

BDA
ENVIRONMENTAL CONSULTANTS

May 16, 2016
File: 2014069.401

SENT VIA ELECTRONIC MAIL

Mr. Jonathan Martin
Kimley-Horn
3660 Maguire Boulevard
Suite 200
Orlando, Florida 32803
Phone: 407-898-1511
Fax: jonathan.martin@kimley-horn.com

RE: City of Maitland, Site Plan Review
Maitland Concourse North
Orange County, Florida

Dear Mr. Martin:

As a follow-up to our Environmental Assessment report of June 2, 2015, Breedlove, Dennis & Associates, Inc. (BDA) provides updated wildlife information in support of the City of Maitland Petition for Site Plan Review or Permitted Conditional Use application, Part II, Item 13.

Gopher Tortoise (*Gopherus polyphemus*) (Candidate, USFWS; State Threatened [ST], FWC): Presence of this species on the site was noted via observations of active burrows that were documented during the field investigations. A 100% survey of all areas of suitable gopher tortoise habitat will be conducted to conclusively determine the population size and distribution of gopher tortoises currently on the site and evaluate management options available for this species. The appropriate permit from Florida Fish and Wildlife Conservation Commission (FWC) will be obtained and gopher tortoises will be relocated prior to site work.

Sand skink (*Neoseps [=Plestiodon] reynoldsi*) (T, USFWS; FT, FWC): Consultation with the U.S. Fish and Wildlife Service (USFWS) was initiated in April 2015 to determine whether surveys and/or conservation measures intended to minimize adverse effects to the species were required. BDA coordinated

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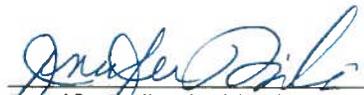
with USFWS to provide necessary data and on June 24, 2015, the USFWS provided a letter with the determination that the project development is not likely to adversely affect sand skinks.

Bald Eagle (*Haliaeetus leucocephalus*): The bald eagle is protected by the USFWS under provisions of the Bald and Golden Eagle Protection Act (BGEPA) and the Migratory Bird Treaty Act (MBTA). Bald eagle Nest OR031 is located on the project site and was last noted as active in the 2015-2016 season. The Bald Eagle Management Plan is attached as Exhibit 1.

Sherman's Fox Squirrel (*Sciurus niger shermani*) (SSC, FWC): Suitable habitat for this species will remain on-site within the shoreline restoration area buffers and within the eagle protection zones; coordination with FWC will be conducted if a nest is identified on the site.

We trust this information is suitable for your City of Maitland application. Please contact us if you need additional information or have questions.

Sincerely yours,



Jennifer L. Rosinski, Ph.D., PWS
Senior Scientist



W. Michael Dennis, Ph.D.
President

JLR/WMD/tnp

Enclosures

EXHIBIT 1

BALD EAGLE MANAGEMENT PLAN

**Bald Eagle Management Plan OR031
Maitland Concourse North
Orange County, Florida
May 16, 2016**

Introduction

The Maitland Concourse North (“MCN”, f/k/a the Maitland Concourse DRI and Maitland Concourse North Property) project is located within Section 25, Township 21 South, Range 29 East, Orange County, Florida, and between Lake Charity and Lake Hope on the north side of Maitland Boulevard (SR414) (Exhibit 1). The property for MCN encompasses approximately 96 acres. The proposed project includes a mixed-use development with multifamily residential units and commercial areas with associated stormwater ponds, parking, and infrastructure.

Pursuant to the City of Maitland approval of this project through Ordinance #1303, development of the project is conditioned upon development of a Bald Eagle Management Plan; additionally, other conditions include (1) incorporating a joint-use stormwater pond (Option 3B of the City of Maitland Ordinance #1303, a/k/a Florida Department of Transportation (FDOT) Pond 2C of the three-pond Option 3B system) to support both the project and the Maitland Boulevard expansion; (2) incorporating the shoreline restoration plan associated with the joint retention pond; and (3) incorporating shoreline restoration in general to be maintained for 5-years to allow for stabilization. These activities will occur within the vicinity of bald eagle (*Haliaeetus leucocephalus*) Nest OR031 (Exhibit 2).

