

From: [Gary Scott](#)
To: [Planning Commission](#)
Subject: Petitions of Border and Jacaranda Holdings LLC
Date: Friday, January 6, 2023 8:46:10 AM
Attachments: [Jasper letter to council.pdf](#)
[Agreement Regarding Open Space.pdf](#)
[Weeden email re dedication.pdf](#)

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To the Members of the Planning Commission:

I apologize for the length of this email. But its contents are critical to the Planning Commission's understanding of some of the background to the petitions of Border and Jacaranda Holdings, LLC (BJH). I appreciate the Commission's patience and consideration.

On April 15, 2014, a representative of the Venetian Golf and River Club Community Association appeared before the Planning Commission and stated that the 13 member board of directors of the Association had voted unanimously to support the VICA (now Milano) PUD rezoning petition filed by Neal Communities of Southwest Florida. (Neal) It is presumed that Neal held a neighborhood meeting in the VGRC and asked that the community support the petition which stated that there would be no commercial use of the land within the proposed development.

The representative stated that one caveat was that the Association would be opposed to there being any access to the development off Laurel Road, presumably because of the traffic issues that would result. In a letter to the Council the representative stated that Neal had assured the POA that there would be no access road off Laurel unless the city required it. (Letter attached) The representative further stated that he would be very comfortable with a Neal Grand Palm type community across the street from the VGRC.

Now today a Neal company is asking the Commission to approve an access off Laurel Road directly across the street from the entrance to VGRC. And it will not be an entrance to a Grand Palm type community. It will instead be an entrance to an 11 acre shopping center with a Publix and a dozen other stores with a parking lot large enough for a couple of hundred vehicles.

It is doubtful that the Association's board would have voted to support Neal's project in 2014 if it had included a major commercial development across the street from the VGRC entrance. In fact, the Association as well as the Property Owners Association of the VGRC earlier submitted letters opposing the currently proposed shopping center project.

The residents of the VGRC are not the only ones now wondering how this could happen given the earlier representations made by Neal. I am sure there are many in the Milano, Aria and Cielo communities who may be feeling a little betrayed.

In 2014 the law did not permit a commercial development like the one now being proposed and the law does not permit it today. The LDR, the Comprehensive Plan, Florida statutes, Florida case law, as well as a 2016 written agreement between Neal and the City of Venice, all support, in fact require, a denial of the petitions of BJH.

I would also like to draw your attention to the fact that the land upon which BJH proposes to build a shopping center is open space that was designated as such in the Binding Master Plan for the Milano PUD in 2017 as well as in the final plat for the Cielo Subdivision approved by the city in November 2019. Under LDR 86-130(j) and 86-231(c)(2)(n) that open space should have been dedicated for public use and restricted by legal instrument for a period of 99 years. That has not been done.

Additionally, the City and Neal entered into a written contract in October 2016 a copy of which is attached. Under that agreement Neal should have by now delivered to the City a fully executed legal instrument restricting and protecting the open space that is now part of the Cielo Subdivision since the final plats of all of the subdivisions within the VICA/Milano PUDs have been approved by the city. (pg. 2, paragraph 2) Neal has failed to deliver that legal instrument, and its successor, BJH

now asks to profit from that failure.

City Engineer Kathleen Weeden in an email to the Planning Division this last May recognized that there needed to be a dedication of open space performed in accordance with the agreement between the City and Neal. (Email attached) Despite that email the dedication of the open space in Cielo still has not been accomplished. Who should pay for this failure to protect open spaces? It should not be the innocent landowners of Cielo or the nearby neighbors. And certainly, BJH should not be allowed to profit from the failure.

We who oppose the shopping center are not asking for favors. We are not asking that the Commission do something improper. We are simply asking that the Commission do what the law says they need to do and that they recognize the obligations of the city and Neal regarding the protection of open space.

Thank you for your consideration.

Gary Scott

June 3, 2014

Mayor and City Council Members
City of Venice, Florida

Please be advised that the Venetian Golf and River Club Community Association (VGRCCA) Board of Directors has voted unanimously to support Zoning Map Amendment Petition 14-1RZ for the property commonly referred to as the VICA Property and also known as the Villages of Milano.

