



City of Canby

Staff Report
File #: MOD 23-02
FoB Taproom Outdoor Space

STAFF REPORT DATE: June 5, 2023

STAFF: Brianna Addotta, AICP, Associate Planner

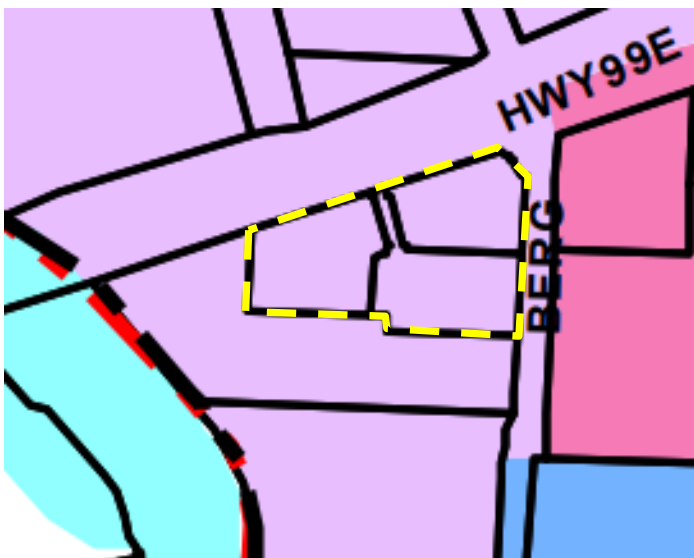
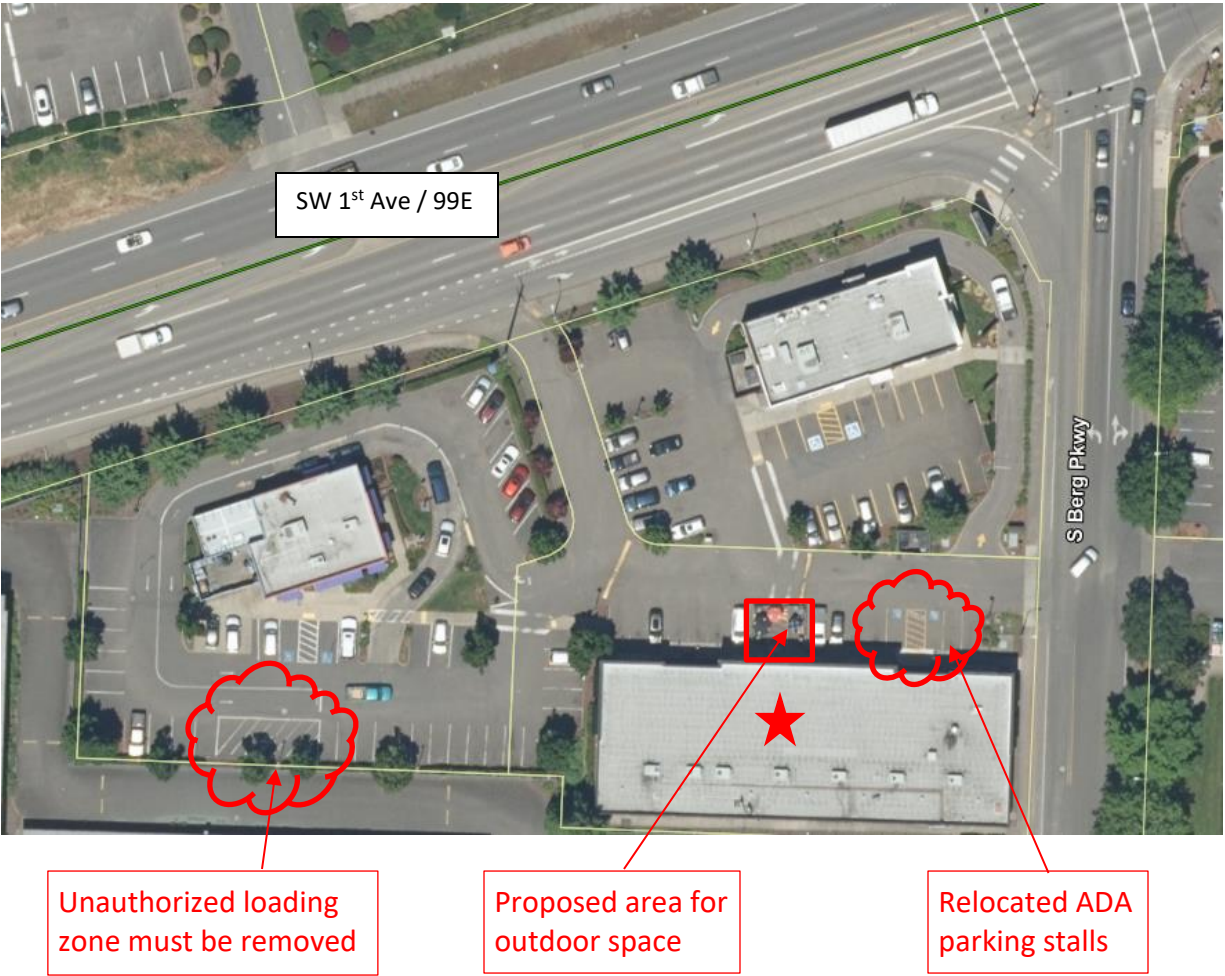
Applicant Request