History

On April 2, 2003, MCN was issued a Biological Opinion (BO) with the associated Incidental Take Statement from the U.S. Fish and Wildlife Service (USFWS). This resulted from project discussions initiated in March of 2000 as a result of bald eagle Nest OR031 becoming active in 1999 following four years of inactivity. Following numerous meetings with USFWS, MCN applied for a Low-effect Habitat Conservation Plan (HCP); in July 2001 and October 2002 the USFWS requested additional information in support of the HCP. In March of 2003 the Department of the Army, Corps of Engineers (ACOE) initiated formal consultation with USFWS under Nationwide Permit 39; on April 1, 2003, the USFWS conducted a site review and observed eagles and young at the nest. Following that review and with implementation of protective measures, the BO concluded that development of the project as proposed would not jeopardize the continued existence of bald eagles provided MCN monitors Nest OR031 during site work and building construction in the primary protection zone within the nesting season and implements the 2002 Bald Eagle Management Guidelines.

The bald eagle was listed as a “threatened” species under the Endangered Species Act of 1973, as amended, and was treated as such through the above described regulatory action. However, as of August 2007, the bald eagle is no longer listed or protected as a “threatened” species. Currently the species remains protected by the USFWS under provisions of the Bald and Golden Eagle Protection Act (BGEPA) and the Migratory Bird Treaty Act (effective August 9, 2007) and by Florida under Florida Rule and the Florida Bald Eagle Management Plan (Florida Plan adopted

April 9, 2008). Since the project was not constructed as planned, it was recommended that MCN implement the National Bald Eagle Management Guidelines (National Guidelines) (2007) and the Florida Plan to minimize the likelihood of causing “disturbance” to nesting bald eagles.

Bald Eagle Nest OR031

Based on records from U.S. Fish and Wildlife Service (USFWS), Nest OR031 first became active in 1995, but was inactive following that until 1999. The nest was noted as active in 2000, 2001, and 2002. According to the Florida Fish and Wildlife Conservation Commission (FWC) database, Nest OR031 was also active in 2010, 2011, and 2014, but the nest was not surveyed in 2012 and 2013. Breedlove, Dennis and Associates, Inc. (BDA) scientists monitored the nest informally in the 2015-2016 nesting season and confirmed that two eaglets fledged in April 2016. The Bald Eagle Management Plan detailed herein described protective measures for Nest OR031, and describes work planned within the 660-foot protection zone.

Site Plan

Development of MCN will include multifamily residential units and commercial areas with associated stormwater ponds, parking, and infrastructure. Due to the Site configuration and based on requirements of the City of Maitland the following activities are proposed within the eagle nest protection zones:

- A joint-use stormwater pond to support the Maitland Boulevard expansion (FDOT Pond 2C) as well as development of MCN is proposed outside of the 330-foot zone but within the 660-foot protection zone of Nest OR031 (Exhibit 3);
- Adjacent to the stormwater pond, a small parking area (7,800 ft²) occurs at the edge of the 660-foot zone;
- An eagle preserve park is proposed and will be placed under a conservation easement or restrictive covenants;
- A shoreline restoration plan has been required, a portion of which also occurs within both the 330-foot and 660-foot zones (Exhibit 4);
- Future development of Lot 6 (Exhibit 4).

It is currently proposed that all work will occur outside of the eagle nesting season.

Management Plan

The USFWS and the FWC (collectively, referred to as “agencies”) typically recommend that 330-foot and 660-foot protection zones be established around active bald eagle nests in accordance with the National Guidelines (2007) and the Florida Plan (2008), or as close as existing activity of similar scope is tolerated. The purpose for establishing the zones is to buffer nesting bald eagles from land use activities that may have potential for disturbing nesting activities. The agencies classify land uses that may disturb eagles into categories based on their nature and magnitude. MCN has activities in several categories, as follows:

- Category A: water impoundment (stormwater pond)
- Category B: building construction outside of the 330-foot zone, but within the 660-foot zone
- Category C: land management practices (shoreline restoration and buffer management)

For new activities proposed within 660 feet of an active nest, the agencies review the 1,500-foot

to one mile radius around the nest to see what types of activities and the degree to which nesting bald eagles have been exposed to and tolerated human activities. For MCN, the 1,500-foot radius currently includes residential, commercial, parking lots, agriculture (citrus), lakes, ponds, and roadways. The one mile radius includes additional commercial development, dense residential development, and highways (Interstate 4). When there are similar activities within 1,500-feet and one mile of Nest OR031, the agencies offer the following for Category A and Category B activities:

- Categories A and B: when no visual buffer will be provided between the nest and the activity, activities are allowable outside of 660 feet without a permit or as close as existing tolerated activities.
- Categories A and B: when a visual buffer is provided between the nest and the activity, activities are allowable outside of 330 feet without a permit or as close as existing tolerated activities. However, site work and construction between 330 feet and 660 feet should be conducted outside of the nesting season.

