

CITY OF APPLE VALLEY
PLANNING COMMISSION MINUTES
MARCH 17, 2010

1. CALL TO ORDER

The City of Apple Valley Planning Commission meeting was called to order by Chair Churchill at 7:00 p.m.

Members Present: Jeannine Churchill, Tom Melander, David Schindler, Tim Burke, Keith Diekmann, Ken Alwin and Paul Scanlan

Members Absent: None.

Staff Present: Community Development Director Bruce Nordquist, City Planner Tom Lovelace, City Attorney Sharon Hills, Assistant City Engineer David Bennett and Department Assistant Barbara Wolff

2. APPROVAL OF AGENDA

Chair Churchill asked if there were any changes to the agenda. Hearing none she called for a motion.

MOTION: Commissioner Burke moved, seconded by Commissioner Diekmann, to approve the agenda. The motion carried 7-0.

3. APPROVAL OF MINUTES OF MARCH 3, 2010

Chair Churchill asked if there were any changes to the minutes. There being none, she called for approval of the minutes.

MOTION: Commissioner Alwin moved, seconded by Commissioner Schindler, to recommend approval of the minutes of the March 3, 2010, meeting. The motion carried 5-0. Commissioners Burke and Melander abstained.

4. CONSENT ITEM

--NONE--

5. PUBLIC HEARING

--NONE--

6. LAND USE/ACTION ITEMS

- A. Cobblestone Lake Commercial 3rd Addition/Think Bank – Consider the rezoning of 1.6 acres from “PD-703/zone 8” to “PD-703/zone 6”, subdivision of**

approximately 84 acres into 2 lots and 15 outlots, and site plan/building permit authorization to allow for the construction of a 5,070 sq. ft. bank on a 1.6-acre lot.

City Planner Tom Lovelace stated that the petitioners are proposing a subdivision that will plat the remaining 84 acres of property in the Cobblestone Lake development into two (2) lots and fifteen (15) outlots, a rezoning of the proposed Lot 2 from its current zone 8 designation to zone 6 and site plan/building permit authorization to allow for construction of a 5,070 sq. ft. bank with three drive-up teller and one ATM lanes, and 31 surface parking spaces on a 1.57-acre lot. Direct access to the bank site will be via Emperor Avenue and 158th Street West, two private streets.

Several outlots (Outlots A, D, G, J, L, and N) are being platted consistent with the Cobblestone Lake Park Land Sketch and many of those outlots have finished grading with trails and landscaping installed. Staff is recommending that Outlots A, D, G, J, L, and N be rezoned to “Planned Development No. 703/zone 7”, which is a zone within the planned development that has been designated for parks and playgrounds; recreational buildings, community centers and structures; and public utility buildings and structures. They also should be dedicated for public park.

The petitioner is also proposing to dedicate 85 feet of right-of-way for Pilot Knob Road and 33-50 feet of right-of way for 160th Street West, which will meet the right-of-way requirements in accordance with the most recent ‘Dakota County Road Plat Review Needs Map’. Dakota County has raised an issue concerning the need for additional right-of-way for Pilot Knob Road and 160th Street West, which is based upon a recommendation in the “Dakota County CSAH 31 (Pilot Knob Road) Corridor Transportation Study”. An agreement between the City and Dakota County shall be prepared that will protect the additional area and will identify the improvements that can and cannot be placed in that area. This should be executed prior to final plat approval.

The private streets that provide access to the bank are constructed on lots and an outlot owned by others. The petitioner will need to provide the City with documentation that they are a party to the “Agreement for Easements and Use Restrictions” prior to final plat approval; the agreement shall be between the petitioner and the adjacent property owners who have portions of the private street located on their property.

City code requires six stacking spaces for each drive-up window. The site plan shows six stacking spaces for the five drive-up lanes, which meets the minimum requirement. The City’s Traffic Engineer has reviewed this proposal and has indicated that while the plan shows storage for six vehicles at each drive-thru lane, the likely storage would be four vehicles for the lane closest to the building and five vehicles for the other three lanes. But because of new trends in banking such as internet and phone banking, he does not believe that the reduced number of stacking spaces will be a traffic problem.

