



**EAGLE TECHNICAL ADVISORY COMMITTEE  
Community Development/Public Works Center  
1500 Monroe Street, First Floor, Conf. Room 1A**

**THURSDAY, AUGUST 24, 2017  
3:00 pm**

1. Call to Order
2. Approval of Meeting Minutes– May 9, 2017
3. Gary Nychyk with Johnson Engineering to present Draft Bald Eagle Management Plan for LE-072 (Boca Grande)
4. Member Reports
5. Next Meeting – September 12, 2017

To appeal a decision made at this hearing, a record of the proceedings will be needed. The person appealing the decision is required to ensure that a verbatim record is made.

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# Draft

## MINUTES REPORT EAGLE TECHNICAL ADVISORY COMMITTEE (ETAC) Tuesday, May 9, 2017

### Committee Members Present:

Laura Greeno, Chairman                      Betsie Hiatt, Vice Chairman  
Ed Elms    Mike Myers

### Lee County Government & Representatives Present:

Becky Sweigert, DCD Planning, Principal Environmental Planner

### Introduction

Ms. Laura Greeno called the meeting to order at 3:02 p.m. in the second floor conference room 2C of the Community Development/Public Works Center, 1500 Monroe Street, 2nd Floor, Ft. Myers, Florida.

### Approval of Minutes – April 11, 2017

Ms. Hiatt said in her nest report the street name Pacoson should be corrected to say Pacosin, and the word next should be changed to nest. Mr. Elms made a motion to approve the minutes with the changes. Mr. Myers seconded. The motion carried unanimously.

### Members Reports

Mr. Elms said gave his nest updates:

**Donald Road (Bayshore)** - 1 young fledged

Mr. Elms gave Cindy Bear's St. James City eagles nest updates:

He said this report is part observation and part talking to Laura before the meeting.

**Galt Preserve** –fledged 2 and he saw one in the area on May 5<sup>th</sup>.

**Vacation Lane** - fledged 2 and 3 weeks ago they were in a Northfork pine about 200 yards from the nest. He said the nest is now nonexistent.

**St. Jude** – no activity the whole season.

**Manatee Bay** – 1 fledged and he saw one on May 5<sup>th</sup> in the sky several hundred yards from the nest.

**Post Office** – He said Laura told him that the young eagle had fledged.

Mr. Myers gave his nest updates:

He said there's no fledgling number difference than last reported but the **Lexington Middle School** nest is down.

### Discuss FWC Bald Eagle Rule 68A-16.002 Update

Ms. Sweigert said on April 20<sup>th</sup> the FWC did direct staff to go ahead and make the rule change without comment or much discussion. On May 5<sup>th</sup> they published the rule in the Florida Administrative Codes as we had seen it, basically removing the reference for the

# Draft

permitting framework, removing the reference to the Bald Eagle Management Guidelines, and they'll still have the law enforcement but it's pretty shortchanged. This will be effective May 26<sup>th</sup> if there are no challenges or oppositions, which means they will no longer be issuing any permits. She said right now they're working on the Species Action Plan, which is the next step, and we'll hear about it either the week of the 15<sup>th</sup> or the week of the 22<sup>nd</sup> of May. Their goal is still to have it in place by October 1<sup>st</sup> of this year. She said ETAC will probably meet in June to review the plan.

Ms. Sweigert said the FWC has updated their website with an eagle permit website with links to the Federal information on permitting, which are still required. She said right now there is nothing that requires an update to our ordinance because our ordinance isn't focused on getting a permit, but on utilizing the guidelines and the State's management plan, which will now be the Species Action Plan as guidelines to help us find the best possible solution for management plans. She said the Species Action Plan is where we'll have some interest. Some discussion followed about possible changes. Ms. Sweigert said she would email the link and the register and the contact name to members.

Ms. Greeno asked if they are taking away the regulation that takes lead out of ammunition. If not we're going to see a drastic decline. She said there are parts of the county right now that are having massive die-offs of eagles because of lead in prey that have been shot and from eagles getting shot. The numbers aren't being tracked across the country, there are only localized reports, but those are adding up. Ms. Sweigert said one of the biggest arguments the state had with the federal changes is that it's based on the fly-way areas that are going to have significant falls in populations and others will still be fine. She said the other factor that worries her is the habitat lost in the uplands, the most easily accessed and developed properties. Mr. Myers said the eagle population has increased and there's been a ton of development since the turn of the century. He said he thinks they've become pretty habitualized to people and we see that. Ms. Hiatt said they definitely have on Pine Island. Mr. Helms said when DDT was outlawed in the 60s it really helped ospreys, eagles and other birds of prey.

