

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

*Type or Print Clearly*

(To be completed by City)

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

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

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

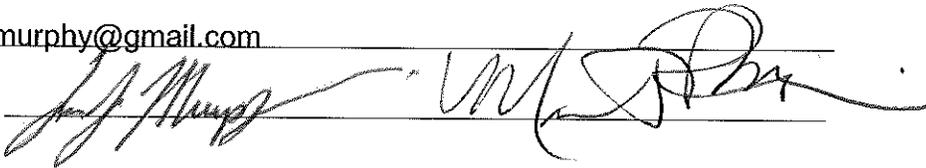
**APPLICANT:** The McLinden Group LLC.

Name: Sean J. Murphy  
(Representative's name, printed)

Address: 982 McLinden Ave SE, Smyrna, Ga 30080

Business Phone: 770.630.9205 Cell Phone: 770.630.9205 Fax Number: \_\_\_\_\_

E-Mail Address: sjassenmurphy@gmail.com

Signature of Representative: 

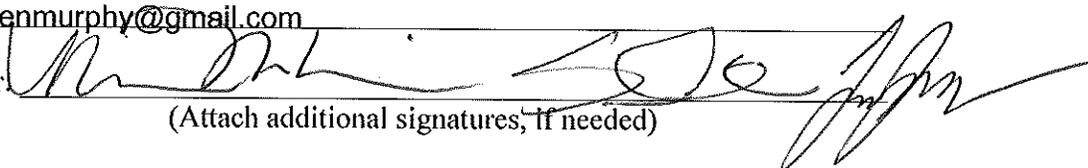
**TITLEHOLDER**

Name: The Mclinden Group LLC.  
(Titleholder's name, printed)

Address: PO Box 2845

Business Phone: 770.630.9205 Cell Phone: 770.630.9205 Home Phone: \_\_\_\_\_

E-mail Address: sjassenmurphy@gmail.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: \_\_\_\_\_

**ZONING REQUEST**

From R-15 to RAD - Conditional  
Present Zoning Proposed Zoning

**LAND USE**

From Single Family Residential to Single Family Residential  
Present Land Use Proposed Land Use

For the Purpose of Constructing an addition and creating a new lot for a total of 2 lots

Size of Tract 15,898 sf or 0.365 acres (the split will result in 8004sf and 7894sf)

Location 1041 McLinden Ave SE, Smyrna, GA 30080  
(Street address is required. If not applicable, please provide nearest intersection, etc.)

Land Lot (s) 451 District 17th District, 2nd Section

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 / NE RHR (Mitchell Apartments)

East: R-15

South: R-15

West: R-15

**CONTIGUOUS LAND USE**

North: Single Family Residential and Multi-Family

East: Single Family Residential

South: Single Family Residential

West: Single Family Residential

**INFRASTRUCTURE**

**WATER AND SEWER**

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

A letter from Scott Stokes, 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:

The water and sewer is public, tap is existing for 1041 McLinden,  
New taps are required for lot proposed on Medlin  
\_\_\_\_\_  
\_\_\_\_\_

**TRANSPORTATION**

Access to Property? Public Roads serve both of the proposed lots; McLinden Ave and  
Medlin Street.  
\_\_\_\_\_  
\_\_\_\_\_

Improvements proposed by developer? No transportation improvements are proposed.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Comments:

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

**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?

No

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:

Not applicable

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:

Not applicable

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:

Not applicable

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?

No

If so, describe the natural and extent of such interest: Not applicable

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

**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?

No

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

Not applicable

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?

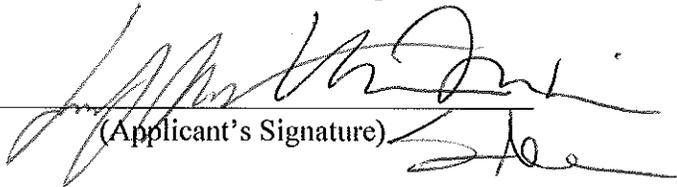
No

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

Not applicable

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 8 day of August, 2013.

  
\_\_\_\_\_  
(Applicant's Signature)

\_\_\_\_\_  
(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.

**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 zoning will not change the current land use. There  
is an apartment that is across the street with much higher density and new lots have  
been approved at Medlin Park and Medlin Place with  
smaller lot sizes of 6,000-7,000 sf in the past few months.

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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 zoning would not change the land use and is identical to most of the  
existing and recently approved uses and zoning on the street/s in question.  
Therefore it would not have any long term negative or adverse impact on the  
surrounding properties.

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

This lot is much larger than the average lot in the neighborhood and has a potential for  
significantly higher economic use if split. The current zoning precludes the owner from  
developing the surplus land. As the City has allowed similar size lots to be split in this  
neighborhood over the last few years, it has established a precedence allowing  
smaller lots thus setting a much higher potential for economic use for land of this size.

