



## Community Development Annexation Check List

(As of 7/13)

Name of request: \_\_\_\_\_ Emerson Center \_\_\_\_\_

Date Received: \_\_\_\_\_ 7/17/2017 \_\_\_\_\_

Location/Property Address: \_\_\_\_\_ 2810 Spring Road \_\_\_\_\_ (17088000030) \_\_\_\_\_

Size/Acres: \_\_\_\_\_ 5.9 Acres \_\_\_\_\_

Applicant/Petitioner: \_\_\_\_\_ Accent Cumberland Apartments, LP \_\_\_\_\_

Representative (if applicable): \_\_\_\_\_ Garvis Sams \_\_\_\_\_

What annexation method is being used:  100%       60%

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Will zoning be the same as Cobb County's?       Yes  No

Cobb County Zoning: \_\_\_\_\_ OI \_\_\_\_\_

Cobb County Future Land Use: \_\_\_\_\_ Regional Activity Center (RAC) \_\_\_\_\_

Has all required paperwork submitted?       Yes  No

Does it meet with all of the IGA  
(Intergovernmental Agreement)  
agreements with Cobb County?       Yes  No

If yes, must notify County within 7 calendar days of receiving request.

Submit application material to City Clerk

▪ Date submitted: \_\_\_\_\_ 7/25/17 \_\_\_\_\_

• Via Certified Mail – Receipt # \_\_\_\_\_

• Via Hand Delivery \_\_\_\_\_

City Clerk sends it to County Clerk

▪ Date submitted: \_\_\_\_\_

- County must notify Smyrna of decision within 7 calendar days of receiving notice
    - o County's Response:
      - No Objection \_\_\_\_\_ Objection \_\_\_\_\_
      - Requests Dispute Resolution \_\_\_\_\_
      - Date received: \_\_\_\_\_
- 

- Is property within 1500' of the Chattahoochee River? \_\_\_\_\_ Yes  No
- o If yes, ARC needs to be notified.
  - Date notified: \_\_\_\_\_

- Does proposed use trigger a DRI review? \_\_\_\_\_ Y  N \_\_\_\_\_ Update
  - o If yes or update, notify ARC.
    - Date notified: \_\_\_\_\_
  - o ARC comments and findings: \_\_\_\_\_
    - Date received: \_\_\_\_\_
- 

- Does this require P&Z review? \_\_\_\_\_ X  Y \_\_\_\_\_ N
  - o If yes, what is meeting date? \_\_\_\_\_ August 14, 2017 \_\_\_\_\_
  - o P&Z recommendation: \_\_\_\_\_
  - What is date of M&C meeting? \_\_\_\_\_ September 18, 2017 \_\_\_\_\_
  - o Mayor & Council Decision: \_\_\_\_\_
- 

- Final City Zoning Designation: \_\_\_\_\_ MU-Conditional \_\_\_\_\_
- Final City Future Development Designation: \_\_\_\_\_ Mixed Use \_\_\_\_\_
- Effective Date of Annexation (1<sup>st</sup> Day of the Following Month after Approval): \_\_\_\_\_ October 1, 2017 \_\_\_\_\_

## Annexation Application Form Check List

Using this checklist as a guide, please review application materials with applicant or representative **before** accepting application.

### 1. APPLICATION FORM

- X   Correct Application Form Used (for 60% method or 100% method as applicable)
- X   Original form with original signature(s), address(es) and telephone number(s) obtained
- X   Check to make certain all signatures can be read. If signature(s) is/are illegible, make certain the applicant names are typed or legibly printed near the corresponding signature. (the notation "L.S." on the form stands for *legal signature*)
- X   All legal owners of the property have signed the application form

### 2. LEGAL DESCRIPTION

- X   Legal description of the subject property accompanies application
- X   Ask the applicant or representative if an electronic copy of the legal description is available; if so, make arrangements for the electronic information to be furnished to either the Community Development Department or City Clerk's Office

### 3. SECTION 5 VOTING RIGHTS ACT QUESTIONNAIRE

- NA   Completed *Section 5 Voting Rights Act Questionnaire* accompanies application

### 4. MAP OF PROPERTY TO BE ANNEXED

- X   A tax plat, map or other graphic representation of the subject parcel(s) accompanies the application

I have reviewed the annexation application with the applicant(s) and/or representative(s) and have found the submitted paperwork to be complete and in good order.