## **ADJOURNMENT**

Ms. Greeno adjourned the meeting at 3:29 p.m.

The next meeting is tentatively scheduled for June 13, 2017.

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**Three Sisters Island Access Road**

**Bald Eagle Management Plan**

**July 2017**

*Prepared for:*

**5F, LLC**

1925 Georgia Ave  
Grove City, Florida 34224

*Prepared by:*

**JOHNSON**

**ENGINEERING**

2122 Johnson Street  
Fort Myers, Florida 33901

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## 1.0 **INTRODUCTION**

### 1.1 **BACKGROUND:**

Three Sisters Island is comprised of approximately 11.5 acres located east of the Boca Grande Isles residential community. This island is connected to Gasparilla Island by a land bridge that is approximately 50 feet wide by 400 feet long, which is covered in part by an existing public utility easement / primitive road. The easement / primitive road is proposed to be improved to provide safe vehicular access to residential lots on the island. The project is located in Section 12, Township 43 South, Range 20 East, in Lee County, Florida. More specifically, the project is located approximately 5.25 miles south of SR 775 on Gasparilla Road. A project location map is provided in **Figure 1**.

A protected species survey (PSS) of the project area was conducted in June 2015. The PSS identified one southern bald eagle (*Haliaeetus leucocephalus*) nest located in an Australian pine (*Casuarina equisetifolia*) on the southern tip of Three Sisters Island. The nest is located approximately 230 feet from the closest proposed construction activities.

Southern bald eagles have been delisted by FWS and FWC, but are afforded protection under the Bald and Golden Eagle Protection Act (BGEPA) and Migratory Bird Treaty Act (MBTA). Additionally, Article II Division 3 of the LDC offers protection to southern bald eagles and their nest.

This management plan is meant to provide appropriate protection measures to the eagle nest to ensure that construction activities do not disturb bald eagles or their young during the nesting season.

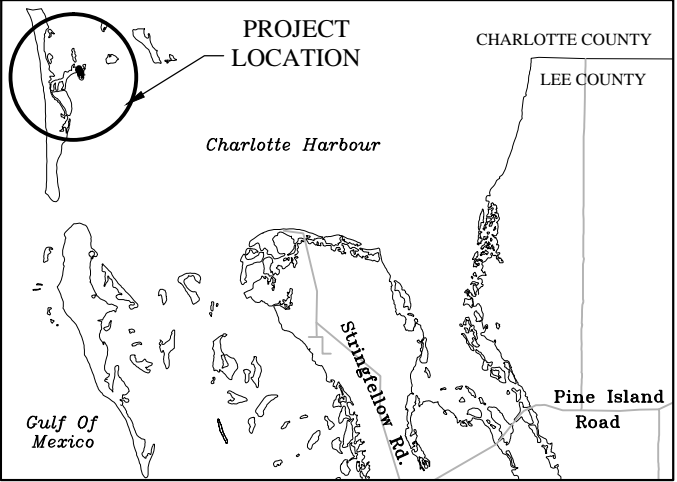
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**STATE OF FLORIDA**



**PROJECT LOCATION**



**STREET MAP**  
N.T.S.



**VICINITY AERIAL**  
N.T.S.

**NOTES:**  
These Drawings are for Permitting Purposes only and are NOT intended for construction use.

**LEE COUNTY**  
N.T.S.

SEC 14 - TSP 43 - RGE 20

**THREE SISTERS ISLAND  
ACCESS WAY  
LEE COUNTY, FLORIDA**



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**LOCATION MAP**

DATE	PROJECT NO.	FILE NO.	SCALE	SHEET
JULY 2015	20150043-002	12-43-20	N.T.S.	1

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## 1.2 Literature Review:

This management plan includes a review of available literature, GIS data and online resources for bald eagles including the following:

- FWC Online Bald Eagle Nest Locator (2017)
- FWC Bald Eagle Management Plan (2008)
- FWS Bald Eagle Monitoring Guidelines (2007)
- Lee County Land Development Code online (2008)

Research of the FWC Eagle Nest Locator indicates that there are two southern bald eagle nests within one mile of the proposed development. FWC has designated the nest on Three Sisters Island as Nest LE-072. Nest LE-025 is the next closest documented bald eagle nest and is located approximately 0.60 miles north of the project site. Lee County Planning Section staff indicates that eagle nest LE-025 was constructed on an artificial platform on Hoagen Key, and that its occupants likely moved when it was damaged by hurricanes. LE-025 was last documented as active in 2004.