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**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 use would, at most, add one additional family to the City's residents. It is not likely that a single family would have any noticeable impact on any of the city's transportation infrastructure or utilities. A single new home could result in one or perhaps several children being added to the local school's roster. However the impact of adding one or two children could not be described as excessive or burdensome to Smyrna's schools.~~

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

~~The future land use plan indicates the future land use of this property to remain as single family residential. The proposed zoning will not impact this policy or intent.~~

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.

- ~~A.) The location of underground public storm sewer utilities without recorded easements precludes the expansion of the current home to the east and north.~~
- ~~B.) The location of underground public sanitary sewer utilities without recorded easements precludes the expansion of the current home to the east or north.~~
- ~~C.) The recent changes in the City's stance on allowable lot sizes in the Smyrna Heights (Dunton Annex) neighborhood including the development of Medlin Park and Medlin Place have created a demand for new lots of 6,000 to 8,000 sf in this neighborhood in particular.~~
- D.) The poor state of the older 1950's era homes and slumping prices of housing crisis in Smyrna Heights has lead to many homes (as much as 60-70% now) in the neighborhood becoming rentals and there is a need to create new homes to help bring about redevelopment and increase the level of owner occupancy. Without increasing the number of permanent occupants this neighborhood will continue to decline.

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 with 100% certainty, enhance the standards of the general neighborhood. The current state of the existing home and lot is deplorable. It is/was perhaps the most detrimental home on the street. For nearly 20 years this home has been a rental that has NOT been maintained or upgraded during the entire time. The yard was covered in vines and the home is not suitable for occupation. The existing home will be completely renovated and enlarged. The proposed new home on the new lot facing Medlin Street will be built on par with the other newer homes of the neighborhood at Medlin Place/Park built over the last 24 months. The styles of both homes will be in keeping with the general neighborhood standards for architecture, open space and aesthetics.~~

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 use under this classification is identical to the surrounding properties and could not be seen as a nuisance or incompatible.~~

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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 existing home will be enlarged to the west but will be in keeping with other additions made to neighborhood homes. The height will compliment and or match those homes on either side. Therefore the home should have a positive impact on surrounding homes.~~

~~The proposed new home/lot is a two story structure. On either side of this lot/structure will be the rears of two larger lots. Therefore, there will not be homes on either side at present. The home across the street is a single story with a full size basement having a nearly two story elevation where it faces Clifton Road. Other new homes in the same neighborhood are all two story. The lot width and size are largely congruent with existing homes. Therefore this new lot and home should have a positive impact on the neighborhood homes.~~

Return to: Susan G. Fyvolent  
Cohn, Fyvolent & Shaver, LLC  
2100 Riveredge Parkway, Suite 1230  
Atlanta, Georgia 30328  
File #13R-1619/

## WARRANTY DEED

State of Georgia  
County of ~~FULTON~~

This Indenture made this 23rd day of July, in the year Two Thousand Thirteen, between

**G. ALLEN POTTER JR., JOHN W. POTTER and DAVID A. BROWN**

of the County of Cobb and State of Georgia, as party or parties of the first part, hereinafter called Grantor,  
and

**THE MCLINDEN GROUP, LLC**

of the County of , and State of , as party or parties of the second part, hereinafter called Grantee (the words "Grantor" and "Grantee" to include their respective heirs, successors, and assigns where the context requires or permits).

WITNESSETH that: Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, in hand paid at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, has granted, bargained, sold, aliened, conveys and confirmed, and by these presents does grant, bargain, sell, alien, convey and confirm unto the said Grantee:

**All that tract or parcel of land lying and being in Land Lot 451, 17<sup>th</sup> District, 2<sup>nd</sup> Section, Cobb County, Georgia, being Lot 5, Block A, Estate of Mary A. Dunton Subdivision, as per plat recorded in Plat Book 8, Page 137, Cobb County, Georgia Records, said plat being incorporated herein by reference for a more particular description of said property.**

Subject to all easements and restrictions of record.

TO HAVE AND TO HOLD the said tract or parcel of land, with all and singular the rights, members and appurtenances thereof, to the same being, belonging, or in anywise appertaining, to the only proper use, benefit and behoof of the said Grantee forever in FEE SIMPLE.

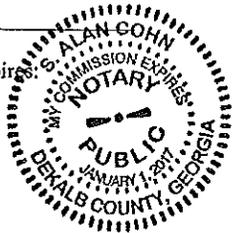
AND THE SAID Grantor will warrant and forever defend the right and title to the above described property unto the said Grantee against the claims of all persons whomsoever.

IN WITNESS WHEREOF, Grantor has signed and sealed this deed, the day and year first above written.

Signed, sealed and delivered  
in presence of:

Daniel Abner  
Unofficial Witness

[Signature]  
Notary Public  
my commission expires:



[Signature] (SEAL)  
G. ALLEN POTTER JR.

