

**PLANNING COMMISSION
Meeting Agenda
Monday – September 28, 2009
7:00 PM - Regular Meeting
City Council Chambers – 155 NW 2nd Avenue**

**Chair Dan Ewert – Vice Chair Janet Milne
Commissioners Sean Joyce, Charles Kocher, Jared Taylor and Misty Slagle**

1. **CALL TO ORDER**
2. **CITIZEN INPUT ON NON-AGENDA ITEMS**
3. **PUBLIC HEARINGS** None
4. **NEW BUSINESS**

Page 2

a. Modification (MOD 09-05) to Canby Cinema Site and Design Review Application (DR 08-04). The applicant is requesting an Intermediate Modification of Site and Design Review approval to DR-08-04 in order to add the following elements to the building:

- (1) Add 320 linear feet of 15 mm 30 ma “Clear Red” neon tube architectural accent lighting to the exterior 2nd Avenue frontage of the building;
- (2) Construct a 20.54 square foot “Ruby Red” neon wall sign on the primary building frontage facing 2nd Avenue;
- (3) Construct a 339.38 square foot “Ruby Red”, White”, and “Purple” neon marquee sign, containing 2 internally illuminated white manual bulletin boards, on the primary building frontage facing 2nd Avenue.

5. **FINAL DECISIONS**

Page 17

Note: These are final, written versions of previous oral decisions. No public testimony.

- a. **MOD 09-05 – Canby Cinema (DR 08-04)**

6. **MINUTES**

August 24, 2009

Page 21

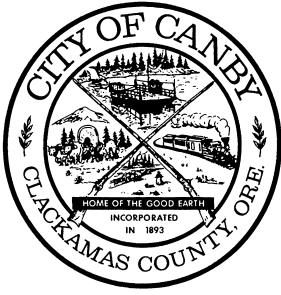
7. **ITEMS OF INTEREST FROM STAFF**
8. **ITEMS OF INTEREST/GUIDANCE FROM PLANNING COMMISSION**
9. **ADJOURNMENT**

**PLANNING COMMISSION
Work Session
Monday – September 28, 2009
6:00 PM – Work Session
City Hall Conference Room – 182 N Holly Street**

The Planning Commission will discuss development application processes and timelines related to such applications.

The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for person with disabilities should be made at least 48 hours before the meeting to Jill Thorn at 503-266-7001.

*A copy of this agenda can be found on the City's web page at www.ci.canby.or.us
City Council and Planning Commission Meetings are broadcast live and can be viewed on OCTS Channel 5.
For a schedule of the playback times, please call 503-263-6287.*



STAFF REPORT

APPLICANT:

James Blissett
2303 W. Commodore Way, Ste. 205
Seattle, WA 98199

FILE NO.:

MOD 09-05

OWNER:

Charles Nakvasil
6341 S.E. 34th Avenue
Portland, OR 97202

STAFF:

Melissa Hardy
Associate Planner

LEGAL DESCRIPTION:

Deeded lots also identified by Clackamas County Map and Tax Lot Numbers 31E33DB-03200,03300, 03400, and 03500

DATE OF REPORT:

September 28, 2009

LOCATION:

252 N.E. 2nd Avenue

DATE OF HEARING:

This is Not a Public Hearing Item

COMP. PLAN DESIGNATION:

Downtown Commercial (DC)

ZONING DESIGNATION:

Downtown Commercial (C-1), and Core Commercial Sub-Area of the Downtown Canby Overlay (DCO) Zone

I. APPLICANT'S REQUEST:

The applicant is requesting an Intermediate Modification of Site and Design Review approval no. DR-08-04 in order to add the following elements to the building:

- (1) Add 320 linear feet of 15 mm 30 ma "Clear Red" neon tube architectural accent lighting to the exterior 2nd Avenue frontage of the building (see Attachment B);
- (2) Construct a 20.54 square foot "Ruby Red" neon wall sign on the primary building frontage facing 2nd Avenue (see Attachment C);
- (3) Construct a 339.38 square foot "Ruby Red", White", and "Purple" neon marquee sign, containing 2 internally illuminated white manual bulletin boards, on the primary building frontage facing 2nd Avenue (see Attachment D).

II. APPLICABLE REGULATIONS:

Canby Municipal Code (CMC) Title 16:

- 16.41 Downtown Canby Overlay Zone
- 16.42 Signs
- 16.49 Site and Design Review (16.49.040.3)
- 16.53 Variances
- 16.89 Application and Review Procedures

III. FINDINGS:

CMC Section 16.89.090 states that Modification Applications shall be evaluated based on the criteria pertaining to the original application being modified. Therefore, each of the applicant’s three requested modifications have been evaluated based on the Site and Design Review approval criteria, and staff recommends that Planning Commission find that all of the applicable criteria are either met or can be met by observance of conditions, as detailed below in the following draft findings:

Request 1. Add 320 linear feet of 15 mm 30 ma “Clear Red” neon tube architectural accent lighting to the exterior 2nd Avenue frontage of the building (see Attachment B):

- 16.41.070-A. The applicant’s proposal to add neon architectural accent lighting to the exterior 2nd Avenue building frontage helps create an active, inviting street and sidewalk-facing storefront that is friendly and easily accessible to passersby. It also helps ensure that the ground floor promotes a sense of interaction between activities in the building and activities in the public realm.
- 16.41.070-B. The applicant’s proposal to add neon architectural accent lighting to the exterior 2nd Avenue building frontage builds upon downtown Canby’s traditional architectural vernacular by incorporating cohesive and repetitive architectural elements into the ground floor of street facing facades.
- 16.41.070-C. The applicant’s proposal to add neon architectural accent lighting to the exterior 2nd Avenue building frontage builds upon Canby’s traditional downtown architecture by creating an attractive and unified building façade that celebrates ground floor activities, the top of the building (where the edifice meets the sky), and everything in between.
- 16.41.070-D. The applicant’s proposal to add neon architectural accent lighting to the exterior 2nd Avenue building frontage creates a strong architectural statement at the street corner to create a strong identity, and creates a visual landmark and enhances visual variety.
- 16.41.070-E. The applicant’s proposed use of neon architectural accent lighting evokes a sense of permanence and is compatible with Canby’s business areas and with the surrounding built environment, with conditions of approval. The highest row of neon tubing proposed is approximately 32 feet from the ground, which is taller than the height of nearby existing single-family dwellings on N.E. 3rd Avenue. Therefore conditions of approval are needed in order to ensure that the neon lights are compatible with the surrounding built environment, and do not create a hazard to motorists and do not create an uncomfortable glare onto the nearby residential properties.

Recommended Conditions of Approval:

- (1) *The architectural accent neon border tube lighting shall not flash on-and-off.*

(2) The architectural accent neon border tube lighting shall not be so bright that it creates a hazard to motorists, or creates an uncomfortable glare onto nearby properties on N.E. 3rd Avenue that are developed with single-family dwellings.

16.49.040-4. The applicant's proposed addition of neon architectural accent lighting has no impact on the availability of all required public facilities and services.

16.49.040-5. The applicant's proposed addition of neon architectural accent lighting has no impact on the availability and cost of needed housing.

16.49.040-6. The applicant's proposal does not involve cutting down any street streets.

