



**EAGLE TECHNICAL ADVISORY COMMITTEE
Community Development/Public Works Center
1500 Monroe Street, Ft. Myers, Florida 33901
First Floor Conference Room 1B**

**TUESDAY, SEPTEMBER 10, 2024
3:00 P.M.**

AGENDA

- 1) Call to Order
- 2) Kristin Eaton with FPL to Present Bald Eagle Management Plan for LE-128 Alico 37 MPD ADD2024-00049
- 3) Barrett Stejskal with BearPaws Environmental Consulting to Present Bald Eagle Management Plan for LE-043D Home Front Heroes Minor CPD DCI2023-00047
- 4) Jesse Sorrells with Passarella & Associates to Present Bald Eagle Management Plan for LE-137 Emerald Lakes DOS2024-00032
- 5) Approval of Meeting Minutes from May 14, 2024
- 6) Nest Abandonment Determination for LE-018A, Manatee Bay Nest
- 7) Nest Abandonment Determination for LE-061, Gloria & Cubles Nest
- 8) Nest Abandonment Determination for LE-107, Pacosin Dr Nest
- 9) Nest Assignments for 2024-2025 Season
- 10) Member Reports
- 11) Public Input
- 12) Adjournment – Next Tentative Meeting Date: October 8, 2024

To view a copy of the agenda, go to www.leegov.com/dcd/calendar. For more information, contact Janet Miller (239) 533-8583 or 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 Raphaela Morais-Peroba, (239) 533-8782, 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.



**Florida Power & Light Company
Three Oaks Service Center
Bald Eagle Management Plan
Nest LE-128**

Sections 3 & 4, Township 46 South, Range 25 East,
Lee County, Florida

August 2024

Introduction

The approximate 15-acre project is located within a portion of Sections 3 & 4, Township 46 South, Range 25 East (Attachment 1, Master Plan). The parcel is bordered to the west and north by Oriole Road and to the east by Three Oaks Parkway. To the south is a parcel that is open pasture. The surrounding parcels were part of the Three Oaks Parkway and Oriole Road Extension and McGarvey Research Park (South Florida Water Management District (SFWMD) Permit No. 36-0528-P). The parcel to the northwest, SEAGATE ALICO NORTH INDUSTRIAL PARK, is under construction and has obtained a Short- Term Eagle Incidental Take Permit (Permit No. MBPER0010867), effective July 29, 2021. Florida Power and Light Company (FPL) has coordinated with the U.S. Fish and Wildlife Service (USFWS) and will obtain a General Permit for nest disturbance based on the USFWS revised regulations from February 2024 for bald eagles.

Site Conditions

The current site conditions consist of mostly improved pasture. The site has not been recently mowed and the cattle will be removed prior to the start of construction. Any jurisdictional wetlands and/or surface waters will be identified, and FPL will coordinate any additional required permitting with the SFWMD. Permit applications are currently pending for a new construction and operation Environmental Resource Permit (ERP) with the SFWMD and with Lee County for a Development Order for complete site development.

I. Site Observation

The bald eagle's nest is located in a live South Florida slash pine (*Pinus elliottii*, var. *densa*) approximately 75' off the ground at the north end of Oriole Road. Various human activities were observed during several site visits in the vicinity of the nest site. There was medium vehicular traffic (cars, service trucks, and dump trucks) along Oriole Road. There was frequent commercial airline noise along with construction noise from the adjacent developments to the north and south.

II. Bald Eagle Nest History

Bald eagle nest LE-128 was first identified in February 2021 (historic nest LE-912). In 2021, the nest successfully fledged two eagles but in the 2021-2022 nesting season, the nest failed. In both the 2022-2023 and 2023-2024 nesting seasons, the nest fledged two eagles. The nest is in good repair and is currently monitored by Audubon's EagleWatch Program: (<https://cbop.audubon.org/conservation/about-eaglewatch-program>).

III. General Development Guidelines

The protection measures outlined below have been designed utilizing the USFWS's *National Bald Eagle Management Guidelines* (USFWS 2007), Section 14-111 through 14-120 of

the Lee County Land Development Code and the USFWS General Permit Conditions for Bald Eagle Nest Disturbance (Attachment 2). These proposed restrictions and requirements apply only to Three Oaks Service Center project and are not binding on any other property in the vicinity of Bald Eagle Nest LE-128.

If Nest LE-128 is vacated before the end of the nesting season (May 15th) or if Lee County Division of Environmental Sciences (DES) determines that Nest LE-128 has been abandoned, construction activities may commence upon confirmation of those conditions by DES. If the nest is not active by March 15th or as confirmed by DES, then the nesting season for Nest LE-128 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* (USFWS 2007).

There is no proposed work associated with the Three Oaks Service Center within the 330 foot zone of the Nest LE-128.

a. 330 - 660 Feet Zone Activities and Restrictions

Approximately 2.65 acres of the property are between 330 feet and 660 feet of Nest LE-128 (Figure 2). This area consists of the excavated storm water dry detention, portions of a truck wash, truck parking, and a fleet maintenance building. If any exterior construction or project activities within this zone need to occur when the nest is in-use, the following restrictions/management practices will be utilized (Note: nest in-use generally refers to the bald eagle nesting season (October 1 - May 15) but use may occur earlier if nesting is initiated prior to October 1 and may end earlier or later than May 15, dependent upon date of successful fledging of young or documented nest failure). The restrictions described below are only applicable to the portion of the property between 330 feet and 660 feet of Nest LE-128.

1. Major exterior construction activities, such as initial site clearing, major earth work, grading, driving of building support piles, building pad construction, building exterior framing, and exterior roofing 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* (USFWS 2007). Monitoring consistent with the *Bald Eagle Monitoring Guidelines* (USFWS 2007) shall be required during these construction activities.
2. The exterior construction activities listed below 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* (USFWS 2007). Whenever the exterior construction activities listed below occur during the nesting season, monitoring consistent with the *Bald Eagle Monitoring Guidelines* (USFWS 2007) shall be required. One additional afternoon monitoring event per week will also be conducted.
 - a. Street and sidewalk paving
 - b. Landscape installation and maintenance

- c. Exterior stucco application or painting
DES will be notified of these proposed activities and the activities will not be initiated until written authorization has been received from DES.
3. Interior construction (i.e., electrical, drywall, carpeting, etc.) may occur at any time, including during the nesting season without implementing monitoring so long as reasonable measure to reduce noise audible outside of the building are taken (i.e., keep windows and doors closed during finishing activities). DES will be notified when interior construction activities will occur.
4. 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.
5. Outdoor lighting installed within 660± feet of the bald eagle nest shall be subdued, shielded, and directed away from the nest tree.
6. After construction is completed, normal industrial/commercial activities will be allowed throughout the year.

b. Greater Than 660 Feet Zone Activities and Restrictions

The proposed uses of the property more than 660 feet of Bald Eagle Nest LE-128 consist of the remainder of the service center development. Construction activities and normal industrial/commercial activities will be allowed outside of 660± feet of the bald eagle nest throughout the year.

IV. Enhanced Buffer Area

A 25 foot wide buffer will be installed along Oriole Road (Attachment 1, Master Plan). The buffer will contain a two foot high berm, a double staggered hedge row, and five canopy trees per 100 linear feet will be planted and will be 14 feet in height at time of installation.

V. Implementation

The landowner/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-128 (if work as described by Item II.a.1 and II.a.2 above is undertaken during the nesting season) consistent with the *Bald Eagle Monitoring Guidelines* (USFWS 2007) and will submit the reports to DES monthly. 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 Three Oaks Service Center that are affected by this Bald Eagle Management Plan will be provided with a copy of this plan. The Bald Eagle Management Plan will be included in the property association documents.

References

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

Attachments

1. Three Oaks Service Center Master Plan
2. USFWS General Permit Conditions for Bald Eagle Nest Disturbance

Attachment 1

Master Plan

Attachment 2

U.S. Fish & Wildlife Service

General Permit Conditions for Bald Eagle Nest Disturbance

General Permit Conditions – Bald Eagle Disturbance

Definitions

(as defined in 50 CFR 22.6 and available at <https://www.ecfr.gov/current/title-50/section-22.6>):

Alternate Nest means one of potentially several nests within a nesting territory that is not an in-use nest at the current time. When there is no in-use nest, all nests in the territory are alternate nests.

Disturb means to agitate or bother a bald or golden eagle to a degree that causes, or is likely to cause, based on the best scientific information available, 1) injury to an eagle, 2) a decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior, or 3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior.

Eagle nest means any assemblage of materials built, maintained, or used by bald eagles or golden eagles for the purpose of reproduction. An eagle nest remains an eagle nest until it becomes so diminished, or the nest substrate upon which it is built fails, that the nest is no longer usable and is not likely to become usable to eagles, as determined by a Federal, Tribal, or State eagle biologist.

In-use nest means a bald eagle or golden eagle nest that contains one or more viable eggs or dependent young, or, for golden eagles only, has had adult eagles on the nest within the past 10 days during the breeding season.

Incidental take means take that is foreseeable and results from, but is not the purpose of, an activity.

Nesting territory means the area that contains one or more eagle nests within the home range of a mated pair of eagles, regardless of whether such nests were built by the current resident pair.

Practicable means available and capable of being done after taking into consideration existing technology, logistics, and cost in light of a mitigation measure's beneficial value to eagles and the activity's overall purpose, scope, and scale.

Definitions for the purposes of these permit conditions:

Breeding season refers to the period of time where eagles are breeding or are preparing to breed. Actual breeding season dates can vary slightly between breeding pairs and from year to year. For bald eagles, the Service uses the date ranges listed by state in Table 1 (located at the end of this permit).

Occupied nest means an in-use bald eagle nest or an alternate bald eagle nest that has had attending adults within the past 10 days during the first 3 months of the breeding season.

A. Authorization

You are authorized to disturb bald eagles at the nest location listed above under "Location where authorized activity may be conducted."

(1) Disturbance is authorized provided there is no practicable alternative to avoiding or minimizing it. The authorization applies only to disturbance take resulting from activities and

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infrastructure described in your general permit application and conducted in accordance with the terms of this permit.

(2) Disturbance is authorized for activities associated with building construction and maintenance, linear infrastructure construction and maintenance, alteration of shorelines and water bodies, alteration of vegetation (including timber management), prescribed burn operations, motorized recreational activities, nonmotorized recreational activities, aircraft operation, and loud intermittent noises (including blasting). You must remain in compliance only with the permit conditions in C(1) and the conditions associated with your activity type(s) you are conducting.

B. Prohibited

This permit does not authorize:

(1) Take of eagle nests, including by substantively modifying nesting substrate sufficient to render the substrate unsuitable for eagle nesting, except as authorized in C(8) for prescribed burn operations.

(2) Disturbance of golden eagles.

(3) Incidental or intentional take that results in injury or death of eagles.

(4) Possession of eagles, nestlings, or eggs.

(5) Permanent take of any eagle territory. Your activities must not eliminate the potential for future nesting activity within any eagle territory.

C. Avoidance and Minimization

You must implement the avoidance and minimization measures set forth below for the activity type(s) you are conducting under this permit. Breeding season dates are listed in Table 1 below.

(1) *All Activities:*

(a) You must review the Service's National Bald Eagle Management Guidelines (BEMG) (available at https://www.fws.gov/sites/default/files/documents/national-bald-eagle-management-guidelines_0.pdf) and conduct your activity consistent with these guidelines. You must document in writing any applicable BEMG recommendations you do not implement with a justification as to why the measure is not practicable.

(b) In many areas bald eagles have demonstrated tolerance to human activity. If bald eagles have demonstrated tolerance to your activity or similar activities within the same distance to the nest, you may opt to not implement all of the conditions in Condition C. You must document in writing any applicable conditions you do not implement with a justification as to how you determined the condition is not warranted.

(c) You must avoid activities that may affect the survivability of the nest tree or other natural nesting substrate. The nest location must be identified on plans and communicated to contractors or other third parties doing work at your site. You must preserve the root integrity of the nest tree by avoiding heavy equipment operation, soil compaction, or ground disturbance greater than 12 inches deep within the nest tree's dripline or 50 feet, whichever is greater.

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(d) To the maximum degree practicable, avoid conducting activities that may disturb eagles during severe weather such as heavy rain, severe thunderstorms, high winds, or extreme temperatures (high or low) to ensure adult eagles can provide necessary warmth and shelter for eggs and nestlings while they are vulnerable to such weather events.

(2) Construction of Buildings and Infrastructure.

Exterior construction includes exterior building construction as well as related activities. No measures are required for unoccupied nests. For nests that are occupied or status is unknown, you must, to the extent practicable:

- (a) Initiate exterior construction and related activities within 330 feet of the nest outside the breeding season.
- (b) Initiate exterior construction within 660 feet of the nest as late in the breeding season as possible to avoid the time of year when eagles are most susceptible to disturbance. To the extent practicable, avoid conducting exterior construction within 660 feet of the nest during the first three months of the breeding season.
- (c) Initiate exterior construction at the furthest possible distance from the nest to allow the eagles the opportunity to adjust to your activities. Work toward the nest such that any activity to be conducted nearest to the nest occurs last.
- (d) Avoid exterior construction within 660 feet of the nest before and for two hours after sunrise and also for two hours before and after sunset to allow eagles time each day to care for nestlings.
- (e) Minimize noise and visibility of exterior construction for activities that will occur within 660 feet of the nest. For example, create barriers using available natural and artificial barriers such as screening vegetation, topography, or vertical structures.
- (f) Minimize infrastructure or other project component inspection activities within 330 feet of the nest.
- (g) For inspections within 330 feet of the nest,
 - (i) Inform all individuals of the nest's location, including scheduled and unscheduled inspectors;
 - (ii) Conduct all inspection activities from closed cab vehicles whenever practicable;
 - (iii) Inform inspectors to limit their time within 330 feet of the nest, including limiting unnecessary noise and visual disturbance; and
 - (iv) Avoid approaching the nest directly on foot.

(3) Maintenance of Buildings and Infrastructure.