Canby Place is a privately owned shopping plaza with communal parking located at 1109 SE 1st Avenue. It consists of three tax lots, all owned by the same entity, Briar Lane Properties LLC. The tenants in Suite D, Friends of Beer Taphouse (FoB), have operated an outdoor seating area in the two former ADA parking spaces in front of their business under the Open Air Canby program. This program allowed outdoor seating to be located in private parking lots during the COVID 19 health crisis. The City Council voted in August 2022 to end this program in May 2023. In order for the tenants of Suite D to establish permanent outdoor seating, a Type II Intermediate Modification of the previously approved Site and Design Review permit is required. The property owners of the Canby Place Shopping Center and the business owners of the FoB Taphouse have applied to make this outdoor seating area permanent.

Decision

Based on the submitted application and the facts, findings, and conclusions of this report, MOD 23-02 is **approved** pursuant to the conditions of approval included in this Staff Report.

Vicinity and Zoning Maps



- City Limits
- Urban Growth Boundary
- C-2 Highway Commercial
- C-M Commercial Manufacturing
- M-1 Light Industrial

Property/Owner Information

Location: 1109 SW 1st Avenue
Tax Lot: 41E05A 00501
Property Size: 1.93 acres (over three commonly owned parcels)
Comprehensive Plan: LI – Light Industrial
Zoning District: M1 – Light Industrial
Owner: Briar Lane Properties, LLC
Applicant: Steve Puga (Mav Bier, LLC dba FOB Taproom)
Application Type: Intermediate Modification
City File Number: MOD 23-02

Attachments

- A. Type II Intermediate Modification Application materials
- B. Utility Provider Comments

Existing Conditions

Canby Place is a privately owned shopping plaza located at 1109 SE 1st Avenue. It consists of three tax lots owned by the same entity, Briar Lane Properties, LLC. It is developed with three buildings containing several restaurants, retail, and service businesses with communal parking. The applicant for this Intermediate Modification is located in Suite D of the building addressed 1109 SW 1st Avenue. The tenants in Suite D, Friends of Beer Taphouse (FoB), have operated an outdoor seating area in the two ADA parking spaces in front of their business under the Open Air Canby program.

Proposed Modification

The tenants in Suite D, Friends of Beer Taphouse (FoB), have operated an outdoor seating area in the two former ADA parking spaces in front of their business under the Open Air Canby program. This program allowed outdoor seating to be located in private parking lots during the COVID 19 health crisis. The City Council voted in August 2022 to end this program May 2023. In order for the tenants of Suite D to establish permanent outdoor seating, a Type II Intermediate Modification of the Site and Design Review permit is required.

FoB seeks approval of an Intermediate Modification to allow their temporary outdoor seating to become permanent. The planned seating area would be 425 square feet and would feature a raised concrete sidewalk, light poles, and 42-inch-tall bollards. Existing picnic tables and benches would remain. The seating area would not encroach into the drive aisle, preserving the shopping center's general circulation pattern for vehicles. For more information, see the applicant's submittal materials in Attachment A to this Staff Report.

Applicable Criteria

Section 16.89.90 of Chapter 16.89, *Application and Review Procedures*, of the Canby Municipal Code (CMC) outlines criteria for processing modifications to previously approved land use applications. The section identifies three types of modifications:

- A. **Minor Modification.** Minor modifications have a negligible impact on an approved site plan, land use decision, or condition of approval. The Planning Director will review all minor modifications under the Type I process.

