



Fieldstone Place Frequently Asked Questions

The following is a list of questions and answers regarding the Fieldstone Place Subdivision. Special Use Ordinance 1040 for a Planned Unit Development approved by the Village for the Fieldstone Place Subdivision as well as other applicable codes and ordinances governs the subdivision.

Developer/Subdivision Status

1. Has Grand Pointe Homes gone bankrupt?

To the best knowledge of the Village, the answer is no. Fieldstone Place LLC (a related entity/subsidiary of Grand Pointe) is the current property owner and developer of the vacant/unsold lots. However, the Village does understand that the developer is currently insolvent and is not making its mortgage or debt payments and has no income. The Village also understands that, to date, the developer's mortgage company has not attempted to foreclose on the property, but has the right to do so and could do so any time it wishes.

2. What are the Village's options to finish the Subdivision and assure the public improvements are completed and/or repaired? Has the Village chosen one of those options to pursue? Can the Village get any money from the developer to finish the improvements and help defer up front maintenance costs?

The Village is pursuing the Performance Bonds on the Property to complete the public improvements. Resolutions declaring the developer's default have already been passed by the Village Board and demand has also been made to the Bonding Company. The Village must work with the Bonding Company to either: 1) complete the improvements; or 2) give the Village cash to complete the improvements.

If the Bonding Company resists either of the above options, the Village will pursue collection of the bonds in court. The Village is not able to get money from the developer to defer maintenance costs.

3. Why are the residents suddenly being expected to foot the bill for improvements that are the builder's responsibility?

The Village is pursuing the performance bond company to complete the public improvements. Also, to the extent that that is not sufficient, the Village will also look to the current, or a future, developer (when they try to build new homes) to comply with the requirements of finishing the subdivision.

4. Who is maintaining the vacant lots?

The Village is mowing the vacant lots at this time. The Village has placed liens on the individual properties in order to cut the grass and weeds that were not being maintained. Before each

individual vacant lot can be sold, those liens are required to be paid back to the Village. Existing property owners are not paying for these services.

5. What is being done about the dirt piles?

The Village Engineers are looking into ways to regrade the piles (or possibly move them or redistribute them) to make them less obtrusive. The Village will be working with the performance bond company on this matter as well.

Special Service Area (SSA)

6. What is the Special Service Area Tax?

The Special Service Area Tax or SSA is a tax that can be used to maintain the detention basins on site. Virtually all newer subdivisions in Kane County have such an SSA for the same purpose. SSA's are required per the Kane County Stormwater Ordinance. This SSA was passed on November 28, 2005 and recorded against all lots in the subdivision immediately thereafter.

This was originally created to be a "backup" SSA only. This meant that the SSA was created, but was not intended to be used, unless the basins are not properly maintained by a Homeowners Association ("HOA"). However, because they are not being maintained (by the Developer or an HOA), the Village has made the decision to step in and maintain the areas through the SSA (thus "activating" the SSA). This maintenance cost is paid for by homeowners through the SSA tax.

7. We were told by the Developer that there was no SSA on this property. What happened?

While the Village does not know (and cannot control) what the developer may have said, the Village suspects that what may have been represented was that there was no "SA" (Special Assessment Tax) on the property. The two terms may sound similar, but they are very different. At the time of development, a popular tool that some developers were using was the Special Assessment ("SA"). This tool allowed developers to pass along much of the expense of constructing the initial public improvements to the future homeowners in the form of a 20 year bond.

An example of this is the Lakewood Creek Subdivision on the west side of Montgomery. After allowing this tool to be used once (in Lakewood), the Village was not pleased with the resultant tax to the homeowners and determined not to allow the use of that tool in that manner again. Thus, when the Fieldstone Place development came along, the SA tool was not allowed (which may be what the developer told potential buyers). Again, the SSA was only intended to be a "backup" or "dormant" to an HOA.

