



**EAGLE TECHNICAL ADVISORY COMMITTEE  
Community Development/Public Works Center  
1500 Monroe Street, Ft. Myers, FL  
First Floor Conference Room 1B**

**TUESDAY, DECEMBER 12, 2023  
3:00 P.M.**

**AGENDA**

- 1) Call to Order
- 2) Paul Owen with Owen Environmental Consulting, LLC to Present Bald Eagle Management Plan for LE-009 Burnt Store Mixed Use Planned Development DCI2022-00039
- 3) Approval of Meeting minutes from November 14, 2023
- 4) Member Reports
- 5) Public Input
- 6) Adjournment – Next Tentative Meeting Date: January 9, 2024

To view a copy of the agenda, go to [www.leegov.com/dcd/calendar](http://www.leegov.com/dcd/calendar).

For more information, contact Janet Miller (239) 533-8583 or [jmiller@leegov.com](mailto:jmiller@leegov.com). In accordance with the Americans with Disabilities Act, Lee County will not discriminate against qualified individuals with disabilities in its services, programs, or activities. To request an auxiliary aid or service for effective communication or a reasonable modification to participate, contact Joan LaGuardia, (239) 533-2314, [ADArequests@leegov.com](mailto:ADArequests@leegov.com) or Florida Relay Service 711. Accommodation will be provided at no cost to the requestor. Requests should be made at least five business days in advance.

# **Burnt Store Mixed Use Planned Development**

Section 5, Township 43 South, Range 23 East  
Lee County, Florida

## **Bald Eagle Management Plan**

**November 2023**

Prepared for:

**SVR MGMT, LLC  
5015 Skyline Blvd  
Cape Coral, FL 33914**

Prepared by:



ENVIRONMENTAL CONSULTING, LLC  
15957 Tropical Breeze Drive, Fort Myers, FL 33908  
(239) 994-9007

## I. INTRODUCTION

The 35.49± acre project is located within a portion of Section 5, Township 43 South, Range 23 East, Lee County, Florida (Figure 1). The parcel is enclosed to the north, east, and south by undeveloped land. Burnt Store Road N borders the parcel to the west.

A bald eagle management plan will need to be approved for nest LE-009 by Lee County as a portion of the proposed mixed use planned development will be within the 660' eagle buffer zone. This management plan has been created to outline the project's proposed protection measures for nest LE-009.

## II. SITE CONDITIONS

The majority of the site is relatively undisturbed pine flatwoods forest with a small stream (Yucca Pen Creek) flowing through the center of the property flowing east to west. This property is currently undeveloped with vegetation that includes slash pine (*Pinus elliottii*), laurel oak (*Quercus laurifolia*), earleaf acacia (*Acacia auriculiformis*), sand live oak (*Quercus geminata*), melaleuca (*Melaleuca quinquenervia*), wax myrtle (*Myrica cerifera*), saw palmetto (*Serenoa repens*), wiregrass (*Aristida beyrichiana*) and smutgrass (*Sporobolus indicus*) in the pine flatwoods and slash pine, laurel oak, bald cypress (*Taxodium distichum*), melaleuca, earleaf acacia, Brazilian pepper (*Schinus terebinthifolia*), willow (*Salix caroliniana*), swamp bay (*Persea palustris*), cabbage palm (*Sabal palmetto*), wax myrtle, downy rose myrtle (*Rhodomyrtus tomentosa*), hog plum (*Ximenia americana*), saw palmetto, royal fern (*Osmunda regalis*), and spider lily (*Hymenocallis latifolia*) in the mixed wetland hardwoods which border Yucca Pen Creek.

## III. SITE OBSERVATIONS

A southern bald eagle (*Haliaeetus leucocephalus*) pair have constructed a nest in a slash pine tree located approximately 549' feet northeast of the subject parcel's northeast property corner (Figure 2). This nest (LE-009) was first identified by the Florida Fish and Wildlife Conservation Commission (FWC) as active for the 1998 season. The historic bald eagle nest activity as noted by FWC is found below in Table 1.