\_\_\_\_\_  
City staff member signature

\_\_\_\_\_  
Date

This completed form should accompany annexation application materials submitted to the City Clerk's office.

City of Smyrna  
Application for Annexation

We, the undersigned, who constitute one hundred percent (100%) of the owners of the land by acreage, as described below, which is unincorporated and contiguous to the City of Smyrna, hereby apply to have said area annexed into the City of Smyrna under the provisions of laws of the State of Georgia, said property being annexed being described as follows:

WHEREFORE, THE UNDERSIGNED HEREBY APPLY FOR SUCH ANNEXATION.

<u>Accent Cumberland Apartments, LP</u>		_____	
Owner's Printed Name		Owner's Printed Name	
<u>One Glenlake Pkwy, Atlanta, GA 30328</u>	<u>770-390-9378</u>	_____	_____
Address	Telephone#	Address	Telephone#

Kate Edwards \_\_\_\_\_  
Witness the hands and seals of 100% of the record title holders of the land described above:

<u>R. Carter</u>	<u>7/11/17</u>	_____
Owner's Legal Signature/Date		Owner's Legal Signature/Date

2017 SUBMISSION UNDER SECTION 5  
OF THE VOTING RIGHTS ACT  
FOR THE CITY OF SMYRNA, GEORGIA

Map Designation# \_\_\_\_\_ LL/Parcel# 880 & 881, 17th District

City Ward# (1) Norton Census Tract# \_\_\_\_\_

Copies of annexation ordinance (council meeting minutes) are attached, marked:  
Exhibit \_\_\_\_\_

Responsible body: Mayor and Council of the City of Smyrna  
P.O. Box 1226  
Smyrna, GA 30081  
Telephone (770) 434-6600

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*THIS SECTION TO BE COMPLETED BY APPLICANT. PLEASE BE SURE THIS INFORMATION IS ACCURATE – IT WILL BE USED TO ESTABLISH EMERGENCY SERVICE THROUGH OUR 911 SYSTEM.*

1. Is the property to be annexed vacant? Yes [ ] No [X]
2. If NO, name of resident(s): Remaining tenants within commercial buildings
3. Complete street address: Numerous parcels with access to Spring Road & Spring Hill Pkwy.
4. Telephone Number Bradley G. Johnson (404-483-9388) and Garvis L. Sams, Jr. (770-422-7016)
5. Number of registered voters before annexation: None  
Number and type of minorities or minority language groups: None
6. Number of registered voters after annexation: None  
Number and type of minorities or minority language groups: None
7. Use of property before annexation (i.e., vacant, business, residential): Commercial/Business/Office
8. Zoning classification before annexation: Office and Institutional ("O&I")
9. Use of property after annexation (i.e., vacant, business, residential). If residential, please state proposed number of dwelling units: Mixed use development consisting of retail/commercial, hotel, restaurants, future office space and multi-family residential.
10. Zoning classification being requested (if any): MU - Conditional
11. Effect of change on members of racial or minority groups: None
12. Total number of acres being annexed: 5.9 (out of total site acreage of 8.7 acres)

# 17-880



**Legend**

- Parcel (with Parcel ID Number and Street Address)
- Railroad ROW
- Trail ROW
- Water Region
- Land Lots
- Subdivision Boundary
- Cobb Boundary

**City Limits**

- Azooch
- Austell
- Kennesaw
- Marietta
- Powder Springs
- Smyrna
- Union City
- Unincorporated

