

PREPARED BY AND RETURN TO:
City Attorney's Office
200 N.W. 1st Avenue
Delray Beach, FL 33444

PARKING COMPLIANCE AGREEMENT

THIS PARKING COMPLIANCE AGREEMENT ("Agreement") is made this 21st day of September, 2015 by and among the **CITY OF DELRAY BEACH, FLORIDA** ("City"), **THE METROPOLITAN AT DELRAY, LLC**, a Florida limited liability company ("Metropolitan") and **SUNTRUST BANK**, a Georgia banking corporation ("SunTrust"). The City, Metropolitan and SunTrust shall sometimes be hereinafter referred to as the "Parties."

RECITALS:

1. SunTrust is the fee simple owner of the properties depicted and described on Exhibit "A" attached hereto as "Parcel 1", "Parcel 2", "Parcel 3", "Parcel 4", and "Parcel 5". SunTrust owns a leasehold interest in "Parcel 6", "Parcel 7" and "Parcel 8", as depicted and described on Exhibit "A." A SunTrust bank facility and associated office space and drive through lanes (collectively, "Bank Building") are located on "Parcel 2", "Parcel 3" and "Parcel 6."

2. Metropolitan has represented to the City that it has the right to acquire fee simple title to "Parcel 1" in accordance with the terms of an agreement between an affiliate of Metropolitan and SunTrust.

3. Metropolitan has represented to the City that it has the option ("Option") to acquire fee simple title to "Parcel 6", "Parcel 7" and "Parcel 8" in accordance with the terms of an agreement between an affiliate of Metropolitan and the fee simple owners of such parcels.

4. On September 19, 2014, Metropolitan submitted the following applications (collectively, the "Original Applications") to the City's Planning and Zoning Department:

- a. Conditional Use Application;
- b. Class II Modification Site Plan Application; and
- c. Site Plan Application/Class V.

5. At the time of submittal of the Original Applications, the Parties were unaware of the existence of a Site Plan Modification Survey dated January 12, 1987, which contains a parking table, purporting to establish a 123 space parking requirement for the Bank Building. To amicably resolve any issues relating to the Bank Building's compliance with the City's parking space requirements, pursuant to Section 4.6.9(E)(6) of the City's Land Development Regulations ("LDRs"), the Parties agree that, subject to the terms of this Agreement: (i) Metropolitan shall be permitted to revise the Original Applications and re-submit modified Conditional Use and Site Plan/Class V Applications, (collectively, the "Revised Applications") and (ii) the Revised Applications shall be subject to review by the City, its boards and agencies under and shall be governed by, the LDRs in effect on September 19, 2014 (the "Original LDRs").

6. The Parties recognize the need to enter into this Agreement:

a. to provide confirmation that:

- i. the Bank Building shall be deemed compliant with Section 4.6.9(E)(6) of the LDRs and upon the conditions set forth herein

shall still be deemed compliant with Section 4.6.9(E)(6) of the LDRs after the transfer of "Parcel 1" to Metropolitan,

- ii. the transfer of "Parcel 1" to Metropolitan does not constitute an illegal subdivision under the LDRs, and
- iii. the Revised Applications shall be subject to review by the City, its boards and agencies under, and shall be governed by, the Original LDRs.;

b. to set forth the timing and sequence of certain events relating to the Revised Applications and the project described therein (the "Project"); and

c. to otherwise set forth the responsibilities of the Parties relating to the matters described herein.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. The Parties hereby represent and warrant that the above recitals are accurate and correct and hereby incorporate them in this Agreement.

2. It shall be a condition of approval to the Revised Applications that Metropolitan construct fifteen (15) parking spaces ("Required Bank Parking Spaces") in the areas depicted on Exhibit "B" attached hereto prior to the Project obtaining a final certificate of occupancy. Seven (7) of the Required Bank Parking Spaces shall be located on "Parcel 1" and Parcel 8 and eight (8) of the Required Bank Parking Spaces shall be located on "Parcel 4" and shall be compliant with the dimensional requirements relating to parking spaces as set forth in Section 4.6.9(D)(4)(e) (Parking Striping Detail) of the LDRs.

3. The application seeking approval of the eight (8) Required Bank Parking Spaces to be located on "Parcel 4" shall be submitted to the City by SunTrust as a separate Class II Modification Site Plan Application no later than March 2, 2015.

4. Metropolitan shall exercise its Option and shall acquire fee simple title "Parcel 8" prior to final site plan certification of the Project.