Table 1. Historic Bald Eagle Nest LE-009 Status

Nesting Season	Nest Status
1998/1999	Active
1999/2000	Active
2000/2001	Active
2001/2002	Active
2002/2003	Active
2003/2004	Active
2004/2005	Active
2005/2006	Not Active
2006/2007	Active

Nesting Season	Nest Status
2007/2008	Active
2008/2009	Active
2009/2010	Active
2010/2011	No Observations
2011/2012	No Observations
2012/2013	Not Active
2013/2014	No Observations
2014/2015	No Observations
2015/2016	No Observations
2016/2017	Active

#### **IV. GENERAL DEVELOPMENT GUIDELINES**

The protection measures outlined below have been designed utilizing the FWS's *National Bald Eagle Management Guidelines* (FWS 2007a) and Section 14-111 through 14-120 of the Lee County Land Development Code. These proposed restrictions and requirements apply only to the Burnt Store Mixed Use Development project and are not binding on any other property in the vicinity of bald eagle nest LE-009.

If nest LE-009 is vacated before the end of the nesting season (May 15<sup>th</sup>) or if Lee County Division of Environmental Sciences (DES) determines that nest LE-009 has been abandoned, construction activities may commence upon confirmation of those conditions by DES. If the nest is not active by March 15<sup>th</sup> or as confirmed by DES, then the nesting season for nest LE-009 shall be considered over and the construction restrictions shall not apply. A determination that the nest is not active shall be consistent with the *Bald Eagle Monitoring Guidelines* (FWS 2007b).

##### **A. 330 Feet Zone Activities and Restrictions**

The project area is not located within the 330' LE-009 nest buffer zone.

##### **B. 330 - 660 Feet Zone Activities and Restrictions**

Approximately 0.25 acres of the property is within the 660' buffer of nest LE-009 (Figure 3). The project will include a storm water detention area and indigenous buffer within the 660' zone. The restrictions described below are only applicable to the portion of the property within 660' of nest LE-009.

1. Major exterior construction activities, such as initial site clearing, major earth work, grading, and storm water detention area construction may occur during the nesting season provided that the activities do not disturb the nesting bald eagles as defined by the *Bald Eagle Monitoring Guidelines*. Monitoring consistent with the *Bald Eagle Monitoring Guidelines* shall be required during these construction activities.

2. The use of any chemicals that are known to be toxic to wildlife shall be prohibited within 660± feet of the bald eagle nest. The use of all chemical will be in accordance with labeling instructions.

3. Outdoor lighting installed within 660± feet of the bald eagle nest shall be subdued, shielded, and directed away from the nest tree.

4. After construction is completed, normal storm water detention maintenance activities will be allowed throughout the year.

5. A 30' indigenous habitat buffer will be provided along the north property line and a 67' indigenous habitat buffer will be provided along the east property line.

### **C. Greater Than 660 Feet Zone Activities and Restrictions**

The proposed uses of the property more than 660 feet of Bald Eagle Nest LE-009 consist of enclosed storage, flex space, and residential for the remainder of the development. Construction activities and normal mixed use facilities activities will be allowed outside of 660± feet of the bald eagle nest throughout the year.

## **V. IMPLEMENTATION**

The land owner/developer and the future Property Owners Association (if any) will be responsible for following this Bald Eagle Management Plan. A qualified ecologist will monitor nest LE-009 (if work as described by Item IV.B.1 above is undertaken during the nesting season) consistent with the Bald Eagle Monitoring Guidelines and will submit the reports to DES on a monthly basis. DES staff will review these reports and may also inspect the site to verify compliance with the conditions of this Bald Eagle Management Plan. Any violation of these conditions may result in a Stop Work Order being issued to halt all construction activity during the bald eagle nesting season, including building inspections, until the violation is resolved.