Request 2. Construct a 20.54 square foot "Ruby Red" neon wall sign on the primary building frontage facing 2nd Avenue (see Attachment C):

16.41.070-A. The applicant's proposal to add a 20.54 square foot neon wall sign to the exterior 2nd Avenue building frontage helps create an active, inviting street and sidewalk-facing storefront that is friendly and easily accessible to passersby. It also helps ensure that the ground floor promotes a sense of interaction between activities in the building and activities in the public realm.

16.41.070-B. The applicant's neon wall sign proposal builds upon downtown Canby's traditional architectural vernacular by incorporating cohesive and repetitive architectural elements into the ground floor of street facing facades, because the neon is repetitive of other neon elements on the building.

16.41.070-C. The applicant's neon wall sign proposal builds upon Canby's traditional downtown architecture by creating an attractive and unified building façade that celebrates ground floor activities, the top of the building (where the edifice meets the sky), and everything in between, because the neon is repetitive of other neon elements on the building.

16.41.070-D. The applicant's neon wall sign proposal helps to create a strong architectural statement at the street corner to create a strong identity, and creates a visual landmark and enhances visual variety.

16.41.070-E. The applicant's neon wall sign proposal evokes a sense of permanence and is compatible with Canby's business areas and with the surrounding built environment, with a condition of approval in order to ensure that the neon sign is compatible with the surrounding built environment, and does not create a hazard to motorists.

Recommended Condition of Approval:

(3) The neon wall sign on the primary building frontage facing 2nd Avenue shall not flash on-and-off.

16.49.040-4. The applicant's proposed neon wall sign has no impact on the availability of all required public facilities and services.

16.49.040-5. The applicant's proposed neon wall sign has no impact on the availability and cost of needed housing.

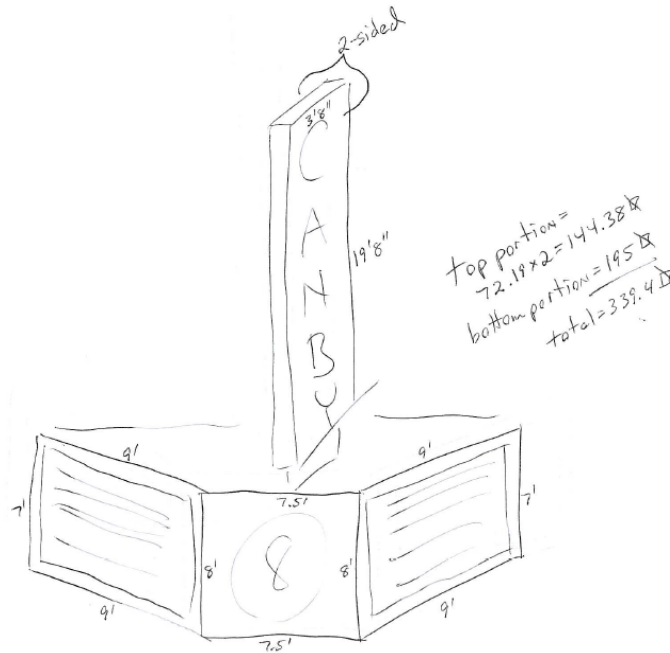
16.49.040-6. The applicant's proposal does not involve cutting down any street streets.

Additional Finding: It should also be noted here that the proposed construction of a 20.54 square foot "Ruby Red" neon wall sign on the primary building frontage facing 2nd Avenue, meets applicable wall sign regulations set forth in Table 4 of CMC Chapter 16.42, which allows one

wall sign, up to 60 square feet in size, per building frontage for each business license on file at that location.

Request 3. Construct a 339.38 square foot “Ruby Red”, White”, and “Purple” neon marquee sign, containing 2 internally illuminated white manual bulletin boards, on the primary building frontage facing 2nd Avenue (see Attachment D):

Variance Approval Criteria: In addition to the Site and Design Review approval findings, the Planning Commission shall also make findings with regards to the applicant’s request for a variance from the marquee sign size limitations imposed by the Canby Municipal Code (CMC). Table 4 of Chapter 16.42 sets forth the standards for exterior signage on the subject property. Table 4 permits one marquee sign, up to 120 square feet in size, per building frontage for each business license on file at that location. The applicant is proposing one 339.38 square foot marquee sign, the components of which measure as follows:



The proposed marquee sign is 219.38 square feet larger than the maximum 120 square feet allowed by code. Other than this maximum size standard, the proposed marquee sign meets all other standards. The proposed bulletin board elements are 110.97 square feet, which is less than 50 percent of the total sign face area. The proposed marquee sign does not project more than 8 feet above the parapet wall to which it is attached. And the total combined area of the marquee sign and the wall sign is 359.92 square feet, which is significantly less than the total sign face area allowed for all marquee signs, wall signs, and awning/canopy signs on the building elevation (the total of which cannot exceed 12% of the building elevation area, or 626.46 sq.ft.).

The applicant is requesting that Planning Commission approve a variance of the 120 sq.ft. marquee sign size standard, in order to allow this marquee sign to be 339.38 square feet, and has submitted proposed findings of variance approval, which the Planning Commission can agree with or modify (see Attachment E).

- 16.41.070-A. The applicant's proposal to construct a 339.38 square foot neon marquee sign on the exterior 2nd Avenue building frontage helps create an active, inviting street and sidewalk-facing storefront that is friendly and easily accessible to passersby. It also helps ensure that the ground floor promotes a sense of interaction between activities in the building and activities in the public realm.
- 16.41.070-B. The applicant's proposed marquee sign builds upon downtown Canby's traditional architectural vernacular by incorporating cohesive and repetitive architectural elements into the ground floor of street facing facades, because the neon is repetitive of other neon elements on the building.
- 16.41.070-C. The applicant's proposed marquee sign builds upon Canby's traditional downtown architecture by creating an attractive and unified building façade that celebrates ground floor activities, the top of the building (where the edifice meets the sky), and everything in between, because the neon is repetitive of other neon elements on the building.
- 16.41.070-D. The applicant's proposed marquee sign helps to create a strong architectural statement at the street corner to create a strong identity, and creates a visual landmark and enhances visual variety.
- 16.41.070-E. The applicant's proposed marquee sign evokes a sense of permanence and is compatible with Canby's business areas and with the surrounding built environment, with conditions of approval. The top portion of the marquee sign is 37.5 feet tall, measured from the ground, which is taller than the height of nearby existing single-family dwellings on N.E. 3rd Avenue. Therefore conditions of approval are needed in order to ensure that the neon sign is compatible with the surrounding built environment, and does not create a hazard to motorists and does not create an uncomfortable glare onto the nearby residential properties.

Recommended Conditions of Approval:

- (4) The marquee sign on the primary building frontage facing N.E. 2nd Avenue shall not flash on-and-off.*
- (5) The marquee sign on the primary building frontage facing N.E. 2nd Avenue shall not be so bright that it creates a hazard to motorists, or creates an uncomfortable glare onto nearby properties on N.E. 3rd Avenue that are developed with single-family dwellings.*
- 16.49.040-4. The applicant's proposed marquee sign has no impact on the availability of all required public facilities and services.
- 16.49-040-5. The applicant's proposed marquee sign has no impact on the availability and cost of needed housing.
- 16.49-040-6. The applicant's proposal does not involve cutting down any street streets.

Additional Finding: It should also be noted here that the square footage of the proposed manual bulletin board elements in the marquee sign, the two of which total 110.97 square feet, does not exceed 50 percent of the total 339.38 square foot sign face area of the marquee sign.