Conditions (a)-(b) are required for all nests, regardless of status. For nests that are occupied or status is unknown, conditions (c)-(i) are also required, unless eagles have demonstrated tolerance to maintenance activities. To the maximum extent practicable, conduct vegetation alteration outside of the breeding season. You must also, to the extent practicable:

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- (a) Follow state and federal guidelines, laws, and labels and instructions at all times if using pesticides, herbicides, or other chemicals during facility maintenance. To the maximum degree practicable, avoid the use of anticoagulant rodenticides. Anticoagulant rodenticides are a leading cause of eagle death. This permit does not authorize the killing or injury of eagles resulting from chemical or pesticide exposure.
- (b) Avoid material and equipment storage within 330 feet of the nest. Do not store or stage materials and equipment within the dripline of the nest tree, or 50 feet, whichever is greater.
- (c) Minimize material and equipment storage and staging within 660 feet of the nest tree. If you must use areas within 600 feet of the nest for staging during the breeding season, reduce the visibility of material or equipment by creating natural or artificial barriers using screening vegetation, topography, or vertical structures.
- (d) If maintenance, restoration, and landscaping activities are visible from the nest, avoid these activities within 660 feet of the nest before and for two hours after sunrise and for two hours before and after sunset.
- (e) When conducting maintenance, restoration, and landscaping activities within 660 feet of the nest, begin as late in the breeding season as possible. To the maximum degree practicable, avoid conducting such activities within 660 feet of the nest during the first three months of the breeding season.
- (f) Initiate and conduct maintenance, restoration, and landscaping activities at the furthest possible distance from the nest and work toward the nest such that any activity to be conducted nearest the nest occurs last.
- (g) Minimize the use of open cab equipment when conducting activities within 330 feet of an eagle nest.
- (h) Avoid the use of heavy equipment or loud machinery within 330 feet of an eagle nest.
 - (i) Avoid the use of netting adjacent to any water features to reduce risk of eagle entanglement.

(4) Alteration of shorelines and water bodies.

Conditions (a)-(d) are required for all nests, regardless of status. For nests that are occupied or status is unknown, conditions (e)-(f) are also required. To the maximum extent practicable, conduct alteration outside of the breeding season.

- (a) Avoid draining or drawing down any existing waterbodies within 660 feet of an eagle nest at a rate faster than normal water usage or evaporation.
- (b) When altering shoreline or waterbody boundaries or conducting any associated geotechnical work within 660 feet of an eagle nest, you must:
 - (i) Avoid work within 660 feet of the nest before and for two hours after sunrise also for two hours before and after sunset.

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(ii) Initiate work within 660 feet of the nest as late in the breeding season as possible. Avoid conducting work within 660 feet of the nest during the first three months of the breeding season.

(iii) Initiate work and related activities within 330 feet of the nest outside the breeding season.

(iv) Initiate work at the furthest possible distance from the nest. Work toward the nest such that any activity to be conducted nearest to the nest occurs last.

(v) Minimize noise and visibility of exterior construction for activities that will occur within 660 feet of the nest. For example, create barriers using available natural and artificial barriers such as screening vegetation, topography, or vertical structures.

(c) Remove dams and other infrastructure for controlling water outside of the breeding season.

(d) To the maximum degree practicable, construct new dams and infrastructure for controlling water outside of the breeding season. If construction must occur during the breeding season, you must:

(i) Avoid construction within 660 feet of the nest before and for two hours after sunrise and also for two hours before and after sunset.

(ii) Initiate construction within 660 feet of the nest as late in the breeding season as possible. To the extent practicable, avoid conducting construction within 660 feet of the nest during the first three months of the breeding season.

(iii) Initiate construction and related activities within 330 feet of the nest outside the breeding season.

(iv) Initiate construction at the furthest possible distance from the nest. Work toward the nest such that any activity to be conducted nearest to the nest occurs last.

(v) Minimize noise and visibility of construction for activities that will occur within 660 feet of the nest. For example, create barriers using available natural and artificial barriers such as screening vegetation, topography, or vertical structures.

(e) Design and construct new, or modifications to existing, water bodies in a manner that protects the nest tree, including all practicable measures to protect soil and prevent erosion that would destabilize the tree.

(5) Alteration of Vegetation.

Conditions (a)-(e) are required for all nests, regardless of status. For nests that are occupied or status is unknown, condition (f) is also required. To the maximum extent practicable, conduct vegetation alteration outside of the breeding season. You must also, to the extent practicable:

(a) Minimize the amount of tree or significant vegetation removal within 660 feet of the nest.

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- (b) Avoid clearcutting trees within 330 feet of the nest tree at any time.
- (c) Retain the maximum number of mature trees practicable within 660 feet of the nest. Prioritize retaining mature trees within 330 feet of the nest, trees adjacent to foraging areas, and trees with documented use as perch or roost trees.
- (d) Take every practical precaution, such as using a professional tree service, to fell trees near the nest tree in such a way that they do not contact the nest tree, especially the crown of the nest tree.
- (e) Remove vegetation for chipping, burning, or other disposal methods that may cause disturbance at least 660 feet from the nest.
- (f) If conducting timber operations or forestry, avoid new construction of log transfer facilities, in-water log storage areas, new road construction, and chain saw or yarding operations within 330 feet of the nest.
- (g) For any vegetation removal that must occur during the breeding season within 660 feet of the nest, begin at the furthest possible distance from the nest and work toward the nest such that any removal to be conducted nearest to the nest occurs last.

(6) Prescribed Burns.

Conditions (a)-(d) are required for all nests, regardless of status. For nests that are occupied or status is unknown, conditions (e) and (f) are also required. You must, to the extent practicable:

- (a) Conduct prescribed burns outside of the breeding season. If prescribed burns are conducted during the breeding season, you must document in writing with a justification as to why (e.g., human safety, federal mandates).
- (b) Remove fuels (e.g., leaves, woody debris) near the nest tree to avoid fire climbing the tree. This includes fuels that present a hazard to the nest tree, fuels that are on or close to the bole of the nest tree, and fuels that may loft embers near the nest tree such as palm trees or high shrubs or bushes. To the extent practical, this measure must be performed outside of the breeding season or when the eagle nest is not occupied.
- (c) Avoid creating new fire breaks or fire lines within 660 feet of any bald eagle nest at any time of year. Perform maintenance on any pre-existing fire breaks within 660 feet of a bald eagle nest outside of the breeding season or when the eagle nest is not occupied.
- (d) Utilize smoke management and ignition techniques that minimize the amount and duration of flame and smoke impacts to the nest (e.g., igniting a backing or flank fire).
- (e) Minimize the presence of and any activities of ground crews within 660 feet of the nest.
- (f) Do not conduct a prescribed burn during weather and wind conditions that are likely to expose the nest to fire or smoke.
- (g) You are authorized for the incidental take of eagle nests that occurs during a prescribed burn, provided that incidental take occurs after application of all avoidance and minimization measures. This authorization does not include take caused by lack of

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due diligence or negligence; for example, failure to identify nest locations prior to conducting an activity.

(7) Motorized and Nonmotorized Recreation.

No measures are required for unoccupied nests. For nests that are occupied or status is unknown, you must, to the extent practicable:

- (a) Install signs to create a minimum 330 feet nest buffer around the nest. Signs may be temporary or permanent. Signs should inform recreationists that they are entering an important eagle use area, unless you document doing so is likely to increase risk to eagles.
- (b) Close trails, roads, or boat launch areas within 660 feet of the nest. You may reduce this buffer if adult eagles have shown tolerance to use, and you document how you have determined eagles are tolerant to use.
- (c) If visiting recreationists are likely to engage in eagle watching, either set up an area for recreationists to view the nest from greater than 660 feet or instruct recreationists to remain at least 330 feet from the nest and observe eagles from their vehicles or from behind natural or artificial barriers. If eagles have demonstrated tolerance, viewing can occur at closer distances. You must document how you have determined eagles are tolerant to viewing within 330 feet.
- (d) Do not authorize recreational activities such as camping (including campfires), boating, fishing, and hunting within 330 feet of a nest. You may reduce this buffer if adult eagles have shown tolerance to use, and you document how you have determined eagles are tolerant to use.

(8) Aircraft operation.

No measures are required for unoccupied nests. For nests that are occupied or status is unknown, you must, to the extent practicable:

- (a) Avoid any helicopter and fixed-wing aircraft flights within 1,000 feet of an eagle nest during the first three months of the breeding season or until the adults are observed in incubating position.
- (b) Avoid helicopter and fixed-wing aircraft flights within 1,000 feet of an eagle nest at a frequency more than once per day.
- (c) Minimize the duration that any helicopter and fixed-wing aircraft spends within 1,000 feet of an eagle nest, not to exceed 3 minutes when passing within 1,000 feet of an eagle nest.
- (d) This permit does not authorize disturbance with unmanned aircraft systems (i.e., UAS or drones). Any UAS use must be in a manner that does not cause disturbance, as defined in 50 CFR 22.6.

(9) Blasting and other loud intermittent activity.

No measures are required for unoccupied nests. For nests that are occupied or status is unknown, you must, to the extent practicable:

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(a) Avoid blasting and any activities that produce other loud intermittent noise within one-half-mile of the nest during the breeding season. If occupancy is known, conduct blasting activities only during the period between when eggs are laid (e.g., adults are incubating position) to when nestlings are at least nine weeks old. Nestling age can be determined by size (i.e., approaching adult size) and posture (e.g., erect, starting to stand on edge of nest).

(b) Use all available methods and technology to reduce the noise generated by your activity. These may include but are not limited to blast mats, vibratory pile driving, or constructed sound barriers.

D. Monitoring

You must, to the maximum degree practicable, observe the permitted eagle nest, sufficient to:

(1) Determine nest status (i.e., occupied or unoccupied) during the breeding season (see Table 1), and

(2) If occupied, determine nest fate (i.e., fledged young or failed to fledge young). Observations must be performed in a manner that does not cause additional disturbance to breeding eagles. For example, observe the nest from beyond 660 feet or from behind screening vegetation or structures.

E. Reporting.

You must submit an annual report of nest status and, if occupied, nest fate using Form 3-202-15 (Eagle Incidental Take Annual Report). Your annual report is due within 30 days of the expiration of your permit or prior to requesting renewal of your permit, whichever is first. An annual report is required, even if no eagle activity was observed or no activities were conducted.

F. Subpermittees

You may designate subpermittees to conduct some or all of your permitted activities. A subpermittee is an individual to whom you have provided written authorization to conduct some or all of the permitted activities in your absence. Authorized subpermittees are any person who is (1) employed by or under contract to you for the activities specified in this permit, or (2) otherwise designated a subpermittee by you in writing. As the permittee, you are legally responsible for ensuring that your subpermittees are adequately trained and adhere to the terms of your permit.

You and any subpermittees must carry a legible paper or electronic copy of this permit and subpermittee designation letter and display it upon request whenever you are exercising its authority. Subpermittees must be at least 18 years of age. You are responsible for maintaining current records of who you have designated as a subpermittee, including copies of any designation letters provided to individuals not named above.

G. Other Conditions

(1) You must comply with all of the regulations and permit conditions in 50 CFR parts 10, 13, 21, and 22.

(2) You must keep records of all activities conducted under this permit, including any subpermittee activities carried out under the authority of this permit (see 50 CFR § 13.46).

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(3) By accepting this permit, you are authorizing the Service to inspect the location and records relating to the activity (see 50 CFR § 13.21(e)). Service or Service contractors may require access to your project site to ensure general permitting is consistent with eagle preservation. The Service will provide reasonable notice for requests to access sites and negotiate with the permittee about practicable and appropriate access conditions to protect human health and safety and address physical, logistical, or legal constraints.

(4) You are responsible for ensuring that the permitted activity complies with all Federal, Tribal, State, and local laws. This permit is not valid if implementing any of its provisions may affect a listed, proposed, or candidate species or designated or proposed critical habitat under the federal Endangered Species Act, nor has the potential to cause effects to cultural resources or historic properties protected by the National Historic Preservation Act.

(5) The Service may amend, suspend, or revoke a permit issued under this subpart if new information indicates that revised permit conditions are necessary, or that suspension or revocation is necessary, to safeguard local or regional eagle populations. This provision is in addition to the general criteria for amendment, suspension, and revocation of Federal permits set forth in 50 CFR § 13.23, 13.27, and 13.28. General permits cannot be amended by the permit holder.

(6) Notwithstanding the provisions of 50 CFR § 13.26, you remain responsible for all outstanding monitoring requirements and mitigation measures required under the terms of the permit for take that occurs prior to cancellation, expiration, suspension, or revocation of the permit.

(7) The Service will regularly evaluate whether the take of bald eagles authorized under general permits remains compatible with the preservation of eagles. If the Service finds, through the best available information, that the general permit program is not compatible with the preservation of bald eagles and golden eagles, the Service may suspend issuing general permits in all or in part after publishing a notice in the Federal Register. If the Service suspends general permitting, take currently authorized under this general permit remains authorized until expiration unless you are notified otherwise.

These General Permit conditions are a living document and may be revised periodically. Interested parties may submit comments or questions about these permit conditions by emailing migratorybirdpermits@fws.gov. The Service will consider these comments in any future revisions of conditions. General Permit holders must comply with the conditions printed on their General Permit.

Table 1. Bald eagle breeding season dates by state or portions of states.

State	Beginning Breeding Season	End Breeding Season
Alabama	Oct 1	May 30
Alaska	Mar 1	Aug 31
Arizona	Oct 15	Jul 15
Arkansas	Nov 1	Jun 30
California	Dec 1	Aug 15
Colorado	Dec 1	Jul 31
Connecticut	Jan 1	Jul 31
Delaware	Dec 15	Jun 30
District of Columbia	Dec 15	Jul 15
Florida	Oct 1	May 30
Georgia	Oct 1	May 30
Idaho	Jan 1	Aug 15
Illinois	Dec 15	Jul 31
Indiana	Dec 15	Jul 31
Iowa	Jan 1	Jul 31
Kansas	Dec 1	Jul 31
Kentucky	Nov 1	Jul 15
Louisiana	Oct 1	May 30
Maine	Feb 1	Aug 30
Maryland	Dec 15	Jun 30
Massachusetts	Jan 15	Aug 31
Michigan	Jan 15	Aug 15
Minnesota	Jan 15	Aug 15
Mississippi	Oct 1	May 30
Missouri	Dec 15	Jul 15
Montana	Jan 15	Aug 31
Nebraska	Dec 1	Jul 15
Nevada	Dec 1	Jul 31

State	Beginning Breeding Season	End Breeding Season
New Hampshire	Feb 15	Aug 15
New Jersey	Jan 1	Jul 31
New Mexico	Oct 15	Jul 15
New York	Jan 1	Aug 31
North Carolina	Nov 1	Jun 30
North Dakota	Jan 15	Aug 31
Ohio	Jan 1	Jul 31
Oklahoma – except panhandle	Oct 1	May 30
Oklahoma – panhandle only	Oct 15	Jul 15
Oregon	Jan 1	Aug 15
Pennsylvania	Jan 1	Jul 31
Rhode Island	Jan 1	Jul 31
South Carolina	Oct 1	May 30
South Dakota	Jan 15	Aug 31
Tennessee	Nov 1	Jun 30
Texas – east of 100 th meridian	Oct 1	May 30
Texas – west of 100 th meridian	Oct 15	Jul 15
Utah	Dec 1	Jul 31
Vermont	Feb 1	Aug 15
Virginia	Dec 15	Jul 15
Washington	Jan 1	Aug 15
West Virginia	Dec 1	Jul 15
Wisconsin	Jan 15	Aug 15
Wyoming	Jan 1	Aug 15

These General Permit conditions are a living document and may be revised periodically. Interested parties may submit comments or questions about these permit conditions by emailing migratorybirdpermits@fws.gov. The Service will consider these comments in any future revisions of conditions. General Permit holders must comply with the conditions printed on their General Permit.

