



Illinois Department of Natural Resources

One Natural Resources Way Springfield, Illinois 62702-1271
www.dnr.illinois.gov

Bruce Rauner, Governor
Wayne A. Rosenthal, Director

February 23, 2015

Mr. Dan Olson, Director
Community Development Department
Village of Lake in the Hills
600 Harvest Gate
Lake in the Hills, IL 60156

**RE: Lots 9 & 10 of Lakepointe, Lake in the Hills, McHenry County
Endangered Species Consultation Program
EcoCAT Review #1505935**

Dear Director Olson:

The Department has received a submission from Haeger Engineering on behalf of their client for the purpose of consultation with the Department of Natural Resources pursuant to the *Illinois Endangered Species Protection Act* [520 ILCS 10/11], the *Illinois Natural Areas Preservation Act* [525 ILCS 30/17], and Title 17 *Illinois Administrative Code* Part 1075.

Lots 9 & 10 are located directly adjacent to the Peter J. Exner Marsh Conservation Area, owned by the McHenry County Conservation District. The interior portion of the Conservation Area is dedicated as the **Peter J. Exner Marsh Nature Preserve**, under the jurisdiction of the Illinois Nature Preserves Commission, as well as that of the Conservation District. The Lakepointe Subdivision is also under the jurisdiction of the Illinois Department of Natural Resources by virtue of its issuance, following a consultation with the Department, of an Incidental Take Authorization in 2003, for a fifteen-year term, which authorized Lakepointe to “take” the State-listed endangered **Blanding’s Turtle**, *Emydoidea blandingii*, and the then-State-listed threatened **Sandhill Crane**, *Grus canadensis* (the latter species has since been de-listed). Such taking may only be incidental to otherwise lawful activities and must conform to the terms of the Authorization.

The issuance of such an Authorization does not affect the requirement for units of local government or State agencies to consult the IDNR prior to authorizing actions within the covered area which may adversely modify the essential habitats of State-listed species or which may adversely modify sites listed in the Illinois Natural Areas Inventory. Part 1075 of the Department’s Administrative Rules requires a new consultation if an action has not been implemented within two years. Thus, a consultation at this time is required, as are similar consultations for full development of the remaining vacant lots in the Lakepointe Subdivision.

The applicant has responded to the Department's request for additional information concerning the development of Lots 9 & 10, describing how the planned activities conform to the requirements of the Incidental Take Authorization. *The Department notes that maintenance of the constructed measures to avoid and minimize incidental taking is necessary for the duration of the term of the Authorization, and recommends that such measures should continue following its expiration.*

The Department notes that non-compliance with the terms of the Incidental Take Authorization constitutes a violation of the *Illinois Endangered Species Protection Act*. All violations of the Act are defined as "Class A Misdemeanors." The Department notes the sworn law enforcement officers of any unit of local government of this State, including the Village of Lake in the Hills, are specifically empowered by the statute to enforce its requirements. [520 ILCS 10/8.] The Village's assistance in upholding the requirements of this statute for the many species of State-listed endangered plants and animals in Lake in the Hills is appreciated.

EcoCAT has also indicated the proposed action may have the potential to adversely modify the essential habitats of the State-listed endangered **Yellow-Headed Blackbird**, *Xanthocephalus xanthocephalus*, and **Black-Crowned Night Heron**, *Nycticorax nycticorax*; and the State-listed threatened **Least Bittern**, *Ixobrychus exilis*, and **Common Moorhen**, *Gallinula chloropus*. These species breed in the interior of Exner Marsh. The Department believes that continued compliance with the terms of the Incidental Take Authorization will address potential adverse effects to the essential habitats of these species, including fugitive light and potential degradation of water quality. The Department offers no additional recommendations for these species.

The Lakepointe Subdivision contains some portions of the **Exner Marsh INAI Site**, which comprise parts of the stormwater detention basins for the subdivision, and for about 650 feet shares a common boundary with the **Peter J. Exner Marsh Nature Preserve**. Again, no modification of the configuration or use of the detention basins is proposed at this time, and the provisions of the Incidental Take Authorization, in addressing all the potential adverse effects to endangered or threatened species, also addresses potential adverse modifications to physical conditions within the Nature Preserve and INAI Site. The Department offers no new recommendations at this time.

Consultation on the part of the Department is closed, unless the Village of Lake in the Hills desires additional information or advice related to this proposal. This consultation is valid for two years unless new information becomes available which was not previously considered; or the proposed action is substantially modified; or additional species, essential habitats, or Natural Areas are identified in the vicinity. The natural resource review primarily reflects the information existing in the Illinois Natural Heritage Database at the time of this consultation, and is not a substitute for detailed field surveys.

If additional protected resources are encountered during the project's implementation, the applicant must comply with the applicable statutes and regulations. Also, note that closing consultation does not imply IDNR's authorization or endorsement of the proposed action. Please contact me if you have questions regarding this review.

Sincerely,

A handwritten signature in black ink that reads "Keith M. Shank". The signature is written in a cursive style with a large initial "K" and "M".

Keith M. Shank
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cc: Jenny Skufca, IDNR Office of Resource Conservation
Valerie Njapa, Illinois Nature Preserves Commission
Elizabeth Kessler, McHenry County Conservation District
Ryan Trottier, Plote Homes, LLC
Phil Ceratto, Haeger Engineering