IV. RECOMMENDATION:

Based upon the application materials received by the City, the facts and findings detailed herein this staff report, including all attachments hereto, and without the benefit of a public hearing, staff recommends that the Planning Commission find that, with conditions of approval, this application meets all approval criteria for Modification of Site and Design Review No. DR-08-

04, and all approval criteria for Variance of the Table 4 marquee sign size standards in CMC 16.42.050, and that the Planning Commission therefore APPROVE MOD 09-05 with the following conditions:

1. The architectural accent neon border tube lighting shall not flash on-and-off.
2. The architectural accent neon border tube lighting shall not be so bright that it creates a hazard to motorists, or creates an uncomfortable glare onto nearby properties on N.E. 3rd Avenue that are developed with single-family dwellings.
3. The neon wall sign on the primary building frontage facing 2nd Avenue shall not flash on-and-off.
4. The marquee sign on the primary building frontage facing N.E. 2nd Avenue shall not flash on-and-off.
5. The marquee sign on the primary building frontage facing N.E. 2nd Avenue shall not be so bright that it creates a hazard to motorists, or creates an uncomfortable glare onto nearby properties on N.E. 3rd Avenue that are developed with single-family dwellings.

Exhibits:

- A. Site Photo
- B. Request #1
- C. Request #2
- D. Request #3
- E. Proposed Variance Approval Findings

SITE PHOTO

The following photograph was taken by City Staff on September 18, 2009



APPLICANT'S REQUEST #1



TUBE ART GROUP

Portland Office
 4243-A SE International Way
 Milwaukie, OR 97222
 503.653.1133
 888.562.2854
 Fax 503.659.9191

This original artwork is protected under Federal Copyright Laws. Make no reproduction of this design concept without permission from Tube Art Group.

8071
 Customer Number
 112746
 Quote Number
 112746 Canby Cinema R3
 File Name
 Allan Conant
 Salesperson
 Garrett Matheson
 Drawn By
 **
 Checked By
 August 24, 2009
 Date
 September 01, 2009
 September 04, 2009
 September 10, 2009

Revisions
 Approved
 Approved With Changes Noted

Customer Signature _____
 Date _____
 Landlord Signature _____
 Date _____

**Canby Town Square Cinema
 N Juniper St and
 NE 2nd Ave
 Canby, Oregon
 97013**

Colors on print do not accurately depict specific colors.

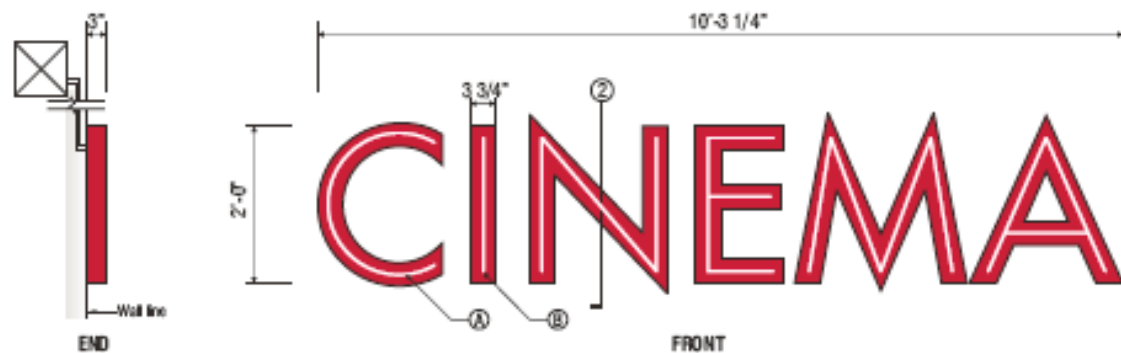


SIGN E

Neon border tube (approx. 320 linear feet) confirmed in field

15mm 30ma Clear Red neon with remote transformers
 Install in reglats as shown

APPLICANT'S REQUEST #2



① Sign Elevation
Scale: 1/2" = 1' - 0"

SIGN B

Manufacture and install one (1) set open pan channel building letters

- Ⓐ 3" deep open pan channel letters fabricated aluminum painted Benjamin Moore 1309 Moroccan Red
- Ⓑ Exposed neon to be 12mm VERIFY 30ma Ruby Red neon

Remote locate transformers in extruded aluminum raceway above and behind parapet roof



③ Partial Elevation
Scale: 3/32" = 1' - 0"



TUBE ART GROUP

Portland Office
4243-A SE International Way
Milwaukie, OR 97222
503.653.1133
800.562.2854
Fax 503.659.9191

This original artwork is protected under Federal Copyright Laws. Make no reproduction of this design concept without permission from Tube Art Group.

8071

Customer Number

112746

Quote Number

112746 Canby Cinema R3

File Name

Allan Conant

Salesperson

Garrett Mathison

Drawn By

or

Checked By

August 24, 2009

Date

September 01, 2009

September 04, 2009

September 10, 2009

Revisions

- Approved
- Approved With Changes Noted

Customer Signature

Date

Landlord Signature

Date

**Canby Town Square Cinema
N Juniper St and
NE 2nd Ave
Canby, Oregon
97013**

Colors on print do not accurately depict specific colors.

APPLICANT'S REQUEST #3

(pg. 1 of 4)



TUBE ART GROUP

Portland 00000
 4243-A SE International Way
 Milwaukie, OR 97222
 503.653.1133
 800.562.2804
 Fax 503.659.9191

This original artwork is protected under Federal Copyright Laws. Make no reproduction of this design concept without permission from Tube Art Group.