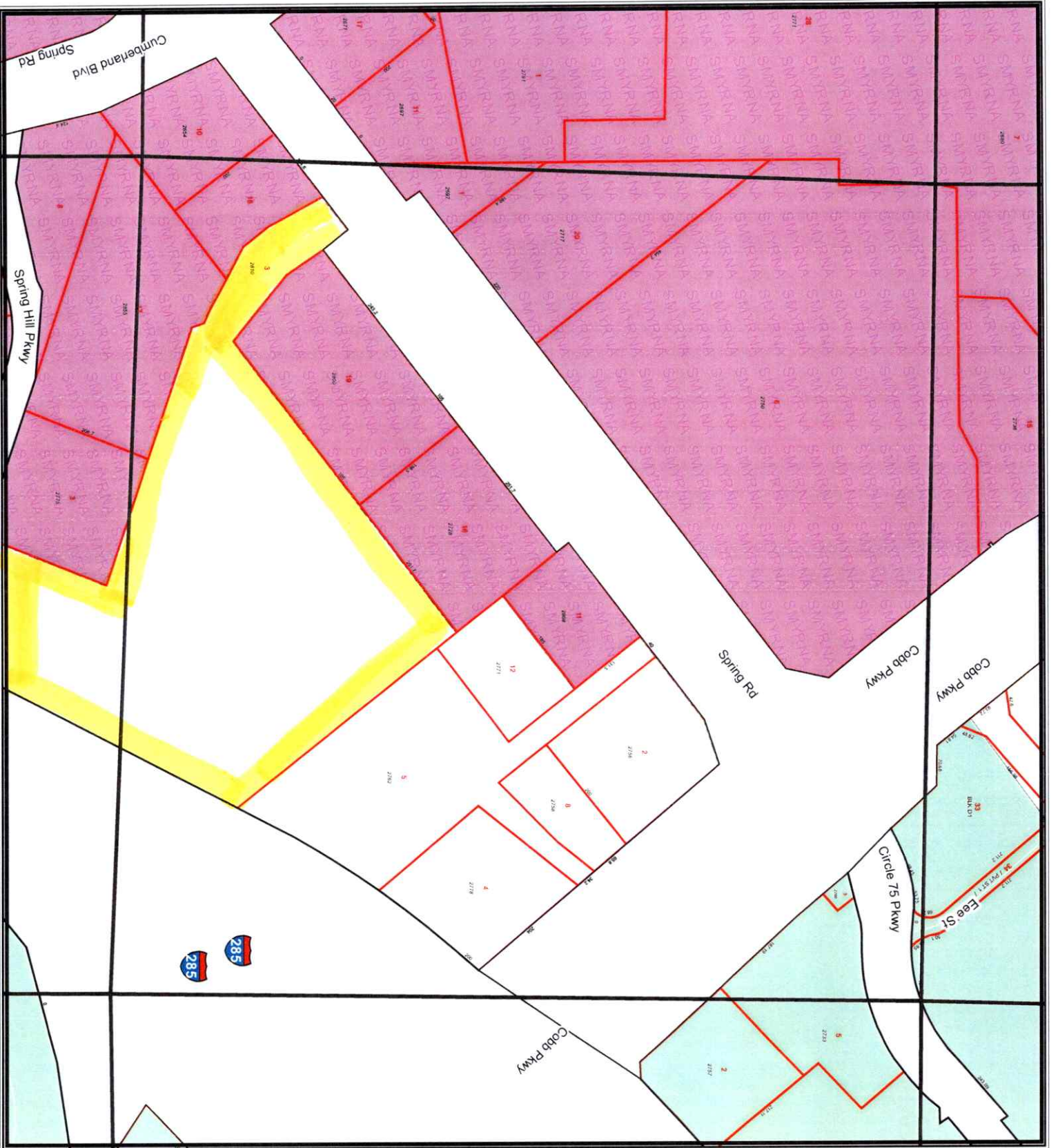
**C.I.D. Limits**

- Cumberland Mill
- Town Center

**Misc**

- Land hooks
- Water Property line
- Parks

17-848	17-879	17-915
17-847		17-914
17-846	17-881	17-913



**Cobb County Board of Tax Assessors Mapping Division**  
 Marietta, Georgia 30064  
 770-528-3100

**DISCLAIMER NOTE:** This map is prepared for the convenience of our customers. It is not intended to be used as a legal document. The information contained herein is for informational purposes only and does not constitute a warranty of any kind. The Board of Tax Assessors is not responsible for any errors or omissions in this map. The user assumes all responsibility for the use of this map.