8. How much will the SSA Tax cost each home?

The amount can vary based on what is being done through the SSA and based on the value of the property. For example, Single Family Homes will pay more than Townhomes and

Townhomes will pay more than vacant lots. The Village has always anticipated the SSA tax to vary based on each development, but the average anticipated cost for the Fieldstone Place Subdivision will be approximately \$290 per single family lot and \$200 for the Townhomes.

After the first year and a half the anticipated maintenance per year should drop (as “initial” maintenance is higher than “ongoing” maintenance). Also, as vacant lots are built on, the maintenance cost will be lowered as there are more home owners to help pay for maintenance. You would see this fee show up on your property tax bill in 2010.

9. What is the difference between the two basins along Montgomery Road?

The large long basin on the east side of Briarcliff is a “High Mow” turf grass basin, left to grow to a height of approximately six inches. This means it requires regular mowing like a lawn, although perhaps less often. The small square basin on the west side of Briarcliff is a naturalized basin which means it requires different maintenance. The naturalized basin has prairie grasses and flowers which provide a number of benefits including improved water quality, reduced flooding and reduced long-term maintenance costs.

The Village requires all new developments to develop naturalized detention basins. Unfortunately because no maintenance has been performed, the basin is very weedy and unsightly which is why the SSA needed to be activated. The Village has found through experience that early maintenance of the basins is a key to long term viability.

10. What ordinance authorizes activation of the SSA?

Ordinance 1184 creating Special Service Area Number 14 for Fieldstone Place was approved on November 28, 2005.

11. The PUD Ordinance indicates the Village will only accept maintenance responsibilities of the stormwater basin facilities after the development is 80% occupied. How and why is the Village assuming responsibility when it is not 80% occupied?

The Village would be within its rights to not accept the basins and do nothing. However, the Village Board did not want to abandon the residents in such a way. The residents made clear their desire for intervention by the Village. As such, the Board directed staff to pursue the Performance Bonds, as explained earlier, to complete the improvements and activate the SSA. In order to complete the improvements, the Village will need to take over the areas that need the work. Also, if the Village didn’t take action now, the costs could be greater, the longer no maintenance work is performed.

12. Are there acceptance standards for the naturalized stormwater basin? Will the Village accept it if these standards are not met?

All new developments have formal acceptance standards. However, this development was approved prior to the adoption of the Village’s naturalized stormwater basin planting guidelines and therefore there were no formal acceptance standards set. The Village performs inspections and makes recommendations for proper maintenance of the basin. For this basin, the Village

basically looks at the basin to make sure the seed that was planted is present and surviving and that no weeds or non-native plants are present. The proposed maintenance work for the naturalized basin will accomplish both of these criteria.

13. The PUD Ordinance Paragraph 11 indicates that a number of items are to be completed prior to issuance of occupancy. Is the stormwater basin part of that list? Is it considered complete and installed properly?

The intent of the Ordinance was not to mandate that the *plantings* be fully established. If that were the case, no development could have begun for approximately 3 to 5 years after mass grading. The intent of the PUD Ordinance was to ensure that the basins function *for purposes of storm water detention* and to avoid flooding the new homes. Plantings were always intended to be established over time. This is not a question of an improper initial installation. The basins do currently function properly and the SSA maintenance will ensure that they continue to do so.

14. The Backup SSA is only to be activated if the responsible party fails to maintain it properly. Who failed, the developer or the HOA?

In a sense both have failed because the HOA is controlled by the developer. The reality is that the developer that failed due to the slump in the housing market. The Village understands that the developer has and is still responsible for the maintenance for the basin. However, as the developer is insolvent, there is little option there at the present time. The Village knows from its inspections and attempts to contact the developer that little or no maintenance has been done on the basins in 2008 and 2009. Therefore, the Village decided to activate the SSA.

15. The residents currently are paying Rage Property Management for mowing and other maintenance in the development. Will the Village work with the residents and Rage to make sure that all areas are covered so we don't end up having to pay two different companies for maintenance?