All of the management practices will remain in effect until the nest is deemed abandoned or lost by DES pursuant to Section 14-112 of the Land Development Code. None of these management practices will be required after the nest is deemed abandoned or lost. The nest will be defined as abandoned if the nest is intact or partially intact but has been inactive through five or more consecutive nesting seasons. The nest will be defined as lost if the nest or nest tree is destroyed by natural causes (e.g. nest that fell apart or was blown out of a tree, or the tree itself was lost) and is not rebuilt in the same tree within three nesting seasons.

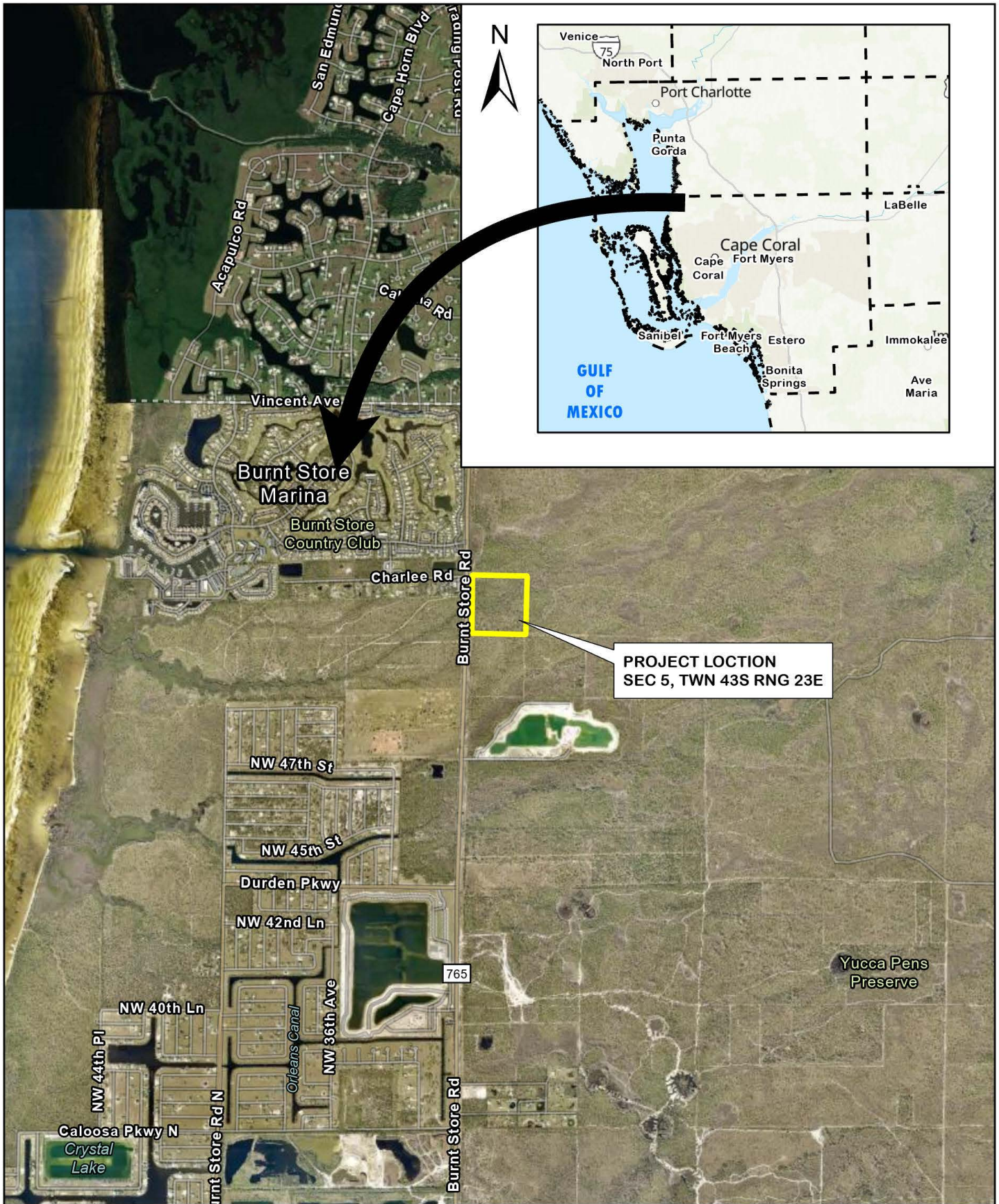
## **VI. BALD EAGLE MANAGEMENT PLAN MODIFICATIONS**

Any changes to this Bald Eagle Management Plan must be reviewed and approved by DES staff through the planned development administrative amendment process. Any future owners of the Mixed Use Planned Development project that are affected by this

Bald Eagle Management Plan will be provided with a copy of this plan. At the time of platting, the Bald Eagle Management Plan will be included in the property association documents.

