.

An enumeration and description of each gift having a value of two hundred fifty dollars (\$250.00) or more made by the Applicant to the member(s) of the Smyrna City Council or Planning Commission during the two (2) years immediately preceding the filing of this Application: N/A

I certify that the foregoing information is true and correct, this the 14<sup>th</sup> day of February, 2020.

SAMS, LARKIN & HUFF, LLP

By:   
GARVIS L. SAMS, JR.  
Attorney for Applicant

<sup>1</sup>If the answer to any of the above is "Yes", then the member of the Smyrna City Council or Planning Commission must immediately disclose the nature and extent of such interest, in writing to the Smyrna City Council. A copy should be filed with this Application. Such disclosures shall be a public record and available for public inspection at any time during normal working hours.

<sup>2</sup>Applicant means any person who applies for a rezoning action and any attorney, or other person representing or acting on behalf of a person who applies for a rezoning action.

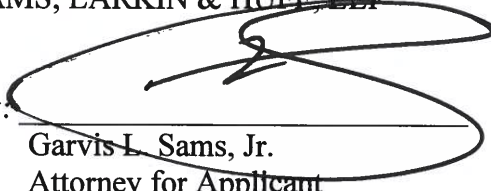
**DISCLOSURE**

IF THE ANSWER TO ANY OF THE FOLLOWING QUESTIONS IS "YES", YOU MAY BE REQUIRED UNDER O.C.G.A. §36-67A-3 TO PROVIDE FURTHER INFORMATION:

- A) ARE YOU, OR ANYONE ELSE WITH A PROPERTY INTEREST IN THE SUBJECT PROPERTY, A MEMBER OF THE CITY OF SMYRNA PLANNING COMMISSION OR CITY OF SMYRNA MAYOR AND COUNCIL? **NO**
  
- B) DOES AN OFFICIAL OF SUCH PUBLIC BODIES HAVE ANY FINANCIAL INTEREST IN ANY BUSINESS ENTITY WHICH HAS A PROPERTY INTEREST IN THE SUBJECT PROPERTY? **NO**
  
- C) DOES A MEMBER OF THE FAMILY OF SUCH OFFICIALS HAVE AN INTEREST IN THE SUBJECT PROPERTY AS DESCRIBED IN (A) AND (B)? **NO**
  
- D) WITHIN TWO (2) YEARS IMMEDIATELY PRECEDING THIS APPLICATION, HAVE YOU MADE CAMPAIGN CONTRIBUTION(S) OR GIVEN GIFTS TO SUCH PUBLIC OFFICIALS AGGREGATING \$250.00 OR MORE? **YES**

SAMS, LARKIN & HUFF, LLP

By:

  
\_\_\_\_\_  
Garvis L. Sams, Jr.  
Attorney for Applicant

2-14-2020

DATE

**REZONING ANALYSIS**

Section 1508 of the Smyrna Zoning Code details nine zoning review factors which must be evaluated by the Planning and Zoning Board and the Mayor and Council when considering a rezoning request. Please provide responses to the following using additional pages as necessary. **This section must be filled out by the applicant prior to submittal of the rezoning request.**

1. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property.

The proposed rezoning will permit a use which is suitable in the context of existing and proposed residential developments concerning adjacent and nearby properties.

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2. Whether the zoning proposal or the use proposed will adversely affect the existing use or usability of adjacent or nearby property.

The proposed rezoning will not adversely impact the existing use or usability of adjacent or nearby properties. The applicant is proposing single-family, detached homes in keeping with the development along this portion of Church Road.

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3. Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned.

Approval of the Rezoning Application will allow for the development of property currently owned by the City of Smyrna as surplus property which has remained undeveloped since conveyed to the City. Under separate cover on January 15, 2020, the Applicant submitted a Letter of Intent ("LOI") concerning that small tract owned by the City which constitutes a portion of the assemblage which constitutes the Subject Property for purposes of purchasing said property from the City of Smyrna. (Attached is a copy of said LOI.)

**REZONING ANALYSIS (CONTINUED)**

4. Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools.

The proposed rezoning will not result in a use that will have an adverse impact upon the existing City of Smyrna's infrastructure and constitutes a proposed use which comports with the tenor of development along this portion of Church Road.

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5. Whether the zoning proposal is in conformity with the policy and intent of the land use plan.

While the proposed density of 8.75 units per acre (14 lots on 1.6 ac) is slightly greater than the Subject Property's MDR range of "less than or equal to six units per acre", the proposed development is similar to and in some instances less than the density of other residential developments within this sub-area of the City and constitutes a transition and/or step down in intensity from the apartments (HDR) within this area to properties designated as MDR.

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6. Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal.

There are existing and changing conditions affecting the use and development of the subject property. The property is located in an area mixed with single-family detached houses and multi-family development (Apartments).

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**REZONING ANALYSIS (CONTINUED)**

7. Whether the development of the property under the zoning proposal will conform to, be a detriment to or enhance the architectural standards, open space requirements and aesthetics of the general neighborhood, considering the current, historical and planned uses in the area.

The proposed development will enhance architectural standards and aesthetics in accordance with the attached photographs depicting the architectural style and composition of the proposed homes.

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8. Under any proposed zoning classification, whether the use proposed may create a nuisance or is incompatible with existing uses in the area.

The proposed rezoning will not create a nuisance and is compatible with existing uses and zonings in the area.

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9. Whether due to the size of the proposed use, in either land area or building height, the proposed use would affect the adjoining property, general neighborhood and other uses in the area positively or negatively.

The proposed rezoning will positively affect the trend of residential development within this area of the City of Smyrna along Church Street.

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