Yes. If the Homeowners can agree on maintaining the common areas and the detention areas without the need for the SSA, then the Village Board could choose to “de-activate” the SSA and make it “dormant” once more. This is a policy decision for the Village Board. However, the Village does believe that it may be able to more effectively manage the detention basins at a lower cost to the residents, since the Village is responsible for contracting for many basins and can get a lower overall cost due to volume of business.

16. Why were the residents not informed that this was happening and given a chance to speak to the Village before the SSA was activated and the money for improvements voted on?

There were very few options on this matter. The basins need maintenance or they will deteriorate. The developer has made clear they cannot maintain the basins. Since the Village cannot force the HOA to maintain the basins, the only realistic option was to activate the SSA.

17. The residents of Fieldstone Place expressed concern regarding weeds and standing water, which are potential hazards and harbor coyotes. When did this become an issue about basins and streets, which are not urgent or causing any problems?

The Village needs to be concerned about the overall condition of the subdivisions in the Village. As stated previously, if the basins are not subjected to regular maintenance, they will deteriorate. It will be even more expensive to rehabilitate them further, if they are ignored now. That expense would then be absorbed by the SSA. By acting on this now, the Village is conserving SSA funds for the residents.

18. What maintenance tasks will be performed? Can the Village provide a detailed account of how money is being spent?

Following is a list of maintenance items that will be performed:

West Basin Development and Maintenance

- Weed Control
- Unwanted plant removal
- Prescribed fire/burn
- Desired seed planting
- Ongoing Monthly maintenance

East Basin Maintenance

- Mowing
- Weed Control

Park/Detention Area

- Mowing ungraded areas (brush mowing)
- Turf area maintenance will stay with HOA

Homeowners Association (HOA)

19. Who pays for the maintenance of the other common areas within the development?

The Village assumes a Homeowners Association (HOA) is maintaining the areas the Village is not maintaining. The Village understands that Rage Management is currently mowing portions of the development but the Village does not know the details as to how that is being funded. The Village has asked Rage to maintain other areas but they will only maintain what they have been contracted for.

20. What will happen to the HOA? How do the residents get control of the HOA and make changes within the subdivision through the association, such as changing lawn service or maintenance? Will residents have to pay more HOA fees in the future?

The HOA is a completely private matter between the Developer and the Owners and, as such, the Village does not have complete information about that. However, the usual HOA organization is that the HOA will be “turned over” to the residents after a certain threshold of lots have been sold to homeowners. What that threshold is, in this case, is unknown. If you have a copy of your HOA documents, the answer should be included in those documents.

When the Village has met with the developer, we have expressed the dissatisfaction of the residents with the HOA management company and with the handling of the HOA. We have also asked that they consider turning the HOA over to the residents early. However, the Village has no ability to force that to occur.

21. Will residents receive any maintenance fees they paid to the developer back from the developer?

If you feel that the developer has breached any of its agreements with you, the homeowners, you have the right to seek compensation from the developer via the courts. However, you may be in the same situation as the Village in attempting to recover against an insolvent developer. Also, it is possible that the money still exists in an HOA account, since it does not appear to be going towards maintenance. If that is the case, then it is possible that when the residents do finally take over the HOA, the money would still be there. Of course, the Village is not privy to this information, so the concepts expressed herein are merely speculation.

22. What happens to the HOA now that the developer isn't involved anymore?

The developer is still the owner and as such is still “involved.” Please see the answers to question 20 above for further details about possible outcomes.

General Questions

23. Who pays for the Village's consultants' time (i.e., engineer and attorney)?

The Village will initially cover those costs, with attempts to recover the same against the Developer, future developers and/or the performance bond companies.

24. Who will plow the streets?

The Village has been and will continue to plow the public streets.

25. Who will build and develop the remaining vacant lots?

Either the current developer will do so (assuming it resolves its insolvency issues) or a new owner will do so. Of course, the Village does not have any control over who purchases or

develops the property. However, the Village has the right to hold any owner to the obligations of the development, in the event the performance bonds do not address all the developer's obligations.