THIS IS THE STATE'S OFFICIAL LOGO  
 OFFICE OF THE STATE ARCHIVIST  
 100 WEST BROAD STREET, SUITE 200  
 ATLANTA, GEORGIA 30334  
 404-462-1000

Print Date  
 Aug 05, 2016

Scale:





# Cobb County Georgia Online Mapping



400.0 0 200.00 400.0 Feet

WGS\_1984\_Web\_Mercator\_Auxiliary\_Sphere  
© Cobb County Georgia

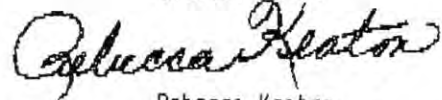
This map is a user generated static output from an internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.  
**THIS MAP IS NOT TO BE USED FOR NAVIGATION**

1:2,400



Map Notes:


Deed Book 15438 Pg 3882  
Filed and Recorded May-02-2017 02:04pm  
2017-0048105  
Real Estate Transfer Tax \$7,200.00  
0332017009755



Rebecca Keaton  
Clerk of Superior Court Cobb Cty. Ga.

This instrument prepared by and return to:

Ron Ben-Moshe, Esquire  
McClure & Kornheiser, LLC  
6400 Powers Ferry Road, Suite 150  
Atlanta, Georgia 30339

After recording return to:  
Calloway Title & Escrow, LLC  
 **David W. Dudley 2-32627**  
4170 Ashford Dunwoody Rd. Ste. 525  
Atlanta, Georgia 30319

#### LIMITED WARRANTY DEED

THIS INDENTURE, made and entered into as of the 1<sup>st</sup> day of May, 2017, by and between **NILHAN DEVELOPERS, LLC**, a Georgia limited liability company (hereinafter called "Grantor"), and **ACCENT CUMBERLAND APARTMENTS, LP**, a Georgia limited partnership (hereinafter called "Grantee").

#### WITNESSETH:

That Grantor, for and in consideration of the sum of Ten and No/100 Dollars (\$10.00) in hand paid at and before the sealing and delivery of these presents, the receipt and sufficiency whereof are hereby acknowledged, has granted, bargained, sold, aliened and conveyed and by these presents does grant, bargain, sell, alien and convey unto Grantee, its successors and assigns, all that tract or parcel of land, and/or interests in land, lying and being in Cobb County, Georgia described in Exhibit "A", attached hereto and by this reference incorporated herein.

TO HAVE AND TO HOLD the said bargained premises, 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 Grantee, its successors and assigns, forever, IN FEE SIMPLE; subject, however, to the matters set forth in Exhibit "B", attached hereto and by this reference incorporated herein.

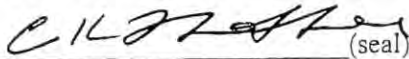
And the said Grantor, for itself, its successors, legal representatives and assigns does warrant and will forever defend the right to the aforescribed premises unto the said Grantee, its successors and assigns, against the lawful claims of all persons by, through or under Grantor, except as to claims arising from matters set forth in said Exhibit "B".



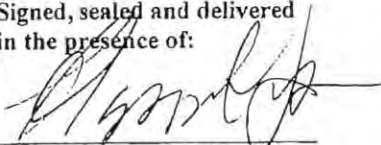
This Limited Warranty Deed is conveyed pursuant to the Order Granting Motion To Authorize Sale, as set forth in Exhibit "C", attached hereto and by this reference incorporated herein, in Case No.: 15-58440-wlh in the United States Bankruptcy Court Northern District of Georgia, Atlanta Division, whereby the Court has authorized the transfer of the Property to Grantee free and clear of liens.

IN WITNESS WHEREOF, Grantor, acting by and through its duly authorized general partner, has caused this indenture to be executed under seal as of the date first above written.

**NILHAN DEVELOPERS, LLC,**  
a Georgia limited liability company

By:  (seal)  
Chitranjan "Chuck" Thakkar  
Manager

Signed, sealed and delivered  
in the presence of:

  
UNOFFICIAL WITNESS

  
NOTARY PUBLIC

My Commission expires:

(Affix Notarial Seal here)