Category C does not allow clear cutting within 330 feet of the nest at any time; no removal or replanting is allowed within 660 feet of the nest during the nesting season unless the USFWS *Bald Eagle Monitoring Guidelines* (2007) are applied.

Category G does not require a nest buffer outside of the nesting season, and no activities that are visible or audible are permitted within 330 feet of the nest during the nesting season.

Based on the agencies guidance noted above, the following conservation measures are proposed for incorporation as conditions to permit(s) in accordance with current agency policies regarding management of bald eagles and their nesting territories:

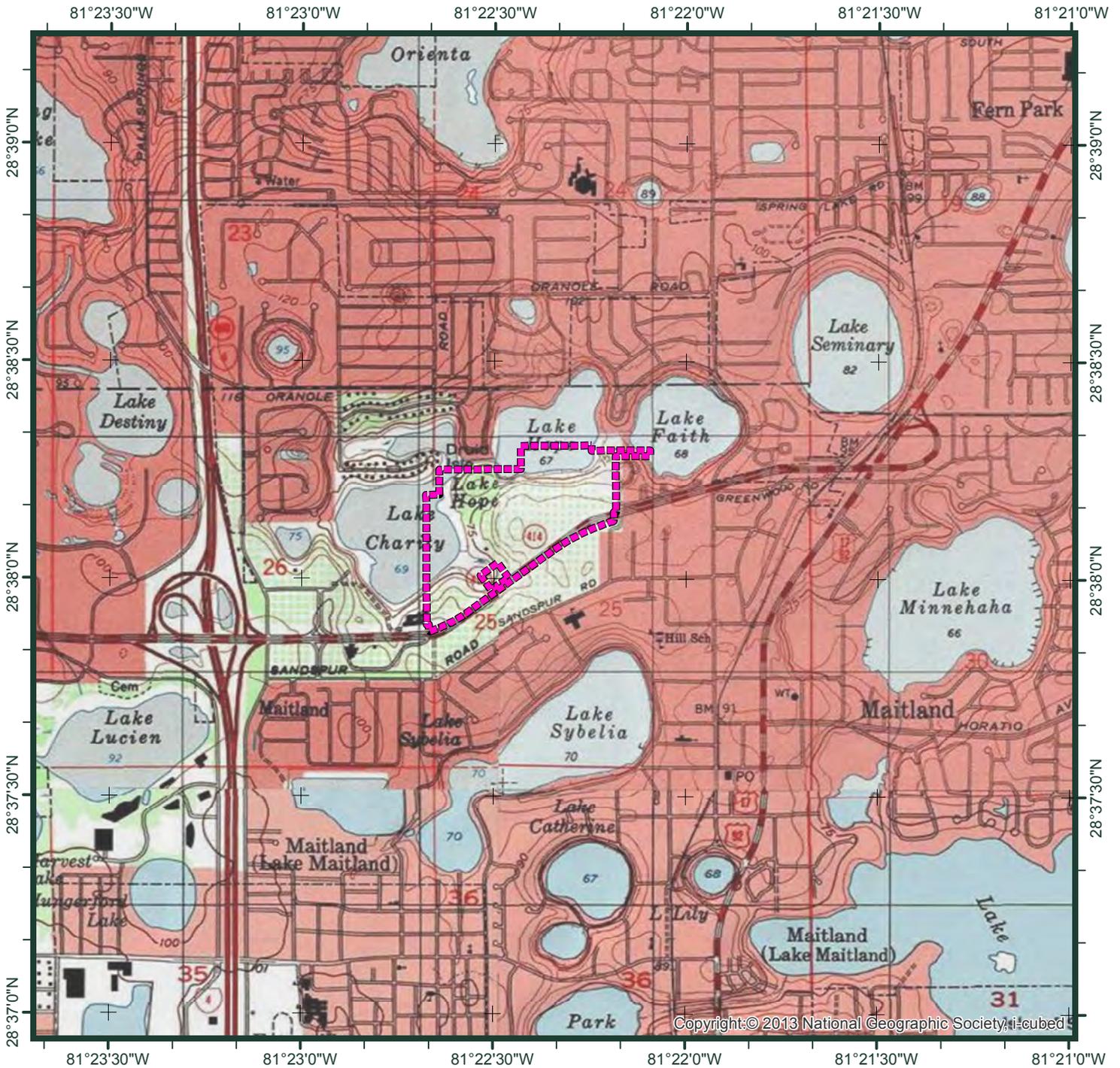
1. A minimum 330 foot buffer will be established around nest tree OR031. No development will occur within the buffer (0-330 feet from the nest tree) (Exhibits 3 and 4).
2. Construction of infrastructure (clearing, grading, construction of the storm water pond, and construction of the small parking area) between 330 feet and 660 feet of the nest tree will be completed during the non-nesting season (May 16 – September 30). If activities need to continue into the nesting season (October 1 – May 15), the USFWS *Bald Eagle Monitoring Guidelines* (2007) will be applied.
3. Shoreline restoration and other land management activities should occur outside of the nesting season; if work is required during the nesting season, the USFWS *Bald Eagle Monitoring Guidelines* (2007) will be applied. No clear cutting will occur within 330 feet of the nest as a result of the project.
4. Future development of Lot 6 will occur outside of the 330-foot buffer, but within the 660-foot zone. Activities currently occurring within 660 feet of the nest include active citrus production, and single family residences. A 330-foot forested buffer will be maintained between the nest and the future development of this Lot, and placed under a conservation easement or restrictive covenants.