26. Who owns the landscaped area between Montgomery Road and the fence behind the Manning single family homes?

Each lot on Manning extends to the bike path. Therefore this area is owned by each owner. However, it is currently managed by Rage Management and is within a landscape easement. It is the responsibility of Fieldstone Place LLC and will be the responsibility of the HOA once the HOA gains control of the subdivision.

27. Who was pouring asphalt at the intersections of Holmes and Manning at Briarcliff? Who paid for that?

The Village contracted for the work and the Village absorbed the cost. This was done to smooth the grade difference between the roads and facilitate snow plowing.

28. Who owns the park site/basin currently? Who will be responsible for the Park Site and when does the responsibility transfer to the future responsible party?

Fieldstone Place LLC currently owns the park and detention site. The Village believes that the Fox Valley Park District will accept the site once it meets their minimum standards for acceptance. The Park District has certain standards the park must meet before they will accept it from the developer. The park site also acts as a detention area, but the two main detention basins along Montgomery Road will not be accepted by the Park District. The contact person at the Park District is Jeff Palmquist. He can be reached at 630-897-0516.

29. Are there architectural requirements for the exterior of the houses?

Yes. Homes must be built to one of the many architectural designs included in the PUD Ordinance. There are also restrictions on placement of similar looking or the same design homes adjacent to and across the street from one another. Amendments to these requirements are possible, if a future builder or developer presents designs that are reasonably acceptable to the Village Board.

30. Will the prices of future homes be the same as what current residents paid for their home?

The market will decide the price of homes. The Village cannot legally set home prices, except in that only the permitted home designs can be built (which should influence home prices). The current market has shown a large devaluation in home prices, so it is difficult to provide a definitive answer.

31. Will a monument sign be installed for the project?

Only one permanent monument sign is permitted per the PUD Ordinance and it is only for the Townhome portion of the development. No sign has been installed to date.

32. Are there safety concerns with exposed gas pipes, electrical boxes, exposed foundations and unfinished items around the subdivision?

When the development stalled, the Village's Building Inspector inspected the exposed structures. The exposed items have been capped off per current codes. However, when development re-starts, the exposed items will be re-inspected to ensure compliance with Village codes. Of course, any construction area can be dangerous, so we encourage you to keep away from these areas. However, as the sites are not under the control of the Village and are private property, the Village cannot and does not assume any responsibility for these sites or the conditions thereon.

33. Coyotes have been seen in the subdivision. What can be done about them?

Neither the Village nor county Animal Control officials can regulate wildlife, such as raccoons, deer or even coyotes, that might come into a subdivision. However, there are precautions that can be taken both for safety and to avoid attracting these wild animals. We do believe that education of the public is a good first step. The Beacon News and Ledger-Sentinel have had articles on the topic in their newspapers. The Village's October 2009 newsletter contains a reminder about being watchful when children or small pets are outside, especially at night. The Oswegoland Park District has a good brochure on their website about dealing with coyotes which is also available at tonight's meeting. This can be found at <http://www.oswegolandparkdistrict.org/Trails-Parks/pdfs/coyote.pdf>.

34. What do we do if we see criminal activity or even mischief in the area?

Never hesitate to call the Police Department at 9-1-1. That is what they are there for. Also, if you are interested in organizing a Neighborhood Watch program, our Police Department is also willing to assist you in that regard. Please contact Officer Dan Puskaric at 630-897-8707 for more information.

35. What is the current status regarding the vacant lots?

As of June 2010, the Village has been contacted by a builder of homes that intends to purchase some lots (but not all the property) in the development. Please note: this is not a new "developer." The Village believes that this builder may be beneficial to the residents of the subdivision in that, hopefully, they will complete the townhomes and build new homes (leading to a finished subdivision). However we want to be clear that the Village is continuing to pursue the original developers bond company (that guaranteed completion of public improvements) to finish out the roadways, etc. We do expect that there will be coordination with this new builder on certain items (example there will need to be cooperation/coordination on grading in the park site with dirt from the dirt hill on the builder's lots).

If you have further questions, please contact Michael Brown at 630-896-8080 x 1222 or brown@ci.montgomery.il.us.