The VGRCCA's Board unanimous decision to support this rezoning application was principally due to the following factors:

- The proposed PUD rezoning which provides for just under two (2) units per acre is considerably more compatible with our community than the present Residential Multi-Family zoning which would allow up to five (5) units per acre
- Review of other like Neal Communities developments such as the Grand Palm community provided comfort that the Villages of Milano will fit in well with the VG&RC and other planned communities located in the East Laurel Road area.

The VGRCCA Board conditioned their support by requesting that the "Optional Access" to Laurel Road as shown on the Binding Master Plan be provided only if required by the City for public safety purposes. Neal Communities has assured us this is the case and that they will so advise City Council that the "Optional Access" shown on the Binding Master Plan will only be provided if so directed by the City of Venice.

In summary, the VGRCCA Board feels that the Villages of Milano (VICA) would be a very desirable addition to our area.

On behalf of the VGRCCA Board of Directors,

Jerry Jasper
VP & Director
VGRCA Community Association

From: [Kathleen Weeden](#)
To: [Roger Clark](#); [Kelsey Mahoney](#)
Cc: [Nicole Tremblay](#); [Amy Nelson](#); [Jonathan Kramer](#); [Donald Hubbard](#); [Christina Rimes](#)
Subject: Open Space Dedication Required
Date: Friday, May 27, 2022 3:27:27 PM
Attachments: [Forestar Open Space Restriction and Covenant.pdf](#)
[Open Space Restriction and Covenant.pdf](#)
[Toscana Isles Open Space Restriction & Covenant.pdf](#)
[Milano Phase 2 Open Space Restriction Agreement red.pdf](#)
[Open Space Restriction and Covenant Vicenza Phase 1 red pr.pdf](#)

Attached is an exhibit related to the parcels in northeast Venice that either need to or have dedicated open space. Not sure who is maintaining this layer in GIS and we need to make sure we are getting the proper open space dedications. I couldn't find one for Venice Woodlands so I think they may still need to dedicate.

Thank you,

Kathleen

Kathleen J. Weeden, PE, CFM, LEED AP
City Engineer
City of Venice
401 W. Venice Avenue
Venice, FL 34285
941-882-7409 office
941-441-7285 cell
kweeden@venicestl.gov (note new email address)

Prepared by: City of Venice
401 W. Venice Ave.
Venice, Florida 34285
Return to: Same-Attn City Clerk

RECORDED IN OFFICIAL RECORDS
INSTRUMENT # 2016143526 6 PG(S)
November 18, 2016 12:23:18 PM
KAREN E. RUSHING
CLERK OF THE CIRCUIT COURT
SARASOTA COUNTY, FL



**AGREEMENT REGARDING OPEN SPACE RESTRICTION AND COVENANT
PURSUANT TO CITY OF VENICE LAND DEVELOPMENT REGULATIONS**

This Agreement Regarding Open Space Restriction and Covenant Pursuant to City of Venice Land Development Regulations (this "Agreement") is made and entered this 25 day of October, 2016, by **NEAL COMMUNITIES OF SOUTHWEST FLORIDA, LLC**, a Florida limited liability company ("Owner") and the **CITY OF VENICE**, a municipal corporation organized under the laws of the State of Florida ("City").

RECITALS:

- A. Owner is the fee simple owner of lands to be platted within the City of Venice, Sarasota County, Florida, described in Exhibit "A".
- B. At the Owner's request, the City approved Ordinance No. 2014-16 rezoning the lands described in Exhibit "A" and adopting a Binding Master Plan as required by the City Land Development Regulations.
- C. The Plats to be currently recorded are identified as MILANO - PHASE 2 and TRACT 200 and are a portion of the lands described in Exhibit "A".
- D. The Binding Master Plan approved by Ordinance 2014-16 and Section 86-130(j)(1), *Venice Land Development Regulations*, require lands zoned PUD planned unit development district to contain a minimum of fifty percent (50%) of "open space" (the "Minimum Requirement").
- E. Section 86-130(j)(3), *Venice Land Development Regulations*, requires such open space to be restricted by appropriate legal instrument satisfactory to the City Attorney (the "Restrictive Covenant").
- F. In order to respond to market conditions, Owner has requested that the City accept the Restrictive Covenant on or before City approval of the final plat within the land described in Exhibit "A".
- G. Consistent with the Binding Master Plan and *Venice Land Development Regulations*, Owner agrees to provide the Restrictive Covenant which satisfies the Minimum Requirement, all as more fully set forth herein.