5. The parking facilities currently located on "Parcel 5" and "Parcel 7", as depicted on Exhibit "A", shall be deemed and considered off-site parking for the Bank Building. Additionally, at such time as the Required Bank Parking Spaces are constructed, such Required Bank Parking Spaces shall be deemed and considered off-site parking for the Bank Building. Metropolitan shall grant a perpetual, non-exclusive easement to SunTrust for the use of the Required Bank Parking Spaces located on "Parcel 1" and "Parcel 8" and such easement shall provide that it cannot be amended or terminated without the City's prior written consent.

6. The City acknowledges and agrees that the improvements as they exist on the Bank Building today require at least 63 total parking spaces to be compliant with Section 4.6.9(E)(6) of the LDRs, and that having the associated parking shown on Exhibit "C" attached hereto as "Existing Parking", the Bank Building is as such compliant with Section 4.6.9(E)(6) of the LDRs. The City further acknowledges and agrees that following the transfer of "Parcel 1" to a person or entity other than SunTrust, and upon completion of construction of the Required Bank Parking Spaces, and granting of the nonexclusive easements required herein, the Bank Building shall have a total of 63 associated parking spaces as shown on Exhibit "C" as "Proposed Parking for SunTrust Use" and shall be deemed compliant with Section 4.6.9(E)(6) of the LDRs. The City further acknowledges and agrees that the transfer of Parcel 1 to

Metropolitan, subject to the terms and conditions herein, shall not constitute an illegal subdivision under the LDRs.

The Revised Applications shall be subject to review by the City, its boards and agencies under, and shall be governed by, the Original LDRs (as defined above).

8. The City, by entering into this Agreement, has no obligation to provide maintenance, nor does the City accept any liability associated with the use of the parking spaces described herein. The City's interest in this Agreement is solely to assure its compliance with the parking requirements set forth in the LDRs.

9. This Agreement shall be binding on the Parties, their respective heirs, successors, legal representatives, and permitted assigns and shall be recorded in the Public Records of Palm Beach County and shall run with the land.

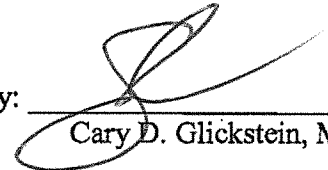
10. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed on their behalf this 21st day of September, 2015.

ATTEST:

CITY OF DELRAY BEACH, FLORIDA


City Clerk

By: 
Cary D. Glickstein, Mayor

Approved as to legal form
and sufficiency:


City Attorney

WITNESSES:

Sheri N. Tassoni

Sheri N. Tassoni
(Print or Type Name)

Shawn Butters

Shawn Butters
(Print or Type Name)

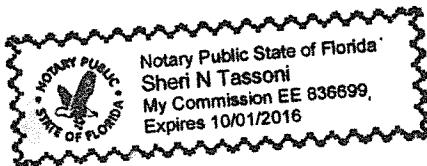
THE METROPOLITAN AT DELRAY, LLC
a Florida limited liability company

By: Bradley Morton Manager
(Print or Type Name)

STATE OF FLORIDA

COUNTY OF Palm Beach

The foregoing instrument was acknowledged before me this 17th day of September, 2015, by Bradley Morton, as Manager of THE METROPOLITAN AT DELRAY, LLC, a Florida limited liability company, on behalf of the company. He is personally known to me or has produced _____ (type of identification) as identification.



Sheri N. Tassoni
Signature of Person Taking Acknowledgment

Sheri N. Tassoni
Name Typed, Printed or Stamped

WITNESSES:

Michele A Sheard

(Print or Type Name)

Michele A Sheard

(Print or Type Name)

Helen Ford

(Print or Type Name)

SUNTRUST BANK,
a Georgia banking corporation

By: *Thomas Crociata*

(Print or Type Name)

THOMAS CROCIATA

(Print or Type Name)

STATE OF FLORIDA

COUNTY OF Orange

The foregoing instrument was acknowledged before me this 25 day of September, 2015, by Thomas Crociata, as First Vice Pres. of SUNTRUST BANK, a Georgia banking corporation, on behalf of the corporation. He/She is personally known to me or has produced _____ (type of identification) as identification.