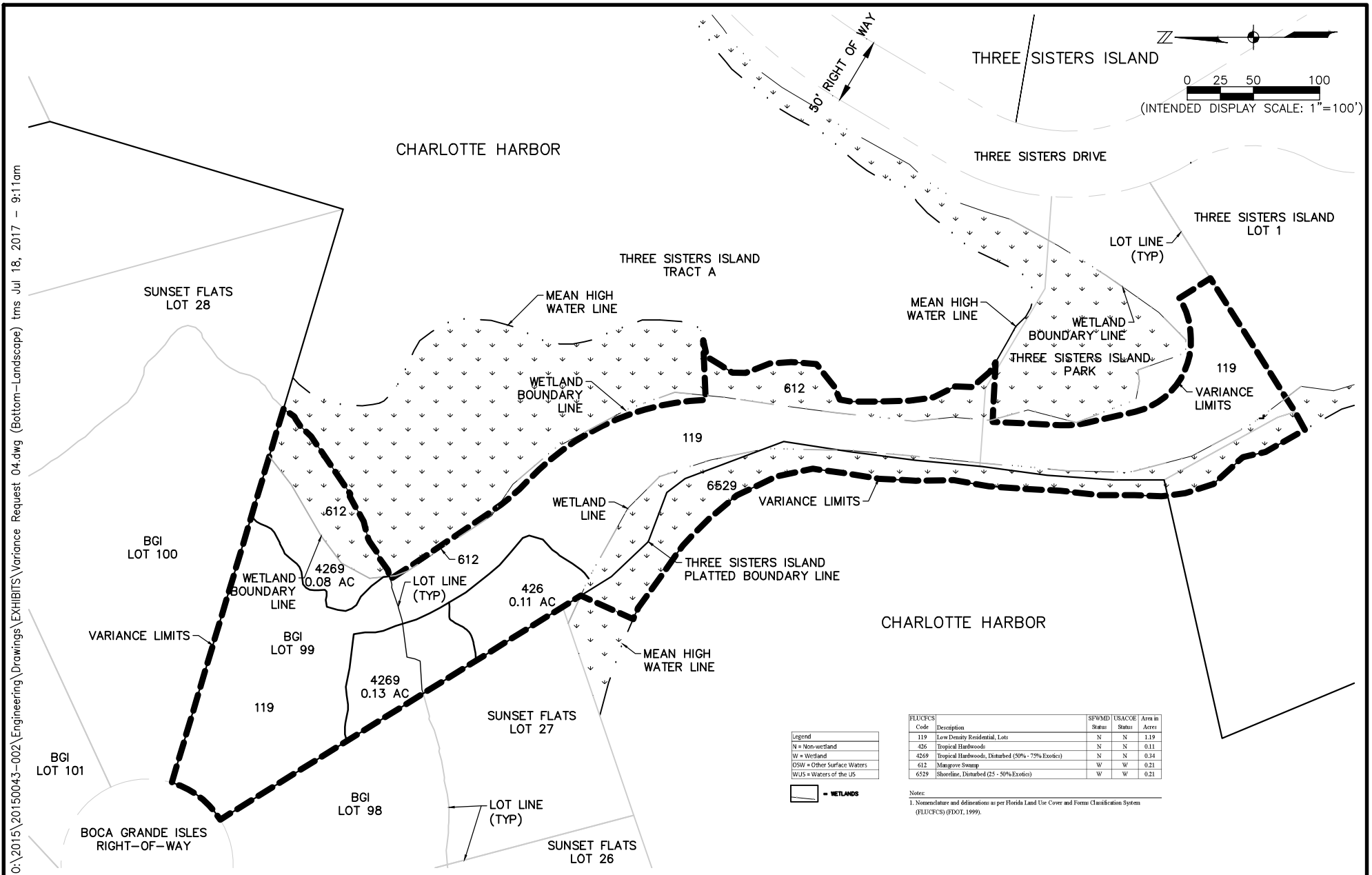
## 2.0 EXISTING CONDITIONS

Habitat types were classified based on the Florida Land Use, Cover and Forms Classification System, Level IV (FLUCFCS) [Florida Department of Transportation (FDOT) 1999].