## EXHIBIT "A"

## Legal Description

All that tract or parcel of land lying and being located in Land Lots 880 and 881, of the 17th District, 2nd Section, Cobb County, Georgia, and being more particularly described as follows:  
BEGINNING at an iron pin found (#4 rebar) located on the southeasterly right-of-way of Spring Road (AKA New Spring Road (Variable Right-of-Way), said iron pin being located 299.60 feet from the intersection of the said southeasterly right-of-way of Spring Road and the easterly right-of-way of Hargrove Road (80' Right-of-Way as measured in a northeasterly direction along and following the said southerly right-of-way of Spring Road, having thus established the TRUE POINT OF BEGINNING, leaving said iron pin and running N53°02'30"E along the northeasterly right-of-way of Spring Road for a distance of 64.75 feet to an iron pin found (#4 rebar); thence running S36°57'30"E and continuing along the southeasterly right-of-way of New Spring Road for a distance of 50.00 feet to an iron pin found (#4 rebar); thence running N52°57'11"E and continuing along the southeasterly right-of-way of Spring Road for a distance 347.95 feet to an iron pin found (#4 rebar); thence leaving said right-of-way and running S37°03'13"E for a distance of 198.58 feet to an iron pin found (#4 rebar); thence running N52°56'47"E for a distance of 251.89 feet to an iron pin found (#4 rebar); thence running S36°58'42"E for a distance of 445.13 feet to an iron pin found (#4 rebar) located on the northwesterly right-of-way of Interstate 285 (Variable Right-of-Way); thence running S27°58'56"W along the northwesterly right-of-way of Interstate 285 for a distance of 527.06 feet to an iron pin found (#4 rebar) located on the northeasterly right-of-way of Spring Hill Parkway (fka Curtis Drive) (Variable Right-of-Way); thence leaving said Interstate 285 right-of-way and running N68°37'31"W along the northeasterly right-of-way of Spring Hill Parkway for a distance of 188.47 feet to an iron pin found (#4 rebar); thence leaving said right-of-way and running N20°27'53"E for a distance of 208.75 feet to an iron pin found (#4 rebar); thence running N69°38'24"W for a distance of 208.85 feet to an iron pin found (#4 rebar); thence running N69°33'57"W for a distance of 218.39 feet to an iron pin found (#4 rebar); thence running N20°26'02"E for a distance of 20.00 feet to an iron pin found (#4 rebar); thence running N69°58'41"W for a distance of 25.87 feet to an iron pin found (#4 rebar); thence running N62°32'07"W for a distance of 115.80 feet to an iron pin found (#4 rebar); thence running N43°06'18"W for a distance of 48.39 feet to an iron pin found (#4 rebar); thence running N26°25'37"W for a distance of 100.09 feet to an iron pin found (#4 rebar) located on the southeasterly right-of-way of Spring Road which is the TRUE POINT OF BEGINNING. Said tract contains 8.709 acres (379,343 sq. ft.).

**EXHIBIT "B"**

**PERMITTED TITLE EXCEPTIONS**

1. All taxes for the year 2017 and subsequent years, not yet due and payable.
2. Easement from Charles L. Vaughn to Georgia Power Company, dated March 3, 1970, filed for record April 20, 1970 at 2:45 p.m., recorded in Deed Book 1152, Page 592, Records of Cobb County, Georgia.
3. Grant of Easement from Atlanta Venture #1 to Cobb County, a political subdivision of the State of Georgia, dated February 19, 1973, filed for record April 5, 1974 at 12:20 p.m., recorded in Deed Book 1515, Page 343, aforesaid Records.
4. Option Grant of Easement to Atlanta Gas Light Company, filed for record October 29, 1982 at 9:41 a.m., recorded in Deed Book 2615, Page 209, aforesaid Records.
5. Right of Way Easement from The Emerson Center Co. to Southern Bell Telephone and Telegraph Company, filed for record August 21, 1987 at 10:37 a.m., recorded in Deed Book 4612, Page 418, aforesaid Records.
6. Easement Agreement by and between Emerson Center Office Park, LLC, a Georgia limited liability company, Conyers Professional Building, LLC, a Georgia limited liability company and The Shops at Emerson Center, LLC, a Georgia limited liability company, dated December 29, 2005, filed for record February 7, 2006 at 1:41 p.m., recorded in Deed Book 14286, Page 3706, aforesaid Records.
7. Easement from Nilhan Developers, LLC to Georgia Power Company, a Georgia corporation, dated March 12, 2009, filed for record April 6, 2009 at 4:04 p.m., recorded in Deed Book 14680, Page 5656, aforesaid Records.
8. All those matters as disclosed by that certain plat recorded in Plat Book 61, Page 17, aforesaid Records.