The Assistant City Engineer and Water Quality Technician have reviewed the revised plans and are satisfied with the changes the petitioner has made. The petitioner will be required to apply for a Natural Resources Management Permit and will be required to execute an infiltration maintenance agreement as part of the final plat approval.

The original plans indicated that the building will be constructed of clay tile with an overhang and the drive-up canopy constructed with a pre-finished metal panel. The east and approximately half of the north and south elevations will be 100% glass. The west side of the building, which abuts Pilot Knob Road, seems rather plain so staff recommended that the petitioner try to dress it up. The petitioner was also encouraged to incorporate elements of sustainable building design into their building. A trellis has been added to the west side of the building in an effort to add an additional material and create some depth to the west side of the building. Also, included is a letter from the petitioner that lists the sustainable/green elements that will be part of the building.

The Natural Resources Coordinator reviewed the original landscape plan and recommended several changes to plant species. The petitioner has incorporated those changes in its revised landscape plan.

The Traffic Engineer reviewed the original site plan and suggested slight modifications to the radii of several parking islands and driveway entrance. The petitioner has made the necessary changes as recommended.

No pedestrian connection is being proposed to the Pilot Knob Road pathway. Staff is recommending that a direct pedestrian connection from the site to the Pilot Knob Road pathway be constructed along the north side of the building.

Lovelace asked for comments or questions from the Planning Commission.

Chair Churchill stated that Lovelace noted in his staff report that City Code requires 6 stacking spaces for each drive-up window. She asked Lovelace if the Commission should reference that in their motion and recommend that the six spaces not be required.

Lovelace stated that yes, it should be mentioned and it can be stated that based on the recommendation from staff and the traffic engineer, six stacking spaces are not required.

Commissioner Scanlan asked Lovelace to point out on the site plan where the pedestrian access with the pavers is located.

Lovelace noted the location on the site plan on the east side of the building.

Commissioner Scanlan asked what the material will be.

Lovelace said that the petitioner is identifying it as concrete to separate it out. He said that staff would like to see them use a stamped concrete so that it further enhances and identifies the area.

Chair Churchill hearing no further comments from the Commission for Lovelace, asked the petitioner to step forward.

Jacob Fick with South Shore Development said that they met with both Think Bank representatives and staff since the last public hearing meeting to address the issues brought up by the Planning Commission. He stated that the proposal also includes developing a lot for the liquor store and a lot for Think Mutual Bank and then a number of additional outlots within Cobblestone for future

development and outlots for parks and streets. Mr. Fick said that the architect is here tonight to walk the Commission through the layout of the building and to answer any questions that the Commission may have.

Chair Churchill thanked Mr. Fick and asked for the architect to come forward.

Jeff Pflipsen with HTG Architects approached the Planning Commission. He stated that they are okay with changing the material at the pedestrian access to a stamped concrete and possibly a different color to designate that area.

Mr. Pflipsen stated that he would like to explain the prototype design so that the Commission can understand the thought process that went into it. Originally they spent an extensive amount of time planning the design for Think Mutual Bank branches and where they will locate; the design, who their demographics are for and who will be using the facility. He stated that although Think Mutual Bank is a bank, it is a retail facility first. All banks are truly retail and are for selling.

Mr. Pflipsen stated that the first facility was built in Rochester and the floor plan was integral with the site plan. They wanted to design the building so that it was an inside-out/outside-in facility. He presented the floor plan and walked the Commission through it. He stated that almost half of the front of the building is glass. They want people to be able to see into the building as they're driving by, pulling into the parking lot or while in the drive-up teller lanes; creating an interest so that the customers want to come into the facility. Mr. Pflipsen stated that twenty years ago the design was to create a lot more drive-up lanes and the problem now is that it is so convenient for people to use the drive-up, they don't want to come into the building anymore, but statistics show that people will come into the building.

Mr. Pflipsen continued by stating that now they're trying to make the interior of the space more retail friendly. The lobby is designed to be open flow with no teller lines. There are free-standing counters designated as concierge stations. The bank won't have a greeter, tellers or lenders. The individuals can do everything so when a customer walks into the facility they will be greeted by a universal associate who could help with checking, savings, an account, deposit, withdrawal, etc. Associates will be able to see people drive-up or walking into the lobby and will be able to greet them. It truly is retail and site lines are important.

