

Illinois Department of Natural Resources

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Rod R. Blagojevich, Governor

Joel Brunsvold, Director

Authorization for Incidental Take and Implementing Agreement

Pursuant to the Illinois Endangered Species Protection Act (Act) (520 ILCS 10/5.5) and the regulations adopted to implement the Act (17 Ill. Adm. Code, Part 1080), authorization is hereby granted to Lennar Communities of Chicago (formerly known as Concord Homes, Inc., and hereinafter referred to as Lennar) for the incidental take of the state-threatened Kirtland's snake (*Clonophis kirtlandi*). The Illinois Department of Natural Resources (hereinafter referred to as the Department) has determined that this taking is incidental to activities associated with the development of Bridgeview Place, including 37 residential buildings, 1 commercial building and an 8.8-acre stormwater management area on a site located at the northeast corner of 76th Avenue and 103rd Street in Bridgeview, Cook County, Illinois.

Procedural History

A conservation plan prepared by Lennar was received by the Department on February 22, 2005. On March 16, 2005, the Department requested revisions to the conservation plan to clarify ownership of the subject parcel and to verify the means by which mitigation measures would be funded. A revised conservation plan and a draft public notice were received by the Department on March 31, 2005. Public notice of Lennar's request for authorization of incidental take was published in the Edwardsville Intelligencer on April 6, 2005 and in the Daily Southtown on April 6, 13 and 20, 2005. Public comments on Lennar's conservation plan were accepted by the Department until May 20, 2005. No comments were received from the public.

Compliance with the Illinois Endangered Species Protection Act

The Act includes six criteria which must be satisfied for the authorization of incidental take on an endangered or threatened species. These criteria and the Department's determination for each are listed below.

1. The taking will not be the purpose of, but will only be incidental to, the carrying out of an otherwise lawful activity:

The stated and apparent purpose of this proposed action is to develop residential and commercial buildings and stormwater management facilities on the subject site. The take

that could result from this project is not the purpose of Lennar's activities, but is incidental to the carrying out of an otherwise lawful activity.

2. The parties to the conservation plan will, to the maximum extent practicable, minimize and mitigate the impact caused by the taking:

The conservation plan prepared by Lennar describes full utilization of the subject site for the construction of residential and commercial buildings and stormwater management facilities. This development plan is consistent with the wishes of the Village of Bridgeview for the construction of residential units on the site. Minimization of the area affected was not practicable under the constraints established by the Village of Bridgeview.

The conservation plan includes four alternatives for mitigation of the effects of incidental take of Kirtland's snakes that could occur as a result of development of the subject site. Those alternatives are: 1) financial support of the restoration of habitat for Kirtland's snakes on land owned by the Forest Preserve District of Will County; 2) financial support for Kirtland's snake research at a site known to provide habitat for the species; 3) financial support for an educational program display on the Kirtland's snake at a nature center in northeast Illinois, or: 4) translocation of any Kirtland's snakes found on the project site to suitable habitat and financial support of follow-up surveys and monitoring of the snakes on the release site. The conservation plan also includes plans for surveys to be conducted on the project site to determine if Kirtland's snakes are still present and, if snakes are found, to remove those snakes for use in an educational program (alternative 3 above) or translocation (alternative 4 above).

3. The parties to the conservation plan will ensure that adequate funding for the conservation plan will be provided:

The conservation plan includes the commitment by Lennar to establish an escrow account to provide funding for any mitigation measures that may be adopted.

4. Based on the best available scientific data, the Department has determined that the taking will not reduce the likelihood of survival or recovery of the endangered species or threatened species in the wild in Illinois, the biotic community of which the species is a part, or the habitat essential to the species' existence in Illinois:

Kirtland's snakes are found in moist areas along creeks, ditches and ponds and in prairie wetlands, wet meadows, old fields and vacant lots. They spend much of their time underground, usually in crayfish burrows. They also hibernate in crayfish burrows. The most reliable means of finding Kirtland's snakes at the sites which they still occupy is by the placement of boards or sheets of metal under which the snakes take shelter. The diet of Kirtland's snakes is primarily made up of earthworms, leeches and slugs.

Kirtland's snakes were once found across much of northeast and east-central Illinois, where wet prairies were abundant. Changes in land use have been the primary reason for the declining abundance of the species in Illinois. There are currently scattered populations in approximately 10 Illinois counties. On the project site, Kirtland's snakes were first found in 1987 or 1988. During the subsequent 13 years, there were reports of approximately 10 individuals on the site. A local veterinarian collected six adult snakes, including gravid females, between 1989 and 1992. The most recent report of a Kirtland's snake on the site was in 2001.