# 35.5± Acre Parcel N Burnt Store Road

22-010



**Figure 1. Project Location Map**

**OWEN ENVIRONMENTAL  
CONSULTING, LLC.**  
FORT MYERS 239-994-9007

# 35.5± Acre Parcel N Burnt Store Road



SECTION: 5  
TOWNSHIP: 43S  
RANGE: 23E



**Notes:**

1. Property boundary provided by ARDURRA.
2. Creek boundary is approximate and was obtained through interpolation of topographic survey.
3. Mapping based on photointerpretation of 2019 aerial photography and ground truthing in July 2020.
4. Delineation of jurisdictional wetlands is preliminary and subject to field review/approval by applicable regulatory agencies.

FLUCCS	Description	Acreage
411E	Pine Flatwoods Invaded by Exotics (5-9%)	33.43 Ac.±
510**	Streams & Waterways	0.43 Ac.±
617E*	Mixed Wetland Hardwoods Invaded by Exotics (5-9%)	1.63 Ac.±
<b>Total</b>		<b>35.49 Ac.±</b>

\* Potential Jurisdictional Wetlands  
\*\* Potential Jurisdictional Other Surface Waters

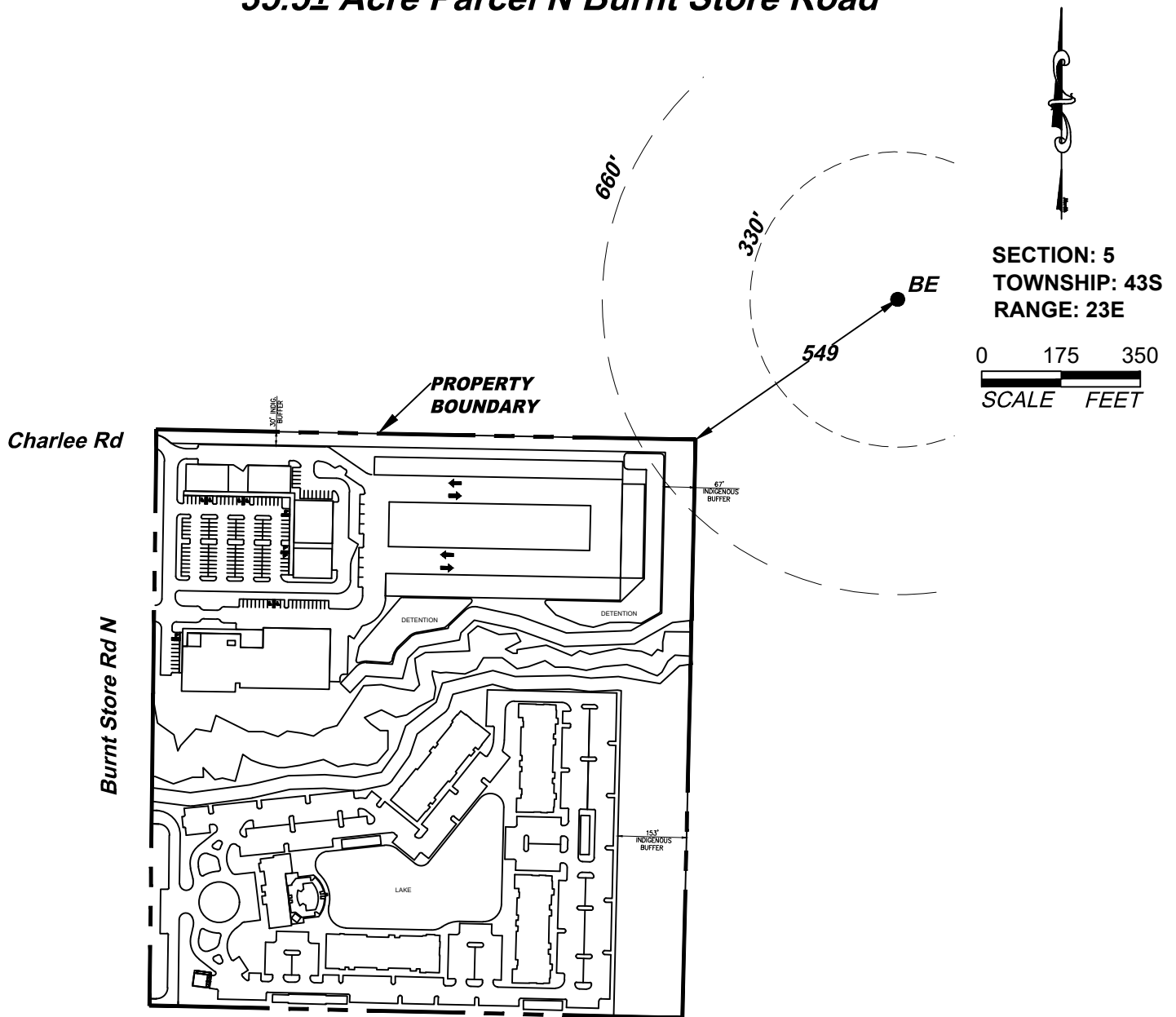
22-010

**Figure 2. Bald Eagle Nest Location**

**OWEN ENVIRONMENTAL CONSULTING, LLC.**  
FORT MYERS 239-994-9007



# 35.5± Acre Parcel N Burnt Store Road



**Notes:**

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22-010

**Figure 3. Site Plan**

**OWEN ENVIRONMENTAL  
CONSULTING, LLC.**  