- B. **Intermediate Modification.** Intermediate modifications are those that do not fit the definitions in 16.89.090(A) or (C). The Planning Director will review intermediate modifications under the Type II process. If the Planning Director approves an intermediate modification, notice of the decision will be made in accordance with the Type II process. The individuals noticed may obtain a public hearing on the issue by filing a request in writing within ten days of the notice mailing date. Any additional costs of such hearings shall be paid by the modification applicant. Hearing notice shall follow the requirements of the procedure type of the original application.
- C. **Major Modification.** Any modification that would result in a substantial impact to an approved site plan, land use decision, or condition of approval is a major modification. Major modifications shall be processed using the procedure type of the original application.

Finding: As shown above, the three types of modifications are not explicitly defined. The Planning Director finds the scope of the request is narrow and will primarily affect the other businesses in the complex. Therefore, a Type II Intermediate Modification was deemed appropriate; notice was mailed to all property owners and tenants within 100 feet of the property on which the business is located. No public comment has been received.

Analysis and Findings

Code sections below are those that are affected by the proposed modifications. All other standards analyzed for the previously approved Canby Place Shopping Center that are not impacted by the modification are not reevaluated in this staff report.

Chapter 16.10 Off-Street Parking and Loading

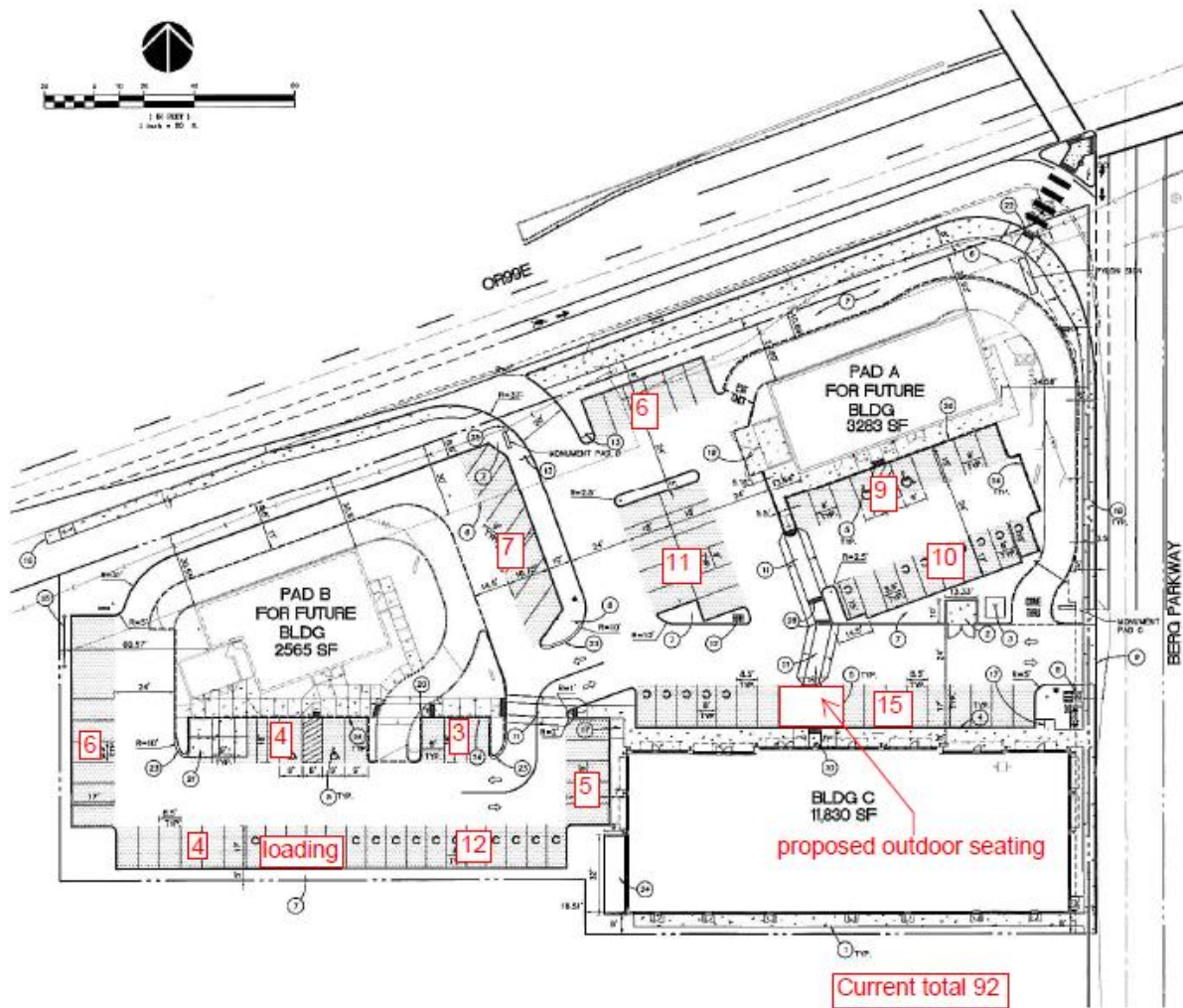
Table 16.10.050 Off-street Parking Provisions

