

August 26, 2024

To: Waterside Owners
From: Board of Directors

Subject: Vote on Repair Options; Special Assessment for Building 3 Deck Repair

Current Status of Work

The Board reported last month at the Annual Meeting that it was not satisfied with the initial design that was developed for repair of Building 3 decks, or the one bid of approximately \$1.7 million that was received to execute that design. We also reported that we had hired Jackola Engineering of Kalispell to develop a set of options for repair of the decks, and to do preliminary design work for several of those options.

That work has been completed, and the results can be found [here](#) and [here](#) on the watersidemt.com website. Out of 10 options identified, two were selected by the Board and several owners who participated in the process. Option 1 is a comprehensive option that would replace all the perimeter beams on the outside of the Building 3 decks, add horizontal steel beams between the vertical structural columns for better support underneath each deck and change the drainage pattern on each deck to drain to and off the edge as all the other buildings do. Option 2 is a more limited option, and likely less expensive, that would replace only the badly damaged beams and install vertical steel columns underneath both the new and existing beams that remain for more support. Pros and cons of each option are summarized as follows:

Option 1 – Comprehensive Repair

Pros

- This is a permanent fix, because the decks would be much better supported with horizontal steel beams between all the existing vertical columns underneath each deck and drainage would be changed to drain away from the building and off the front of the decks. This would provide a permanent drainage solution.
- The current drains in the middle of the decks, which have been problematic, would be covered.
- The look of the building would be virtually unchanged, although the replacement glulam perimeter beams would be smaller since they would be carrying no load as they are now.
- Construction would be relatively straightforward, done all at once and the same for each deck.

Cons

- Construction materials would be expensive due to replacement of all the glulam perimeter beams and the addition of steel underneath each deck.
- Overall cost would likely be higher than Option 2 initially.

Option 2 – Limited Repair

Pros

- Likely less expensive than Option 1 initially.

Cons

- Fix would likely be temporary, requiring future construction expenses to fix more beams.
- Drainage would not be changed, so drainage would still depend on the existing drains in the middle of each deck.
- We know that many of the decks have had enough beam sagging to cause drainage to go towards the front of the decks, rather than the drains. The current design has a major “lip” at the front of each deck which traps water flowing that direction causing the problems that we have had. There is therefore a strong possibility at some point that we would experience the same problems that caused the current damage to the beams.
- It may be possible to jack up some of the decks to the original design, but that could involve having to cut some of the existing beams in the middle that are not replaced, and the decks themselves may be compromised during that process.
- Steel support columns would be added to the front of each deck, affecting the appearance and views from all first and second floor units.
- Construction would be somewhat more complicated because each deck would be unique depending on its condition.
- A sewer line runs directly in front of Building 3, and the easement extends onto the front of the patios. The steel support columns would be within the easement. The sewer district has tentatively OK'd putting those supports at the edge of each patio, but made it clear that if the sewer line had to be accessed for repair or replacement we would be required to shore up each deck and remove the steel supports, at our cost, to accommodate sewer line work.

The engineer, Jackola, and general contractor, Hammerquist-Casalegno, who we have been working with, strongly recommend the first option out of all options considered. In particular, they highly recommend the comprehensive repair option over the limited repair option summarized above because they view the limited option as a temporary fix, with more work to replace damaged beams in the future. The Board asked them to do a preliminary evaluation of a more limited option anyway, to make sure we weren't overlooking any opportunities to lower costs.

Owner Engagement

The Board is asking all the owners, through an advisory vote, to tell us which option we should pursue. Please see the ballot attached to the back of this letter. The request is very early in the process, before we have any cost estimates, because getting cost estimates for both options will involve time and cost. The project engineer will have to complete a preliminary design for both options, and the builder will need to cost out the components and time the best they can. From the summary of pros and cons above, it is clear that the only advantage of Option 2, the limited repair, is likely lower cost initially, although over the longer term it could be more expensive if multiple construction visits are required.

The Board recommends committing to Option 1, the comprehensive repair, now. The primary reason for this recommendation is that because Option 2, the limited repair, does not permanently fix the drainage problem that caused the existing damage. Because of that flaw, the Board believes it may be a waste of time and money to further evaluate and cost out that option. There are also clearly other issues with Option 2 from the list above that would be negative.

We are asking for owner input because this is a major undertaking which could be very expensive. The only benchmark we have currently is the one bid we received which did involve replacing all the perimeter beams with steel beams. That bid was approximately \$1.7 million, which works out to over \$26,000 per unit at Waterside. We would hope that we can do better than that with the Option 1 design as it's a more limited use of steel and does not involve tearing up the concrete decks. Whichever option we pursue, the Board will form a committee of interested owners to work with the Board, the engineer and the builder to develop a design that is as cost effective as possible while providing the best chance of a long-term solution.

Way Forward

The Board is planning to enter into agreements with Jackola Architecture and Engineering in Kalispell, and Hammerquist-Casalegno Construction in Kalispell for pre-construction design services to develop a detailed design for Building 3 deck repairs. It's estimated that detailed construction-ready drawings will cost approximately \$50,000, including construction input from Hammerquist-Casalegno. The schedule for completing this work and making a decision to go forward with construction is anticipated in the late October – early November timeframe. This cost will be higher, and the timeline longer, if we decide to cost out two options as discussed above. Once a decision is made, construction could commence late this year and continue over the winter, with completion prior to next summer.