Lennar contracted the services of The Ecological Consulting Group to conduct surveys for Kirtland's snakes on the project site in the spring of 2005. Thirty sheets of tin were placed throughout 38 acres of the site. These sheets and many objects already present on the site were turned 4 times per week from March 31 through June 15. The site was visited 26 times during this period, with a total of 51 hours spent searching for snakes. Brown snakes (*Storeria dekayi*), smooth green snakes (*Opheodrys vernalis*) and plains garter snakes (*Thamnophis radix*) were found, but no Kirtland's snakes were seen. The negative results of this survey and observed changes in habitat characteristics on the site (reduction in size and number of wetlands, overall drying of the site) indicate that if Kirtland's snakes are still present on the site, they are likely to be present in very small numbers.

In the opinion of the Department, the loss of approximately 40 acres of habitat of declining quality and the potential loss of a small number of Kirtland's snakes that may occur on the Bridgeview Place site will not reduce the likelihood of survival or recovery of the Kirtland's snake in Illinois, the biotic community of which Kirtland's snake is a part, or the habitat essential to the species' existence in Illinois when accompanied by the mitigation measures described below.

5. Any measures required under Section 5.5 of the Illinois Endangered Species Protection Act [520 ILCS 10/5.5 - Section 1080.40(b)], will be performed:

Additional measures are listed below under "Authorization." This authorization is, by definition, subject to those terms and conditions and Lennar's signature on this authorization indicates their commitment to performing those measures.

6. The public has received notice of the application and has had the opportunity to comment before the Department made any decision regarding the application:

Public notice of Lennar's request for authorization of incidental take was published in the Edwardsville Intelligencer on April 6, 2005 and in the Daily Southtown on April 6, 13 and 20, 2005. Public comments on Lennar's conservation plan were accepted by the Department until May 20, 2005. No comments were received from the public.

Authorization

It is the determination of the Department that the measures that will be implemented by Lennar will provide adequate compensation for the potential loss of a small number of Kirtland's snakes on the Bridgeview Place site. Further, it is our opinion that the take authorized herein will not diminish the likelihood of the survival of the Kirtland's snake in the wild within the State of Illinois, the biotic community of which the species is a part or the habitat essential to the species' existence in Illinois.

Pursuant to Section 5.5 of the Illinois Endangered Species Protection Act [520 ILCS 10/5.5 and Ill. Adm. Code Part 1080.40(b)], this authorization is issued subject to the following additional terms and conditions:

1. This authorization is effective upon signature of the Department and shall remain in effect for a period of ten (10) years from the date of the Department signature, unless terminated pursuant to Section 5.5 of the Illinois Endangered Species Protection Act (520 ILCS 10/5.5 and Ill. Adm. Code Part 1080.80).
2. Lennar shall transfer funds in the amount of \$30,540 to the Forest Preserve District of Will County (FPDWC). Those funds shall be available for expenditure by FPDWC only for costs related to the restoration and/or management of habitat suitable for use by Kirtland's snakes on lands owned or managed by FPDWC.
3. FPDWC shall develop a restoration and/or management plan for land owned or managed by FPDWC and, upon approval of the restoration/management plan by the Department, undertake restoration and/or management to increase and/or enhance suitable habitat for Kirtland's snakes on an appropriate schedule. FPDWC shall provide quarterly reports to the Department and Lennar on the use of funds provided by Lennar.
4. The effective period of this authorization may be altered by mutual agreement between Lennar, FPDWC and the Department.
5. This authorization may be revoked pursuant to Section 5.5 of the Illinois Endangered Species Protection Act (520ILCS 10/5.5 and Ill. Adm. Code Part 1080.80) if the Department finds that Lennar has failed to comply with any of these terms and conditions or has been responsible for the taking of Kirtland's snakes beyond that which is incidental to the development of Bridgeview Place.
6. The Lennar and FPDWC officials identified below are authorized to execute this agreement. Execution by Lennar and FPDWC indicates acceptance of all terms and conditions as described in this document.

For the Illinois Department of
Natural Resources

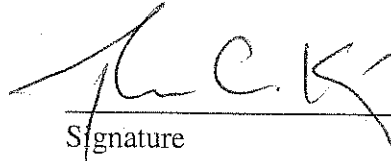


Mike Conlin, Director
Office of Resource Conservation

9.8.05

Date Signed

For Lennar Communities of Chicago



Signature


Thomas C. Koerz, President

Printed Name and Title

9/17/05

Date Signed

For the Forest Preserve District of
Will County



Signature

Kerry R. Sheridan, President
Printed Name and Title

September 8, 2005

Date Signed