FORT MYERS 239-994-9007

## REFERENCES

Florida Fish and Wildlife Conservation Commission. 2008. Bald Eagle Management Plan. 60p.

U.S. Fish and Wildlife Service. 2007a. National Bald Eagle Management Guidelines. 23p.

U.S. Fish and Wildlife Service. 2007b. Bald Eagle Monitoring Guidelines. 20p.

**MINUTES REPORT**  
**EAGLE TECHNICAL ADVISORY COMMITTEE (ETAC)**  
**Tuesday, November 14, 2023**

**Committee Members Present:**

Ed Elms

Betsie Hiatt, Vice-Chair

Kyle Philpot

Jacob Taminosian

**Excused/Absent:**

Laura Greeno, Chair

**Lee County Government Staff Present:**

Nic DeFilippo, Planning

Janet Miller, DCD Admin

**Call to Order:**

Ms. Betsie Hiatt, Vice Chair, called the meeting to order at 3:09 p.m. in the First Floor Conference Room 1B, of the Community Development/Public Works Building, 1500 Monroe Street, Ft. Myers, Florida. Introductions were made.

**Agenda Item 2 – Approval of Meeting Minutes from September 12, 2023**

Ms. Hiatt stated that all references in the minutes to Ms. Herrera~~a~~ needed to be replaced with Ms. Herrera~~a~~.

Ms. Hiatt referred to the heading on Page 1 of 7 for Agenda Item 2 and noted the word “Pre~~ve~~nt” should be replaced with “Pre~~ve~~nt.”