HOME FRONT HEROES

BALD EAGLE (*HALIAEETUS LEUCOCEPHALUS*) MANAGEMENT PLAN

Lee County STRAP #'s: 10-44-24-00-00047.0000, 10-44-24-00-01046.0000, 10-44-24-00-00047.0010, 10-44-24-00-00047.0020, 10-44-24-00-00047.0030, & 10-44-24-00-00046.0010

July 2024

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Introduction

The 15.76± Home Front Heroes property is located at 884 Moody Road, in a portion of Section 10, Township 44S, and Range 24E, of Lee County, Florida. More specifically, the site is located south of Hancock Bridge Parkway, east of Moody Road, and north of Skyline Drive, in North Fort Myers, Florida. Please see the attached Project Location Map (Exhibit A).

There is a bald eagle (*Haliaeetus leucocephalus*) nest located at 26.65551 N, 81.897032 W. The nest is located southeast of the property, just within 330 feet of the proposed site development. This bald eagle management plan is being proposed to be approved for the LE-43D nest by Lee County, as a portion of the proposed project will be within the 330-foot and 660-foot eagle buffer zone. This management plan has been created to outline the project's proposed protection measures for Nest LE-43D. The MCP showing the 330-foot and 660-foot buffer zones is included as Exhibit B.

Site Conditions

The Home Front Heroes property consists of a marina, open and developed land, which has been used by the Fort Myers Sailing Club in the past. This disturbed upland herbaceous area is vegetated primarily by uplands, which encompasses a majority of the property. The canopy is mostly open with scattered slash pine (*Pinus elliottii*), melaleuca (*Melaleuca quinquenervia*), live oak (*Quercus virginiana*), and earleaf acacia (*Acacia auriculiformis*). The sub-canopy is also mostly open with widely scattered cabbage palm (*Sabal palmetto*), Brazilian pepper (*Schinus terebinthifolius*), and wax myrtle (*Myrica cerifera*). The groundcover contained mostly disturbed opportunistic weedy species. There are some scattered red mangroves (*Rhizophora mangle*), located along the edges of the herbaceous community; however, they were beyond the mean high-water line, within the FLUCFCS 540 - Bays & Estuaries. There is a large mangrove swamp (FLUCFCS 612) located off the "mainland property" on an island, but it's being proposed to be preserve, which is dominated by red mangroves (*Rhizophora mangle*), with widely scattered slash pine (*Pinus elliottii*), melaleuca (*Melaleuca quinquenervia*), Brazilian pepper (*Schinus terebinthifolius*), and cabbage palm (*Sabal palmetto*). The property on which Nest LE-43D is located consists of undeveloped vacant land and forested land.

Site Observations

A bald eagle (*Haliaeetus leucocephalus*) constructed a nest (LE-43D) in a slash pine (*Pinus elliottii*) tree located approximately 320 feet southeast of the southern property line and approximately 970 feet east of Moody Road. The nest was active during the 2023-2024; however, it was declared unsuccessful for the 2023 nesting season and is believed to be unsuccessful for the 2024 nesting season. Nest LE-43D was a new nest, which was initially reported in July 2022; the nest was destroyed during Hurricane Ian, but reconstructed afterward, but the fledglings were never confirmed.

There have been four vegetation associations that were identified using the Florida Land Use, Cover and Forms Classification System (FLUCFCS). Figure 2 depicts the approximate location and configuration of these vegetation associations and Table 1 summarizes the acreages by FLUCCS Code. A brief description of each FLUCFCS Community is also provided below.

FLUCFCS Codes & Community Descriptions

Uplands

The following community areas have been designated as upland habitats. Uplands are any area that does not qualify as a wetland because the associated hydrologic regime is not sufficiently wet enough to elicit development of vegetation, soils, and/or hydrologic characteristics associated with wetlands.

FLUCFCS 140 Commercial – 1.41± Acres

This commercial property has been previously cleared and developed and is comprised of a paved parking lot, concrete pads, portable trailers, and a boat ramp. This community occupies approximately 1.41± acres of the site. This community would be considered uplands by regulatory agencies.

FLUCFCS 400 E2 Planted Landscape Buffers (Exotics 25-49%) – 0.36± Acres

This upland community type occupies approximately 0.36± acres of the property and is located along the right-of-way. This community was planted as part of the previously approved development order's issues for this property. Exotic species such as earleaf acacia (*Acacia auriculiformis*), melaleuca (*Melaleuca quinquenervia*), mimosa (*Albizia julibrissin*), and Brazilian pepper (*Schinus terebinthifolius*) occupy approximately 25-49% of this community. The canopy contains melaleuca (*Melaleuca quinquenervia*) with scattered earleaf acacia (*Acacia auriculiformis*), mimosa (*Albizia julibrissin*), slash pine (*Pinus elliottii*), and live oak (*Quercus virginiana*). The sub-canopy contains scattered cabbage palm (*Sabal palmetto*) and Brazilian pepper (*Schinus terebinthifolius*). The ground cover is mostly open, but contains scattered various opportunistic weedy species. Commonly observed vines include greenbriar (*Smilax sp.*), and grapevine (*Vitis rotundifolia*). This community would be considered uplands by the regulatory agencies.

FLUCFCS 420 E4 Mixed Forest Mixed (Exotics > 75%) – 0.13± Acres

This upland community type occupies approximately 0.13± acres of the property. Exotic species such as earleaf acacia (*Acacia auriculiformis*), mimosa (*Albizia julibrissin*), and Brazilian pepper (*Schinus terebinthifolius*) occupy approximately 75-99% of this community. The canopy is dominated by melaleuca (*Melaleuca quinquenervia*) with scattered earleaf acacia (*Acacia auriculiformis*), mimosa (*Albizia julibrissin*), slash pine (*Pinus elliottii*), and live oak (*Quercus virginiana*). The sub-canopy contains scattered cabbage palm (*Sabal palmetto*) and Brazilian pepper (*Schinus terebinthifolius*). The ground cover is mostly open, due to the dense exotic coverage, but contains scattered various opportunistic weedy species. Commonly observed vines include greenbriar (*Smilax sp.*), and grapevine (*Vitis rotundifolia*). This community would be considered uplands by the regulatory agencies.

FLUCFCS 740 Disturbed Lands – 6.80± Acres

This upland habitat type occupies a majority of the property and encompasses approximately 6.80± acres of the property. Exotic species such as earleaf acacia (*Acacia auriculiformis*), melaleuca (*Melaleuca quinquenervia*), mimosa (*Albizia julibrissin*), and Brazilian pepper (*Schinus terebinthifolius*) occupy approximately 50-74% of this community. The canopy is mostly open with scattered slash pine (*Pinus elliottii*), melaleuca (*Melaleuca quinquenervia*), live oak (*Quercus virginiana*), and earleaf acacia (*Acacia auriculiformis*). The sub-canopy is also mostly open with widely scattered cabbage palm (*Sabal palmetto*), Brazilian pepper (*Schinus terebinthifolius*), and wax myrtle (*Myrica cerifera*). The groundcover contained Spanish needle (*Bidens alba*), false buttonweed (*Spermacoce floridan*), caesar weed (*Urena lobata*), dog fennel (*Eupatorium capillifolium*), ragweed (*Ambrosia artemisiifolia*), finger grass (*Eustachys floridana*), muhly grass (*Muhlenbergia capillaris*), broomsedge (*Andropogon virginicus*), and bahia grass (*Paspalum notatum*), with various other opportunistic weedy species. Commonly observed vines include air potato (*Dioscorea bulbifera*), greenbriar (*Smilax sp.*), grapevine (*Vitis rotundifolia*), Virginia creeper (*Parthenocissus quinquefolia*), creeping oxeye (*Sphagneticola trilobata*), peppervine (*Ampelopsis arborea*), and poison ivy (*Toxicodendron radicans*). This community would be considered uplands by regulatory agencies.

Other Surface Waters (OSW)

The following community area has been designated as other surface waters. Surface waters are waters on the surface of the earth, contained in bounds created naturally or artificially.

FLUCFCS 500 Man-Made Basin – 0.63± Acres

This man-made “other surface water” (OSW) community occupies approximately 0.63± acres of the property. This community was dug-out and created during the original permitting process and leads out to Hancock Creek, which runs out to the Caloosahatchee River. There are red mangroves (*Rhizophora mangle*), along the edges of this community. The depth varies from approximately a few inches along the edge to several feet deep in the middle. This community would be considered “other surface waters” by the regulatory agencies.

FLUCFCS 540 Bays & Estuaries – 4.13± Acres

This “other surface water” (OSW) community occupies approximately 4.13± acres of the property. This community includes a boat ramp and Hancock Creek that runs out to the Caloosahatchee River. There are red mangroves (*Rhizophora mangle*), along the sides of the canal. The depth varies from approximately a few inches along the edge to several feet deep in the middle. This community would be considered “other surface waters” by the regulatory agencies.

Wetlands

The following community areas have been designated as wetland habitats. Wetlands are any areas that under normal circumstances have hydrophytic vegetation, hydric soils, and wetland hydrology.

FLUCFCS 612 E3 Mangrove Wetlands (Exotics 50-74%) – 1.60± Acres

This wetland community type occupies approximately 1.60± acres of the property. Exotic species such as (*Melaleuca quinquenervia*) and Brazilian pepper (*Schinus terebinthifolius*) occupy approximately 50-74% of this community. The canopy contains red mangrove (*Rhizophora mangle*), and buttonwood (*Conocarpus erectus*) with scattered slash pine (*Pinus elliottii*), and melaleuca (*Melaleuca quinquenervia*). The sub-canopy contains cabbage palm (*Sabal palmetto*), Brazilian pepper (*Schinus terebinthifolius*), seaside mahoe (*Thespesia populnea*), sea grape (*Coccoloba uvifera*), and pond apple (*Annona glabra*). The ground cover is mostly open with giant leather fern (*Acrostichum daneifolium*), and coin vine (*Dalbergia ecastaphyllum*). This community does contain wetland vegetation, advantageous rooting, water line staining, and algal matting, as well as other signs in this community that would be classified as wetlands. This community would be considered wetlands by the regulatory agencies.

FLUCFCS 612 E4 Mangrove Wetlands (Exotics > 75%) – 0.70± Acres

This wetland community type occupies approximately 0.70± acres of the property. Exotic species such as (*Melaleuca quinquenervia*) and Brazilian pepper (*Schinus terebinthifolius*) occupy approximately greater than 75% of this community. The canopy contains red mangrove (*Rhizophora mangle*), and buttonwood (*Conocarpus erectus*) with scattered slash pine (*Pinus elliottii*), and melaleuca (*Melaleuca quinquenervia*). The sub-canopy contains cabbage palm (*Sabal palmetto*), Brazilian pepper (*Schinus terebinthifolius*), seaside mahoe (*Thespesia populnea*), sea grape (*Coccoloba uvifera*), and pond apple (*Annona glabra*). The ground cover is mostly open with giant leather fern (*Acrostichum daneifolium*), and coin vine (*Dalbergia ecastaphyllum*). This community does contain wetland vegetation, advantageous rooting, water line staining, and algal matting, as well as other signs in this community that would be classified as wetlands. This community was located along the edge of the disturbed lands with a majority located beyond the mean high-water line but were still included as part of this community. This community would be considered wetlands by the regulatory agencies.

Table 1. FLUCFCS Community Table

FLUCFCS Code	Community Description	Habitat Type	Acreage
140	Commercial, Parking, & Boat Ramp	Upland	1.41± Ac.
400 E2	Planted Landscape Buffers (Exotics 25-49%)	Upland	0.36± Ac.
420 E4	Upland Forest Mixed (Exotics > 75%)	Upland	0.13± Ac.
500	Man-Made Basin	OSW	0.63± Ac.
540	Bays & Estuaries	OSW	4.13± Ac.
612 E3	Mangrove Wetlands (Exotics 50-74%)	Wetland	1.60± Ac.
612 E4	Mangrove Wetlands (Exotics > 75%)	Wetland	0.70± Ac.
740	Disturbed Lands	Upland	6.80± Ac.
Total			15.76± Ac.

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 Homefront Heroes project and are not binding on any other property in the vicinity of Bald Eagle Nest LE-43D.

If Nest LE-43D is vacated before the end of the nesting season (May 15th) or if Lee County Division of Environmental Sciences (DES) determines that Nest LE-43D has been abandoned, construction activities may commence upon confirmation of those conditions by DES. If the nest is not active by March 15th or as confirmed by DES, then the nesting season for Nest LE-43D 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).

330 Feet Zone Activities and Restrictions

A very small portion the project parcel is located just inside of the 330' LE-43D nesting buffer. There is no construction proposed within this buffer zone, the only land work includes the installation of the type "C" or "F" buffer and creation of the dry detention. There will be no buildings or roadways proposed within this buffer zone. Exterior construction activities shall only be conducted during the non-nesting season (i.e., May 16th - September 30th) and when the nest is not actively being used for nesting.

330 - 660 Feet Zone Activities and Restrictions

A portion of the property is located within the 660-foot buffer of Nest LE-43D. The project will include the driveways, multi-purpose outdoor recreation area, and private multi-slip docking, within the 660' zone. The restrictions described below are only applicable to the portion of the property within 660' of Nest LE-43D.

- Major exterior construction activities, such as initial site clearing, major earth work, grading, drive isles construction, and access road 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. Nest monitoring consistent with the Bald Eagle Monitoring Guidelines shall be required during these construction activities.
- 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 chemicals will be in accordance with labeling instructions.
- Outdoor lighting installed within 660± feet of the bald eagle nest shall be subdued, shielded, and directed away from the nest tree.