Whenever the USFWS *Bald Eagle Monitoring Guidelines* (2007) are applied, the required reports will be provided to each agency in accordance with the regulations.

If you have any questions or require additional information please contact Mr. W. Michael Dennis, Ph.D. at 407-677-1882, or Ms. Jennifer L. Rosinski, Ph.D. at 352-799-9488

EXHIBIT 1

**LOCATION OF THE MAITLAND CONCOURSE
NORTH PROJECT SITE
MAITLAND, FLORIDA**



Legend

Project Boundary



81°22'26"W 28°38'7.5"N

USGS Forest City and Casselberry, FL Quadrangle.
(7½ Minute Topographic Maps)

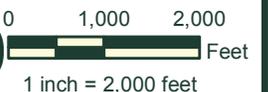
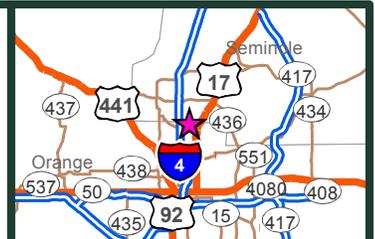


EXHIBIT 1.

LOCATION OF THE MAITLAND CONCOURSE NORTH PROJECT SITE,
MAITLAND, FLORIDA. (SECTION 25, TOWNSHIP 21 S., RANGE 29 E.)

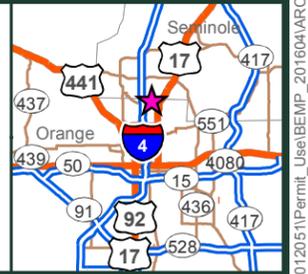
BDA BREEDLOVE, DENNIS & ASSOCIATES, INC.
Environmental Consultants
330 W. Canton Ave., Winter Park, FL 32789 • 407-677-1882

EXHIBIT 2

EAGLE NEST AND MANAGEMENT ZONES MAITLAND CONCOURSE NORTH PROJECT SITE MAITLAND, FLORIDA



0 150 300
Feet
1 inch = 300 feet



Legend

- Project Boundary
- Eagle Nest OR031
- 330 ft. Zone
- 660 ft. Zone

Source: Nest location and development plan provided by Kimley-Horn; 2016-04-18.

