

June 14, 2024

**RE: SPA PROJECT QUESTIONS AND CONCERNS**

Members of the White Pine and 5 Needles HOA:

Please let us start by reminding all owners that the Board is a volunteer board with all the board members being owners as well. Some of us for over 20 years. We all have other commitments and have put a lot of time and energy into this project. Be assured we are looking out for the best interest of our property; all the board members and a large majority of owners are in favor of moving forward. This is not a new subject. It has been in the works for several years and started by our previous president with full disclosure to the HOA. As for the 5 Needles owners the spa project was disclosed by the Developer and a financial allocation was made to the HOA on their behalf.

Recently there have been emails from an owner asking for clarification and additional information. We will attempt to answer your questions. Should there be additional questions or if owners wish to discuss these items further, we will make ourselves available in a board meeting, as always open to HOA members.

The Board is working on several very important areas affecting the HOA other than the spa, nevertheless, it is important to correct the record and move on with our spa project. It would be helpful for individuals to additionally review the spa package and meeting notes to assist understanding. We look forward to a successful and less crisis laden year for the HOA.

**Bidding Process:** The spa project was predicated on a Design/Build contract which is common and more effective in this type of construction work. Kris Pereria explained this process at the meeting and the package touched on aspects of it. Several contractors were approached for proposals and Lydig was the most responsive.

Our original contract was signed by the previous board and the contract was amended to include the revised scope and cost. It is a standard AIA contract with a lump sum cost. The only cost increases will be if the HOA asks for addition scope or for unforeseen work that cannot be determined due to the inability to see what's below the existing structure. As indicated before we have included a contingency in our budget for this possibility. If it is not used it will be credited back to the HOA. There are no liquidated damages included.

It has been asked why we did not hire a spa consultant for the project. The spa is not a complicated item. These are prefabricated by a very reputable manufacture. The wall is the more complex part of the project and Lydig has hired a structural engineer and is working with the wall installer on the design, they will have errors and admissions insurance that will protect the HOA moving forward. In addition, we have one of the most reputable architects in the area doing the overall design. We will have a warranty period as well.

**Incorrect or Improper Wall:** The General contractor completed the original wall, Lydig, did not design the wall. They bid construction documents furnish by the developer and it was completed at the direction of the developer/Schweitzer Mountain in 2002. The developer had the right to select any type of wall they desired and did.

As a point of information, the HOA was not a party to the contract or involved with the construction. Additionally, at that time the developer was the majority owner in the newly formed HOA. Any standing at this time would be with the developer and majority owner. The inference of an incorrect wall just doesn't stand the test of time or have relevance today despite unsupported speculation. There have been claims that there is actionable construction defect with the wall. This also is difficult and unfounded. A few elements to consider in this area is standing of the claiming party, provable defect, actual damages, and nexus between the alleged defect and the damage.

There is just no evidentiary basis to pursue any kind of action by the HOA for a purported defect in wall construction. Additionally, legal liability currently would fall to our HOA. The responsibility for potential bodily injury and property damage to a third party emanating from the wall, the White Pine HOA will have obligation to defend. A further justification is that the Statute of Limitations ran out over a decade ago so this is just a moot argument on all levels. Any owner can go to their personal insurance agent or attorney for an opinion and bring actual professional advice in support of any contention.

**Construction Schedule:** Construction is a dynamic process with moving parts as a result needs updating throughout the project. The board had an outside date of December 15 for construction to complete. This was never going to be a ski season construction project. The October delivery date allows sufficient time for installation.

Please note that 95% of the project will be complete prior to the tubs being set. They are placed in concrete pits that will be completed prior to arrival. The only work once the tubs are set is final connection to the mechanical system, which will already be in place, as a concrete closure strip of roughly 2 feet around each tub. This will not be affected by cold weather as weather protection for this is included and it is common practice in our area to pour concrete in the colder weather.

We will be posting the construction schedule on our website after our preconstruction meeting and will update monthly.