- Native slash pine and live oak trees will be installed along the southern property boundary to provide a visual buffer between development and eagle nest. Trees planted will be a minimum of 6-foot in height and 25-gallon container size at time of installation and planted on 20-foot center. The trees will be included on the landscape plans and with the development order that's required for the site development. The visual vegetation buffer installation will occur outside of nesting season, since a portion of the property lies within 330-foot zone of the bald eagle nest.

Greater Than 660 Feet Zone Activities and Restrictions

The proposed uses of the property more than 660-feet of Bald Eagle Nest LE-43D consist of the construction of a future commercial building, caretakers' residences, parking, infrastructure, and outdoor recreation area. Construction activities and normal activities will be allowed outside of 660± feet of the bald eagle nest throughout the year.

Implementation

The landowner and/or developer will be responsible for following this Bald Eagle Management Plan. The dry detention construction/installation and buffer plantings within the 330-foot buffer zone will be completed outside of nesting season, there will be no work conducted in the 330-foot zone during nesting season. The applicant will not be obtaining a take permit from USFWS as a majority of the property is located outside of the 330-foot buffer zone. There is no construction proposed within the 330-foot zone of the bald eagle nest, only earth movement for the dry detention area and buffer plantings will occur within the 330-foot buffer.

A qualified ecologist will monitor Nest LE-43D consistent with the *Bald Eagle Monitoring Guidelines* and will submit the reports to DES on a monthly basis during nesting season. DE 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.

Bald Eagle Management Plan Modifications

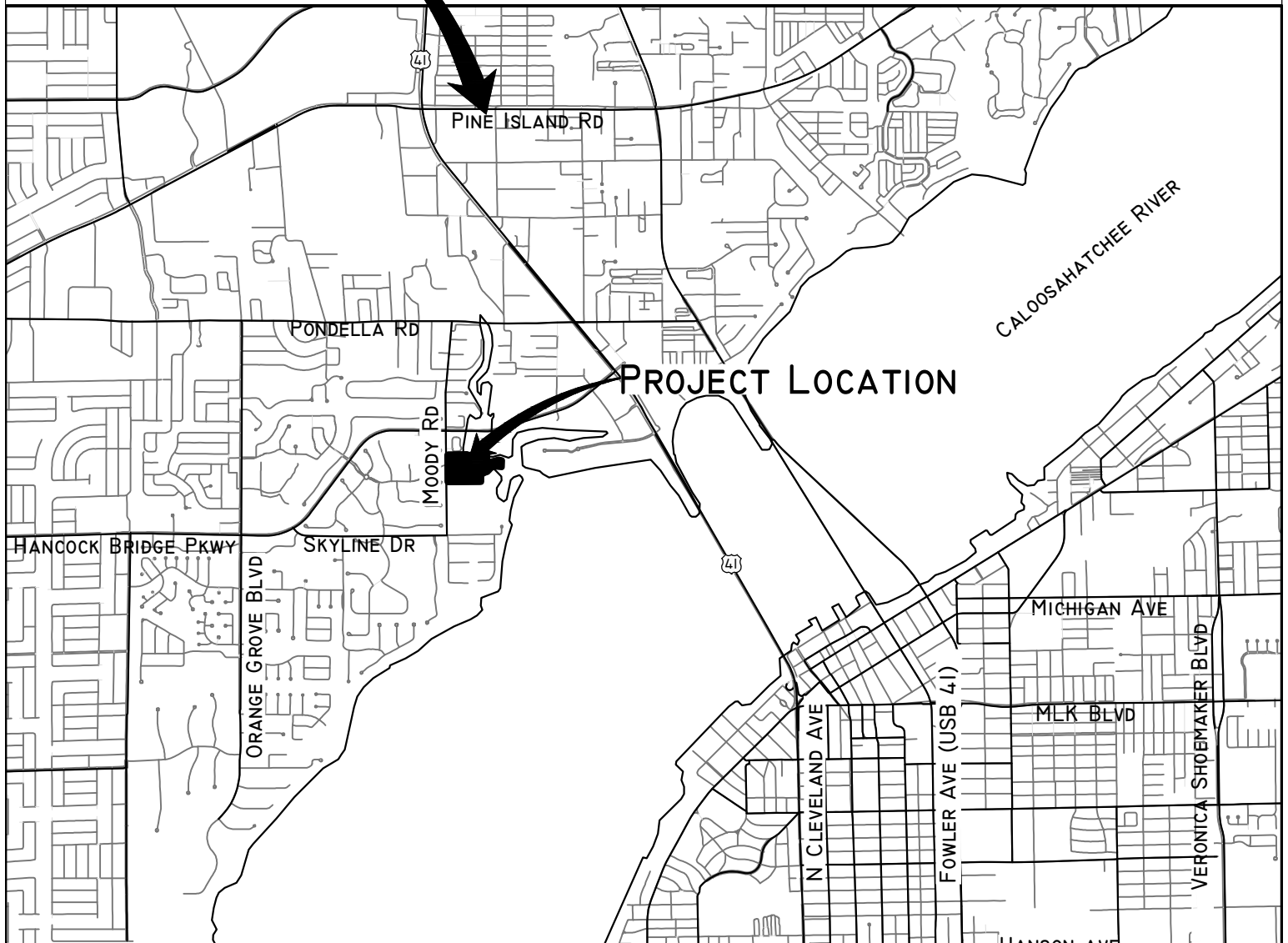
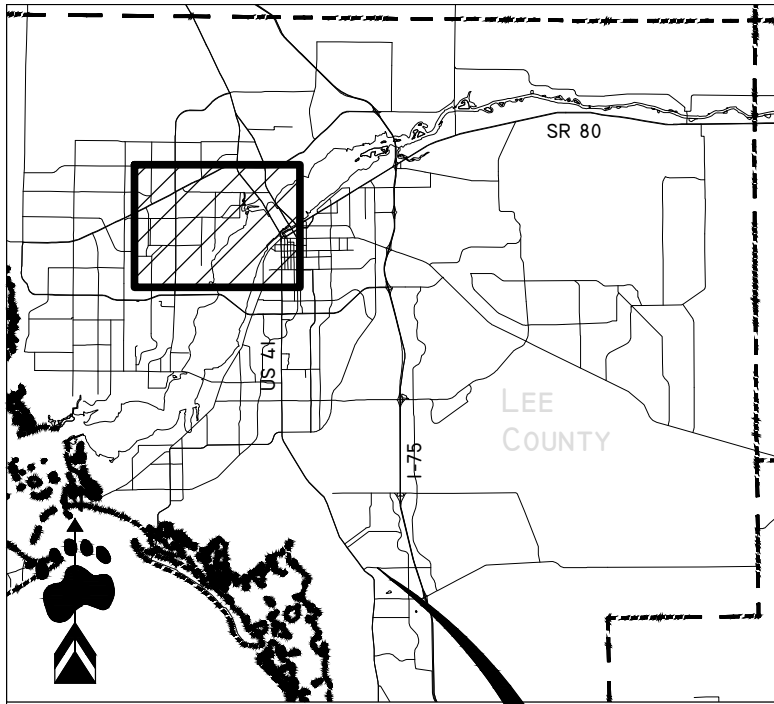
Any changes to this Bald Eagle Management Plan must be reviewed and approved by Lee County Division of Environmental Sciences staff through the planned development administrative amendment process.

References

- Florida Fish and Wildlife Conservation Commission. 2008. Bald Eagle Management Plan. 60p.
- Florida Fish and Wildlife Conservation Commission. 2017. Historical Bald Eagle Nesting Areas.
- 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.

EXHIBIT A

Project Location Map



DRAWN BY:	DATE:	CATEGORY:
BWS	3/12/24	LOCATION
JOB NUMBER		SCALE:
S/T/R		NTS
10/44S/24E		COUNTY
		LEE

Home Front Heroes (Moody Road)

Location Map

1599 COVINGTON CIRCLE EAST, FORT MYERS, FL 33919
(239) 340-0678 BEARPAWS.ENV.CONSULTING@GMAIL.COM

PAGE

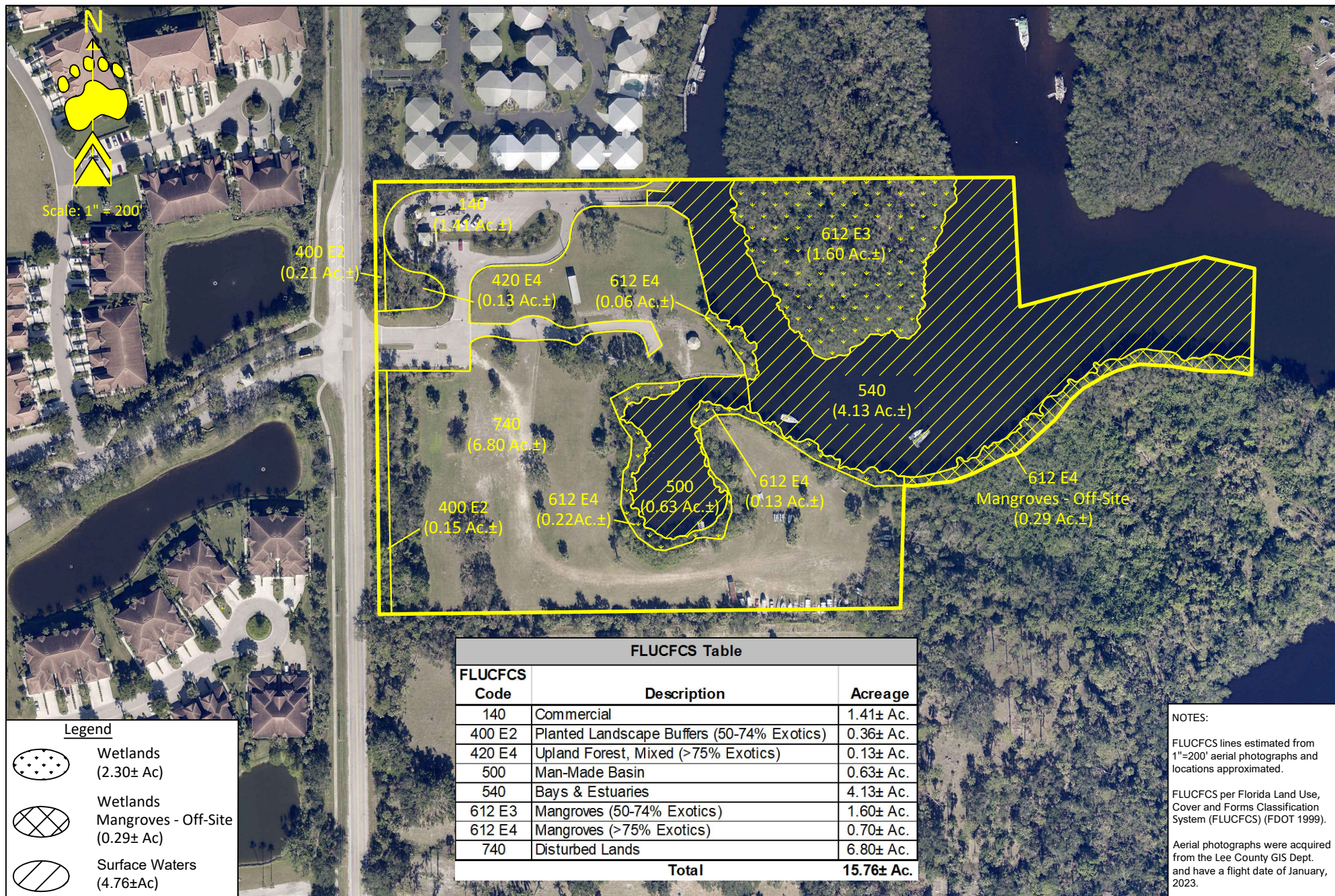
EXHIBIT

EXHIBIT B

MCP Showing Bald Eagle Nesting Zones

EXHIBIT C

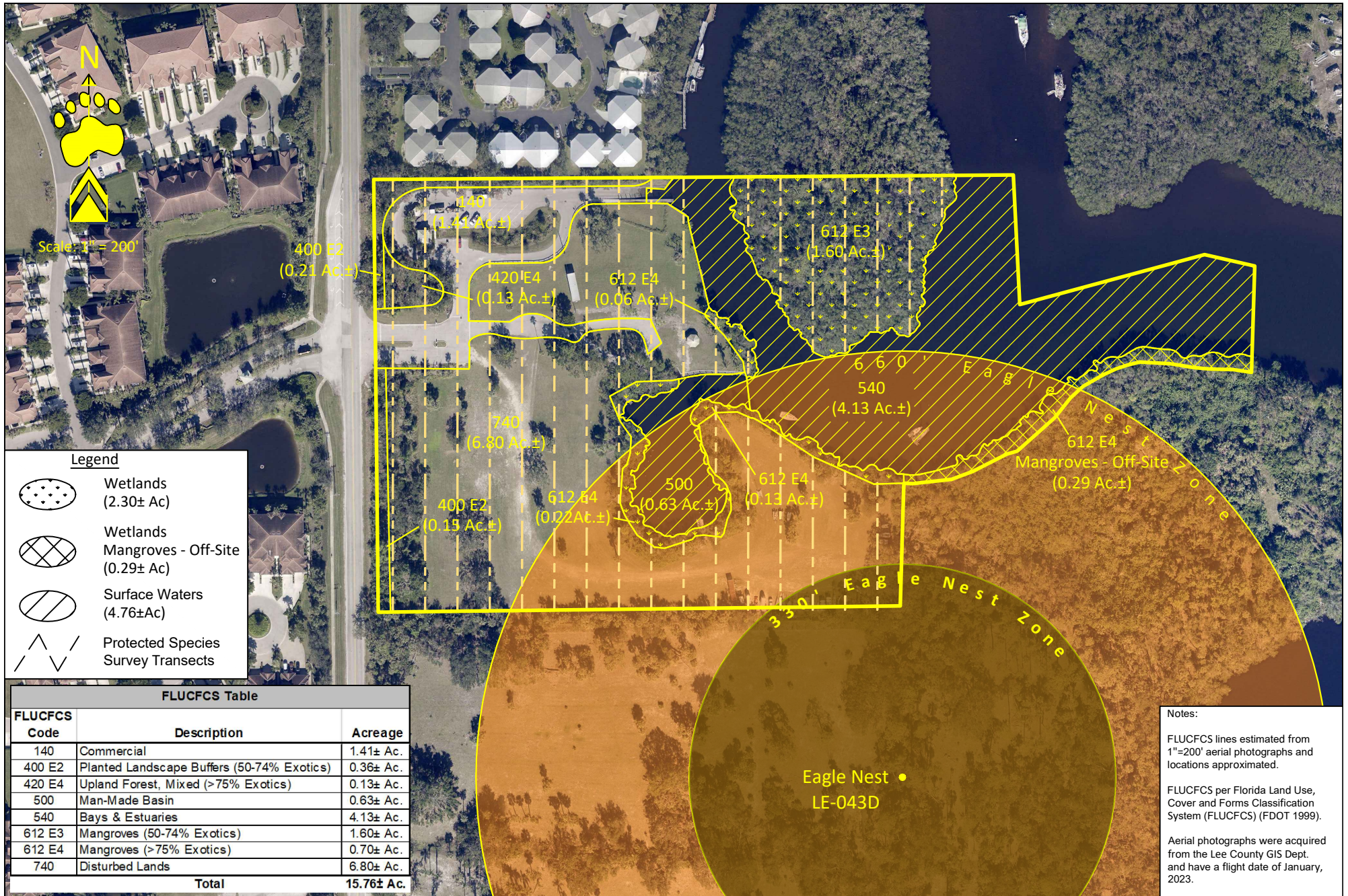
Aerial FLUCFCS Map



Revisions	Date:	Drawn By:	Date:	<h1>Home Front Heroes (Moody Road)</h1> <h2>Aerial FLUCFCS Map</h2>	Category		Page
		BWS	3/12/24		FLUCFCS		-
		Job Number			Scale:		Exhibit
		S/T/R			1" = 200'		
		10/44S/24E			County	Lee	