NOW THEREFORE, in compliance with Ordinance 2014-16 and the *Venice Land Development Regulations*, and for other good and valuable consideration, Owner does hereby agree as follows:

1. Recitals. The Recitals set forth above are true and correct and are incorporated herein by reference.

2. Open Space Restriction. The Owner shall deliver to the City a fully executed Restrictive Covenant in a form satisfactory to the City Attorney that meets the Minimum Requirements of the *Venice Land Development Regulations* and sufficiently provides for the restriction of open space on all then existing, approved and recorded plats, prior to or at the time of final plat approval for the last plat, platting substantially all of the remaining residential property, filed in connection with the land development project identified as VICA PUD (a/k/a Villages of Milano), Ordinance No. 2014-16, as amended from time to time.

3. Agreement Running with the Land. This Agreement shall be recorded in the public records of Sarasota County, Florida, and shall constitute the agreement of Owner running with the land and shall be binding upon the Owner, its successors and assigns.

4. Governing Law; Enforcement; Venue. This Agreement shall be governed and construed in accordance with the laws of the State of Florida and may be enforced by the City Council for the City of Venice by filing an action for injunctive relief in the Circuit Court. Venue for any such enforcement proceeding shall be Sarasota County, Florida.

5. No Third Party Rights. This Agreement is solely for the benefit of the City of Venice and is provided by Owner solely for the purpose of complying with applicable zoning requirements of the *Venice Land Development Regulations*. No right or cause of action shall accrue upon or by reason hereof, to or for the benefit of any third party.

In witness whereof, Owner and City have caused this Agreement to be executed in its names the date first above written.

[Signature of Owner on following page]

SIGNATURE PAGE TO AGREEMENT REGARDING OPEN SPACE RESTRICTION AND COVENANT PURSUANT TO CITY OF VENICE LAND DEVELOPMENT REGULATIONS

OWNER:

NEAL COMMUNITIES OF SOUTHWEST FLORIDA, LLC, a Florida limited liability company

By: NCDG Management, LLC, a Florida limited liability company, its Manager

Sherry S. Doddema
Witness

SHERRY S. DODDEMA

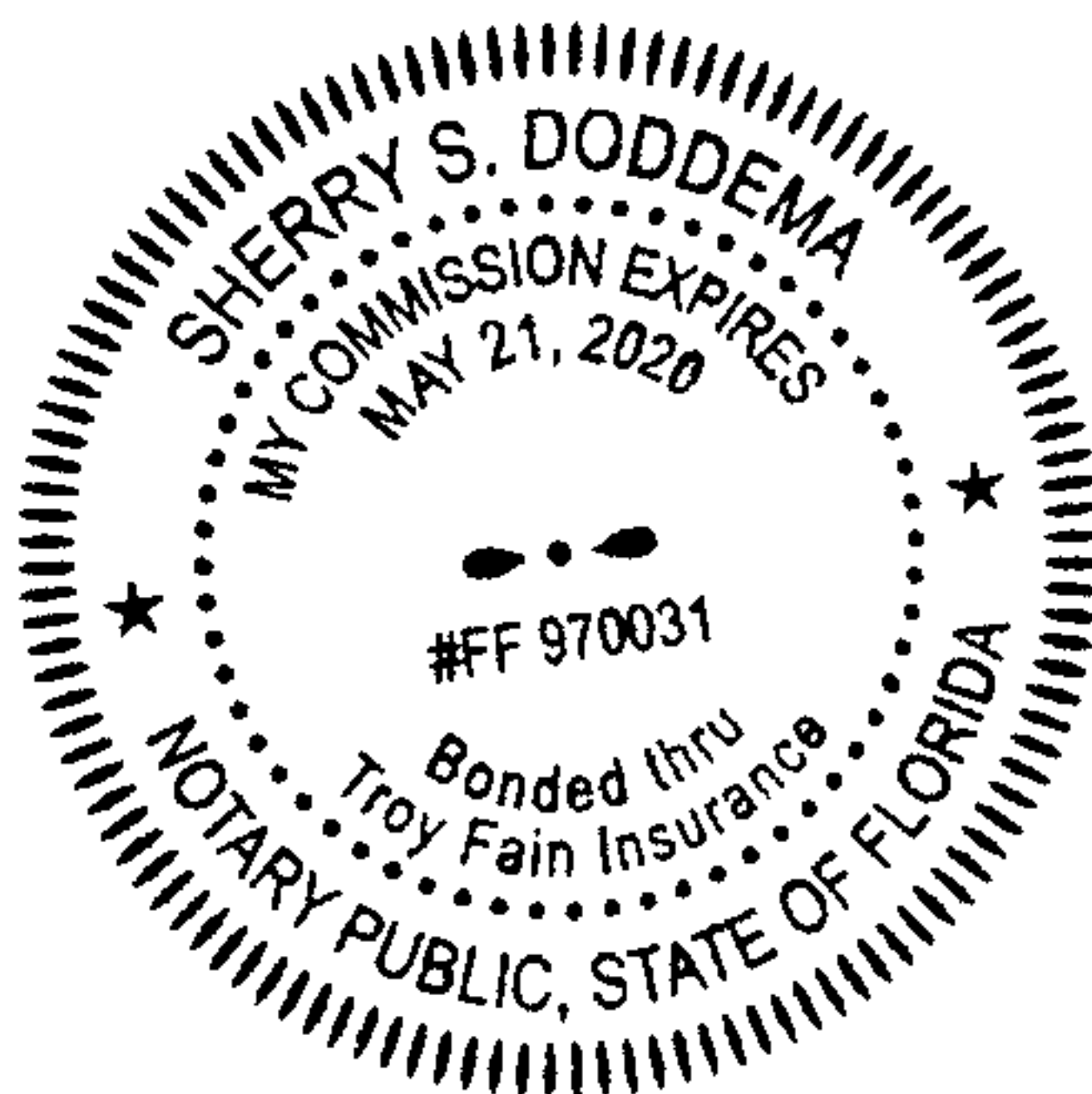
Priscilla G. Heim
Print Name of Witness
Witness Priscilla G. Heim