Various Construction Questions: A few areas of inquiry will be addressed as follows;

1. Deletion of the tile was discussed in the April meeting as cost saving. We reviewed this option and found that by code the bottom needs to be tiled and the saving do not warrant not installing as designed.
2. Fire pits: Per the survey, fire pits will not be included in the spa area as well as other amenities such as barbecues. It was reported at the April meeting that the owners deck would be plumbed for a gas line. This would allow in the future for a fire pit on the deck if desired.
3. AllWest: The reference to AllWest Engineering employed by the HOA to do the geo tech report on the wall is totally erroneous and explained in original presentation package. Schweitzer hired a different engineering firm to do a report on any adverse effects on the White Pine and the wall during the construction of the Needles. The HOA employed AllWest years ago to monitor the foundation

for movement. Due to the environment and underground water, many properties on the mountain encountered problems and the Board wanted verification that our building was not having movement, the result was positive.

4. Landscaping: There is some inherent landscaping to be done including trees. The wall was never intended to moved eastward.

5. Off Peak: The White Pine has always reduced at various times to one tub and nothing has changed.

6. Boilers: The hot tubs will be connected to the new mechanical components that will be where the existing boiler is now.

7. At the suggestion of several owners we are looking at the addition of a trellis over the owner's patio to help with heat gain in the owners' room as well as deflecting snow that may come off the structure above.

**Voting:** The reference to 40 in favor and 6 against the assessment at the special vote was used to show the overwhelming support. It should be noted that one of the no votes was by an owner with two units so really 5 owners. There were not 9 ballots with no votes and honestly more no votes would not make a difference. The actual vote tally was by percentage of ownership and yes, the threshold was a little over 31,000. The threshold for approval was exceeded and the assessment passed. The CC&Rs were complied with and the vote was legal and there is no evidence to the contrary.

**Financing:** The Board asked for opinions on financing of the project and include a line on the ballot to indicate if the ownership would prefer to finance a portion of the project. The result on this question was more votes for the assessment and no financing. It was also brought up by an owner that they were concerned about the additional interest carry to the overall cost of the project

The Board has done some due diligence on financing and made the decision to not pursue at this time. Commercial interest rates are very high and the debt servicing could be onerous for the association. As a result, the costs of financing were determined to be too high to benefit the HOA.

For individual financing, the Board has arranged the ability for each owner to finance their portion if they choose to do so through Numerica Credit Union. Jody Azevedo is your point of contact and will get you in touch with the best loan officer depending on where you live. Her number is 208-699-4579.

The Board will be offering three-installment payments to members based on their square footage assessment. The first being due July 1, 2024 the second August 15, 2024 and the final October 1, 2024

The timing of the payments is based on the percentage of completion of the project, having the money in our account for timely payment to the contractor.

**Delaying the Project:** The prior delay of the spa project for legitimate reasons cost us several hundred thousand dollars. There is no supportable evidence that this would not be the same result if done again. Our contractor cannot guarantee labor costs, material costs, and subcontractor availability next year. We are on schedule and on budget to complete this year. Incurring the risks of increased costs and contractors even wanting to continue is ill advised and not responsible. Delaying the project at this juncture would expose the HOA to significant financial loss as our contractor has incurred expenses and a deposit has been given to the Hot Tub Supplier to secure an October delivery date. Please remember

this was not a board vote, it was a vote of the membership and it passed in favor of moving forward. The board is proceeding based on the wishes of the majority of the owners.

In conclusion, your volunteer Board welcomes as we have stated, member input and questions. We would appreciate these outreaches to not misrepresent our actions or mislead other members. There has been a lot of hard work to solve insurance, service agreements, CC&R amendments, budgets, special meetings, and the spa project over and above our normal operations. Hundreds of hours spent that will pay dividends in the future. It has been a one-of-a-kind year and half. The work and progress in the future should not be the same due to these efforts. We trust you will weigh the facts and not indulge in unsupported allegations. None of us wanted or needed this financial situation, however, we need to move forward based on sound financial decisions that mitigate future exposure. With regard to the spa project, we have full faith in our construction team and will rely on their professional advice. We have addressed the vast majority of concerns and want to move on to our needed work for the betterment of the HOA. We trust you share these goals.

Sincerely;

Kris Pereira on behalf of the board.