EXHIBIT D

Protected Species Survey Map with Bald Eagle Buffer Zones



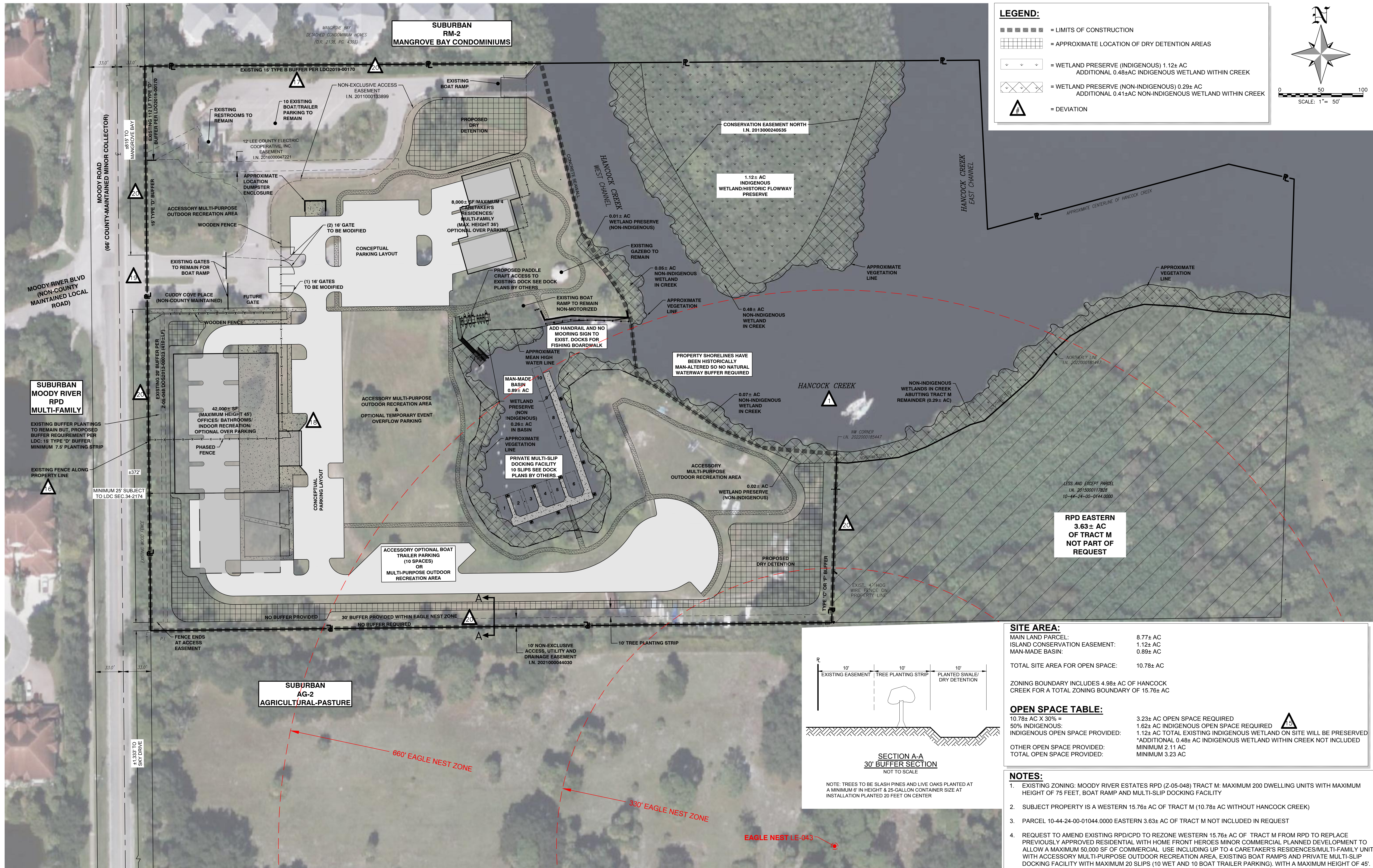
Revisions	Date:	Drawn By: BWS	Date: 3/12/24	<div>Home Front Heroes (Moody Road)</div> <div>Aerial PSS Map</div>	Category PSS		Page -
		Job Number			Scale: 1" = 200'		Exhibit
		S/T/R			County Lee		
		10/44S/24E					

1599 Covington Circle East, Fort Myers, FL 33919
(239) 340-0678 bearpaws.env.consulting@gmail.com

EXHIBIT E

Master Concept Plan

S:\Jobs\2304\2304001\Documents\2304001-CPD-Master Concept Plan.dwg, 8/2/2023, 2:40:00 PM, KSTW, GONZALEZ, BANKS ENGINEERING



SITE AREA:	
MAIN LAND PARCEL:	8.77± AC
ISLAND CONSERVATION EASEMENT:	1.12± AC
MAN-MADE BASIN:	0.89± AC
TOTAL SITE AREA FOR OPEN SPACE:	
10.78± AC	
ZONING BOUNDARY INCLUDES 4.98± AC OF HANCOCK CREEK FOR A TOTAL ZONING BOUNDARY OF 15.76± AC	
OPEN SPACE TABLE:	
10.78± AC X 30% =	3.23± AC OPEN SPACE REQUIRED
50% INDIGENOUS:	1.62± AC INDIGENOUS OPEN SPACE REQUIRED
INDIGENOUS OPEN SPACE PROVIDED:	1.12± AC TOTAL EXISTING INDIGENOUS WETLAND ON SITE WILL BE PRESERVED
*ADDITIONAL 0.48± AC INDIGENOUS WETLAND WITHIN CREEK NOT INCLUDED	
OTHER OPEN SPACE PROVIDED:	MINIMUM 2.11 AC
TOTAL OPEN SPACE PROVIDED:	MINIMUM 3.23 AC

- NOTES:**
- EXISTING ZONING: MOODY RIVER ESTATES RPD (Z-05-048) TRACT M; MAXIMUM 200 DWELLING UNITS WITH MAXIMUM HEIGHT OF 75 FEET, BOAT RAMP AND MULTI-SLIP DOCKING FACILITY
 - SUBJECT PROPERTY IS A WESTERN 15.76± AC OF TRACT M (10.78± AC WITHOUT HANCOCK CREEK)
 - PARCEL 10-44-24-00-01044.0000 EASTERN 3.63± AC OF TRACT M NOT INCLUDED IN REQUEST
 - REQUEST TO AMEND EXISTING RPD/CPD TO REZONE WESTERN 15.76± AC OF TRACT M FROM RPD TO REPLACE PREVIOUSLY APPROVED RESIDENTIAL WITH HOME FRONT HEROES MINOR COMMERCIAL PLANNED DEVELOPMENT TO ALLOW A MAXIMUM 50,000 SF OF COMMERCIAL USE INCLUDING UP TO 4 CARETAKER'S RESIDENCES/MULTI-FAMILY UNITS WITH ACCESSORY MULTI-PURPOSE OUTDOOR RECREATION AREA, EXISTING BOAT RAMPS AND PRIVATE MULTI-SLIP DOCKING FACILITY WITH MAXIMUM 20 SLIPS (10 WET AND 10 BOAT TRAILER PARKING), WITH A MAXIMUM HEIGHT OF 45'.
 - SEE PHASING PLAN
 - SHARED FACILITIES WITH OTHER NON-PROFIT AGENCIES

PREPARED FOR:
HOME FRONT HEROES INC.
14750 SIX MILE CYPRESS PARKWAY
FORT MYERS, FL 33912

ALL ELEVATIONS ON CIVIL ENGINEERING PLANS REFERENCE: NAVD 1986			
02	08-01-24	INSUFFICIENCY RESPONSE	KG
01	5-8-2024	INSUFFICIENCY RESPONSE	KG
NO.	DATE	REVISION DESCRIPTION	BY

BANKS ENGINEERING
Professional Engineers, Planners, & Land Surveyors
Serving The State Of Florida
10511 SIX MILE CYPRESS PKWY, STE. 101
FORT MYERS, FLORIDA 33966
PHONE: (239) 939-5490 FAX: (239) 939-2523
ENGINEERING LICENSE # EB 6469
SURVEY LICENSE # LB 6690
WWW.BANKSENG.COM

MASTER CONCEPT PLAN					
HOME FRONT HEROES MINOR CPD					
LEE COUNTY, FLORIDA					
COMPLETION DATE:	PROJECT:	DRAFTED BY:	DESIGNED BY:	REVIEWED BY:	SCALE:
10/24/2023	2506HFH	KG	KG	SWM	AS NOTED
SHEET:					02 OF 02

**EMERALD LAKES
BALD EAGLE MANAGEMENT PLAN
FOR BALD EAGLE NEST LE-137
LEE COUNTY, FLORIDA**

Revised August 2024

Prepared For:

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10541 Six Mile Cypress Parkway
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Prepared By:

Passarella & Associates, Inc.
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1.0 INTRODUCTION

This Bald Eagle Management Plan (BEMP) has been prepared for Bald Eagle (*Haliaeetus leucocephalus*) Nest LE-137, located within Emerald Lakes (Project). The Project site is located in Sections 9 and 10, Township 43 South, Range 24 East, Lee County (Exhibit 1). The Project site totals 132.30± acres and is located on the east side of Tamiami Trail (U.S. 41), approximately two miles north of Del Prado Boulevard North and 3.8 miles south of Zemel Road. The majority of the southern property boundary abuts single-family homes within the Tara Woods planned development. Undeveloped land, single-family homes, and conservation areas of the Magnolia Landing planned development abut the property to the north and east. Publicly owned conservation land is situated near the Project site, including the Lee County 20/20 Prairie Pines Preserve to the east and south and the Yucca Pens Unit State Wildlife Area to the west (Exhibit 2).

The proposed Project consists of a single-family residential planned development with associated infrastructure and a surface water management system. Environmental permits have been issued for the Project including South Florida Water Management District (SFWMD) Environmental Resource Permit (ERP) No. 36-08474-P and U.S. Army Corps of Engineers (Corps) Permit No. SAJ-2007-03087 (SP-MLB). To date, no site development activities related to the active SFWMD and/or Corps permits have been initiated. Construction of the Project is anticipated to commence in late 2024 and will continue for a period of no more than five years. However, construction is contingent upon receiving an Incidental Take Permit (ITP) from the U.S. Fish and Wildlife Service (USFWS) for Bald Eagle Nest LE-137.

This BEMP is proposed as part of the Project and is intended to facilitate construction and preserve restoration activities on the site while providing sufficient measures to minimize the potential for adverse impacts to nesting bald eagles that could occur as a result of the proposed activities. A description of Nest LE-137 and a summary of the proposed minimization measures is provided below.

2.0 EXISTING SITE CONDITIONS

The Project site is currently an agricultural property utilized for hay production. As such, agricultural activities such as tractor operation, plowing, and hay baling have historically occurred closer than 100 feet from Nest LE-137. Lands within the immediate vicinity of Nest-137, and within the 330-foot and 660-foot buffer zones, were deforested in 2005 and 2006, but currently remain in active hay productions. The 330- and 660-foot buffer zones are depicted on Exhibit 3.

Since the Project is in active hay production, the site is dominated by limpograss (*Hemarthria altissima*) fields, with scattered pockets of upland forest and freshwater marsh wetlands. The native vegetation areas contain various degrees of exotic vegetation including, but not limited to, limpograss, melaleuca (*Melaleuca quinquenervia*), torpedograss (*Panicum repens*), earleaf acacia (*Acacia auriculiformis*), and downy rose myrtle (*Rhodomyrtus tomentosa*).

3.0 BALD EAGLE BIOLOGY AND PROTECTION

The following information on the biology of the bald eagle is excerpted from the South Florida Multi-Species Recovery Plan (USFWS 1999).

Bald eagles are considered a water-dependent species typically found near estuaries, large lakes, reservoirs, major rivers, and some seacoast habitats (Robards and King 1966, King *et al.* 1972, Weekes 1974, Whitfield *et al.* 1974, Gerrard *et al.* 1975, Grier 1977, Anthony and Isaacs 1989, Wood *et al.* 1989). Their distribution is influenced by the availability of suitable nest and perch sites near large, open water bodies, typically with high amounts of water-to-land edge. Bald eagles demonstrate a remarkable ability to tolerate perturbations to their habitat throughout their range.

