

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

*Type or Print Clearly*

(To be completed by City)

Ward: 3

Application No: Z16-010

Hearing Date: 8/15/16

**APPLICANT:** The McLinden Group LLC

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

Address: 3282 Lee Street SE, Smyrna GA 30080

Business Phone: na Cell Phone: 7706309205 Fax Number: NA

E-Mail Address: smurphy@bcstudio.com

Signature of Representative: 

**TITLEHOLDER**

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

Address: 3282 Lee Street SE, Smyrna, GA 30080

Business Phone: NA Cell Phone: 7706309205 Home Phone: na

E-mail Address: smurphy@bcstudio.com

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

(To be completed by City)

Received: 6/10/16

Heard by P&Z Board: 7/11/16

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

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

Posted: 6/17/16

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

**ZONING REQUEST**

From     R15     to     RAD COND      
Present Zoning Proposed Zoning

**LAND USE**

From     single family residential     to     single family residential      
Present Land Use Proposed Land Use

For the Purpose of     Creating two tracts of land for development    

Size of Tract     20852sf or 0.479 ac    

Location     1000 McLinden Ave SE, Smyrna, GA 30080      
(Street address is required. If not applicable, please provide nearest intersection, etc.)

Land Lot (s)     451     District     17th, Second 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:** R15 \_\_\_\_\_

**East:** R15 \_\_\_\_\_

**South:** R15 \_\_\_\_\_

**West:** R15 \_\_\_\_\_

**CONTIGUOUS LAND USE**

**North:** SINGLE FAMILY RESIDENTIAL \_\_\_\_\_

**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:

WATER AND SEWER ARE EXISTING ON THIS LOT. LETTER IS ATTACHED.  
\_\_\_\_\_  
\_\_\_\_\_

**TRANSPORTATION**

Access to Property? EXISTING DIRECT ACCESS IS FROM MCLINDEN AVE SE.  
ACCESS MAY ALSO BE ACHIEVED VIA DIRECT ACCESS OFF OF EVELYN AVE.  
\_\_\_\_\_  
\_\_\_\_\_

Improvements proposed by developer? NO TRANSPORTATION IMPROVEMENTS ARE PLANNED.  
\_\_\_\_\_  
\_\_\_\_\_

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:

-NA-

---

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:

-NA-

---

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:

-NA-

---

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: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**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:

-NA-

---

---

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:

-NA-

---

---

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 15 day of MARCH, 2016.

  
\_\_\_\_\_  
(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 "USE" proposed is single family residential. This is the same "USE" as the existing and surrounding lots. As the use is identical to the adjacent and nearby property it is logical to assume that the proposed use would by default be "SUITABLE".

---

---

---

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

The proposed "USE" and ZONING will result in one additional single family residence added to the neighborhood streets. Adding one additional residence would not have any impact on the "USABILITY" of adjacent or nearby property. Anyone having an adjacent property would not see any impact on their ability to continue to "USE" or to redevelop their own property.

---

---

---

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

Whether or not the property has a "reasonable" economic use is subjective. "Reasonable" is something that can be described as "fair", "appropriate" or "sensible". Those words are "personal" and what is fair and reasonable to one may not be to another. As developers who live in Smyrna we believe the most "appropriate", "fair", and "reasonable" use is for this property to be developed into new single family homes instead of a rental. We do not think it is fair or reasonable for the citizens of Smyrna to continue to have to accept that aging 1950's homes will all become rentals year after year. In order for us to redevelop this land and create new homes it must be rezoned.

**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.

Adding one additional home in a neighborhood of over 500 homes is growth of less than two tenths of a percent. Therefore it is not logical to believe or expect that the impact would be "excessive" or "burdensome" on local streets, transportation facilities, utilities, or schools.

---

---

---

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

The "intent and policy" of the land use plan are to insure developments are harmonious with adjacent properties and to group like uses and densities with others of similar scale and character. Also to insure there are reasonable transitions between differing typologies. Although the request is for a slightly higher density, the difference in scale of the homes and lot size from others in the same neighborhood is minimal. There are other RAD Cond lots with new homes on the same street and most of the new homes that have replaced the aging 50's era housing in this area have been proposed in similar fashion to this. Therefore we feel the proposal is in conformity with the "policy" and "intent" of the land use plan.

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 have been multiple RAD Conditional rezonings in the neighborhood as well as the construction of five new homes and several major remodels all in the same street in the last two years. The neighborhood is transitioning back from being mostly rental (from 2000-2014) to becoming more owner occupied. This transition has been in large part due to the redevelopment of post war ear housing of the 1950's and the natural progression as aging baby boomers pass their homes down to their children or sell them in favor of senior housing options. A number of larger homes over 2500sf now sit within eye sight of this lot.

**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 rezoning will result in the construction of new homes that will be substantially nicer than most of the existing aging post war era housing. So it could be logically argued that the architecture will "enhance" the neighborhood. The open space will be reduced in order to build two homes where there was only one. However the aesthetics will be improved as the homes will address the corner and enhance the scale of the street and quality of the neighborhood.