Mr. Taminosian referred to Page 3 of 7 where it states, “*Mr. Philpot stated there was not.*” He felt it should be expanded by adding “*within this phase of development.*” The sentence should read, “*Mr. Philpot stated there was not within this phase of development.*”

**Mr. Taminosian made a motion to approve the September 12, 2023 meeting minutes with the above corrections. The motion was seconded by Mr. Elms. The motion was called and passed 4-0.**

**Agenda Item 3 – 2022-2023 Nesting Season Summary**

Mr. DeFilippo reminded the Board that this item was initially on their September 12<sup>th</sup> agenda and the nesting season summary was included in their packets, but it had not been reviewed. It was placed on today’s agenda in the hopes that the Board had a chance to review it and could advise staff of any questions they may have and/or any changes/corrections. Mr. DeFilippo also stated he had completed the GIS layer. At a previous meeting, he brought a GIS map that summarized the nesting summaries from 2017 to present day. He is working with GIS staff to make a GIS on-line map that can be accessible to the public instead of shapefiles. Once it is complete, staff will present it to ETAC.

Mr. Elms referred to Page 1, LE-018 (Manatee Bay), which is one of his assigned nests. He reported that the nest activity status of “inactive” is correct. He acknowledged that the nest had been in poor shape, but in addition to that, he had not seen the tree or nest last year or this year.

Mr. DeFilippo stated he would bring this nest back to ETAC if the nest meets the lost or abandoned criteria.

Mr. Taminosian referred to Page 2, LE-070 (Jonathon Harbour), and stated the note in the comments section was correct that the nest came down as a result of Hurricane Ian. However, in addition to that, the tree was cut down as well.

Mr. DeFilippo stated he was unaware of that and would update his records.

Mr. Taminosian referred to the other note in the Comments section where it states that a new nest was constructed near the Causeway. He asked for more specifics on that.

Mr. DeFilippo stated the Sanibel Captiva Conservation Foundation (SCCF) have been monitoring the nest. They discovered the new nest located near the Causeway as they come on and off the island. They continue to monitor it.

Ms. Hiatt asked why the Jonathon Harbour tree was cut down.

Mr. Taminosian stated the tree was at an angle and was a human safety issue. He referred to Page 2, LE-071A (Pub and Pickle). He asked if staff had been aware that a fence was erected.

Mr. DeFilippo stated staff was aware of it and had been in communication with the property owner. The property owner wants to potentially remove some trees, but it has not been started or completed yet.

Mr. DeFilippo stated he forgot to add LE-040 to the list, which is a nest located at the end of Winkler Road. It had two fledglings last year.

Mr. Elms referred to the last page, LE-109, LE-109B, and LE-109C (West Cape Estates Circle), and noted it is actually located at the end of Tropicana, but he believed they were calling it West Cape Estates Circle because there is a small subdivision near there. He noted the tree was in bad shape during nesting season, but it was still a strong tree. He was not certain why the City of Cape Coral decided to cut the tree down, but it was removed as soon as the nesting season was over. He noted there is a development being constructed in that area called “Seven Islands.” The City of Cape Coral has plans for a marina, condos, restaurants, hotels, etc. This nest was at one end of where this development will be. The area where the nest used to be will be turned into a small city park/playground.

Mr. DeFilippo stated he did not know any details on that. It was included on this list because his contact, Justin Heller, provided this information to him. It is not something the County monitors or permits.

Mr. Elms stated that in the past he used to be involved with some monitoring with Justin. Mr. Elms stated he might reach out to him to find out more specifics.

Mr. DeFilippo referred to the last page, LE-93B (Orange River Nest), and noted the nest number was provided by Audubon. He explained it was a new nest in Buckingham east of Neal Road. Staff will monitor the site soon in an attempt to build some nest history.

Ms. Hiatt made three corrections. 1) She referred to the last page, LE-125 (Esther), and stated that this nest came down post Hurricane Ian. The summary sheet shows the nest condition as “Good,” but there is no nest; 2) She referred to Page 2, LE100 (Barrancas Drive), and noted that nest was gone as well; and, 3) She referred to Page 1, LE-010 (Quail Trail), and noted the nest condition is listed as “Gone.” She stated the eagles attempted to nest last season, so the nest condition was “Good,” but they were not successful at fledging chicks.

Mr. DeFilippo stated he would update this summary to reflect these changes.

The Board had no other comments/changes/corrections.