Their adaptability to a variety of habitat conditions makes generalizations about habitat requirements and nesting behavior difficult. Though variable, eagles have basic habitat requirements that must be met in order to successfully reproduce and survive during the winter or non-nesting season. Florida bald eagle nests are constructed in dominant or co-dominant living pines (*Pinus* spp.) or bald cypress (*Taxodium distichum*) and are often located in the ecotone between forest and marsh or water (McEwan and Hirth 1979). Approximately ten percent of eagle nests are located in dead pine trees, while two to three percent occur in other species such as Australian pine (*Casuarina equisetifolia*) and live oak (*Quercus virginiana*). The stature of nest trees decreases from north to south (Wood 1987, Wood *et al.* 1989), and in extreme Southwest Florida, eagles nest in black mangroves (*Avicennia germinans*) and red mangroves (*Rhizophora mangle*), half of which are snags (Curnutt and Robertson 1994). Nest trees in South Florida are smaller and shorter than reported elsewhere; however, comparatively they are the largest trees available (Wood *et al.* 1989, Hardesty 1991). The small size of nest trees in South Florida relative to other nest sites throughout the eagle's range is due to the naturally smaller stature of slash pine (*P. elliotii*), loblolly pine (*P. taeda*), longleaf pine (*P. palustris*), and sand pine (*P. clausa*) in South Florida and to the lack of pines in extreme Southern Florida.

Bald eagles are monogamous and annual courtship behavior reinforces pair bonds (Palmer 1988). Pair bond formation includes dramatic pursuit flights, high soaring, talon locking, and cartwheeling (Johnsgard 1990). Eagles may also fly around the perimeter of their nesting areas, visually communicating their presence and further establishing their territories. Pair bond behavior, as well as territory establishment and defense, probably occur concurrently throughout much of the eagle's range. Successful pair bonding ultimately leads to nest-site selection and nest construction for newly formed pairs or established pairs without nests. Pairs that have previously nested may repair established nests or construct an alternate nest concurrent with copulation.

Nesting activities generally begin in early September in South Florida, with egg-laying occurring as early as late October and peaking in the latter part of December. Incubation may be initiated from as early as October through as late as March, depending upon latitude. Clutches usually consist of one or two eggs, but occasionally three or four are laid. Incubation takes approximately 35 days and fledging occurs within 10 to 12 weeks of hatching. Parental care may extend 4 to 6 weeks after fledging, even though young eagles are fully developed and may not remain at the nest after fledging (USFWS 1989).

The Florida Fish and Wildlife Conservation Commission (FWCC) documented 88 active bald eagle nesting territories in Florida during their initial surveys of this species in 1973; by 1987, that number had increased to 391 active territories when the USFWS implemented the Habitat Management Guidelines for the Bald Eagle in the Southeast Region (Guidelines) (USFWS 1987). By 1999, the 1,000-breeding pair recovery goal for Florida had been achieved and had increased to 1,511 breeding pairs (Brush *et al.* 2012) by 2012. Peterson and Robertson (1978) reported that historic numbers of breeding pairs of bald eagles in Florida were likely “in excess of 1,000 breeding pairs.”

The bald eagle was a federally and state listed “threatened” species that had been protected since the mid-1970s under the Endangered Species Act of 1973 and Chapter 68A-27.004, Florida Administrative Code. Management and recovery efforts for the species generally have included actions to improve reproductive success and survival by 1) reducing levels of persistent organochlorine pesticides, such as Dichlorodiphenyltrichloroethane (i.e., DDT), occurring in the environment; and 2) habitat protection. Habitat protection measures in Florida primarily have focused on the protection of nesting territories through the implementation of the 1987 Guidelines. Recovery goals for the bald eagle have been achieved as a result of these and related management actions throughout the United States, and the USFWS subsequently published a proposed rule in July 1999 to remove the bald eagle in the lower 48 states from the list of Threatened or Endangered wildlife. The bald eagle was subsequently delisted by the federal government in August 2007 and by the State of Florida in April 2008. The Bald and Golden Eagle Protection Act and Migratory Bird Treaty Act provide continued federal protection for bald eagles. State Rule 68A-16.002 establishes rules for the continued protection and conservation of eagles in Florida.

4.0 DESCRIPTION OF LE-137

4.1 Location and Landscape Information

Nest LE-137 is located in the eastern portion of the Project site in a live slash pine tree, approximately 55 feet tall. Specifically, Nest LE-137 is located approximately 400 feet south of the northern property boundary, and approximately 600 feet west of the eastern property boundary (Exhibit 3). The nest is established near the top of the tree approximately 45 feet above ground. The nest tree is surrounded by a patch of pine flatwoods, approximately 100 feet wide. Surrounding this remnant patch of pine flatwoods are upland agriculture fields utilized for limpoglass hay production.

The surrounding land uses include Magnolia Landing to the north, a permitted residential development with associated conservation lands. From 2022 to present, construction of single-family homes has been occurring within 750 feet northeast of Nest-137. Immediately south of the Project is Tara Woods, a high-density residential development. Undeveloped forested lands border the Project site to the east and west. Further west is U.S. 41, Pine Lakes residential development, Sun Seekers R.V. Park, and Lake Fairways residential development. Vast conservation lands are located in the near vicinity of the Project, including Lee County 20/20 Prairie Pines Preserve to the east, Yucca Pens Unit

State Wildlife Area to the northwest, and Magnolia Landing conservation areas to the north. The surrounding land uses are identified and depicted on Exhibit 2.

The surrounding conservation lands contain an abundance of trees that could potentially be utilized for perching and/or nesting by bald eagles. In addition, the Project's on-site preserve areas and conservation areas abutting the Project site contain trees that could be utilized for perching.

4.2 Nesting History and Observations

Nest LE-137 was first documented by the Audubon Center for Birds of Prey (2024) and is believed to have been constructed during the 2022 through 2023 nesting season; however, the exact time period is unknown. Observations of Nest LE-137 were first conducted by Passarella & Associates, Inc. (PAI) on January 25, 2024. Two adult bald eagles and two chicks were observed in Nest LE-137 at that time.

Additional observations were conducted by PAI on February 19 and April 19, 2024. During the February 19, 2024 observations, two adult bald eagles and two unfledged eaglets were observed utilizing Nest LE-137 and the nest tree. One adult bald eagle displayed territorial behavior when it chased a third adult bald eagle out of the nesting area. During the April 19, 2024 observations, Nest LE-137 was absent from the tree and stick debris was observed at the base of the nest tree. It is suspected that the nest was blown out of the tree from a storm event that occurred earlier in April 2024.

Successful fledging of the eaglets was not confirmed by PAI for the 2023-2024 nesting season. However, per a conversation between PAI and the Project hay farmer, at least one eaglet fledged the nest. Additionally, a juvenile bald eagle was observed soaring in the vicinity of Nest Tree LE-137 during the April 19, 2024 observations. Thus, it appears that successful fledging had occurred prior to the nest being destroyed.

Photographs of Nest LE-137 taken on January 25, 2024 and April 19, 2024 are included as Exhibit 4.

5.0 PROPOSED SITE PLAN AND EAGLE PROTECTION ZONES

The USFWS and FWCC recognize 330- and 660-foot protection zones around an active eagle nest. Additionally, Lee County's Eagle Ordinance (08-25) states that no construction (structures or site work) may occur within 660 feet of an eagle nest without an approved BEMP.

The Project's site plan consists of a residential planned development with associated infrastructure, stormwater management system, and amenities. As stated in Section 1.0, SFWMD and Corps permits have been issued for the Project. Nest LE-137 is approximately 60 feet from the residential lot lines per the site plan approved by the SFWMD and the Corps. The proposed site plan includes a modification to the permitted plan to provide a minimum 100-foot buffer between Nest LE-137 and the development footprint (Exhibit 3).

Although the eagle nest is located within an area proposed for preservation, the 330-foot and 660-foot buffer zones overlap a portion of the permitted development area (Exhibit 3). Additionally, there is no visual buffer between the nest and the construction footprint. Thus, there is a risk of disturbance to the eagles upon commencement of construction activities. To minimize impact to bald eagles to the extent practicable, the applicant has committed to providing protection measures for Nest LE-137 which includes monitoring and limitations on construction activities. The specific protection measures are provided in Section 6.0. Given the proposed protection measures, impacts to bald eagles due to Project-related activities is anticipated to be relatively low.

6.0 PROPOSED EAGLE MANAGEMENT PLAN

This BEMP is proposed as part of the Project and is intended to facilitate the construction of the Project, while providing sufficient measures to minimize the potential for adverse impacts to nesting bald eagles that could occur as a result of the proposed activities. As a management instrument, the BEMP is only applicable to the Project. It is the responsibility of the property owner to retain and implement this plan for as long as it is required, including educating others (e.g., contractors, future owners, tenants, etc.) about the specific requirements of this BEMP and the state and federal eagle protection laws. Any amendment to this management plan shall require review and approval by Lee County's Eagle Technical Advisory Committee (ETAC) or any successor body.

6.1 Bald Eagle Protection Measures for Nest LE-137

Specific elements of the BEMP are as follows:

1. No development (buildings, structures, utilities, lakes, and roads) shall occur within 330 feet of an active bald eagle nest without receipt of an ITP from the USFWS.
2. Infrastructure (e.g., grading, clearing, filling, paving, laying foundation, guttering; installation of underground utilities, street lighting, excavation; and installation of stormwater management facilities, etc.) that will be constructed within 660 feet of the nest tree shall be installed during the non-nesting season (i.e., May 16 through September 30). Construction may commence sooner in a given nesting season if Nest LE-137 is inactive or if confirmation of fledging occurs prior to May 16. In either case, the applicant will coordinate with Lee County Department of Community Development staff and ETAC prior to commencing construction within 660 feet of the nest. Infrastructure installation within 660 feet of the nest will be initiated early during the non-nesting season (i.e., May 16 through July 31) wherever possible. Any portion of infrastructure installation within 660 feet of the nest that extends into nesting season (i.e., October 1 through May 15) and/or at such time that the nests are active (e.g., courtship, nest tending, egg-laying, incubation, and brooding and/or the fledging of the young is occurring) shall be accomplished in accordance with the provisions of the Bald Eagle Monitoring Guidelines (USFWS 2007).

3. A minimum 100-foot undisturbed buffer will be maintained around Nest LE-137. This includes no development or structures within 100 feet of Nest LE-137.
4. Interior and finish construction (e.g., electrical, dry wall, carpeting, landscaping, exterior painting, placement of paving, etc.) may occur during the non-nesting season as needed without monitoring.
5. Vertical construction (e.g., framing, laying foundation, siding, windows, roofing, etc.) and heavy construction (e.g., grading, pouring concrete (including driveways), painting other than by hand, etc.) occurring between 330 feet to 660 feet of the nest during an active nesting season shall be accomplished in accordance with provisions of the Bald Eagle Monitoring Guidelines (USFWS 2007). No heavy, vertical, or finish construction shall be conducted within 330 feet of a bald eagle nest during the nesting season or when the nest is in use (e.g., courtship, nest tending, egg-laying, incubation, and brooding and/or the fledging of the young is occurring). "Nest in-use" generally refers to the bald eagle nesting season (October 1 – May 15), but use may occur earlier if nesting is initiated prior to October 1 and may end earlier or later than May 15, depending upon the date of successful fledging of young or documented nest failure.
6. A native vegetation buffer that includes slash pine will be provided along the eastern boundary of the Project's development limit (Exhibit 3). This will include a minimum of five trees per 100 linear feet and a double-staggered hedge row. Cabbage palm (*Sabal palmetto*) trees may be utilized at a ratio of 2 to 1 but will not constitute more than 50 percent of the total native tree plantings. If utilized, cabbage palms will be clustered and not evenly spaced.
7. Preserve restoration activities (e.g., exotic removal and treatment, supplemental plantings, etc.) within 330 feet of Nest LE-137 will be conducted in the bald eagle non-nesting season.
8. Stormwater ponds within 660 feet of the Nest LE-137 will be constructed in the bald eagle non-nesting season.
9. The development will be phased to the extent practicable, starting west and moving east, to allow nesting bald eagles time to acclimate to the development activities.
10. Completion of the Project will provide 31.40± acres of enhanced and restored conservation area which could be utilized for nesting and foraging by bald eagles. The enhancement and restoration activities include exotic vegetation removal and installation of native supplemental plantings.
11. The applicant will monitor Nest LE-137 in accordance with the USFWS's 2007 Bald Eagle Monitoring Guidelines during the bald eagle nesting season (i.e., October 1 through May 15) for Project activities, including construction and

preserve restoration and maintenance activities, occurring within 660 feet of Nest LE-137.

7.0 REFERENCES

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- Wood, P.B. 1987. Distribution, ownership status, and habitat characteristics of bald eagle nest sites in Florida. Final report Nongame Wildlife Project 85-020, Florida Game and Fresh Water Fish Commission; Tallahassee, Florida.