0071

Customer Number

112746

Quote Number

112746 Canby Cinema R3

File Name

Ed Becker

Salesperson

Garrett Mattison

Drawn By

**

Checked By

August 24, 2009

Date

September 01, 2009

September 04, 2009

September 10, 2009

Revisions

Approved

Approved With Changes Noted

Customer Signature

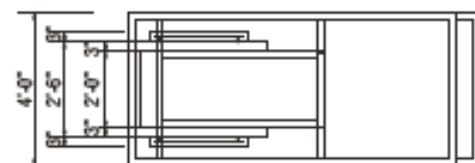
Date

Landlord Signature

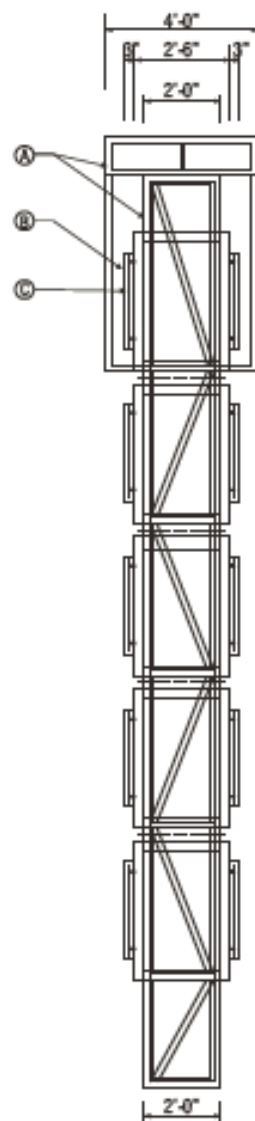
Date

**Canby Town
 Square Cinema
 N Juniper St and
 NE 2nd Ave
 Canby, Oregon
 97013**

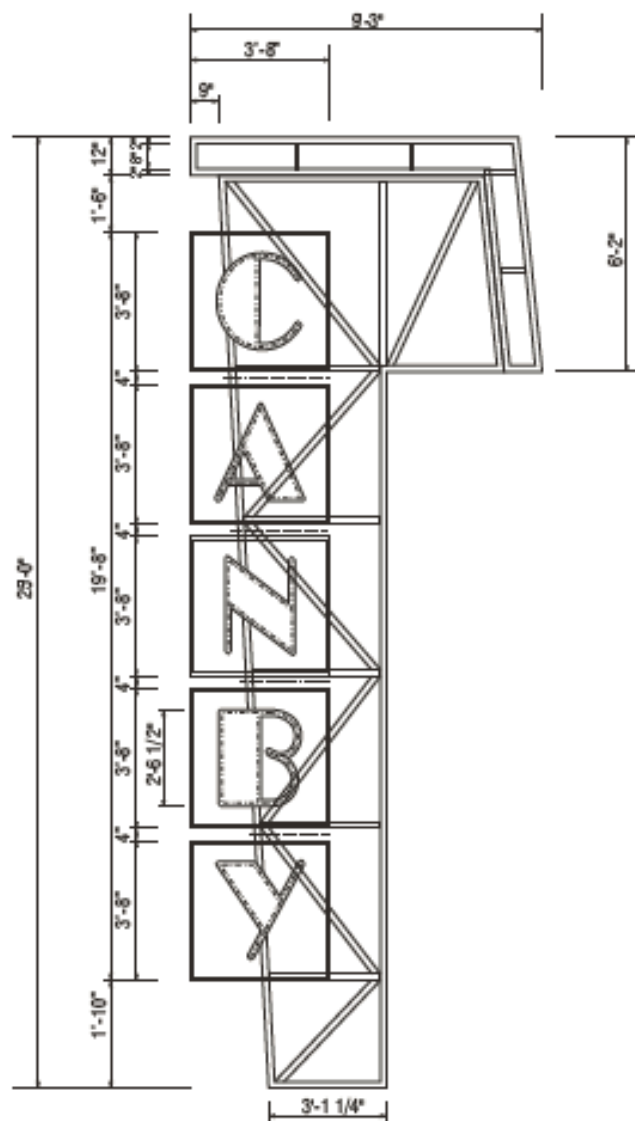
Colors on print do not accurately depict specific colors.



Top
 Scale: 1/4" = 1'-0"



End



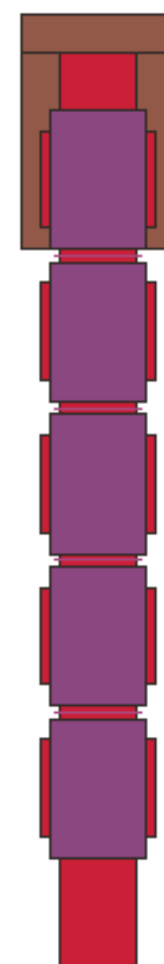
Front
 Scale: 1/4" = 1'-0"

SIGN A

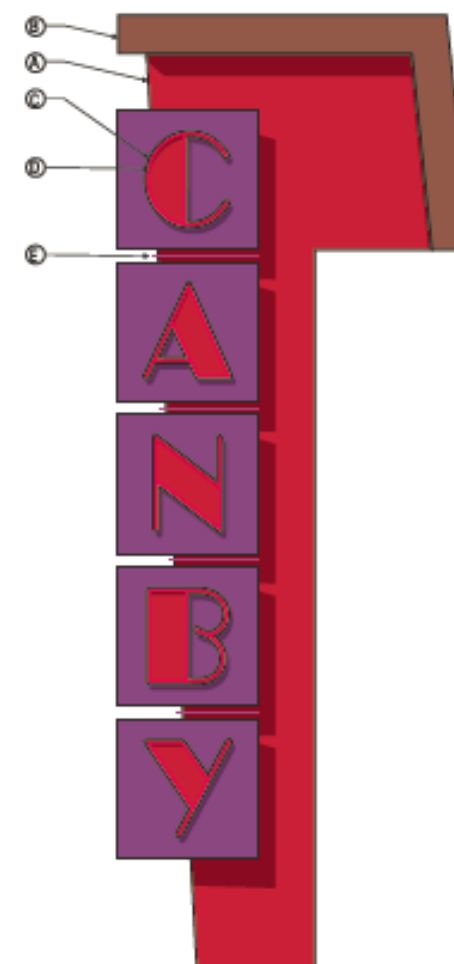
Manufacture and install one (1) double face movie theater marquee sign

- Ⓐ Tower to be fabricated 2" x 2" x .25" aluminum square tube (architectural) frame clad with .090" aluminum painted Benjamin Moore 1309 Moroccan Red
- Ⓑ Trim (top of tower) to be clad with .090" aluminum painted Benjamin Moore HC-61 New London Burgundy
- Ⓒ Letter cabinet to be fabricated 3" x 1" aluminum channel clad with .090" aluminum painted Benjamin Moore 1392 Fire & Ice
- Ⓓ Letters to be fabricated 3" deep aluminum open pan channel painted Benjamin Moore 1309 Moroccan Red. 15mm 30ma Ruby Red exposed neon
- Ⓔ Four rows of single tube 15mm 30ma Purple neon accent lines

24" wide cabinet installed into 24 1/2" receiver on building by contractor



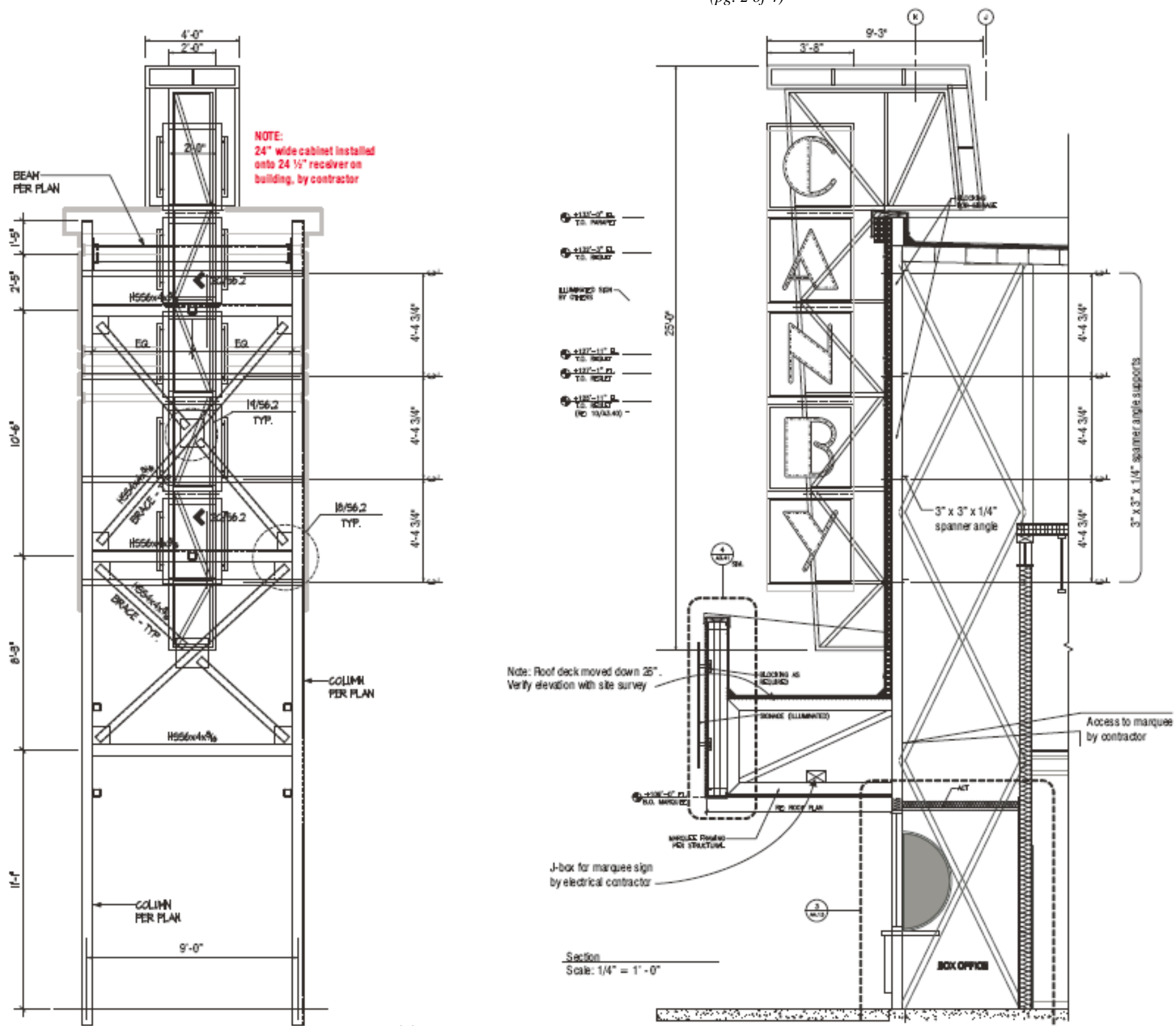
Elevation
 Scale: 1/4" = 1'-0"