Mr. Pflipsen stated that when they started working with Mr. Fick and South Shore Development the plan was to face the building to the east and into the development. The developer was very concerned about the layout of the site and the look of the building, which they were happy to hear. South Shore Development wants to create a vehicular and pedestrian flow along Cobblestone Lake Parkway.

Mr. Pflipsen stated that an issue at the first public hearing was a sidewalk connection from the property to Pilot Knob Road. Because there is a sidewalk connection on the south side of the liquor store property, they thought it would probably be better to have the sidewalk connection on the south side of the building. He stated that they will work with staff and South Shore Development on whether this sidewalk becomes a shared sidewalk with the future development.

Mr. Pflipsen displayed multiple photographs of the Think Mutual Bank located in Rochester, MN. He stated that there are some key ingredients that are critical in keeping the prototype – the tile, the metal horizontal lines and the aluminum frames, which are silver in color, and the blue sign. These three design elements are critical in their design prototype. He stated that in the revised drawings, a trellis was added at the front and the back of the building. They've decided that they really do not want the trellis in the front because it detracts from the design of the silver lines and the blue sign.

Commissioner Diekmann asked Mr. Pflipsen to explain the concept behind the trellis. He said that the comments at the last meeting were that something needed to happen to the back of the building, not to make it look like other buildings out there; it needed to be four-sided architecture.

Mr. Pflipsen said the trellis will create some shadow lines which will create some interest on the building. Also, the trellis is more of a light, airy feature to break up the massing of the building and knock down some of the height of it. He said that they thought bringing the canopy all the way around the back might be overkill.

Commissioner Scanlan said that the utility areas of the existing commercial buildings are incorporated more into the design so that you can't see it, as opposed to the Think Bank's design.

Mr. Pflipsen said that part of that goes back to the prototype and the way it is designed. They don't want anything on the roof and the utilities can't fit into the building.

Commissioner Scanlan said since the bank faces into the development instead of facing Pilot Knob Road, it faces some unique challenges, architecturally.

Mr. Fick said that he doesn't think people will drive by and realize that the windows are a janitorial closet, mechanical room or utilities. The thought behind the trellis was to pull some of the elements of Cobblestone Lake into it, based on the comments received at the previous meeting. Many of the free-standing retail buildings in Cobblestone Lake to date, do not have the back mimicking the front, although they do try to dress up the backs as much as they can with berms and landscaping. He said the back of Target does not have any windows at all.

Mr. Fick said that after hearing the Commission's comments they looked at stone applications, material applications, and textured or colored tile to create some movement. He said as people drive past on Pilot Knob Road or drive around the parking lot they will not be able to tell that there are utilitarian uses in the back of the building. There are mechanicals in the back and people will realize that with the screening. Mr. Fick added that this is not the only building out there where the mechanical area can be seen.

Commissioner Scanlan said that he has no issue with the windows. He stated where the trash/utility area bumps out in the back, is what sticks out. He said the other properties have been able to minimize that to a greater extent than what has been done here.

Mr. Fick said there are screening walls at other locations in the development. He stated that the liquor store has a screening wall to screen their loading dock; the same thing that Target has done. The Wells Fargo Bank building has a bump-out on the western side of their building between the bank and

Target. The other smaller individual units have an internal and/or roof mounted units so the need isn't there. There are some on the back of the Ryan Buildings that are screened by wooden fences or wood walls that come up on the back of some of those units. Mr. Fick said that part of the look on this design is to keep the mechanicals off the roof.

Mr. Pflipsen said they have kept the height of the enclosure as low as possible. As people are driving north on Pilot Knob Road, their eye will be drawn to the drive-up area, not the back of the building. The features will be vehicles at the drive-up, horizontal lines and metal. People driving south on Pilot Knob Road will be driving past the liquor store first and then the back of the bank which is such a small dimension of the entire development. He said there is so much going on that he doesn't believe the little bit of the west elevation is going to be noticed. The idea with the trellis is that it is non-intrusive and light enough to draw the eye away from the mass of the clay tile.

Community Development Director Bruce Nordquist commented that the window elements are metal with vertical and horizontal elements. He suggested these elements be incorporated into the trellis design. He asked Mr. Pflipsen if there was any discussion along those lines.