EXHIBIT 2

**EAGLE NEST AND MANAGEMENT ZONES,
MAITLAND CONCOURSE NORTH
PROJECT SITE, MAITLAND, FLORIDA.**

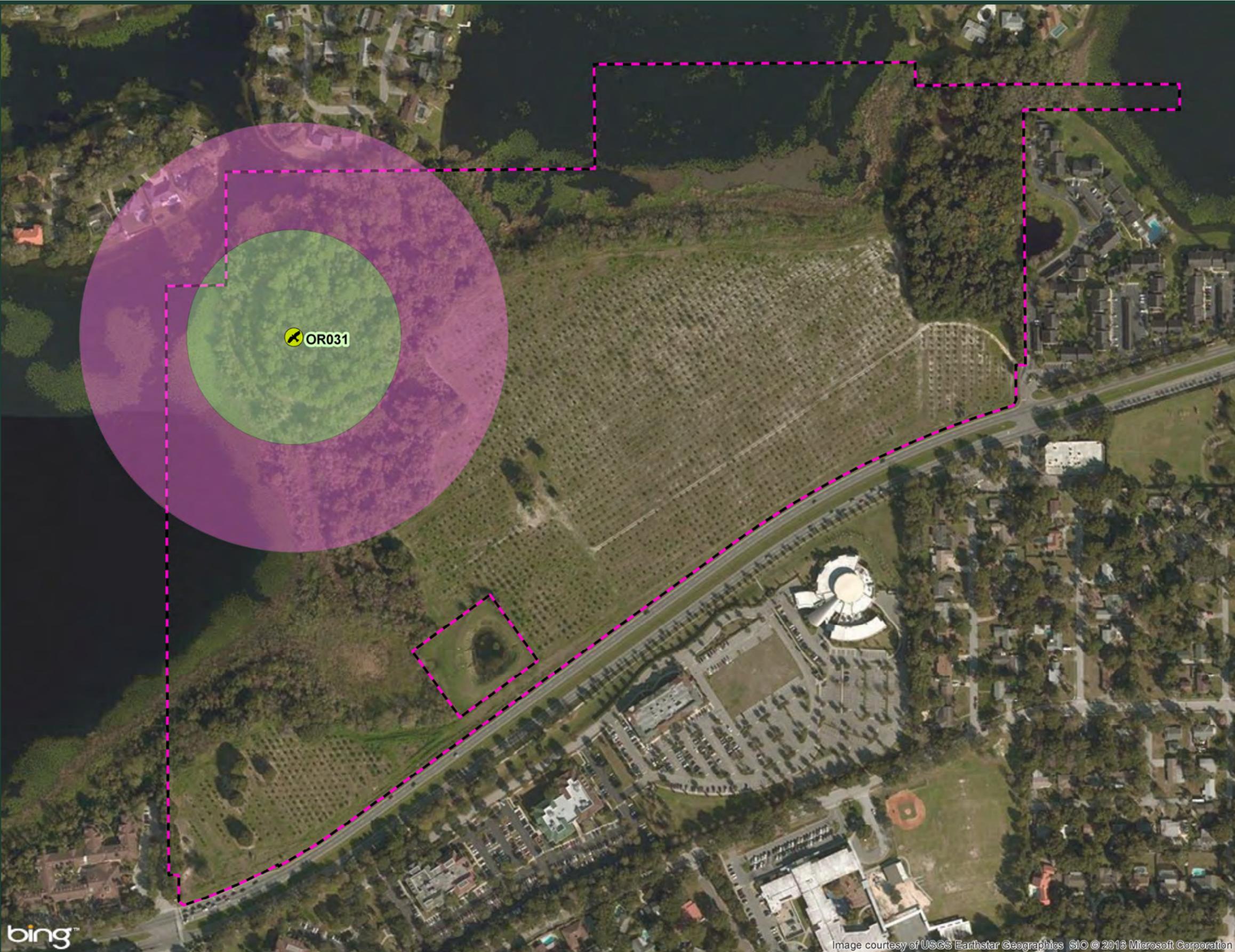
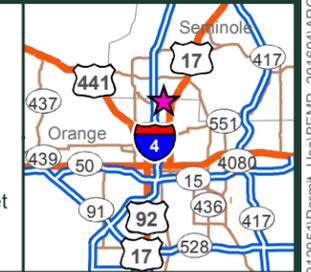