FRONT

APPLICANT'S REQUEST #3

(pg. 2 of 4)



TUBE ART GROUP
 Portland, OR
 4343-A SE International Way
 Hillsdale, OR 97222
 503.683.1133
 800.562.2854
 Fax 503.659.9191

This original artwork is protected under Federal Copyright Laws. Make no reproduction of this design concept without permission from Tube Art Group.

R 071
 Customer Number
112746
 Quote Number
112746 Canby Cinema RS
 Title Name
Allan Conant
 Salesperson
Garrett Matthews
 Drawn By
 **
 Checked By
August 24, 2009
 Date
 Sept emb er 01, 2 009
 Sept emb er 04, 2 009
 Sept emb er 10, 2 009

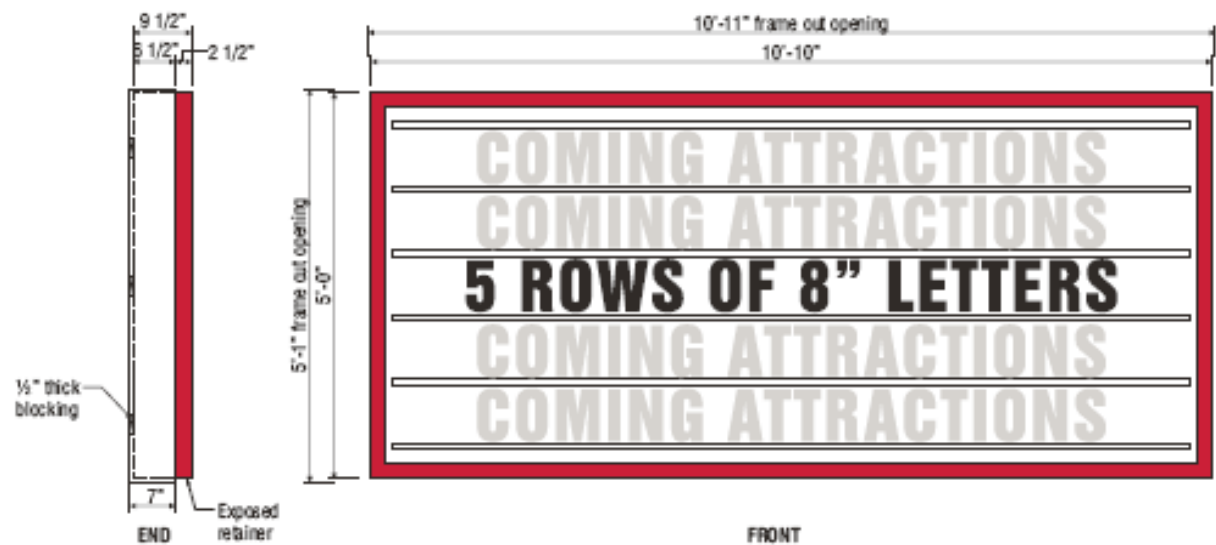
Revisions
 Approved
 Approved With Changes Noted
 Customer Signature
 Date
 Landlord Signature
 Date

Canby Town Square Cinema
 N Juniper St and
 NE 2nd Ave
 Canby, Oregon
 97013

Colors on print do not accurately depict specific colors.
 2 of 11

APPLICANT'S REQUEST #3

(pg. 3 of 4)



1 Sign Elevation
Scale: 1/2" = 1' - 0"

SIGN C

Manufacture and install two (2) internally illuminated reader board marquee signs

Cabinet to be extruded aluminum (#1 body, #6 retainer) painted Benjamin Moore 1309 Moroccan Red

Internally illuminate with 800ma T12 fluorescent lamps

Faces to be White Lexan with hardware for letter track system: 250 Font 8" Pronto letters/numbers with 18" change arm

Install signs within 5'-1" (h) x 10'-11" (w) x 7" (d) frame out opening, (by contractor)



3 Partial Elevation
Scale: 3/32" = 1' - 0"



TUBE ART GROUP

Portland Office
4343-A SE International Way
Milwaukie, OR 97222
503.653.1133
800.562.2884
Fax: 503.659.9191

This original artwork is protected under Federal Copyright Laws. Make no reproduction of this design concept without permission from Tube Art Group.