Mr. Pflipsen replied that Nordquist brings up a great point. He said if the vertical lines of the aluminum on the windows could be replicated in the trellis and the horizontal lines that match the roof, while eliminating the stone, it would clean up the design and tie it into the architecture that's already there.

Chair Churchill said she was going to suggest something similar. The column that supports the overhang over the drive-up area is a metal post. She doesn't suggest that scale but something similar instead of the stone on the trellis in the design. Also, she said that the number of posts could be reduced. That would simplify it and reduce the fussiness of the trellis appearance right now and tie it in more with the building and make it the same material as the pillar for the canopy. It would unify the design and bring it around the building without introducing another color or a different material.

Commissioner Alwin stated that he is okay with the trellis concept. He stated that drivers will be passing by on Pilot Knob Road at 50-55 mph and should be looking straight ahead. The trellis or something comparable dresses up the back of the building. Whether it is with the stone or the silver metal looking base, it is achieving the purpose of dressing up the west elevation of the building. Also, he stated that it is a pretty small space.

Mr. Pflipsen stated that with all the suggestions they will be happy to work with staff to modify the design.

Mr. Fick said that they had sat down and mulled over how to dress up the back of the building, thinking that the façade of the tile was the issue. They were trying to break up that mass and add some feature to it. He stated that the back of the building would be hurt without the trash enclosure because then it would look like a wall of blank tile. The trash enclosure adds an element of movement to the back of the building as well as some color break up when looking at it from an angle. He said that the Commission has made a number of good suggestions and they're certainly open to those.

Mr. Pflipsen said that, incorrectly, they took the Commission's comments to tie in the Cobblestone look, with stone. If the Commission is open to using just vertical aluminum and horizontal lines they are happy with that and can make that work.

Chair Churchill said given the prototype and appearance of Think Mutual Bank's trademark design, she would rather see them bring that in. She would like to see aluminum on the back end instead of trying to introduce an element that doesn't go with this particular design.

Commissioner Diekmann stated that there is a lot of banding going on and the horizontal banding that's in the windows could be wrapped through the clay tiles. He said the design that is presented this evening does a disservice to the building. It's a beautiful building, but the trellis confuses the whole design.

Mr. Pflipsen said they prefer not to have anything there because they like it the way it is. Because of the Commission's request they will continue to do something. If the Commission is okay with them doing some horizontals and verticals using the type of metal in the supporting post of the drive-up canopy, they feel that will tie in very well with the existing prototype.

Commissioner Scanlan said he wanted to go back to his comments at the previous meeting in regards to the building materials and the use of stone in the existing Cobblestone Lake community. He said Mr. Pflipsen has spoken tonight about the image for Think Mutual Bank Building and what they're trying to do with their prototype. He said the same could also be said for the community of Cobblestone Lake in terms of what they've done to build their image within the community. He said there could be some middle ground to take Think Mutual Bank's design and bring in some elements from the community to show the unity. He understands that is what they're trying to accomplish with the trellis and agrees with the other Commissioner's comments that that is not the answer to what they're trying to accomplish as a group. He said that the blue sign could be an area where they could think about adding some stonework that could show that marriage with the Cobblestone Lake community and still retain their branding.

Commissioner Diekmann said that in his opinion to be in the Cobblestone Lake community is to not be like everything else so he disagrees with Commissioner Scanlan on this. The whole idea of Cobblestone Lake is thoughtful architecture that is pedestrian orientated. There are buildings that span architecture ranges from arts and crafts to all the way down the line to big box. To make everything have to tie into everything doesn't make anything unique; it makes it all brown. It has to be mixed up. That is why he says the trellis has done a disservice to the building to try and tie in something that doesn't mean anything to the building. It doesn't stand on its own. Buildings in Cobblestone Lake should be unique, stand on their own and they should be well thought out. The only problem he had with the back of the building is too much of one thing. He said just break it up a little. It needs to be four-sided architecture and it didn't look that way before. Some simple banding would make it look thought through. He does not have a problem with this building. He stated let it be its own unique feature.

Mr. Pflipsen said that they don't want to add stone to the blue part of the building.

Commissioner Diekmann agrees with that statement.

Mr. Pflipsen said that adding banding on the backside could be easily done. He said they can definitely simplify and keep the architecture the same.

Commissioner Burke added that he supports the statements of keeping it simple, keeping the horizontal lines and keeping it unique.