EXHIBIT 3

**EAGLE NEST AND MANAGEMENT ZONES
MAITLAND CONCOURSE NORTH PROJECT SITE
MAITLAND, FLORIDA**

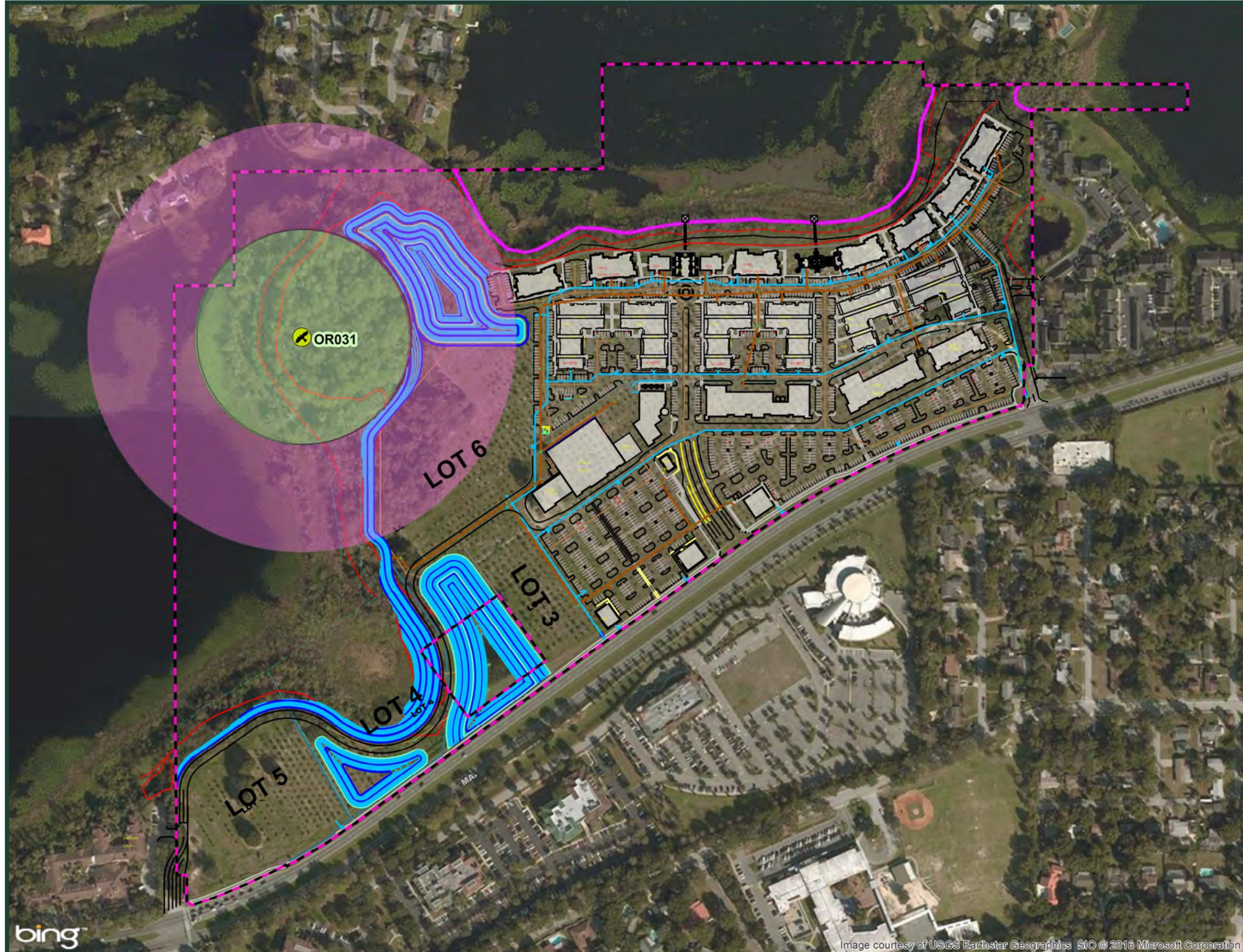


0 150 300
 Feet
 1 inch = 300 feet



Legend

-  Project Boundary
-  Eagle Nest OR031
-  330 ft. Zone
-  660 ft. Zone



Source: Nest location and development plan provided by Kimley-Horn; 2016-04-18.

EXHIBIT 3

**EAGLE NEST AND MANAGEMENT ZONES,
 MAITLAND CONCOURSE NORTH
 PROJECT SITE, MAITLAND, FLORIDA.**

EXHIBIT 4

**EAGLE NEST AND MANAGEMENT ZONES
MAITLAND CONCOURSE NORTH PROJECT SITE
MAITLAND, FLORIDA**



0 150 300
 Feet
 1 inch = 300 feet



Legend

- Project Boundary
- Eagle Nest OR031
- 330 ft. Zone
- 660 ft. Zone
- Open Water
- Wetland Enhancement (6.72 ac)
- 25 ft. Upland Buffer (2.59 ac)
- Exotic Species Maintenance (7.34 ac)

Source: Nest location and development plan provided by Kimley-Horn; 2016-04-18.

EXHIBIT 4.

**EAGLE NEST AND MANAGEMENT ZONES,
 MAITLAND CONCOURSE NORTH
 PROJECT SITE, MAITLAND, FLORIDA.**