Print Name of Witness

By: James R. Schier
Name: James R. Schier
Its: Manager

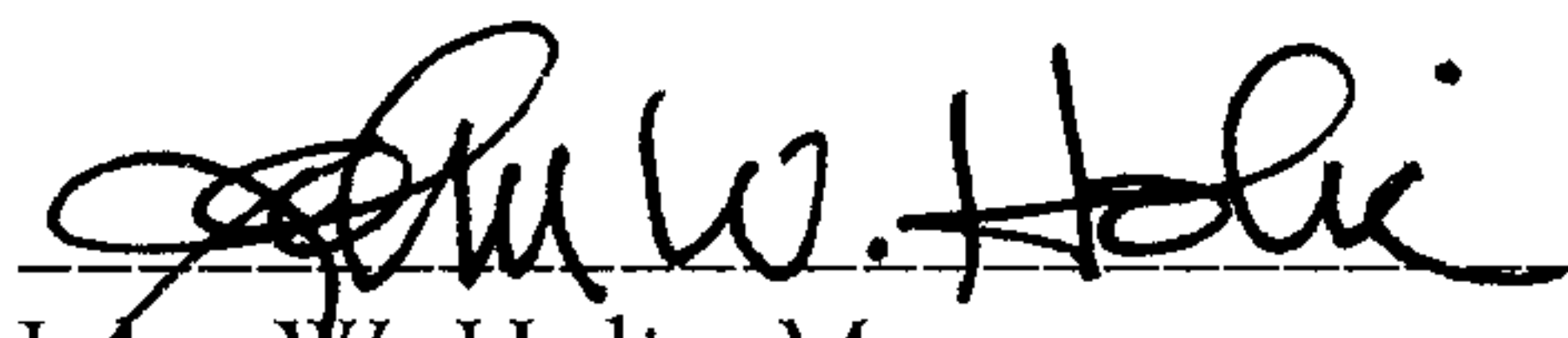
STATE OF FLORIDA
COUNTY OF SARASOTA

The foregoing instrument was acknowledged before me this 12th day of October, 2016, by James R. Schier, as Manager of NCDG Management, LLC, a Florida limited liability company, as Manager of Neal Communities of Southwest Florida, LLC, a Florida limited liability company, on behalf of the Company, (✓) who is personally known to me or () who has produced _____ as identification.