**Figure 2** provides the resulting FLUCFCS map. The approximate acreages and descriptions for the FLUCFCS Codes can be found in **Table 2-1** below.



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FLUCFCS Code	Description	SFWMID Status	USACOE Status	Area in Acres
119	Low Density Residential, Lots	N	N	1.19
426	Tropical Hardwoods	N	N	0.11
4269	Tropical Hardwoods, Disturbed (50% - 75% Exotic)	N	N	0.34
612	Mangrove Swamp	W	W	0.21
6529	Shoreline, Disturbed (25 - 50% Exotic)	W	W	0.21

Legend	
N	Non-wetland
W	Wetland
OSW	Other Surface Waters
WUS	Waters of the US

= WETLANDS

Note:  
1. Nomenclature and delineations as per Florida Land Use Cover and Forms Classification System (FLUCFCS) (FDOT, 1999).

THREE SISTERS ISLAND  
ACCESSWAY  
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Figure 2

DATE	PROJECT NO.	FILE NO.	SCALE	SHEET
JUNE 2017	20150043-002	12-43-20	1" = 100'	02

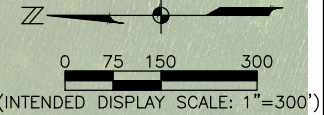
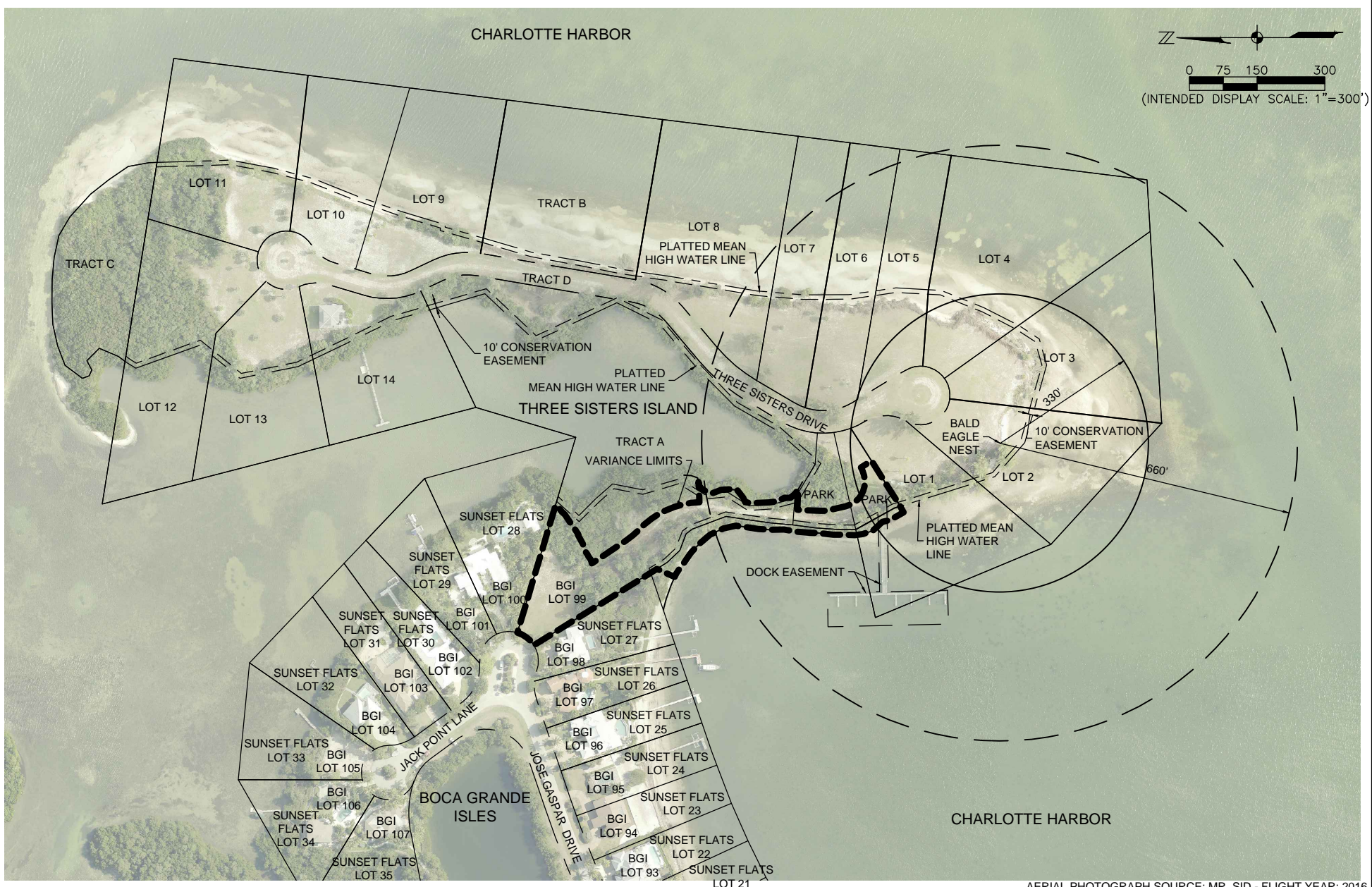
**Table 2-1. FLUCFCS Code Descriptions and Acreages.**