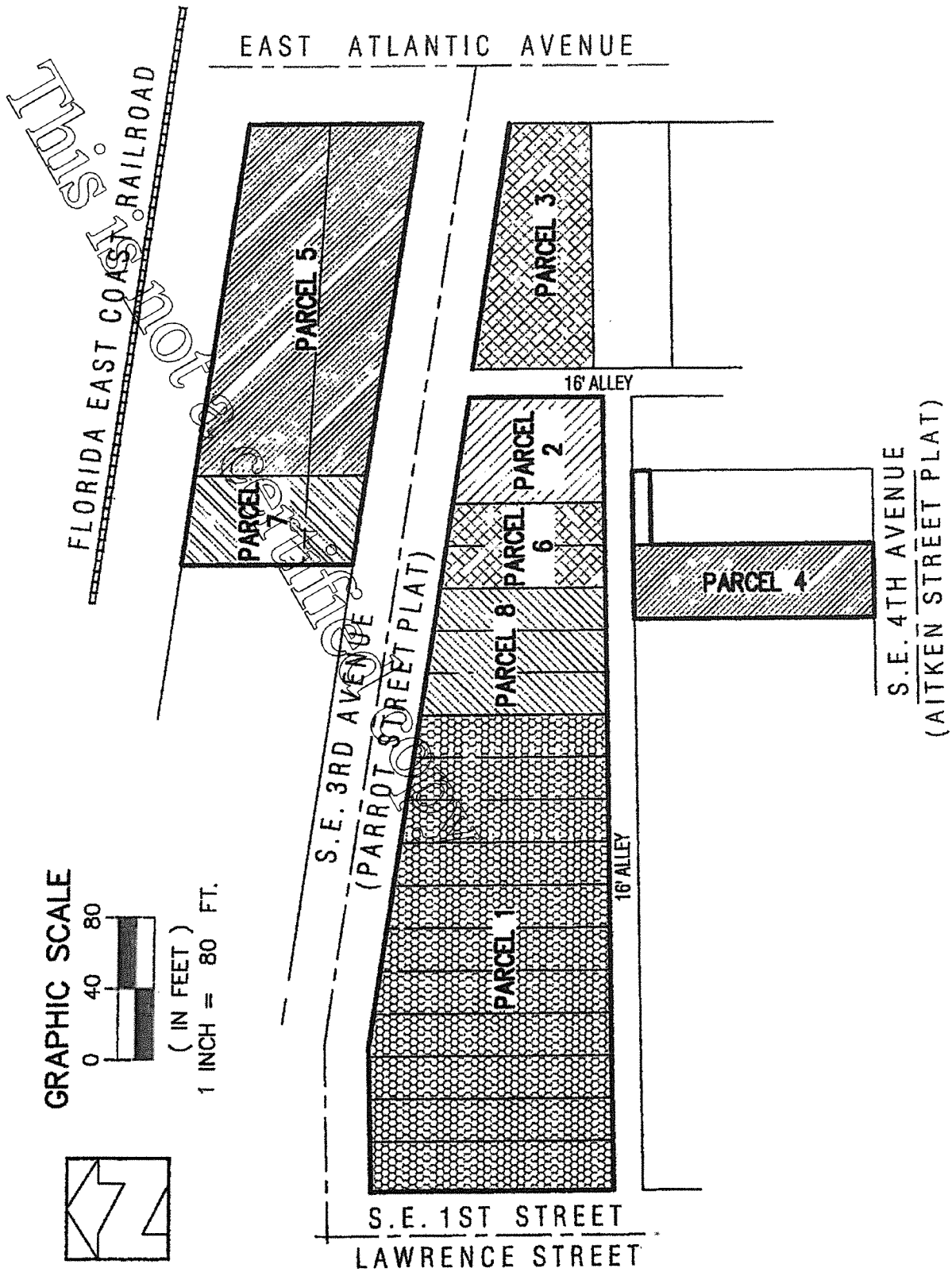
Michele A Sheard

Signature of Person Taking Acknowledgment

Michele A. Sheard

Name Typed, Printed or Stamped

Exhibit A



CONTINUATION OF EXHIBIT "A"
PARCEL LEGAL DESCRIPTIONS

- PARCEL 1: Lots 20 through 30 inclusive, Block 93 of Re-subdivision of Block 93, City of Delray, Palm Beach County, Florida, according to the plat thereof, recorded in Plat Book 10, Page 53, Public records of Palm Beach County, Florida.
- PARCEL 2: Lot 36, Block 93 of Re-subdivision of Block 93, City of Delray, Palm Beach County, Florida, according to the plat thereof, recorded in Plat Book 10, Page 53, Public records of Palm Beach County, Florida.
- PARCEL 3: Lot 1, Block 93 of Re-subdivision of Block 93, City of Delray, Palm Beach County, Florida, according to the plat thereof, recorded in Plat Book 10, Page 53, Public records of Palm Beach County, Florida.
- PARCEL 4: Lot 8, Block 93 of Re-subdivision of Block 93, City of Delray, Palm Beach County, Florida, according to the plat thereof, recorded in Plat Book 10, Page 53, Public records of Palm Beach County, Florida.
- PARCEL 5: All of the North 250 feet of Block 85, lying East of the Florida East Coast Railroad Right-of-Way in the City of Delray Beach, Florida, according to the Plat of the Town of Linton, now Delray Beach, according to the Plat thereof, as recorded in Plat Book 1, Page 3, of the Public Records of Palm Beach County, Florida, less the South 51 feet thereof.
- PARCEL 6: Lots 34 and 35, Block 93 of Re-subdivision of Block 93, City of Delray, Palm Beach County, Florida, according to the plat thereof, recorded in Plat Book 10, Page 53, Public records of Palm Beach County, Florida.
- PARCEL 7: The South 51 feet of the North 250 feet of Block 85, lying East of the Florida East Coast Railroad Right-of-Way in the City of Delray Beach, Florida, according to the Plat of the Town of Linton, now Delray Beach, according to the Plat thereof, as recorded in Plat Book 1, Page 3 of the Public Records of Palm Beach County, Florida.
- PARCEL 8: Lots 31 through 33, inclusive, Block 93 of Re-subdivision of Block 93, City of Delray, Palm Beach County, Florida, according to the plat thereof, recorded in Plat Book 10, Page 53, Public records of Palm Beach County, Florida.