EXHIBIT "C"

ORDER GRANTING MOTION TO AUTHORIZE SALE

SEE ATTACHED



IT IS ORDERED as set forth below:

Date: April 28, 2017

*Wendy L. Hagenau*

Wendy L. Hagenau  
U.S. Bankruptcy Court Judge

IN THE UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

In re:	)	Chapter 11
	)	
BAY CIRCLE PROPERTIES, LLC, <i>et al.</i> <sup>1</sup>	)	Case No.: 15-58440-wlh
	)	(Jointly Administered)
Debtors.	)	
	)	

**ORDER GRANTING MOTION TO AUTHORIZE SALE**

Debtor's Motion to Authorize Sale pursuant to 11 U.S.C. § 363 [Doc. No. 634] (the "Motion") came before this Court for hearing on April 24 and 27, 2017, upon proper notice. Nilhan Developers, LLC seeks an order authorizing it to sell the

<sup>1</sup> The Debtors and the last four digits of their respective taxpayer identification numbers are Bay Circle Properties, LLC (1578), DCT Systems Group, LLC (6978), Sugarloaf Centre, LLC (2467), Nilhan Developers, LLC (6335), and NRCT, LLC (1649).

real property and improvements located at 2800 and 2810 Spring Road, Smyrna, Cobb County, Georgia ("Property") to Westplan Investors Acquisitions, LLC or its assignee for \$7,000,000 free and clear of all liens, claims and encumbrances and remit the net sale proceeds to Bay Point Capital Partners, LP. Bay Point Capital Partners, LP, Good Gateway, LLC and SEG Gateway, LLC objected to the sale and appeared at the hearings in opposition. Bay Point Capital Partners, LP submitted a credit bid for the Property. At the Court's direction the parties conducted an auction which at the conclusion resulted in an offer from Westplan Investors Acquisitions, LLC of \$7.2 million otherwise in accordance with the proposed contract and \$7.3 million from Bay Point Capital Partners, LP otherwise in accordance with the proposed Westplan contract, but without the repurchase option for the hotel, office and retail portions of the Property. At the conclusion of the evidentiary hearing and closing arguments, the Court announced its finding of fact and conclusion of law. Upon consideration of the Motion, the arguments presented at the hearings, the record of this case, and based on the Court's statements on the record, it is hereby:

ORDERED that the Motion is GRANTED as conditioned herein:

(1) Debtor Nilhan Developers, LLC is authorized pursuant to Section 363 of the Bankruptcy Code to sell the Property to Westplan Investors Acquisitions, LLC or its assignee for the purchase price of \$7,200,000 free and clear of any and all liens,

claims, encumbrances, and other interests pursuant to the Standard Form Contract of Sale attached to the Motion.

(2) As a condition of the sale, Chuck Thakkar or a non-debtor party on his behalf shall pay \$100,000 at the closing such that the total proceeds paid to Bay Point Capital Partners, LP from the sale are \$7,300,000. The Debtor is authorized to pay the \$7,300,000 to Bay Point Capital Partners, LP.

(3) The Debtor is also authorized to execute and deliver any and all documents and instruments necessary to effectuate the sale of the Property and to take such other actions as is necessary to consummate the sale of the Property. It is further

ORDERED that pursuant to Bankruptcy Rule 6004(h), this Order shall be effective immediately upon entry and Debtor and Westplan Investors Acquisitions, LLC are authorized to close the sale of the Property immediately upon entry of this Order and upon receipt of the \$7,300,000, Bay Point Capital Partners, L.P. shall release and cancel of record all security instruments held by it that relate to the Property and return to the Debtor the original of the deed in lieu of foreclosure for the Property delivered to it pursuant to the Settlement Agreement dated November 18, 2015 between the Debtor and Wells Fargo Bank, National Association approved by this Court. It is further

ORDERED that the Court finds that the purchaser in the transaction authorized by this Order is a good faith purchaser as contemplated by 11 U.S.C. § 363(m).