Chair Churchill stated that they're trying to work with the petitioner and not force them to change their entire branding design.

Mr. Pflipsen thanked the Commission for their comments and suggestions.

Mr. Fick stated that as the developer they have created an image in Cobblestone Lake that they're very proud of. There is a certain theme within Cobblestone Lake, but their monuments are not the same theme way as the clock tower, for instance. There is a different architecture theme out there. It does come down to an opinion of taste. As the developer, their overall goal is to make sure that they have a sustainable, well thought through, pedestrian friendly site design as well as a quality building that goes in. It is not their intent to have every building that is out there to look alike. Although the commercial architecture has a similar flavor, quite frankly they are different in architecture. They want it to be a first-class development and feel that they have accomplished that. They feel Think Mutual Bank benefits the site, the residents and the City as a whole.

Chair Churchill hearing no further comments from the Commission asked for a motion.

MOTION: Commissioner Burke moved, seconded by Commissioner Diekmann, to approve rezoning of Lot 2, Block 1, Cobblestone Lake Commercial 3rd Addition, according to the preliminary plat, from Planned Development No. 703/zone 8 to Planned Development No. 703/zone 6. The motion carried 7-0.

MOTION: Commissioner Burke moved, seconded by Commissioner Diekmann, to approve rezoning of Outlots A, D, G, J, L, and N, Cobblestone Lake Commercial 3rd Addition, according to the preliminary plat, from Planned Development No. 703/zone 8 to Planned Development No. 703/zone 7. The motion carried 7-0.

MOTION: Commissioner Burke moved, seconded by Commissioner Diekmann, to approve the Cobblestone Lake Commercial 3rd Addition preliminary plat subject to the following conditions:

- A buffer area use and restriction agreement shall be approved and recorded with the final plat.
- An infiltration basin maintenance agreement shall be approved and recorded with the final plat.
- The petitioner shall provide proof that they are a party to the existing "Agreement for Easements and Use Restrictions", prior to final plat approval.

The motion carried 7-0.

MOTION: Commissioner Burke moved, seconded by Commissioner Diekmann, to approve site plan/building permit authorization to allow for construction of a 5,070 sq. ft. bank building with 4 drive-up window lanes on Lot 2, Block 1, Cobblestone Lake Commercial 3rd Addition, according to the preliminary plat, subject to the following conditions:

- No building permit shall be issued until the property has been rezoned from Planned Development No. 703/zone 8 to Planned Development No. 703/zone 6.
- No building permit shall be issued until the final plat has been recorded at Dakota County.
- A sidewalk connection shall be constructed from the pathway along the east side of Pilot Knob Road to the front of the building.
- The 21 techny arborvitae plantings located between the west property line and the west parking area, and any approved freestanding sign shall be located no closer than 25 feet from the west property line.
- Although City Code currently requires space to stack six (6) vehicles at drive-up teller lanes, the requirement shall be reduced to reflect changes in current banking technology and space available on site.
- The sidewalk shall be constructed at a location approved by City staff.
- Crosswalks will be stamped concrete.

The motion carried 7-0.

B. Wild Bill's Saloon Outdoor Dining Area – Consider a site plan/building permit request to allow for construction of a 3,138 sq. ft. outdoor dining area along the south side of the existing restaurant.

City Planner Tom Lovelace stated that the petitioner is requesting site plan/building permit authorization approval to allow for construction of a 3,138 sq. ft. outdoor dining area along the south side of Wild Bill's Sports Saloon, a 7,854 sq. ft. restaurant located at 15020 Glazier Avenue. The 94 ft. x 35 ft. dining area will have 17 tables that will seat up to 68 patrons and a 26 ft. x 9 ft. covered bar that will seat up to 20 patrons. The 234-sq. ft. bar will have rough sawn cedar finish with a galvanized metal sloped roof. The outdoor dining area will be bordered by a split-rail fence along the east, west and south sides and the exterior elevation of existing building along the north side. A gas fireplace will be located along the west and east walls.

Access to the outdoor dining area will be from the restaurant via a door located along the south side of the building and entrances along the east and west side of the dining area, which will also serve as fire exits.