8071

Customer Number

112746

Quote Number

112746 Canby Cinema RS

File Name

Allan Conant

Salesperson

Garrett Mathison

Drawn By

xx

Checked By

August 24, 2009

Date

September 01, 2009

September 04, 2009

September 10, 2009

Revisions

Approved

Approved With Changes Noted

Customer Signature

Date

Landlord Signature

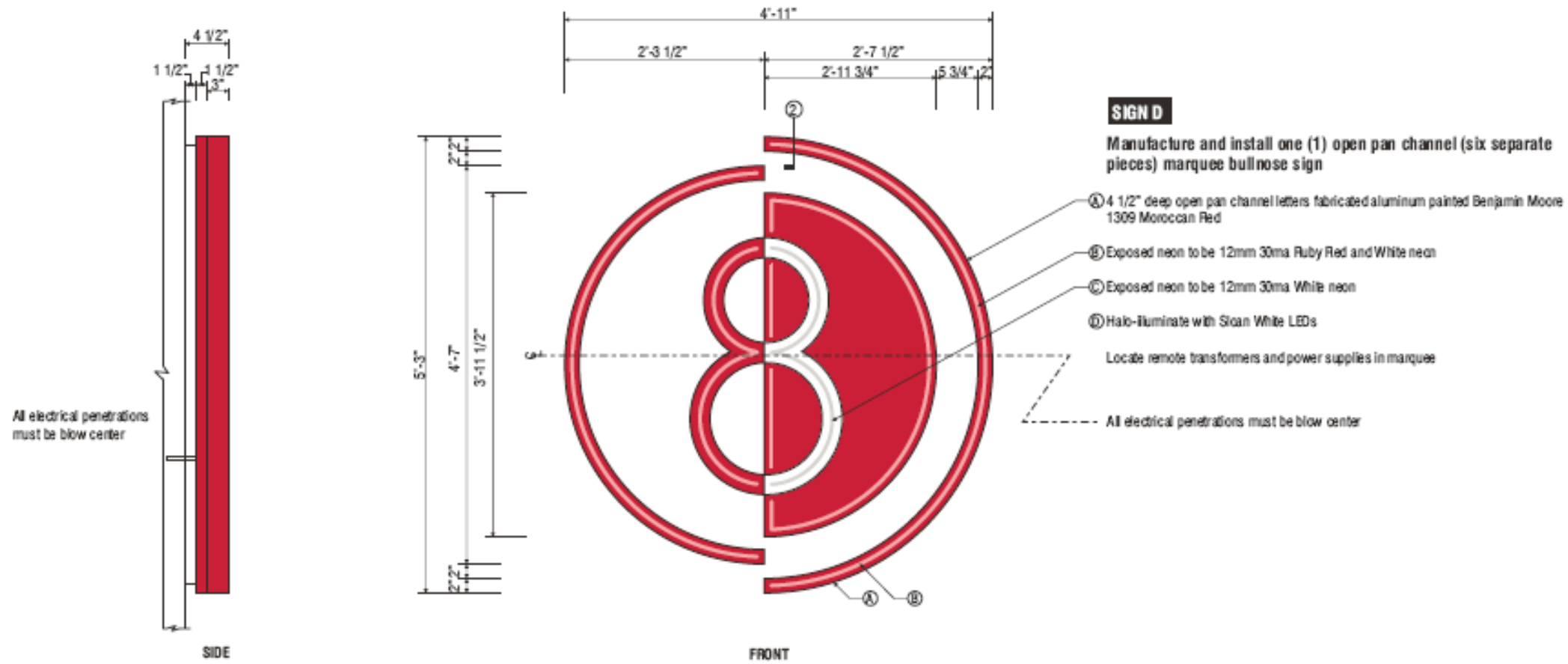
Date

**Canby Town
Square Cinema
N Juniper St and
NE 2nd Ave
Canby, Oregon
97013**

Colors as printed do not accurately depict specific colors.

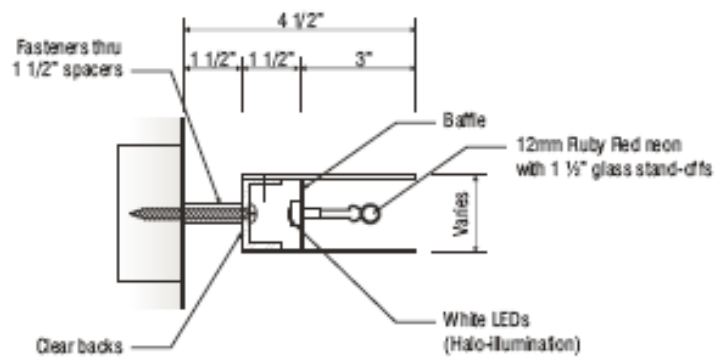
APPLICANT'S REQUEST #3

(pg. 4 of 4)

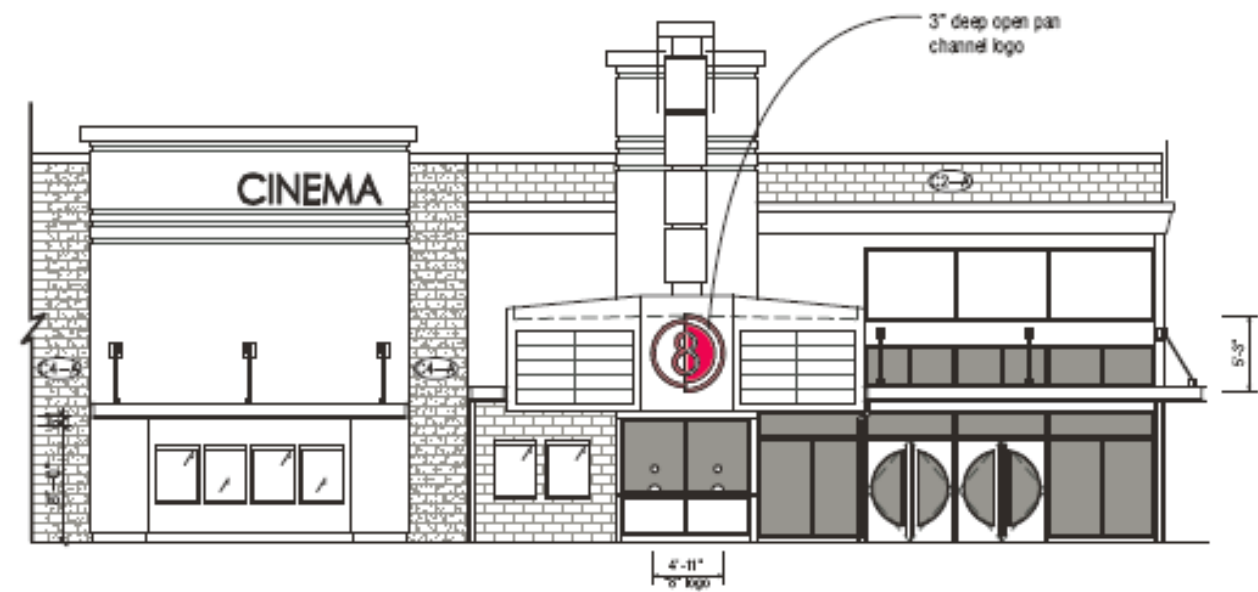


- SIGN D**
 Manufacture and install one (1) open pan channel (six separate pieces) marquee bullnose sign
- Ⓐ 4 1/2" deep open pan channel letters fabricated aluminum painted Benjamin Moore 1309 Moroccan Red
 - Ⓑ Exposed neon to be 12mm 30ma Ruby Red and White neon
 - Ⓒ Exposed neon to be 12mm 30ma White neon
 - Ⓓ Halo-Illuminate with Sloan White LEDs
- Locate remote transformers and power supplies in marquee
- All electrical penetrations must be blow center

① Sign Elevation
 Scale: 3/4" = 1' - 0"



② Section
 Scale: 3" = 1' - 0"



③ Partial Elevation
 Scale: 3/32" = 1' - 0"

TAG
TUBE ART GROUP
 Portland Office
 4343-A SE International Way
 Milwaukie, OR 97222
 503.663.1133
 800.562.2884
 Fax: 503.659.9171

This original artwork is protected under Federal Copyright Laws. Make no reproduction of this design concept without permission from Tube Art Group.

8071
 Customer Number
 112746
 Quote Number
 112746 Canby Cinema RS
 File Name
 Allan Cozzani
 Salesperson
 Garrett Mathison
 Drawn By
 **
 Checked By
 August 24, 2009
 Date
 September 01, 2009
 September 04, 2009
 September 10, 2009

Revisions
 Approved
 Approved With Changes Noted

Customer Signature _____
 Date _____
 Landlord Signature _____
 Date _____

Canby Town Square Cinema
 N Juniper St and
 NE 2nd Ave
 Canby, Oregon
 97013

Colors on print do not accurately depict specific colors.