#### **Agenda Item 4 – Chair and Vice Chair Elections**

Ms. Hiatt announced that Ms. Greeno had communicated to Lee County staff that she would be willing to serve as Chair for ETAC for 2024. Regarding the Vice Chair position, Ms. Hiatt stated she was willing to continue serving as Vice Chair for another year, but extended the opportunity to other Board members.

Mr. Taminosian and Mr. Philpot stated they would rather defer serving as an officer on ETAC for another year. It can be readdressed after next year.

**Mr. Elms made a motion to keep the current officers for 2024 (Laura Greeno as Chair and Betsie Hiatt as Vice Chair). The motion was seconded by Mr. Taminosian. The motion was called and passed 4-0.**

#### **Agenda Item – Member Reports**

Ms. Hiatt stated that all the nests in her territories came down due to Hurricane Ian except for Quail Trail. Other than Quail Trail, no nests have been rebuilt. She gave the following report for her territories:

Quail Trail: The nest has been rebuilt; however, she has not spotted any eagles yet. It is clear they have tended to the nest. Being that it is early in the season and it has been hot lately, the eagles may surface at another time.

Barrancas Drive: One of the adult eagles is missing. The pair of eagles nested about two years ago and had at least one chick. However, since then, she has only spotted one adult eagle and no fledgling. She noted that Mr. Elms had received reports from neighbors that spotted some Great Horned Owls in the nest. Ms. Hiatt stated she believed one of the eagles may have lost its mate. No new nest has been found in this particular territory. She will continue to monitor the area.

Esther: The nest came down as a result of Hurricane Ian. She was unable to determine if the actual nest tree is standing due to the area being dense with the remaining Australian Pines. Ms. Hiatt stated she had seen one adult fly out of one of the Australian Pines, so there may be a nest that she is unable to visibly see at this point.

The rest of her sites show no sign of eagles.

Ms. Hiatt noted there was a new nest to report. It is located near where the Pacosin Drive eagles used to be located. She reviewed it with the Board along with a PowerPoint slide. She noted the eagles do not seem disturbed by human activity, which is similar behavior as the Pacosin Drive pair. She expressed concern over a power pole near the fence line that goes past the nest tree. She stated staff may want to investigate whether the power pole would be a risk for the eaglets should this pair end up having any.

Mr. Elms asked for an update on the Bank of America territory.

Ms. Hiatt stated those eagles were her territory for 20 years and there are a couple of good pine trees available, but to-date, there has been no siting of eagles or a nest.

Mr. Taminosian gave the following report for his territories:

St. Charles Harbor: The nest was near where a large home was being constructed. Most of the exterior stucco work, etc. appears to be completed; however, the pool might still require some construction. While monitoring the site, it looked as if the pine trees in the cul-de-sac were removed. Mr. Taminosian believed the trees were dying, so they were removed. This took place since last nesting season. Mr. Taminosian stated he had not spotted any eagles by this site; however, neighbors have reported seeing eagles in the area. He will continue monitoring the site.

Robalo: The nest tree was cut down after Hurricane Ian. He has not discovered another nest that was rebuilt. He will continue monitoring the site.

Mr. DeFilippo stated the property owners had gotten guidance from the US Fish and Wildlife Service regarding this tree and they also had an arborist that stated the tree was a hazard. Since no nest was in the tree, the US Fish and Wildlife Service approved the removal.

Jonathon Harbour: This was discussed during the Nesting Season Summary agenda item. The trees in the patch just past the guard gate are mostly gone. Mr. Taminosian stated he had a photo that he would provide to staff via an e-mail.

Ms. Hiatt stated she would do the same and provide staff with a photo of the new nest she discovered.

Lakes Park Cell Tower: Mr. Taminosian stated he was monitoring the vicinity, but has not seen any eagles on the tower or the pines within Lakes Park. He will continue monitoring the site.

Pub and Pickle: This was also discussed during the Nesting Season Summary. He has not spotted any eagles in this location. However, a neighbor who lives very close to the nest reported the eagles are rebuilding their nest. There were reports that there had been some Great Horned Owl activity, but he had not spotted any owls when monitoring the site, so he was uncertain if the owl siting by neighbors was accurate. Mr. Taminosian stated he was keeping tabs on the developer who has spray painted certain trees to indicate he would like to remove them. He believed the trees are dead.