A current outdoor dining area, approximately 750 sq. ft. in area, exists along the north side of the building just east to the main entrance to the restaurant. City code restricts the size of an outdoor dining area to 40% of the square footage of the principal restaurant building. The two outdoor dining spaces will exceed the maximum allowed by 746 sq. ft. Seating should be eliminated from the north

area or the size of the proposed south area will need to be reduced. The petitioner has indicated that all seating will be removed from that area and it will be used as an outdoor smoking area only.

The parking requirements for a restaurant such as Wild Bill's are the following: 1 space per 2.5 customer seats and 1 space per 5 seats of outdoor seating, excluding the first 10 outdoor seats. The current restaurant has seating capacity for up to 250 customers and the proposed outdoor dining area will have 88 seats, which will create a need for a minimum of 116 parking spaces. The site plan identifies 111 parking spaces and the aerial of the site indicates 109 spaces, which is 5-7 spaces short of the minimum required. Therefore, the petitioner will need to eliminate seating to bring the restaurant into compliance with the minimum parking requirements.

Construction of the dining area will require the removal of the existing landscaping along the south side of the property, including several mature trees. Staff has concern about the loss of the mature trees and its impact to CSAH 42 streetscape. The petitioner could replace the trees lost with new trees that would look out of place among the existing older trees. In order to save the mature trees along CSAH 42, staff is recommending that the depth of the outdoor dining area be reduced from 35 feet to a minimum of 30 feet. The Natural Resources Coordinator has reviewed the proposed landscape plan and has additional comments. The petitioner shall make the necessary changes and shall abide by the recommendations outlined.

The construction of the outdoor dining area will require a Natural Resources Management Permit (NRMP) and will require the construction of an infiltration basin sufficient in size to capture the first 1/2 inch of storm water runoff generated by the dining area. The petitioner should work with the City Engineer in determining the location of the basin prior to issuance of a building and NRMP permits.

City code requires that a fence surrounding the dining area shall be suitable for the intended use and a fencing plan shall be submitted with the site plan for review and approval by the city. The petitioner will be constructing a three-rail cedar fence, whose materials are similar to the material for the enclosed bar.

Submitted plans indicate signage on the roof of the outdoor bar, which is not allowed.

Lovelace asked for comments or questions from the Planning Commission.

Commissioner Diekmann asked how many spaces the petitioner is short on their parking.

Lovelace responded 5-7 spaces.

Commissioner Alwin requested consideration for the sidewalk to be extended to the existing sidewalk along County Road 42. He stated that pedestrian traffic may want to access the outdoor patio.

Lovelace replied there could be an opportunity to extend the sidewalk on the west side of the patio.

Commissioner Melander asked if the elimination of the five feet came from the Natural Resources Department.

Lovelace said yes and the Natural Resources Coordinator's suggestion was based upon enough clearance for the mature trees.

Commissioner Melander stated that he likes the outdoor seating and this request avoids a lot of issues that other petitioners have had in the past because this backs to County Road 42. He said it will also draw people into the restaurant that are passing by. He said it's a great idea.

Lovelace said there is an existing outdoor patio at the front of the restaurant that the previous owner had installed. There is a maximum amount of outdoor dining area that is allowed based upon the square footage of the building itself, which is 40% of the total area of the restaurant. Both outdoor areas would exceed the maximum allowed, although the petitioner states that he would remove the seating in the front of the building and would be an outdoor smoking area only.

Chair Churchill asked Lovelace if Minnesota has any laws about outdoor smoking within so many feet of an entrance door.

Lovelace said he is not aware if those exist but if they do the petitioner would need to adhere to that.

Chair Churchill asked if the petitioner reduces the width of the outdoor area from 35 ft. to 30 ft. what does that do to the parking requirement.

Lovelace stated that the petitioner will need to decide how many people the outdoor dining will seat and how many the indoor restaurant will seat. During the summer, more patrons may want to sit outdoors instead of indoors. The restaurant only has 'x' amount of parking spaces and so are allowed only 'x' amount of seats within the restaurant. He said that he was allowing the petitioner to decide how many seats would be inside and how many are available outside.

Commissioner Scanlan asked what the building materials are for the outdoor bar.

Lovelace said it is a rough sawn Cedar exterior and the roof is metal. It is an accessory use so it does not have to complement the materials of the existing building.