PROPOSED VARIANCE APPROVAL FINDINGS



September 17, 2009

RE: Canby Cinema Sign - Intermediate Modification

1. *Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the city and within the same zone. These exceptional or extraordinary circumstances result from tract size or shape, topography or other circumstances over which the owners of the property have no control. Actions of previous owners do not constitute other exceptional or extraordinary circumstances;*

The design intent for Canby Cinema 8 is to introduce a "Main Street" theatre into downtown Canby with traditional theatre design elements and a clean aesthetically pleasing appearance to encourage pedestrian traffic and add to the urban revitalization of downtown. The colorful illuminated movie marquee and signage tower at the entrance is a common design element from old Cinemas of the past.

2. *The variance is necessary to assure that the applicant maintains substantially the same property rights as are possessed by the owners of other property in the city and within the same zone; and*

The signage delineates the entrance to the building, is well lit, and promotes safety for an entertainment facility. The signage also serves a purpose for drawing people's attention to the buildings location on the edge of the urban revitalization of downtown Canby.

3. *Granting of this variance will not be materially detrimental to the intent or purposes of the city's Comprehensive Plan or the Land Development and Planning Ordinance; and*

The goal is to maintain the ideas of the city's Development Design Standards. All materials, colors, and textures for the signage were picked under careful consideration of the City's intent to maintain human scale, hierarchy of varying heights, traditional color palette, and safety.

4. *Granting of this variance will not be materially detrimental to other property within the same vicinity; and*



SEATTLE

2303 WEST
COMMODORE WAY
SUITE #205
SEATTLE, WA 98199
p 206 282 2730
f 206 282 2739

EXHIBIT E - MOD 09-05

The signage materials are consistent with adjacent commercial building signage (Cutsforth Grocery Store). The signage is clearly legible and spelled out with simple block lettering made of aluminum channels and neon.

5. *The variance requested is the minimum variance which will alleviate the hardship; and*

It is our professional judgment that the proposed size and quantity of signage is the minimum to maintain the downtown urban feel for a new cinema. The proposed signage has remained the same and has not changed from the original Design Review Submittal and Neighborhood Meeting.

6. *The exceptional or unique conditions of the property which necessitate the issuance of a variance were not caused by the applicant, or the applicant's employees or relatives.*

At the time when the signage was originally designed, the new sign ordinance was not in effect.

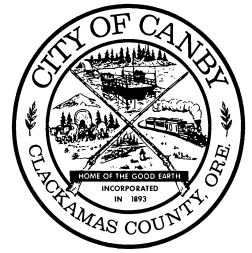
architects

planners

dreamers



**BEFORE THE PLANNING COMMISSION
OF THE
CITY OF CANBY**



**A REQUEST FOR MODIFICATION OF) FINDINGS, CONCLUSION & FINAL ORDER
SITE AND DESIGN REVIEW APPROVAL)
DR-08-04, IN ORDER TO ADD NEON) MOD 09-05
ARCHITECTURAL ACCENT LIGHTING,) James Blissett
ONE WALL SIGN, AND ONE MARQUEE)
SIGN TO THE PRIMARY BUILDING)
FRONTAGE FACING N.E. 2ND AVENUE)**

NATURE OF APPLICATION

The City has received MOD 09-05, a request for an Intermediate Modification of DR-08-04 in order to add the following elements to the building:

- (1) Add 320 linear feet of 15 mm 30 ma “Clear Red” neon tube architectural accent lighting to the exterior 2nd Avenue frontage of the building;
- (2) Construct a 20.54 square foot “Ruby Red” neon wall sign on the primary building frontage facing 2nd Avenue; and
- (3) Construct a 339.38 square foot “Ruby Red”, “White”, and “Purple” neon marquee sign, containing 2 internally illuminated white manual bulletin boards, on the primary building frontage facing 2nd Avenue.

FINDINGS AND REASONS

In judging whether or not this Intermediate Modification application shall be approved, the Planning Commission adopted the findings contained in the September 28, 2009, staff report, including all attachments thereto, and concluded that, with five conditions of approval, the modification request meets all approval criteria applicable to the original Site and Design Review application, and the concurrent request to vary CMC 16.42.050 Table 4 marquee sign size standards meets all variance approval criteria, as reflected in the written Order below:

CONCLUSION

The Planning Commission concludes that, with the application of certain conditions:

Site and Design Review Findings:

16.41.070-A. The proposal helps create an active, inviting street and sidewalk-facing storefront that is friendly and easily accessible to passersby. It also helps ensure that the ground floor promotes a sense

**Findings, Conclusion and Final Order
MOD 09-05
Page 1 of 4**

of interaction between activities in the building and activities in the public realm; and

16.41.070-B. The proposal builds upon downtown Canby's traditional architectural vernacular by incorporating cohesive and repetitive architectural elements into the ground floor of street facing facades; and

16.41.070-C. The proposal builds upon Canby's traditional downtown architecture by creating an attractive and unified building façade that celebrates ground floor activities, the top of the building (where the edifice meets the sky), and everything in between; and

16.41.070-D. The proposal creates a strong architectural statement at the street corner to create a strong identity, and creates a visual landmark and enhances visual variety; and

16.41.070-E. The proposal evokes a sense of permanence and is compatible with Canby's business areas and with the surrounding built environment, with conditions of approval; and

16.49.040-4. The proposal has no impact on the availability of all required public facilities and services; and

16.49.040-5. The proposal has no impact on the availability and cost of needed housing; and

16.49.040-6. The proposal does not involve cutting down any street trees.

Variance Findings:

1. The exceptional or extraordinary circumstances that apply to this property, which do not apply generally to other properties in the city and within the same zone, is that the design intent for Canby Cinema 8 is to introduce a "Main Street" theatre into downtown Canby with traditional theatre design elements and a clean aesthetically pleasing appearance to encourage pedestrian traffic and add to the urban revitalization of downtown. The colorful illuminated movie marquee and signage tower at the entrance is a common design element from old cinemas of the past; and
2. The variance is necessary to assure that the applicant maintains substantially the same property rights as are possessed by the owners of other property in the city and within the same zone, because the signage delineates the entrance to the building, is well lit, and promotes safety for an entertainment facility. The signage also serves a purpose for drawing people's attention to the building's location on the edge of the urban revitalization of downtown Canby; and
3. Granting the variance will not be materially detrimental to the intent or purposes of the city's Comprehensive Plan or the Land Development and Planning Ordinance, because the goal is to maintain the ideas of the city's development design standards, and all materials, colors, and textures for the signage were picked under careful consideration of the City's intent to maintain human scale, hierarchy of varying heights, traditional color palette, and safety; and
4. Granting the variance will not be materially detrimental to other property within the same vicinity, because the signage materials are consistent with adjacent commercial building signage (Cutsforth Grocery Store), and the signage is clearly legible and spelled out with simple block lettering made of aluminum channels and neon; and
5. The variance requested is the minimum variance which will alleviate the hardship, because it is our professional judgement that the proposed size and quantity of signage is the minimum to maintain the downtown urban feel for a new cinema, and the proposed signage has remained

the same and not changed from the original Design Review neighborhood meeting; and

6. The exceptional or unique conditions of the property which necessitate the issuance of a variance were not caused by the applicant, or the applicant's employees or relatives, because at the time when the signage was originally designed, the new sign ordinance was not in effect.