EXHIBIT 1

PROJECT LOCATION MAP

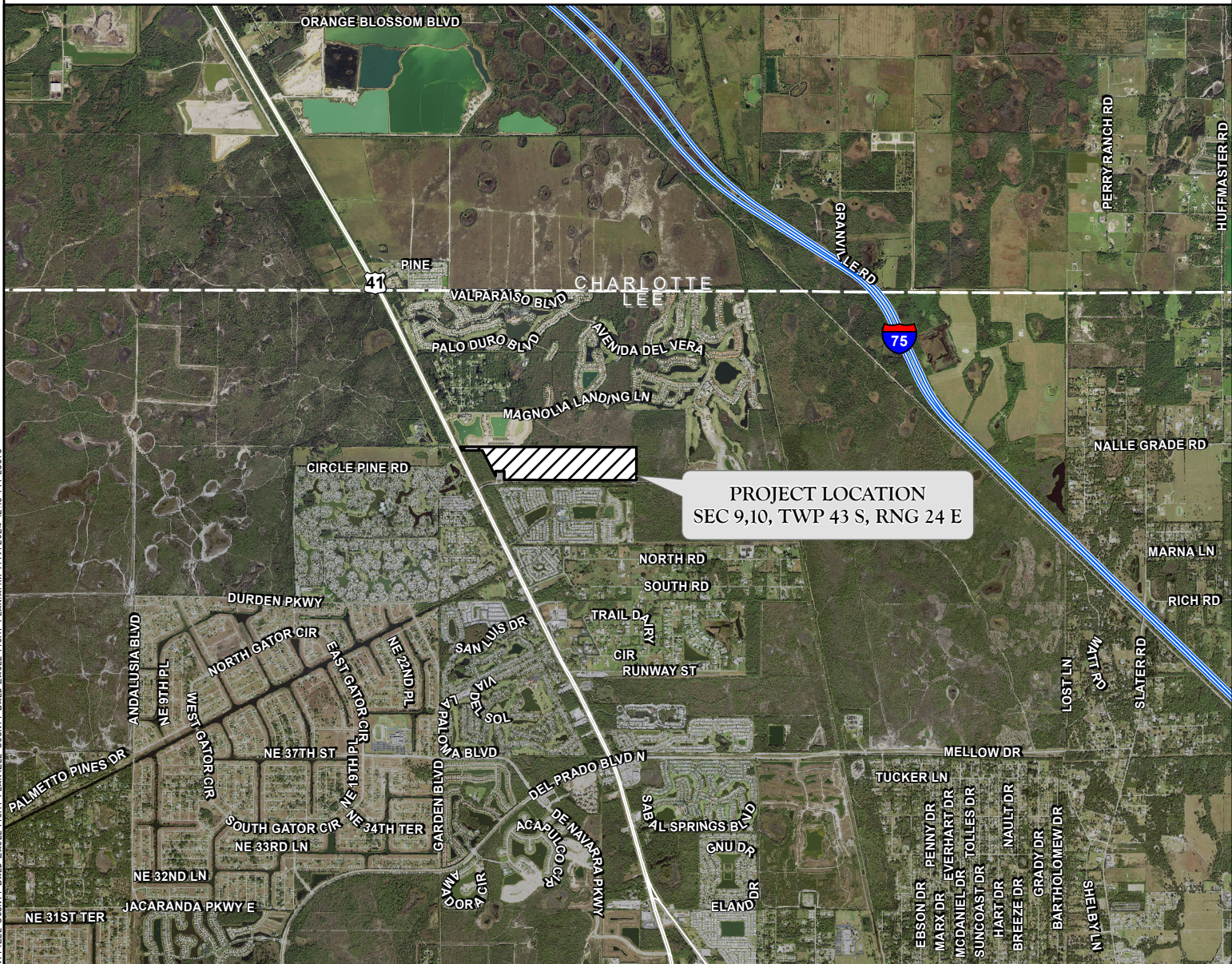
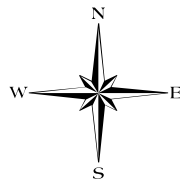
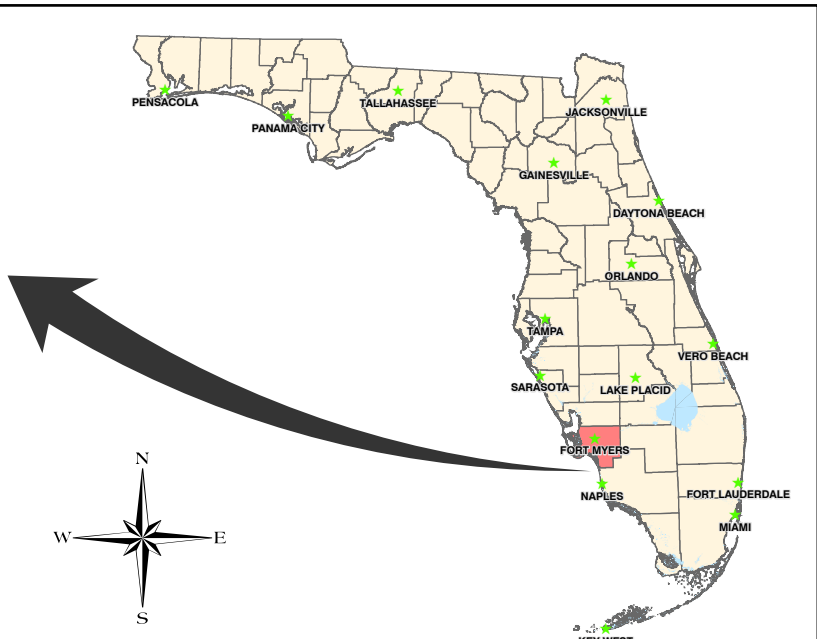
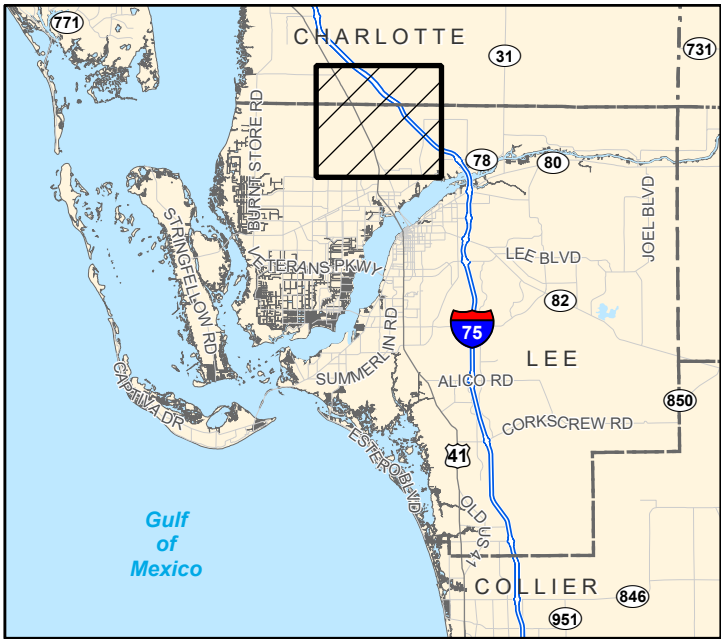


EXHIBIT 1. PROJECT LOCATION MAP
EMERALD LAKES

DRAWN BY	DATE
H.H.	2/6/24
REVIEWED BY	DATE
J.S.	2/6/24
REVISED	DATE



PASSARELLA
& ASSOCIATES INC.

EXHIBIT 2

AERIAL WITH EXISTING CONSERVATION LANDS

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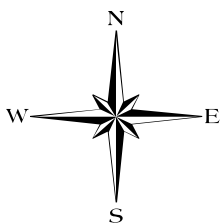



LEGEND

 EMERALD LAKES

 EMERALD LAKES CONSERVATION AREA

 EXISTING CONSERVATION LAND


N
W E
S


0 1,000 2,000
Feet

NOTES:

AERIAL PHOTOGRAPHS WERE ACQUIRED THROUGH THE LEE COUNTY PROPERTY APPRAISER'S OFFICE WITH A FLIGHT DATE OF JANUARY 2023.

PROPERTY BOUNDARY AND CONSERVATION AREAS PER BARRACO AND ASSOCIATES, INC. DRAWING No. 23933A00 2024-03-15.DWG DATED MARCH 20, 2024.

FLORIDA MANAGED AREAS WERE ACQUIRED FROM THE FLORIDA NATURAL AREAS INVENTORY WEBSITE ON OCTOBER 2023.

LEE 2020 WAS ACQUIRED FROM THE LEE COUNTY GIS WEBSITE ON OCTOBER 2023.

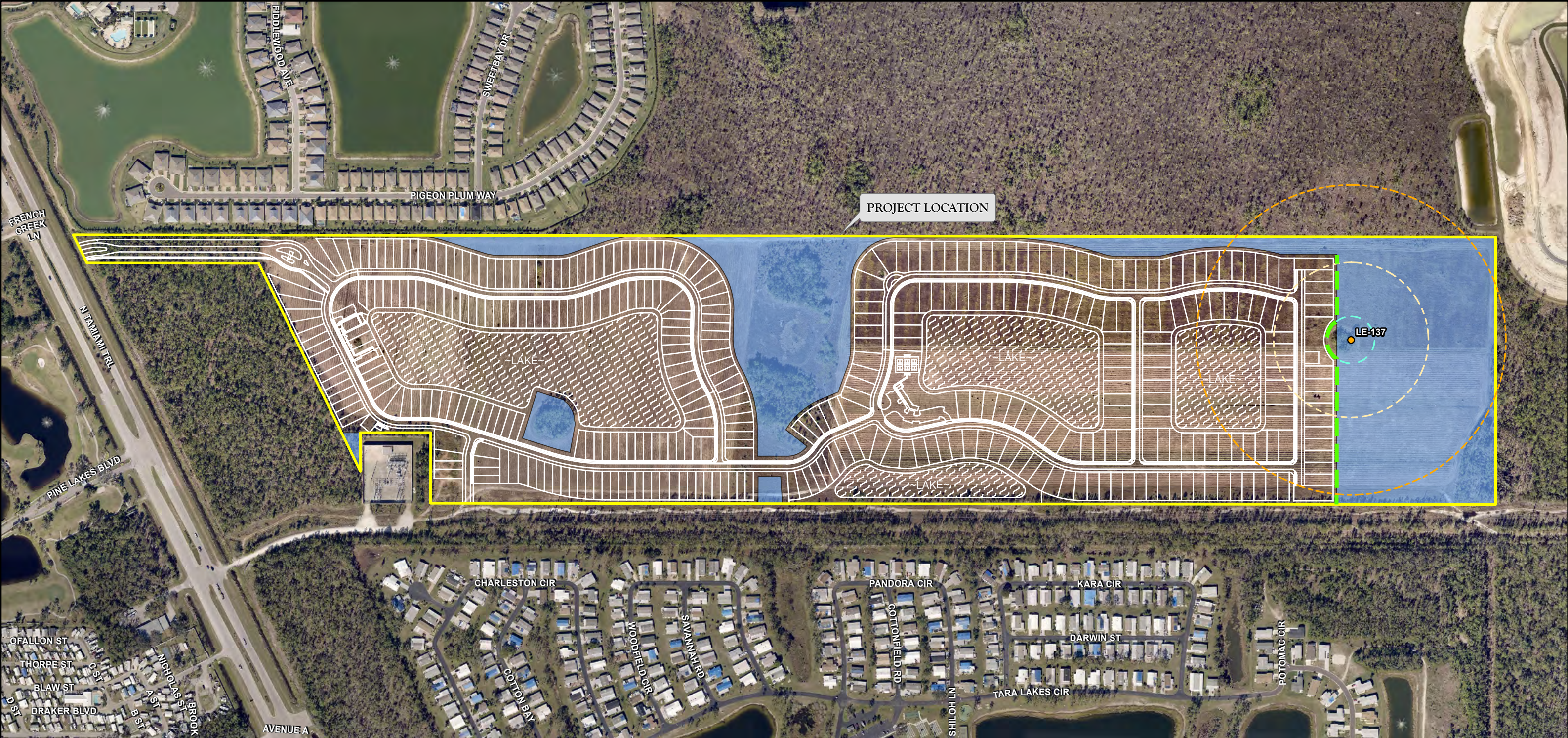
SFWMD CONSERVATION EASEMENTS WERE ACQUIRED FROM THE SFWMD WEBSITE ON OCTOBER 2023.

REVISIONS	DATE	DRAWN BY	DATE	13620 Metropolis Avenue Suite 200 Ft. Myers, FL 33912 Phone (239) 274-0067 Fax (239) 274-0069		EMERALD LAKES AERIAL WITH EXISTING CONSERVATION LANDS	DRAWING No.
		R.F.	03/22/24				24DRH4150
		DESIGNED BY	DATE				SHEET No.
		J.S.	03/22/24				EXHIBIT 2
		REVIEWED BY	DATE				
		S.J.	03/22/24				

EXHIBIT 3

AERIAL WITH SITE PLAN AND PRESERVE AREAS

J:\2024\24DRH4150\COUNTY\LEE COUNTY BALD EAGLE MGMT PLAN\LEE COUNTY BALD EAGLE MGMT PLAN\APR 8/13/2024 3:49 PM LUCYC



LEGEND

EMERALD LAKES

PRESERVE AREA (31.40 AC. ±)

LE-I37 BALD EAGLE NEST

100 FT. BUFFER

330 FT. BUFFER

660 FT. BUFFER

VEGETATED BUFFER

0200400
Feet

NOTES:

AERIAL PHOTOGRAPHS WERE ACQUIRED THROUGH THE LEE COUNTY PROPERTY APPRAISER'S OFFICE WITH A FLIGHT DATE OF JANUARY 2023.

PROPERTY BOUNDARY AND SITE PLAN PER BARRACO AND ASSOCIATES, INC. DRAWING No. 23933A00 2024-03-15.DWG DATED MARCH 20, 2024.

BALD EAGLE NEST LOCATION PER BARRACO AND ASSOCIATES, INC. DRAWING No. 23933A00 2024-02-23. DWG DATED FEBRUARY 23, 2024.

REVISIONS	DATE	DRAWN BY	DATE	13620 Metropolis Avenue Suite 200 Ft. Myers, FL 33912 Phone (239) 274-0067 Fax (239) 274-0069		EMERALD LAKES AERIAL WITH SITE PLAN AND PRESERVE AREAS	DRAWING No. 24DRH4150 SHEET No. EXHIBIT 3
		R.F.	03/22/24				
		DESIGNED BY	DATE				
		J.S.	03/22/24				
		REVIEWED BY	DATE				
		S.J.	03/22/24				

EXHIBIT 4

BALD EAGLE NEST LE-137 PHOTOGRAPHS



Bald Eagle Nest LE-137, January 25, 2024



Bald Eagle Nest LE-137, April 18, 2024



Bald Eagle Nest LE-137, April 18, 2024



Fallen Stick Debris Under Bald Eagle Nest LE-137, April 18, 2024

MINUTES REPORT
EAGLE TECHNICAL ADVISORY COMMITTEE (ETAC)
Tuesday, May 14, 2024

Committee Members Present:

Edward 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

Amanda Swindle, Assistant County Attorney

Outside Consultants

Christian Casey (Atwell LLC)

Call to Order:

Ms. Hiatt, Vice Chair, called the meeting to order at 3:02 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 – Christian Casey with Atwell LLC to Present Bald Eagle Management Plan for LE-124 Park 41 Gardens DOS2007-00201

Mr. Christian Casey with Atwell LLC gave an overview of Bald Eagle Management Plan for LE-124.

Mr. Elms noted the nest on this site was abandoned. In speaking with a representative from Verizon, they stated that another carrier uses Verizon's tower. The nest was removed. The eagles did not come back this past nesting season. He asked how many years it takes before a nest is declared abandoned.

Mr. DeFilippo stated that for a nest to be considered "lost," the nest must come down due to natural causes and not rebuilt within 3 nesting seasons. For a nest to be considered "abandoned," it would have to be inactive or in disrepair for 5 or more nesting seasons. The nest on this site has several more nesting seasons before it will meet either of those definitions.

Ms. Hiatt asked for confirmation that the nest was removed by another carrier using the Tower.

Mr. Elms stated he did not have proof that it was physically removed, but the nest was in place for many years. After the last nesting season, it disappeared. He believed Ms. Sweigert was the one that initially thought it could have been removed by workmen when they were doing work on the tower.