The Board came to the decision that the best way forward to develop a viable design and construction plan for the Building 3 decks is to enter into agreements with Jackola and Hammerquist-Casalegno as noted above. Previously, the Board had engaged the architect/engineer who designed Waterside, Obermeier-Sheykhet in Denver, to develop a preliminary design for repair. Their design concept resulted in only one firm bid from Martel Construction of approximately \$1.7 million to replace all of the perimeter deck beams on Building 3. Hammerquist-Casalegno raised concerns about the feasibility of the design and whether there might be additional damage not anticipated in the design. Because of that, and only one bid that seemed very high, the Board decided to engage a local architect/engineer to work with the Association and Hammerquist-Casalegno to develop a better solution.

By entering into agreements with both the architect/engineer and contractor, the anticipated outcome will be that the contractor Hammerquist-Casalegno will do the work without a competitive bidding process. Given the experience to date, we're not sure we could get any contractors to do a competitive bid. The agreement with Hammerquist-Casalegno is structured

as a cost + fee arrangement, so we would have the opportunity during the design process to make input to the design to minimize cost. If for any reason the arrangement doesn't work out, the Association has the right to withdraw from the agreement at any time.

Responsibility for Repair Costs

In general, our Association's Declaration of Condominium puts responsibility for all internal repairs and maintenance (from the drywall in) on each individual unit owner, and for anything external to that on all 65 owners, who own what's known as General Common Elements in equal shares. There are exceptions, known as Limited Common Elements, for parts of the buildings that service only some of the individual units. (See the Declaration of Condominium document and amendments on the watersidemt.com website). The decks on Building 3 are an issue as they are used only by the owners of the unit to which they are attached (implying a Limited Common Element), but are external to the unit itself and part of the building structure (implying a General Common Element).

Because this is an important issue, and we may be talking about a large amount of money, we decided to get a legal opinion about who is responsible. We engaged Coleen Donohoe, an attorney in Kalispell, who has worked for our association before and in fact was one of the attorneys responsible for drafting our original condominium declaration documents. Her report, and supporting documents including a structural engineer report, can be found [here](#) and [here](#), on the watersidemt.com website. Her opinion is that because the damaged beams are an integral part of the structure, they are a General Common Element which we are all responsible for.

A number of owners have brought forward the idea of changing the ownership of these particular structural elements to something that some may perceive to be more fair. For example, our Declaration of Condominium states that repairs to our boat docks would be divided 85% responsibility to the dock owners, and 15% to the Association, or all the owners. Other ideas that some condominium projects have been based on assign ownership of General Common Elements based on square footage or value of the units, rather than an equal percentage to all units. The Board asked our attorney to weigh in on these ideas.

It turns out that changing ownership of General Common Elements has been an issue for some condominiums, because there will always be winners and losers for any change from what the Declaration of Condominium for any project defined when owners purchased their unit. Because there were abuses, the State of Montana stepped in and in law required any change in General Common Elements ownership to be approved by a unanimous vote of the owners. This state law can be found [here](#), on the watersidemt.com website. The likelihood of getting a unanimous vote among 65 Waterside owners is remote, therefore the Board is proceeding under our existing Declaration of Condominium which states equal ownership of all General Common Elements.

Special Assessment

Paying for the planned pre-construction work will require a Special Assessment. As indicated in the Annual Meeting in July, the Association's reserves have been depleted to stain all of the exposed wood beams in Buildings 1,2 and 4, and upcoming for those beams in Building 3 that are not slated for replacement. Therefore, the Board has decided to implement a Special Assessment of \$1,000 on October 1 of this year to pay for the design work. This assessment could be higher if it is decided to cost out more than one option for repair. Any money not used for the design work will be applied to actual construction work to repair the decks. If the Association goes ahead with construction, it's likely that a much larger Special Assessment will be necessary to fund that work.

Insurance/Legal Status

As noted previously, an initial insurance claim filed approximately a year ago was denied by our insurance company, because long-term water damage is specifically excluded. The Board has hired an attorney to evaluate whether there may be a basis for an insurance claim based on the likelihood that a design flaw caused the water damage. The attorney is also investigating whether there is any recourse to those involved in the design of the building, given that the original architect stated that beam deflection, or sagging, was the main cause of water getting into those beams. Unfortunately the Montana Statute of Repose generally puts a 10-year limit on liability for design and construction.

Conclusion

Your Board believes that given all of the circumstances summarized above, the best course of action is to execute permanent repairs to all the decks on Building 3 as soon as possible. All Waterside units have increased in value substantially in recent years because of their location and quality. We believe it will be in the best interests of all owners to have a permanent solution to the Building 3 decks, because the value of all our units will be negatively impacted without it. If the decks are not permanently repaired, there will always be a question about how that will impact the value of all units, not just Building 3. By executing a permanent repair, we believe all owners will be positively contributing to and enjoying the benefits of one of the most beautiful developments on world-class Flathead Lake. Once a permanent solution is decided, the Board intends to assemble a meeting of interested stakeholders, including realtors, to inform them of the repairs being undertaken and the anticipated outcome/schedule.

**Advisory Vote – Please Tell Us Which Building 3 Deck Repair
Option is Preferred**
(One Vote per Unit please)

Option 1 – Comprehensive, Permanent Repair

Option 2 – Limited, Temporary Repair

Unit Number _____

Please scan or send a photo of this ballot to
dawn@westernmountains.com

Thank you for your input! Please respond by Friday August 30.