ORDER

IT IS ORDERED BY THE PLANNING COMMISSION of the City of Canby that **MOD 09-05** is approved, subject to the following conditions:

1. The architectural accent neon border tube lighting shall not flash on-and-off.
2. The architectural accent neon border tube lighting shall not be so bright that it creates a hazard to motorists, or creates an uncomfortable glare onto nearby properties on N.E. 3rd Avenue that are developed with single-family dwellings.
3. The neon wall sign on the primary building frontage facing 2nd Avenue shall not flash on-and-off.
4. The marquee sign on the primary building frontage facing N.E. 2nd Avenue shall not flash on-and-off.
5. The marquee sign on the primary building frontage facing N.E. 2nd Avenue shall not be so bright that it creates a hazard to motorists, or creates an uncomfortable glare onto nearby properties on N.E. 3rd Avenue that are developed with single-family dwellings.

I CERTIFY THAT THIS ORDER approving **MOD 09-05** was presented to and **APPROVED** by the Planning Commission of the City of Canby.

DATED this 28th day of September 2009.

Daniel K. Ewert, Chairman
Canby Planning Commission

Melissa Hardy
Associate Planner

ATTEST:

ORAL DECISION – September 28, 2009

AYES:

NOES:

ABSTAIN:

ABSENT:

WRITTEN DECISION – September 28, 2009

AYES:

NOES:

ABSTAIN:

ABSENT:

MINUTES
CANBY PLANNING COMMISSION
7:00 PM – August 24, 2009
City Council Chambers – 155 NW 2nd Avenue

PRESENT: Chair Dan Ewert, Vice Chair Jan Milne, Commissioners Sean Joyce, Chuck Kocher, Misty Slagle and Jared Taylor

ABSENT: None

STAFF: Bryan Brown, Planning Director; Melissa Hardy, Associate Planner; and Jill Thorn, Planning Staff

OTHERS Jason Bristol
PRESENT:

1. CALL TO ORDER

2. CITIZEN INPUT Chair Ewert announced that Commissioner Ishah Ahumada had resigned from the Commission as she is moving out of state.

3. PUBLIC HEARINGS

a. Municipal Code Title 16 Land Development and Planning Ordinance Text Amendment for the purpose of regulating temporary vendor activity on private property – TA 09-02.

Chair Ewert read the public hearing format. When asked if any Commissioner had a conflict of interest, none was expressed. When asked if any Commissioner had ex-parte contact, none was stated. No questions were asked of the Commissioners.

Bryan Brown, Planning Director presented the August 13, 2009 staff report for the record.

Commissioner Ewert asked for a definition of “city sanctioned”. Mr. Brown responded that was a term used in other parts of the Canby Municipal Code.

Commissioner Taylor stated that “city sanctioned” should be dropped, the applicant should meet all the requirements but any fees could be waived.

Commissioner Ewert felt the requirements should be fulfilled, but the applicant should be exempt from the fees.

Commissioner Taylor said it was hard to understand why the fee should be waived when there was a cost to the City to process the application.

Commissioner Joyce felt that public resources and time were involved and felt that all applicants should pay something.

Commissioner Milne stated the proposed fee was not onerous amount for three months.

Commissioner Ewert asked if the Commission wanted to keep the application requirements, but allow a reduced fee upon proof of non-profit status.

Commissioner Slagle asked if a business license was required.

Ms Hardy responded that it was.

Applicant: None

Proponents: None

Opponents: None

Neutral: None

Rebuttal: None

Chair Ewert closed the public hearing.

Commissioner Slagle moved to recommend to the City Council a 50% discount for any nonprofit organization, and the applicant would have to comply with all other portions of the code. It was seconded by Commissioner Taylor. The motion passed 6-0.

4. NEW BUSINESS

Infill Issues – Bryan Brown presented the staff report based on the August 10, 2009 Staff Work Session Issue Worksheet. He said that because not all Commissioners had been at the work session on August 10, he had put it on the agenda for this meeting to get input from all of the Commissioners.

Commissioner Taylor asked if it was unreasonable to expect a neighbor to do whatever they desired on their own property.

Mr. Brown responded that was traditionally 100% right in the past but Commissions have developed residential design review standards more recently for various purposes. He also said that required a lot of staff time to review for each house permit.

Commissioner Taylor mentioned that several agencies have lost in court over this matter.

Ms Hardy stated the core of the issue was how to mitigate the impact on current homes as members of the Commission feel infill standards don't address the need.

Commissioner Joyce felt infill standards should not apply to the high density zone.

Commissioner Taylor asked if there was a need for infill standards.

Jason Bristol stated he had built a home in 1993 next to Trost School, but at the time he knew the neighborhood would change, which it has. He also stated based on information he had seen, most people live in a house on the average of seven years.

Commissioner Slagle felt that compatibility was the issue and it could be regulated through a menu of design choices.

Commissioner Milne stated that her reason for asking for this discussion was not for infill lots, but for existing neighborhoods where a new subdivision is built next to it and there is no protection for current one-story homes. She gave the Commission several pictures that showed her concerns. She felt that a simple solution was to require the new subdivision to build one-story homes next to the existing one-story homes, and then on all other lots they could build either one or two-story homes.

Mr. Brown said that Molalla had adopted a diversity ordinance that requires each house to be different in a subdivision.

Commissioner Taylor asked if it was appropriate for the Commission to regulate subdivisions in this manner.

Commissioner Kocher said he had real mixed feelings. Today with the small lots, there was a need for regulation, but that he was opposed to small lots.

Commissioner Slagle felt the Commission needed to be careful about telling people what to build. She had no problem regulating design, green building and there was a need for housing choices for people. She felt a menu approach where a property owner had to meet eight of ten standards would help solve the issue.

Commissioner Taylor felt that a property owner can't control what they don't own.

Commissioner Milne felt the Commission had the right to impose restrictions to protect citizens.

Commissioner Joyce felt that home styles have changed over time and the current cycle was large homes on small lots. He felt the Commission's job was to plan and holding the value of a property is not the Commission's job.

Jason Bristol stated he had concerns on infill in the R2 (High Density) zone. He suggested that the infill standard requirements be eliminated in the R2 zone.

Commissioner Milne said she agreed with Mr. Bristol and wondered if staff could see any downside to the proposal.

Mr. Brown stated that the intent for high density was to do large pieces, not lot by lot as Mr. Bristol does.

Commissioner Ewert felt there were three separate issues: infill in the R-2 zone, new subdivisions abutting long-term neighborhoods and empty lots in the community. He felt there was a need for more discussion on at least of two of the items.

Commissioner Ewert asked the Commissioners if they would favor eliminating infill standard requirements in the R-2 zone. All of the Commissioners agreed. He directed staff to discuss the three issues with the City Attorney, check to see what other communities are doing or have done and bring the matters back to the Commission.

5. FINAL DECISIONS None

6. MINUTES

July 13, 2009 - Commissioner Milne moved to approve minutes of July 13, 2009 as presented. Motion seconded by Commissioner Taylor and passed 5-0-1 with Commissioner Kocher abstaining.

7. ITEMS OF INTEREST FROM STAFF

Mr. Brown gave the Commission an update on the Rural Reserves process and announced there would be a meeting at Clackamas County on Tuesday, August 25, 2009 if any of the Commissioners wanted to attend.

8. ITEMS OF INTEREST/GUIDANCE FROM PLANNING COMMISSION

9. ADJOURNMENT