<b><u>FLUCFCS Code</u></b>	<b>Description</b>	<b>Approximate Acreage</b>
119	Low Density Residential (Lots)	1.19
426	Tropical Hardwoods	0.11
4269	Tropical Hardwoods, Disturbed (50 % - 75% Exotics)	0.34
612	Mangrove Swamp	0..21
6529	Shoreline, Disturbed (25% - 50% Exotics)	0.21
	<b>Total</b>	<b>1.56</b>

During a preliminary site visit on April 8, 2015, a bald eagle nest was observed in an Australian pine on Three Sisters Island. As shown in **Figure 3** the nest tree is located at the southern tip of Three Sisters Island approximately 230 feet from the proposed limits of construction. The nest is situated on the northeast side of an Australian pine immediately adjacent to the bay. Erosion around the base of the nest tree has exposed approximately 30% of its root system. During the site visit one adult eagle was observed perched in the nest tree along with two immature eagles on or near the nest. The immature eagles did not leave the nest tree and were not observed exercising flight muscles during this site visit. However, they did move about the nest tree. One adult was observed returning to the nest from the southeast with food.

During the June 30, 2015 protected species survey, two adult eagles were observed at different times flying in the area and perching in the nest tree and surrounding trees. Eagle flight patterns included leaving the nest and flying south over Charlotte Harbor and perching in adjacent Australian pine trees. No signs of immature eagles were observed, and based on their size and behavior during the preliminary site assessment, it is assumed that they successfully fledged.

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AERIAL PHOTOGRAPH SOURCE: MR. SID - FLIGHT YEAR: 2016

THREE SISTERS ISLAND  
ACCESSWAY  
LEE COUNTY, FLORIDA



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Figure 3

DATE	PROJECT NO.	FILE NO.	SCALE	SHEET
JUNE 2017	20150043-002	12-43-20	1" = 300'	01

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## **3.0 MANAGEMENT PLAN**

### **3.1 Background:**

The southern bald eagle was removed from the federal list of endangered species in August 2007 and subsequently from the state of Florida protected species list in May of 2008. A state rule to protect eagles (FAC 68A-16.002) went into effect in May 2008 resulting in the Bald Eagle Management Plan (BEMP) published by FWC in 2008. Additionally, the bald eagle is still offered federal protection by the Migratory Bird Treaty Act and the Gold and Bald Eagle Protection Act. Additionally, Lee County revised its Bald Eagle Ordinance No. 08-25 in line with the new State and Federal changes.

Currently there is a southern bald eagle nest located in an Australian pine on the southern tip of Three Sisters Island, as illustrated in **Figure 3**. The nest tree is located immediately adjacent to the waters of Charlotte Harbor and the soil beneath the nest tree has experienced significant erosion over the last few years leaving approximately 30% of the nest tree's root system exposed to air and salt spray. Additionally, the shallow lateral root systems of Australian pines make it vulnerable to toppling during high winds (Florida Exotic Pest Plant Council, [FLEPPC] Australian Pine Management Plan for Florida, 2013). The Australian pine's propensity to topple during high winds combined with the exposed roots of the nest tree due to erosion suggest that the long-term survival of this nest tree is questionable.