Chair Churchill hearing no further comments from the Commission asked to hear from the petitioner.

Mike Tupa, one of the partners of Wild Bill's Saloon approached the Planning Commission. He introduced his building contractor, Craig Lade. Mr. Tupa said after reading through the recommendations he is pleased with the feedback. He is disappointed that they won't have the full 35 ft. but understands and can appreciate why the recommendation has been made. He said that it hadn't crossed their minds that the construction could harm the trees. The trees do add a lot to the boulevard and their uniform appearance looks great.

Mr. Tupa asked that since they're eliminating the 5 ft. of space if they could extend the patio to the west and connect to the sidewalk.

Chair Churchill said the issue is that the petitioner cannot be more than 40% of the indoor dining area.

Mr. Lade said that they're a couple of feet under that. The maximum that they're allowed is 3,140 sq. ft. They would be losing about 500 sq. ft. when they take the 5 ft. off and adding about 240 sq. ft. back if they went out the west side so they would be well below the 40%.

Chair Churchill asked Lovelace if there is any possibility of creating a stone border around the existing trees.

Lovelace responded that it appears they might be right on the property line as well as a portion in the right-of-way. He said the City would need to contact Dakota County to do that kind of work in the right-of-way.

Chair Churchill said her thought was running the south edge of the patio and indenting around the trees and it would also give some architectural relief from the solid line.

Lovelace said that he thinks the concern that the Natural Resources Coordinator had is dealing with the excavation near the trees and the excavation work that would be done for the patio slab. That would get into the root line and he is concerned about the damage and the loss of the trees.

Commissioner Melander added that you can't mess around with anything under the area that the branches extend.

Lovelace said that the petitioner is asking to swap out the loss of the 5 ft. and add it onto the western portion. He said that as long as the petitioner is under the 40%, it is up to the Commission if they would have an issue with that or not.

Chair Churchill said that the petitioner can work with staff on that issue. She said that the side of the petitioner's building needs some dressing up and this is a good idea.

The petitioners thanked the Commission for their time.

Chair Churchill hearing no further comments from the Commission asked for a motion.

MOTION: Commissioner Diekmann moved, seconded by Commissioner Burke, to approve the outdoor dining area at 15020 Glazier Avenue West in accordance with the submitted plans, subject to the following conditions:

1. The depth of the outdoor dining area slab shall be reduced from 35 feet to a minimum of 30 feet in order to protect the mature trees along the south property line.
2. The total number of seats in the restaurant and outdoor dining area shall be reduced to be compliant with the minimum parking requirements for a Class I restaurant.
3. An infiltration basin shall be constructed on the site that will sufficiently capture the first ½ inch of stormwater runoff generated by the outdoor dining area. The size and location shall be approved by the City Engineer prior to issuance of a Natural Resources Management Permit.

4. A tree protection plan for the mature deciduous trees located along the south property line shall be submitted for review and approval by the Natural Resources Coordinator prior to issuance of a Natural Resources Management Permit.
5. The winter creeper plant material shall be replaced with a more environmentally friendly species of groundcover. The name of the alternate material shall be submitted to the City for approval prior to issuance of a Natural Resources Management Permit.
6. No building signage shall be allowed on the covered bar.
7. The outdoor dining area occupancy shall be posted in accordance with applicable city fire codes.
8. Sidewalks from the fire exits shall extend to the parking lot and shall meet all applicable accessibility requirements.
9. If gates are used at the fire exits, signage shall be required indicating that they remain unlocked during business hours.
10. The outdoor dining area shall meet all handicap accessibility requirements.
11. Issuance of a building permit for the covered bar shall be required.
12. All other applicable city codes shall be strictly adhered to.
13. The applicant will work with staff to modify the configuration of the outdoor seating area.
14. A sidewalk connection will extend to County Road 42.

The motion carried 7-0.

7. OTHER BUSINESS

A. Review of the Upcoming Schedule and other Updates

Community Development Director Bruce Nordquist stated that there were no updates to report.

8. ADJOURNMENT

Hearing no further comments from the Planning Staff or Planning Commission, Chair Churchill asked for a motion to adjourn.

MOTION: Commissioner Diekmann moved, seconded by Commissioner Schindler, to adjourn the meeting at 8:26 p.m. The motion carried 7-0.