Land Use	Required parking spaces per 1,000 gross sq ft
Take out Restaurant	8
Health Club	3
Retail / General Office	2

CANBY PLACE SHOPPING CENTER BUSINESS NAME	SQUARE FOOTAGE			Parking Spaces Required
	PAD A BLDG	PAD B BLDG	PAD C BLDG	
Thai Corner Cuisine			2,200	18
Snap Fitness			3,100	9
FOB Taproom			1,822	15
H & R Block			1,384	3
The UPS Store			1,200	2
Verizon			1,625	3
Kentucky Fried Chicken / A & W	3,283			26
Dutch Bros		2,565		21
Total				97

As demonstrated in the tables above, the Canby Place Shopping Center is required to provide a total of 97 parking spaces to accommodate the established uses.

The shopping center currently has 92 functional parking spaces. The shopping center site plan shows 99 parking spaces on site. In the southwestern bank of parking spaces there is an unauthorized loading zone created using paint over the top of 5 parking spaces. This loading zone was never reviewed or approved by the City and must be removed as a condition of approval for this modification (see Condition #1). The parking spaces must be restored in order to meet the minimum required number of spaces for the center, 97 spaces. Two parking spaces are currently occupied by the outdoor space created by FoB under the Open Air Canby program. These are the same two spaces that would be permanently removed to accommodate the proposed permanent outdoor space. These two parking spaces were once ADA parking spaces. The applicant has already relocated the two ADA parking spaces in the complex, their location and configuration has been approved by Clackamas County Building Services. The site plan below shows the parking space count and configuration in the center.



Finding: The property owners of Canby Place Shopping Center have provided a letter acknowledging and accepting their obligation related to the removal of the unauthorized loading area and restoration of the 5 parking spaces in the same location. A Condition of Approval to this effect has been included in this decision. Therefore, staff find the minimum number of parking spaces will be available in the shopping center and find this standard is met.

Chapter 16.43 Outdoor Lighting

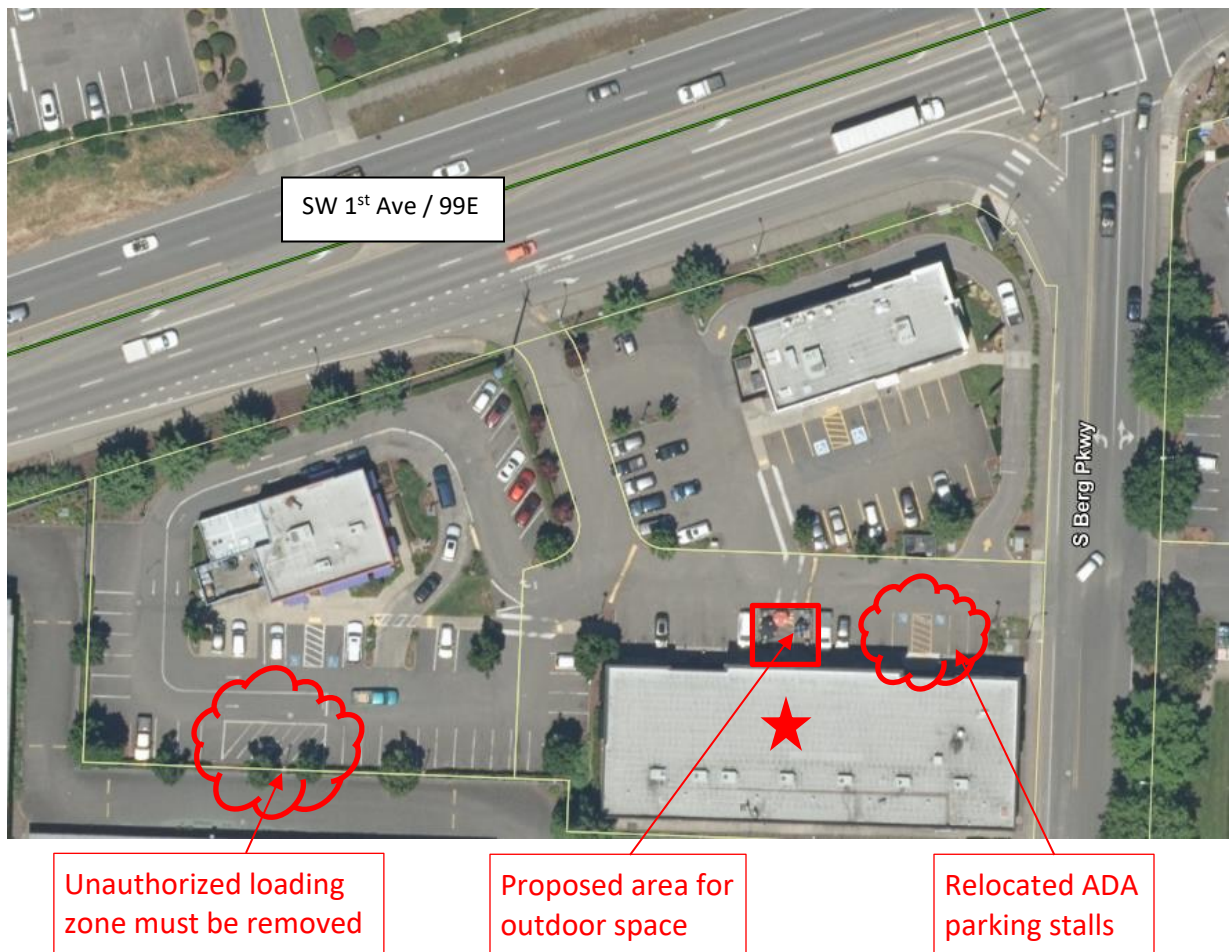
Four existing 10' light poles will be permanently installed at the corners of the outdoor space, the bases of which are 16"x16". Clackamas County has required a GFI protected switch to be installed, which the applicant has already done. String style globe lights are also proposed overhead the seating area.