[Signature] (SEAL)  
JOHN W. POTTER

[Signature] (SEAL)  
DAVID A. BROWN

**Legal Description  
for  
#1041 McLinden Ave**

All that tract or parcel of land lying and being in Land Lot 451 of the 17th Land District, 2<sup>nd</sup> Section, Cobb County, Georgia and being more particularly described as follows:

**BEGINNING** at the intersection of the northerly right-of-way line of McLinden Avenue (40' r/w) and the easterly right-of-way line of Evelyn Street (40' r/w), thence easterly along the northerly right-of-way line of McLinden Avenue, 352 feet to a crimp top pipe, said point being the **TRUE POINT OF BEGINNING**;

thence leaving said right-of-way line, N 7°46'30" E a distance of 185.45 feet to 1" open top pipe on the southerly right-of-way line (50' r/w) of Medlin Street,

thence along said right-of-way line, N 80°24'02" E a distance of 84.00 feet to a ¾" rod,

thence leaving said right-of-way line, S 7°49'20" W a distance of 211.62 feet to a ½" rebar on the northerly right-of-way line of McLinden Avenue,

thence along said right-of-way line, N 81°26'56" W a distance of 80.00 feet to a said crimp top pipe, and the **TRUE POINT OF BEGINNING**;

Said property contains 0.365 acres, more or less and more particularly shown on that drawing labeled "Boundary and Topographic Survey, Lot 5, Block A, Estate of Mary A. Dunton, for Sean Murphy, prepared by SPG Surveying, LLC, dated July 12, 2013.

From:

08/13/2013 09:47

#483 P.001/001

FMUMFB  
FMUMFB01

CITY OF SMYRNA  
Clerk CJP Date 2013 08 13 Sequence 104445

8/13/13  
10:45:24

Bill Number . . .	2012 013115	Acct 1210694312	Fair Mkt Val	121,590
Taxpayer Name. .	POTTER G ALLEN JR & POTTER JOH		Bill Date	2012 09 10
Additional Name.	BROWN A DAVID		Due Date	2012 11 15
Address Line 1 .	PO BOX 787		H/S Code	
Address Line 2 .			Lender Code	
City ST Zip 4. .	SMYRNA	GA 30081	Under Appeal	
Loctn/Desc . . .	1041 MCLINDEN AVE		Bankruptcy	
Map Blk Par Sub.	0451 065	0005 A00 Dist 01	Check Notes	

Original Bill	Adj & Charges	Payments	Descriptions	This Tran
437.24		437.24-	Taxes	.....
			Assessment Pen	.....
			Interest	.....
			Costs	.....
			10% Penalty	.....
			Other Penalty	.....
437.24		437.24-	TOTALS	.....
		Last T/A Date	Payment/Adjust	(P/A) P
		PP 2012 11 09	Reason Code	(F13) 00

F1=Options

F3=Return

F4=Delete

F8=Adj to Total

*Fax # 678-990-7692*

CITY OF SMYRNA  
PROPERTY TAX OFFICE  
P.O. BOX 1226  
SMYRNA GA 30081

Printed: 8/13/2013 10:35:16 AM

Phone: (770) 528-8600  
Fax: (770) 528-8679

Official Tax Receipt  
Gail Downing  
Cobb County Tax Commissioner  
736 Whitlock Ave Suite 100  
Marietta, GA 30064  
--Online Receipt--

Parcel	Tax Year	Original Taxes Due	Interest	Penalty	Fees	Amount Paid	Balance
17045100650	2012	\$1,320.47	\$0.00	\$0.00	\$0.00	\$1,320.47	\$0.00



Last Payment Date: 10/12/2012

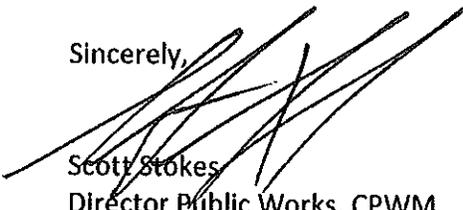
Property Address: 1041 MCLINDEN AVE

Payer: POTTER AND COMPANY

City of Smyrna  
Water and Sewer Availability

The City of Smyrna has determined that water and sanitary sewer are available to the proposed development. Sewer is located on Mclinden Avenue and a main that crosses from Mclinden Avenue to Medlin Street. Water is located on both Mclinden Avenue and Medlin Street. The elevation of public utilities is the responsibility of the developer. All existing water and sewer taps will be used where possible. Any new tap needed is the responsibility of the developer. Minimum water meter size is 1". Any and all road cuts are required to be patched to State DOT specifications. Any existing utilities not used shall be capped at the main for water and behind the curb for sewer. This information is based upon an unmarked drawing of a lot split of 1041 Mclinden Avenue.

Sincerely,



Scott Stokes  
Director Public Works, CPWM