Mr. DeFilippo stated the property owner is working with Code Enforcement and other staff. Since the property is zoned commercial, there are extra layers the owner has to work through.

Mr. Taminosian asked for confirmation that the owner had erecting a fence without getting permission from the County.

Mr. DeFilippo stated the property owner had coordinated with staff on the fence. It was erected before nesting season.

Lexington Middle School: Mr. Taminosian stated the nest looked good. It has been difficult to tell if they are bringing in new stick material, but the nest looks better than last year, so he assumed there has been activity there. He has not spotted any bald eagles, but anticipated being able to spot them easier once they start incubating.

Sora Drive: This entire neighborhood got devastated by the storm. However, he did spot two bald eagles. He assumed they were a pair because they did not antagonize each other. He noted the tree was still in place. There has been no construction on the lot immediately adjacent to it, but the nest has not been built upon. He was uncertain whether the pair relocated.

Tortuga: The nest looks good. They might be bringing in material, but he has not spotted any eagles. He will continue monitoring the site.

Mr. Philpot gave the following report for his territories:

Bayshore Commons: He spotted one eagle from outside the neighborhood. He was unable to get into the area because the gates are closed. He felt the gates being closed could be a good sign that the developer is not actively doing any construction.

Mr. DeFilippo stated he would provide him with the code and confirmed that no construction is taking place right now.

Donald Road/Pritchett: He spotted two adult eagles and noted the nest is in good shape.

Moody River: He has not spotted any eagles yet.

Cell Tower Littleton Road: There was no nest and no sign of a nest. In the past there was an active pair of eagles in this area.

Mr. Elms stated he felt it looked as if someone came in and cleaned the area out.

Mr. Philpot concurred.

Mr. DeFilippo stated he did not recall any permits coming in to do work on the tower, but on Corkscrew Road there was a cell service company that came in and did a similar project where they had to remove the nest to make some improvements, so something like that may have taken place. They had a federal permit, etc. to do the work.

Alico Road: He spotted two adult eagles that are currently doing nest repairs. This is one that was presented in September by Laura Herrero. The site to the north already has a BEMP and development order in place. He noticed when monitoring the site that the pair would actually go

onto the construction site to gather nesting material while work was taking place on the site. They were flying in to grab sticks and leaving. They seem unbothered by the activity.

Oriole Road: The nest is in good shape. There are two adults doing nest repair. They also seem unbothered by the construction.

Creekside Preserve: There is still no nest in this area. However, he saw two adults active in the area that were foraging.

Mr. Elms gave the following report for his territories:

Pine Island Flatwoods Preserve Trail: Although he has not spotted any eagles, the nest is in too good condition for there to be no eagle activity. The nest appears to be repaired. He will continue monitoring the site.

Galt Preserve: He spotted one adult eagle two weeks ago and another sitting this past Sunday. However, there has been no movement in the nest, so they are not incubating yet. The adult is perched about 10 feet above the nest.

5<sup>th</sup> Street and Palm: He is assuming it is the same pair as the one that used to be at Vacation Lane. It is too close by (about a block away) not to be the same pair. He saw both eagles at the nest rebuilding and the nest looks good. He noticed they were working on the nest around the middle of October. He saw the adults on the 24<sup>th</sup> of October. They are not incubating yet, but he hoped they would be soon.

Manatee Bay: There is no activity in this area. There was no activity last year either. He saw an adult perched on the cell tower across the street from this location. It could be one of the eagles from the St. Jude nest.

St. Jude: He is continuing to try and find the St. Jude Eagles. Again, he hoped the one he saw on the cell tower was one of them.

### **Agenda Item 8 – Public Input**

No members of the public were present, so there was no public input.

### **Agenda Item 9 – Adjournment – Next Tentative Meeting Date: December 12, 2023**

The meeting adjourned at 3:54 p.m.