The nest is approximately 230' from the closest proposed improvement for the project. In accordance with Lee County's Eagle Ordinance No. 08-25, this plan is being submitted to the Lee County Eagle Technical Advisory Committee in support of the pending variance application for the improvements to the Three Sisters Island access road.

### **3.2 Protection**

The BEMP offers protection from certain land uses up to 660 feet from active and alternate bald eagle nests that may result in a "take" or disturbance of nesting bald eagles.

The BEMP classifies land use activities that may result in the “taking” of an eagle into one of nine categories (A-I) based on the nature and magnitude of the activity. The BEMP classifies building (dwelling) construction of one or two stories (with a project footprint of less than 0.5 acres), construction of roads, trails, and other linear features, alteration of shoreline, docks, water impoundments and other similar uses as a Category A activity, which is the least intensive category.

Regulation of activities that may cause a “take” of bald eagles occurs through the FWC Bald Eagle Permit (Eagle Permit). The BEMP provides minimum distances from a bald eagle nest that a Category A or B activity can occur without the need for an Eagle Permit. Activities proposed to occur closer to a nest than the distances designated here should apply for an Eagle Permit. **Table 3-1** discusses those Permit thresholds.

**Table 3-1: Eagle Permit Requirement Thresholds**

	<b>No Similar activity within 1,500 feet of the nest</b>	<b>Similar activity closer than 1,500 feet from the nest</b>
<b>There is no visual buffer between the nest and the activity</b>	Categories A and B: 660 feet.	Categories A and B: 660 feet, or as close as existing activities of similar scope.
<b>There is a visual buffer between the nest and the activity</b>	Category A: 330 feet. Site work and exterior construction between 330-660 feet should be conducted outside the nesting season unless the Bald Eagle Monitoring Guidelines (USFWS 2007d) are followed. Category B: 660 feet.	Categories A and B: 330 feet, or as close as existing activity of similar scope. Site work and exterior construction between 330-660 feet should be performed outside the nesting season.

Although the proposed road will occur approximately 230 feet from the nest, the proposed improvements will be located in the same place as the existing road. Since the proposed road improvements are an activity of similar scope to the existing road and located no closer to the nest than the existing similar activity, no Eagle Permit is required for the road improvements.

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### **3.3 Minimization Measures**

The BEMP provides minimization measures within 660 feet of bald eagle nest(s) to reduce the potential for disturbing eagles. To comply with the BEMP, the following minimization measures are adopted as part of this Management Plan for the road improvements.

1. In Florida, the bald eagle nesting season runs from October 1 – May 15. All construction and site work associated with the proposed road improvements located within 660 feet of the nest will take place outside of the bald eagle nesting season (construction allowed May 16 – September 30).
2. All construction activities associated with the roadway improvements (except those related to emergencies) are prohibited within 100 feet of an eagle nest during any time of the year.
3. The use or placement of heavy equipment within 50 feet of an eagle nest is prohibited during any time of the year.
4. Construction activities will be scheduled to commence from the north end of the project to the south where practicable so that construction proceeds from the farthest point from the nest to the closest.
5. All new exterior lighting will be shielded so that lights do not shine directly onto the nest.
6. All storm water facilities will be sited no closer than 100 feet from the eagle nest. Construction of all storm water facilities will occur between May 16 and September 30 (outside the nesting season).
7. All new utility construction will incorporate industry-approved avian-safe features.
8. All native pines within 660 feet of the nest tree will be retained for use as potential roost or nest sites.

#### **4.0 REFERENCES**

Florida Department of Transportation, State Topographic Bureau, Thematic Mapping Section, 1999. Florida Land Use, Cover and Forms Classification System. Procedure No. 550-010-001-a.

Florida Fish and Wildlife Conservation Commission. 2008. Bald Eagle Management Plan. Tallahassee, Florida.

Florida Fish and Wildlife Conservation Commission. 2017. Bald Eagle Nest Locator.  
<https://public.myfwc.com/FWRI/EagleNests/nestlocator.aspx> (Site accessed July, 2017)

US Fish and Wildlife Service. Bald Eagle Monitoring Guidelines. 2007. Washington, D.C.