[END OF DOCUMENT]

Prepared and presented by:

/s/ John A. Christy  
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Atlanta, Georgia 30309-4516  
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DISTRIBUTION LIST

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Deed Book **15438** Pg **3891**  
Rebecca Keaton  
Clerk of Superior Court Cobb Cty. Ga.

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Atlanta, Georgia 30326

Walter E. Jones -- Via ECF  
Balch & Bingham, LLP  
30 Ivan Allen Jr., Blvd  
Suite 700  
Atlanta, GA 30308

## OVERALL LEGAL DESCRIPTION

### Tract 1 - 2800 Spring Road

All that tract or parcel of land lying and being in land lot 880 of the 17th District of the 2nd Section of Cobb County, Georgia and being more particularly described as follows: To arrive at the true point of beginning of Tract 1 start at the point of commencement at the southeasterly right of way of New Spring Road and at the easterly right of way line of Hargrove Road (80 foot right of way) running thence northeasterly along the southeasterly right of way line of New Spring Road 299.60 feet to an iron pin found; continuing thence along said right of way of New Spring Road north 53 degrees 02 minutes 30 seconds east 64.75 feet to an iron pin found; thence leaving said right of way south 36 degrees 57 minutes 30 seconds east 50.00 feet to an iron pin found and the true point of beginning; thence along the southeasterly right of way line of New Spring Road north 53 degrees 02 minutes 30 seconds east 348.28 feet to an iron pin found; thence leaving right of way south 36 degrees 56 minutes 24 seconds east 198.58 feet to an iron pin found; running thence south 53 degrees 02 minutes 30 seconds west 324.46 feet to an iron pin placed; running thence north 43 degrees 25 minutes 25 seconds west 199.85 feet to an iron pin found on the southeasterly right of way line of New Spring Road and the true point of beginning containing 66,921 square feet (1.54 acres) according to plat of survey by A.S. Giometti & Associates, Inc. dated November 28, 2005.

### Tract 2 - 2800 Spring Road

All that tract or parcel of land lying and being in land lot 880 and 881 of the 17th District of the 2nd Section of Cobb County, Georgia and being more particularly described as follows: To arrive at the true point of beginning of Tract 2 start at the point of commencement at the southeasterly right of way of New Spring Road and at the easterly right of way line of Hargrove Road (80 foot right of way) running thence northeasterly along the southeasterly right of way line of New Spring Road 299.60 feet to an iron pin found at the true point of beginning; continuing thence along the southeasterly right of way line of New Spring Road north 53 degrees 02 minutes 30 seconds east 64.75 feet to an iron pin found; thence leaving said right of way south 36 degrees 57 minutes 30 seconds east 50.00 feet to an iron pin found; and running thence south 43 degrees 25 minutes 25 seconds east 199.85 feet to an iron pin placed; running thence north 53 degrees 02 minutes 30 seconds east 324.46 feet to an iron pin found; continuing thence north 53 degrees 02 minutes 30 seconds east 251.78 feet to an iron pin found; running thence south 36 degrees 57 minutes 34 seconds east 445.39 feet to an iron pin found; running thence south 28 degrees 04 minutes 33 seconds west 527.06 feet to an iron pin found; running thence north 68 degrees 22 minutes 42 seconds west 188.47 feet to an iron pin found; running thence north 20 degrees 26 minutes 02 seconds east 208.75 feet to an iron pin found; running thence north 69 degrees 38 minutes 24 seconds west a distance of 208.75 feet to a point running thence north 69 degrees 33 minutes 57 seconds west 218.39 feet to an iron pin found; running thence north 20 degrees 25 minutes 53 seconds east 20.00 feet to an iron pin found; running thence north 69 degrees 39 minutes 21 seconds west 25.50 feet to an iron pin found; running thence north 62 degrees 37 minutes 44 seconds west 116.15 feet to a point; running thence north 43 degrees 06 minutes 18 seconds west 48.39 feet to an iron pin found; running thence north 26 degrees 25 minutes 37 seconds west 100.09 feet to New Spring Road and the true point of beginning; containing 312,389 square feet (7.17 acres) according to plat of survey by A. S. Giometti & Associates, Inc. dated November 28, 2005, last revised December 29, 2005.