Staff find the proposed lighting is in compliance with the LZ2 lighting standards. Due to the proposed location of the outdoor area central to the interior of the shopping center, surrounded by three buildings with their own exterior lighting and street lights along the two frontages of the development, the fixtures specific to the proposed outdoor area are not expected to create any additional light trespass into the right-of-way or onto other properties.

Chapter 16.49: Site and Design Review Criteria

Chapter 16.49 of the CMC provides review criteria to be used in the design review process and contains standards for building and site design.

The scope of the proposal includes painting a 25'x17' pad onto the existing asphalt to delineate it as an outdoor customer space, with permanent installation of existing light features and bollards. Tables made of metal and treated wood and potted landscaping will further outfit the space and designate it as separate from the adjacent parking stalls. Renderings of the outdoor space can be found in Attachment A. The drive aisle will not be encroached upon by the bollards, or any accessory items used in outdoor customer space.



Finding: Staff finds the scope of the project will not conflict with any of the site and design review standards found in Section 16.49, including the design elements found in Table 16.49.040, bicycle parking facilities, and landscaping.

Public and Agency Comments

Notices of the proposed development were mailed to property owners and occupants within 100 feet of the property in accordance with Chapter 16.89 for a Type II Intermediate Modification. No public comment has been received at the time of this staff report. Comments from utility providers have been provided and can be found in Attachment B. There are no expected impacts on utilities as a result of this project. Canby Fire Department and Canby Police Department have expressed no concerns.

Conditions of Approval

1. The applicant shall obtain all required Clackamas County permits before beginning work.
2. A Type I Site Plan application must be submitted and approved by City of Canby Planning Staff before beginning work.
3. The unauthorized loading zone shall be removed and the 5 parking spaces originally approved in the area shall be restored within 30 days of the issuance of this decision. Please call Planning Staff at 503-266-0686 to conduct an inspection once the work is complete.
4. The outdoor area shall not encroach into travel lane beyond the striped parking spaces and the proposed bollards shall be within the parking striped area.
5. The applicant shall return the temporary barrier currently in place that belongs to the City of Canby.

Summary and Conclusions

Planning Staff concurs with the findings of the applicant regarding the proposed modification, which would have a negligible impact on the previously approved Site and Design Review Application. Therefore, staff concludes that the application meets the standards and approval criteria associated with a Type II Intermediate Modification. As conditioned, the modified project remains consistent with applicable provisions of the CMC.

Decision

Based on the application materials submitted as part of the record and the facts, findings, and conclusions reached and provided in this report, the Planning Director **approves** Modification File MOD 23-02.