Mr. DeFilippo stated that typically they obtain a permit from US Fish and Wildlife Service prior to removing a nest from a tower. He noted this has happened in the past with a nest that was off of Corkscrew Road.

Mr. Philpot asked if it still must wait 3 years to be considered "lost" if someone obtained a Take Permit to remove a nest.

Mr. DeFilippo stated that was correct. It still needs to wait 3 years to be considered "lost."

Mr. Philpot asked if the coordination with US Fish and Wildlife was included in the management plan.

Mr. Casey felt there was a brief mention about it.

Mr. Taminosian noted that with past plans that information is affixed.

Ms. Hiatt asked if the correspondence was via e-mail.

Mr. Casey stated it was handled by e-mail.

Mr. Philpot stated that typically that information is included in the management plan. He was not certain if it being on record today was enough.

Mr. Taminosian concurred with Mr. Philpot that this correspondence is typically included. Although there is nothing in the ordinance stating that it must be included, it was his preference that it be provided to this Board and staff, so it is part of the record.

Ms. Hiatt stated that even though this Board is requesting that information, it does not mean it will delay today's vote.

Mr. Casey agreed to provide the correspondence to Mr. DeFilippo so that it can be attached to the Management Plan.

Mr. Elms referred to Page 4, Item A. 330 Fee Zone Activities and Restrictions. It mentions the "construction of a berm." He asked if there were any plans for any type of plantings. He noted that if you construct a berm without having anything to grow there, it typically erodes quickly.

Mr. Casey stated he believed the area would be sodded, but he was not certain whether there would be any trees planted there.

Mr. Elms asked when they were planning to start construction.

Mr. Casey believed they were looking to start clearing and doing work outside of the 660 feet zone soon (a few weeks or so) once they have everything in order.

Mr. Taminosian referred to Page 4 where it says, "If the nest is not active by March 15th or as confirmed by DES, then the nesting season for Nest LE124 shall be considered over and the construction restrictions shall not apply." He asked where the date of March 15th was derived from.

Mr. DeFilippo stated he had seen a date listed in other management plans.

Mr. Philpot recommended a change in verbiage. Instead of saying “March 15th or as confirmed,” it should say “March 15th and confirmed.” This way the coordination is a requirement.

Ms. Hiatt stated this Board wants to ensure that the applicant coordinates with the Department of Environmental Sciences before they move forward but “or as confirmed” gives the leeway that it could be before March 15th.

Mr. Philpot stated it could be put in parentheses as well.

Ms. Hiatt stated she wanted to give the applicant the option of contacting the Department of Environmental Sciences before March 15th if it made good scientific sense.

Ms. Swindle stated the “and” language makes the applicant wait until March 15th. If the Board wants the applicant to have more leeway, an option would be to say, “If the nest is not active by March 15th or earlier as confirmed by the Department of Environmental Sciences.” March 15th gives a date certain versus if you want it earlier you need confirmation. She asked if the Board wanted to require confirmation after the March 15th date.

Ms. Hiatt stated the Board does want to require confirmation after the March 15th date.

Ms. Swindle stated that is where the “and” comes in. “If the nest is not active by March 15th or earlier and confirmed by the Department of Environmental Sciences....” However, since everyone understands what it means, she was not certain the language needed to be changed.

Mr. DeFilippo stated the way it is currently written is how it has been implemented in the past as staff and the applicant work together to determine if the nest is active or inactive.

Ms. Hiatt asked the Board if the language could remain as is. It’s on the record as to what this Board’s intent is. The Board agreed.

Mr. Taminosian referred to Page 4, Item A1. Jacob – A. 1. Under “330 Feet Zone Activities and Restrictions.” He asked if the language “while the nest is not active” should be added. He stated a nest can be active outside of the non-nesting season.

Mr. Philpot felt it should be conducted while the nest is not active instead of saying “during the non-nesting season.”

Ms. Swindle suggested saying “during the non-nesting season and when the nest is inactive.”

Mr. Elms concurred stating that the nest could be active before or after the specified dates.

Ms. Hiatt stated there is typically a note that says “or if nesting commences sooner or later.” This could be added in parenthesis. “...shall only be conducted during the non-nesting season (i.e. May 16th – September 30th or earlier or later if nesting is still active).

Ms. Swindle suggested it say “...shall only be conducted during the non-nesting season (i.e. May 16th – September 30th or as determined by nest activity).

The Board preferred that verbiage.

Ms. Hiatt asked for confirmation that the applicant had been onsite doing protected species surveys starting in December 2023.

Mr. Casey stated that was correct.

Ms. Hiatt asked for confirmation that they did comprehensive surveys of the entire site and did not observe eagles using the site.

Mr. Casey stated that was correct. A crew of 5 were on the property to conduct a gopher tortoise survey. The crew was 20 feet apart and touched every piece but did not see any eagle activity out there.

Ms. Hiatt asked if the property had any potential perch trees (large pine trees or cell tower like trees).

Mr. Casey stated the northwest corner has decent size trees as well as a little on the southern property line.

Ms. Hiatt asked about the preserve area.

Mr. Casey stated that information was included in the packet. He noted there was a Development Order site plan with the eagle's nest on it. The preserve runs along the southern boundary. That is the entire preserve.

Ms. Hiatt asked how large an area it was.

Mr. Casey stated the preserve is approximately 20 acres.

Ms. Hiatt stated she could not tell from the materials what the intent is for this property. She asked if they had a conceptual permit allowing them to clear, grade, fill, and excavate. She also asked if they plan to do a future phase of development or is it just going to be infrastructure and then platted lots?

Mr. Casey stated that as of now their Development Order is several years old. They can clear and put the stormwater system in. They are still working on the site plan for moving forward with building and design, but for now they only want to work under the Development Order so they can get the project started.

Ms. Hiatt asked for clarification that it was not merely a matter of lots being platted and sold off. There is a future development phase.

Mr. Casey stated that was correct.

Mr. Philpot made a motion to approve the Bald Eagle Management Plan (LE-124) for Park 41 Gardens (DOS2007-00201) with a few stipulations; 1) Coordination with the US Florida Fish and Wildlife be added to the report; 2) Page 4, Section A.1. the construction activities initiated in 330 be clarified to include that it cannot happen while the nest is active not just

during non-nesting season, seconded by Mr. Taminosian. The motion was called and passed 4-0.

Agenda Item 3 – Approval of Meeting Minutes from April 9, 2024

Mr. Elms made a motion to approve the April 9, 2024 meeting minutes, seconded by Mr. Philpot. The motion was called and passed 4-0.

Agenda Item 4 - Member Reports

Ms. Hiatt asked if Lee County staff had any reports.

Mr. DeFilippo stated he did not have anything to report. He also stated that he would put together a list of nests that meet the lost or abandoned definition for ETAC's review at an upcoming meeting. This will be done before next nesting season.

Jacob Taminosian

St. Charles Harbor (LE-002) – There was a high wind event and one of the Pine trees that was next to the nest tree blew down, but the nest tree still appears to be present. The nest was no longer intact but one of the fledglings flew and perched on the nest tree. Therefore, he considered this nest to be successful for the nesting season. Although he did not see the other chick, he assumed it fledged as well.

Yorkshire (formerly known as Robalo) (LE-069) – He believed this nest has been relocated. In April there was one chick (approximately 9-11 weeks old). This Saturday both chicks were still in the nest, but they were high above it in the branches, which makes it seem as if they were flight capable. He felt this was a successful nest for the 2023/2024 nesting season. The nesting tree is a good, strong tree and is more visible from Yorkshire.

Pub and Pickle (LE-071A) – This nest had one chick confirmed that has fledged.

Lexington Middle School (LE-105) – This nest had two chicks fledged so this nest was successful for the 2023-2024 nesting season.

Sora Drive (LE-117) – Mr. Taminosian stated he had documented incubating behavior on two different occasions and wondered if they double clutched. It is confirmed that they did and there are two chicks in the nest (approximately 5-7 weeks old). Mr. Taminosian stated he would continue monitoring this nest until the chicks fledge, which might take place in June.

Ms. Hiatt asked when he thought this pair started incubating.

Mr. Taminosian believed it was around February 24th.

Mr. DeFilippo stated he saw them in late March.

Betsie Hiatt

Little Pine Island Mitigation Bank - Ms. Hiatt stated the Little Pine Island Mitigation Bank has two historic nests. While working on a survey for the Pine Island Charities project, she could not locate the nest. However, she has seen eagles in the area.

Mr. Taminosian stated he would need to see if his company was still under contract. If so, he will monitor that nest.

Ms. Hiatt stated she had driven down to that area while working on surveys for FDOT and it looked like an adult was brooding.

Chelsey Drive in Bokeelia – Ms. Hiatt discussed this nest last month and provided an update. There are two fledged eagles, but one of them is unable to fly. It appears to have something wrong with its left wing. A volunteer from Peace River was unable to catch him. Finally, a volunteer from CROW was able to rescue the eaglet and bring it to CROW's facility. Ms. Hiatt stated she would have an update soon. Hopefully, the eaglet can be rehabilitated.

Edward Elms

Pine Island Flatwoods Trail (LE-982) – Two chicks fledged.

Galt Preserve (LE-102) – Two chicks fledged.

Helipad Nest – on chick fledged.

Ms. Hiatt stated she had two matures in her neighborhood located close to where the Bank of America nest used to be. The eagles were perched together.

Mr. Elms asked if she had slash pines on her property.

Ms. Hiatt stated there were many slash pines in her neighborhood.

Agenda Item 5 – Public Input

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

Agenda Item 6 – Adjournment – Next Tentative Meeting Date: June 11, 2024

The meeting adjourned at 3:37 p.m.

LE-18/LE-18A: Manatee Bay Nesting History**Strap Number: 26-45-22-00-00002.0020**

Year	History
01-02	Active, 2 fledglings confirmed
02-03	Active
03-04	Active
04-05	Active
05-06	Active per FWC data and Flyover
06-07	Active per FWC data and Flyover
07-08	Active per FWC data and Flyover
08-09	Active per FWC flyover
09-10	Active, 2 fledglings confirmed
10-11	Active, 2 fledgling confirmed
11-12	Active, 1 fledgling confirmed* Nest moved to the 50 yards north (LE18A)
12-13	Active, 2 fledgling confirmed
13-14	Active, 2 fledgling confirmed
14-15	Active 1, fledgling confirmed
15-16	Active 2, fledgling confirmed
16-17	Active 1, fledgling confirmed
17-18	Active 1 fledgling confirmed
18-19	Inactive, no activity observed
19-20	Inactive, no activity observed
20-21	Inactive, no activity observed

21-22	Inactive, nest and nest tree in poor condition
22-23	No nest and no activity observed
23-24	No nest and no activity observed

LE-061 Gloria & Cubles

STRAP Number: 16-44-22-05-00000.0090

Year	History
2010-2011	Active, 2 fledglings confirmed
2011-2012	Active, 1 fledgling confirmed
2012-2013	Active, 1 fledgling confirmed
2013-2014	Active, 1 fledgling confirmed
2014-2015	Inactive
2015-2016	Inactive
2016-2017	Active, 1 fledgling confirmed
2017-2018	Inactive, Nest in rough shape and no activity observed
2018-2019	Inactive, nest down and nest tree barely there
2019-2020	Inactive, nest down haven't re-nested in territory
2020-2021	Inactive, nest down haven't re-nested in territory
2021-2022	Inactive, nest down haven't re-nested in territory
2022-2023	Nest gone; no activity observed
2023-2024	Nest gone; no activity observed

LE-107: Pacosin Nest

STRAP Number: 06-44-22-08-00000.1620

Year	History
2015-2016	Active, New nest found in March 2016
2016-2017	Active, 2 fledglings confirmed
2017-2018	Active, 2 fledglings confirmed
2018-2019	Active, 1 fledging confirmed
2019-2020	Active, 2 fledglings confirmed. Nest down
2020-2021	Nest not rebuilt, 2 adults in area but no nesting activity
2021-2022	Nest gone; no activity observed
2022-2023	Nest gone; nest tree down (Hurricane Ian)
2023-2024	Nest gone and nest tree gone; no activity observed

2024-2025 Nest Assignments

YELLOW= New Nest Assignments

NEST NUMBER	NEST NAME	OBSERVER
LE-002	St. Charles Harbor	Jacob Taminosian
LE-126	Tortuga	Jacob Taminosian
LE-117	Sora Dr	Jacob Taminosian
LE-070	Jonathon Harbour	Jacob Taminosian
LE-071A	Pub and Pickle	Jacob Taminosian
LE-105	Lexington Middle	Jacob Taminosian
LE-069A	Yorkshire Lane	Jacob Taminosian
LE-137	Waterman Farms	Jacob Taminosian

NEST NUMBER	NEST NAME	OBSERVER
LE-026C	Pritchett Nest	Kyle Philpott
LE-43D	Moody River	Kyle Philpott
LE-124	Littleton Cell Tower	Kyle Philpott
LE-093	Alico Rd	Kyle Philpott
LE-128	Oriole Rd	Kyle Philpott
LE-118	Creekside Preserve	Kyle Philpott
LE-133	Twin Pine Village	Kyle Philpott
LE-045C	Sabal Springs	Kyle Philpott

NEST NUMBER	NEST NAME	OBSERVER
LE-979	Helen Road	Betsie Hiatt
LE-010	Quail Trail	Betsie Hiatt
LE-081	Pine Island Bank of America	Betsie Hiatt
LE-100	Barrancas Ave	Betsie Hiatt
LE-125	Esther Dr	Betsie Hiatt
LE-948	Chelsey Dr	Betsie Hiatt

NEST NUMBER	NEST NAME	OBSERVER
LE-20A	St. Jude	Ed Elms
LE-20B	Helipad Nest	Ed Elms
LE-53A	Vacation Lane	Ed Elms
LE-53B	5 th Street & Palm	Ed Elms
LE-102	Galt Preserve	Ed Elms
LE-112	Pine Island Flatwoods Trail	Ed Elms

NEST NUMBER	NEST NAME	OBSERVER
LE-056	Lehigh WWTP Nest	Laura Greeno
LE-114	Laredo Nest	Laura Greeno
LE-XXX	Orange River Nest	Laura Greeno
LE-938	Wild Turkey Strand	Laura Greeno
LE-901	Imperial Marsh	Laura Greeno
LE-096	Pine Island Flatwoods Preserve Bayside	Laura Greeno
LE-095	Estero Marsh Preserve	Laura Greeno
LE-XXX	Nalle Road	Laura Greeno