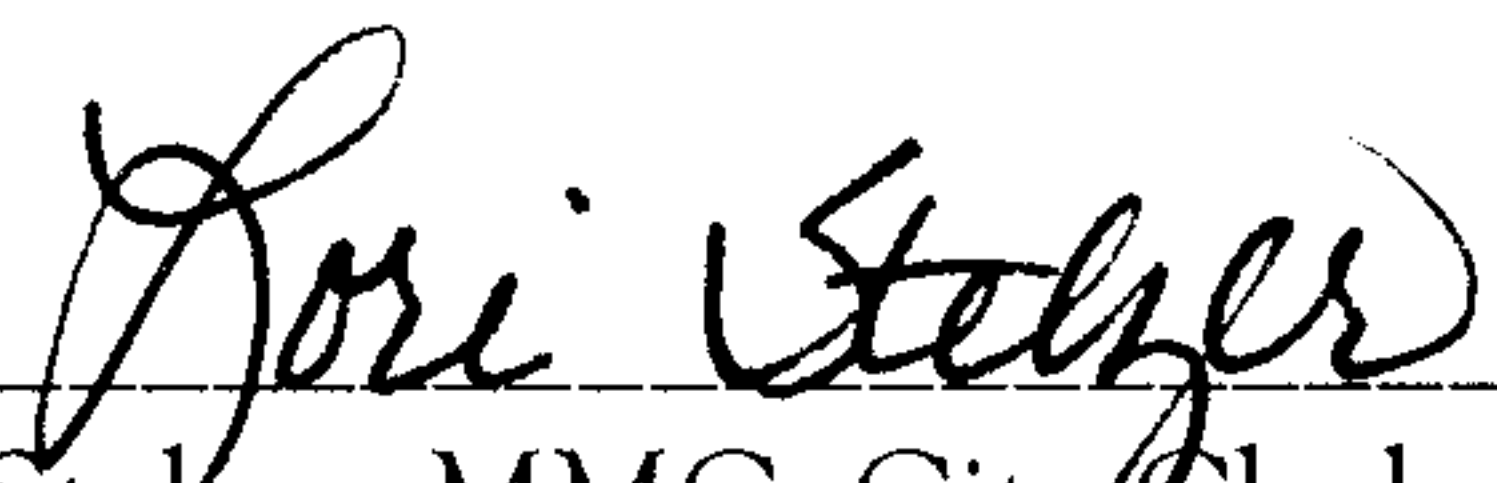


Sherry S. Doddema
Notary Public
My Commission Expires: _____

CITY OF VENICE, a municipal corporation
organized under the laws of the State of Florida


John W. Holic, Mayor

ATTEST


Lori Stelzer, MMC, City Clerk

Approved as to form:


David Persson, City Attorney

SKETCH AND DESCRIPTION

THIS IS NOT A BOUNDARY SURVEY

SHEET 1 OF 2

Exhibit A
(page 1 of 2)