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

As the proposed use is the same as surrounding uses - "Single Family Residential", it can not be logically seen as a "nuisance" or "incompatible" with existing uses.

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 size and height of the homes will be slightly larger than the home immediately to the east.

However the size will be similar to other brand new and recently improved homes on the same streets.

Therefore it could be logically argued that that the building height should not have any negative impact on the neighborhood or other uses. It could also be argued that the quality of new building will likely have a net positive impact on the property values of the existing homes not unlike the effect that other recent re-zonings on the same street had.

*Rebecca Keaton*

REBECCA KEATON  
CLERK OF SUPERIOR COURT Cobb Cty. GA.

After Recording Return To Susan G. Fyvolent  
Cohn, Fyvolent & Shaver LLC  
2100 Riveredge Parkway  
Suite 1230  
Atlanta, Georgia 30328  
File # 14R-3853/

**LIMITED  
WARRANTY DEED**

STATE OF GEORGIA  
COUNTY OF FULTON

This Indenture made this 18th day of December, in the year 2014, between

**John K. Jacobs**

as party or parties of the first part, hereinafter called Grantor, and

**The McLinden Group LLC**

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, conveyed 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 of the 17<sup>th</sup> District, 2<sup>nd</sup> Section, Cobb County, Georgia, Being Lot 1, Block D of Mary A. Dunton Property Subdivision, as per Plat recorded in Plat Book 8, Page 137, Cobb County, Georgia records, which Plat is incorporated herein and made a part hereof by reference.

This Deed is given subject to all easements and restrictions of record.

TO HAVE AND TO HOLD the said tract or parcel of land, together 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 by, through and under the above named grantor.

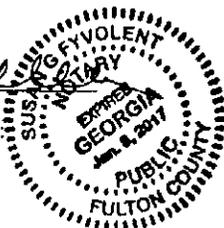
IN WITNESS WHEREOF, Grantor has signed and sealed this deed, the day and year first above written.

Signed, sealed and delivered  
in presence of:

**John K. Jacobs**

*[Signature]*  
\_\_\_\_\_  
Unofficial Witness

By: *[Signature]* \_\_\_\_\_ (SEAL)

*[Signature]*  
\_\_\_\_\_  
Notary Public  
My commission expires  




# CITY OF SMYRNA

2800 King Street / P.O. Box 1226, Smyrna, Georgia 30081  
(770) 434-6600 / www.smyrnacity.com

## Water and Sewer Availability

The City of Smyrna has determined that water and sanitary sewer are available for the proposed development.

Water is available on both McLinden Avenue and Evelyn Street. All existing water taps will be used where possible. It is the developers responsibility to install new water taps. No road cuts will be allowed. Access will be by bore and window if necessary.

Sanitary sewer is available on McLinden Avenue. All existing sewer taps will be utilized. Any new sewer taps will be bored into existing manholes.

This information is based on an untitled drawing of the southeast corner of Evelyn Avenue and McLinden Avenue.

Sincerely,

Scott Stokes  
Director Public Works



Printed: 6/7/2016 8:30:25 PM

## Cobb County Online Tax Receipt

Thank you for your payment!

CARLA JACKSON TAX COMMISSIONER  
CHELLY MCDUFFIE CHIEF DEPUTY  
Phone: 770-528-8600  
Fax: 770-528-8679

Payer:  
THE MCLINDEN GROUP LLC

MCLINDEN GROUP LLC

**Payment Date: 10/15/2015**

Tax Year	Parcel ID	Due Date	Appeal Amount	Taxes Due
2015	17045100600	10/15/2015	Pay: N/A or	1297.72

Interest	Penalty	Fees	Total Due	Amount Paid	Balance
\$0.00	\$0.00	\$0.00	\$1,297.72	\$1,297.72	\$0.00

## Legal Description

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

**BEGINNING** at the intersection of the southerly right-of-way line of McLinden Ave (40' r/w) and the easterly right-of-way line of Evelyn Ave (40' r/w), said point being the **TRUE POINT OF BEGINNING**;

thence along said right-of-way of McLinden Ave, S 82°07'42" E a distance of 122.16 feet to a point,  
thence leaving said right-of-way line, S 8°28'11" W a distance of 150.15 feet to a old fence post found,  
thence N 83°06'48" W a distance of 153.50 feet to a point on said easterly right-of-way line of Evelyn Ave,  
thence along said right-of-way line, N 20°01'04" E a distance of 156.28 feet to a point, and the **TRUE POINT OF BEGINNING**;

Said property contains 0.479 acres, more or less and more particularly shown on that drawing labeled "Boundary, Topographic and Tree Survey, Lot 1, Block D, Estate of Mary A. Dunton", for The McLinden Group, LLC, prepared by SPG Surveying, LLC, dated December 30, 2014.