Exhibit B

This is not a contract

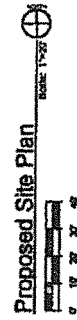
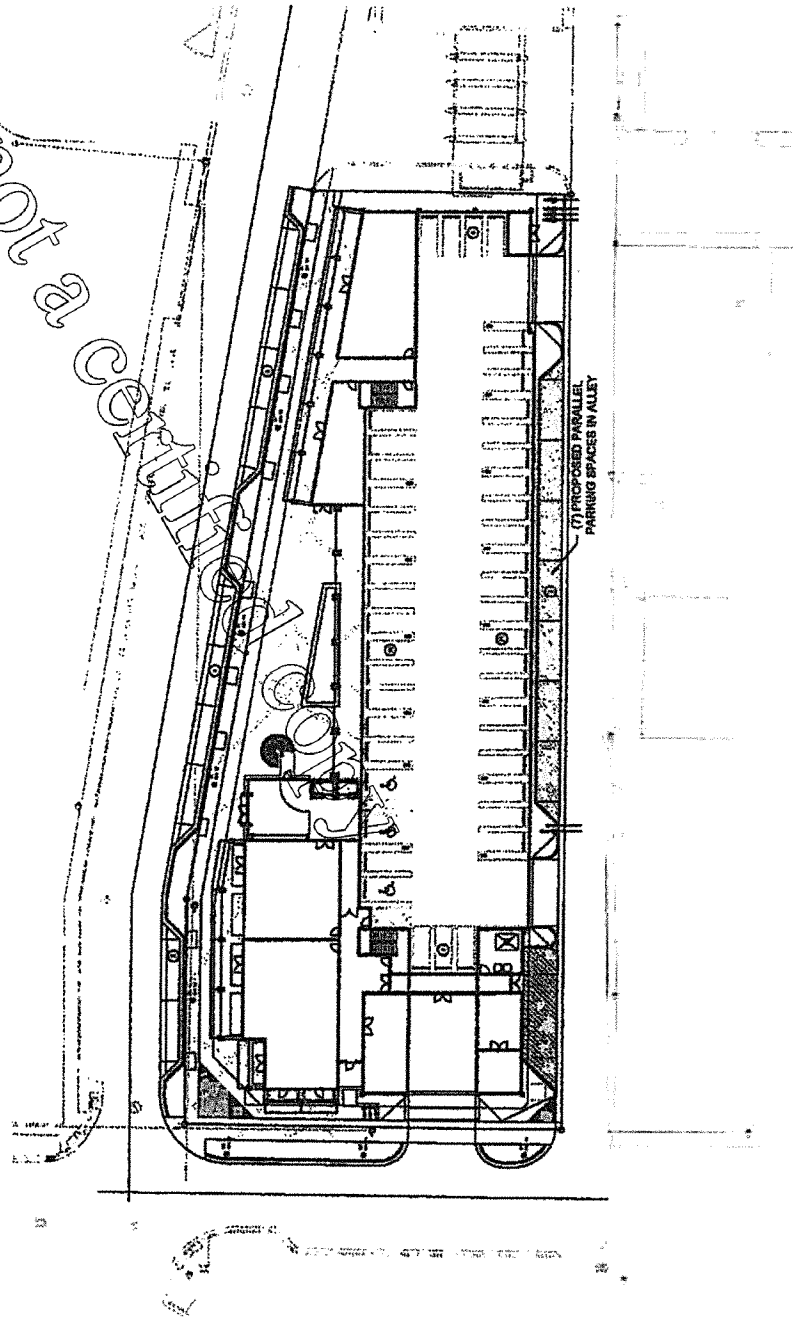
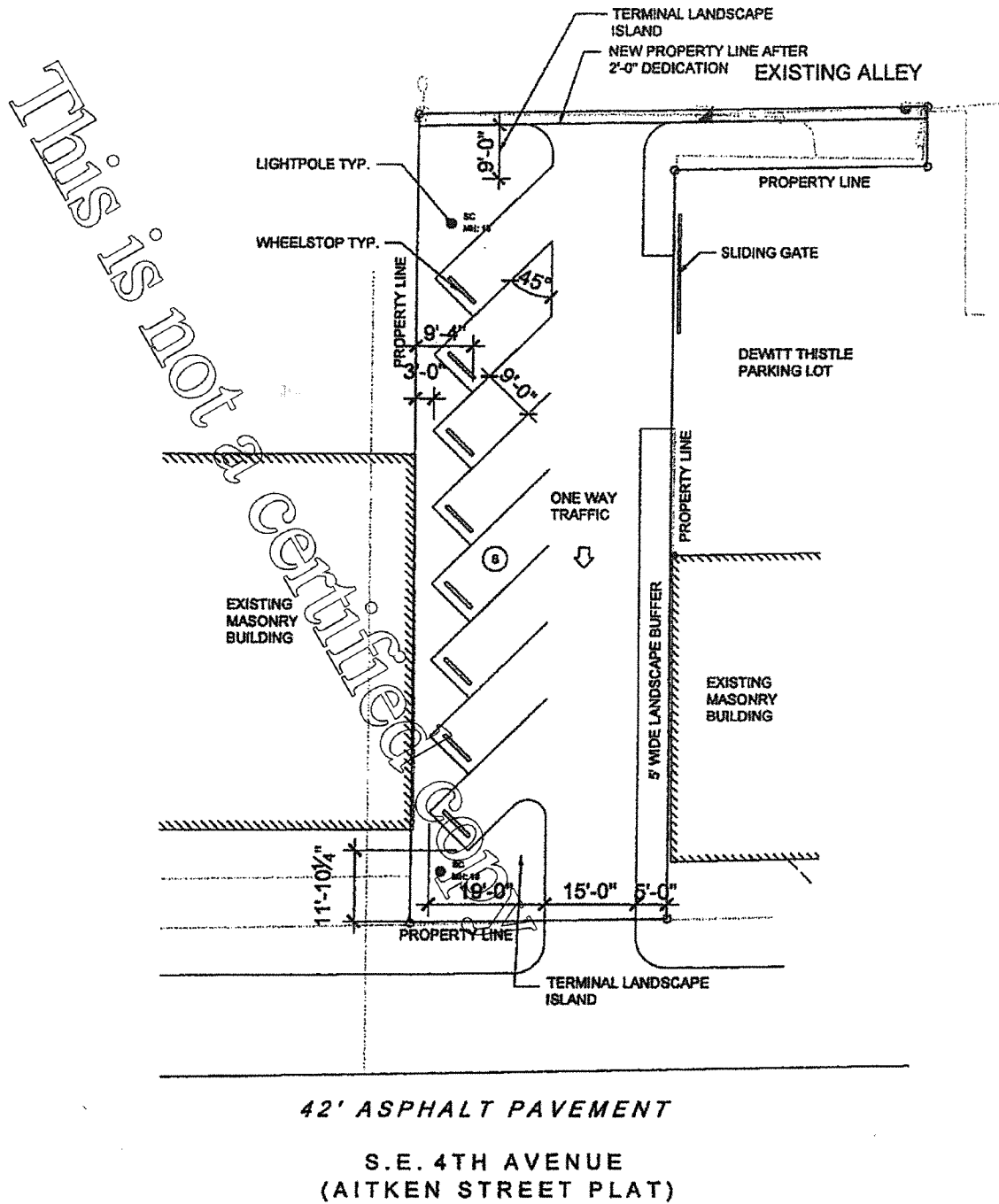


Exhibit B Cont'd



Proposed Site Plan-Parcel 4

Scale: N.T.S.



EXHIBIT "D"

Parcel	Existing Parking	Proposed Parking for SunTrust use (following conveyance of Parcel 1)
1	50	5
2	0	0
3	0	0
4	0	8
5	45	45
6	0	0
7	3	3
8	12	2
	110	63