A Parcel of land located in Section 35, Township 38 South Range 19 East more particularly described as follows; Commencing at the North 1/4 corner of said Section 35 and considering the North line of the Northeast 1/4 of said Section 35 to bear South 89°28'20" East with all bearings contained herein relative thereto; thence South 00°23'03" West a distance of 139.90 feet along the West line of the Northeast 1/4 of said Section 35 to the true point of beginning; thence continuing along the West line of the Northeast 1/4 of said Section 35 South 00°23'03" West, a distance of 690.17 feet; thence South 89°28'25" East, a distance of 807.08 feet; thence South 00°23'38" West, along the East line of the West 807' of the East 1/2 of said Section 35 a distance of 4337.87 feet to a point on the North Right-of-Way of Border Road as described in Official Records Book 2404 at Page 2678; Thence along the North Right-of-Way of Border Road as described in Official Records Book 2404 at Page 2678 the next 5 calls; thence North 89°49'49" West, a distance of 1524.84 feet; thence North 00°10'11" East, a distance of 10.00 feet; thence North 89°49'49" West, a distance of 793.07 feet; thence South 00°10'11" West, a distance of 10.00 feet; thence North 89°49'49" West, to the easterly Right-of-Way of Jacaranda Boulevard as recorded in Official Records Instrument Number 2013007710 a distance of 1034.63 feet; thence along the easterly Right-of-Way of Jacaranda Boulevard as recorded in Official Records Instrument Number 2013007710 the next 38 calls; thence North 00°09'50" East, a distance of 627.25 feet; thence South 89°50'24" East, a distance of 257.97 feet; thence North 00°09'36" East, a distance of 211.07 feet; thence North 25°43'46" East, a distance of 108.15 feet; thence North 43°46'12" East, a distance of 38.87 feet; thence South 45°27'20" East, a distance of 25.00 feet; thence North 43°46'12" East, a distance of 20.00 feet; thence North 45°27'20" West, a distance of 25.00 feet; thence North 43°46'12" East, a distance of 58.19 feet; thence North 27°42'46" West, a distance of 108.86 feet; thence North 43°25'29" West, a distance of 241.92 feet to the beginning of a curve radial to said line; thence northeasterly a distance of 100.94 feet along the curve concave to the southeast, having a radius of 540.00 feet and a central angle of 10°42'36"; thence North 57°17'07" East tangent to said curve, a distance of 982.42 feet; thence South 32°42'53" East, a distance of 129.56 feet; thence North 70°30'21" East, a distance of 23.48 feet; thence South 83°27'15" East, a distance of 26.57 feet; thence South 03°47'48" West, a distance of 25.03 feet; thence South 83°27'15" East, a distance of 20.02 feet; thence North 03°47'48" East, a distance of 25.03 feet; thence South 83°27'15" East, a distance of 94.24 feet; thence North 57°45'39" East, a distance of 381.52 feet; thence North 26°59'02" West, a distance of 98.54 feet; thence North 11°05'43" East, a distance of 109.71 feet; thence North 53°31'33" West, a distance of 119.17 feet to the beginning of a curve radial to said line; thence northeasterly and northerly a distance of 621.35 feet along the curve concave to the west, having a radius of 941.00 feet and a central angle of 37°49'58"; thence North 01°21'30" West tangent to said curve, a distance of 251.43 feet to the beginning of a curve tangent to said line; thence northerly and northeasterly a distance of 501.51 feet along the curve concave to the east, having a radius of 821.00 feet and a central angle of 34°59'58"; thence North 33°38'28" East tangent to said curve, a distance of 166.78 feet to the beginning of a curve tangent to said line; thence northeasterly and northerly a distance of 534.73 feet along the curve concave to the west, having a radius of 1056.00 feet and a central angle of 29°00'47"; thence South 85°22'34" East, a distance of 388.89 feet; thence North 00°14'28" West, a distance of 80.71 feet; thence North 89°31'38" East, a distance of 45.40 feet; thence North 21°30'33" West, a distance of 21.36 feet; thence South 89°45'58" West, a distance of 37.50 feet; thence North 00°18'13" West, a distance of 51.11 feet; thence North 74°57'15" West, a distance of 130.19 feet; thence North 89°20'05" West, a distance of 258.15 feet; thence North 00°09'56" West, a distance of 274.68 feet; thence North 89°50'40" East, a distance of 162.32 feet; thence North 11°00'51" East, a distance of 81.98 feet; thence North 22°08'01" East, a distance of 183.81 feet; thence North 41°46'18" East, a distance of 94.62 feet; thence North 63°21'42" East, a distance of 93.59 feet; thence North 62°42'21" East, a distance of 101.00 feet to the Point of Beginning. Containing 225.48 Acres more or less

BRIGHAM/ALLEN LAND SURVEYING

LB 7898

807 U.S. HIGHWAY 41 BYPASS SOUTH

SUITE E

Venice, Florida 34286

ph. (941) 493-4430

brighamallensurveying@gmail.com

BY:



Michael P. Allen

DATE 10-14-16

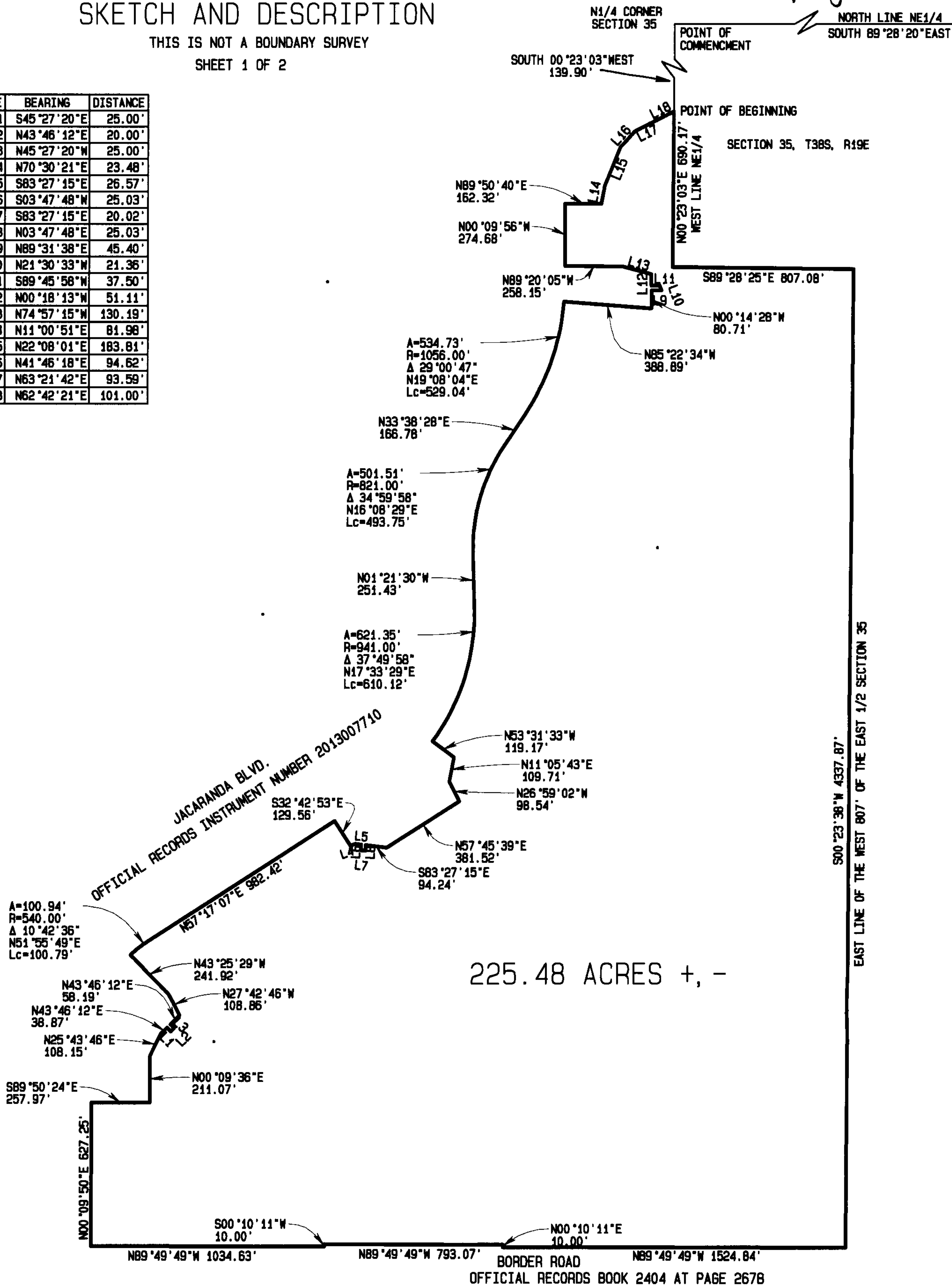
Professional Surveyor and Mapper PSM 6822 State of Florida

SKETCH AND DESCRIPTION

THIS IS NOT A BOUNDARY SURVEY

SHEET 1 OF 2

LINE	BEARING	DISTANCE
L1	S45°27'20"E	25.00'
L2	N43°46'12"E	20.00'
L3	N45°27'20"W	25.00'
L4	N70°30'21"E	23.48'
L5	S83°27'15"E	26.57'
L6	S03°47'48"W	25.03'
L7	S83°27'15"E	20.02'
L8	N03°47'48"E	25.03'
L9	N89°31'38"E	45.40'
L10	N21°30'33"W	21.36'
L11	S89°45'58"W	37.50'
L12	N00°18'13"W	51.11'
L13	N74°57'15"W	130.19'
L14	N11°00'51"E	81.98'
L15	N22°08'01"E	183.81'
L16	N41°46'18"E	94.62'
L17	N63°21'42"E	93.59'
L18	N62°42'21"E	101.00'

BRIGHAM/ALLEN LAND SURVEYING
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SUITE E

Venice, Florida 34285

ph. (941) 493-4430

brighamallensurveying@gmail.com

BY

Michael P. Allen

DATE 10-14-16

Professional Surveyor and Mapper PSM 6822 State of Florida