



Staff Report

STAFF REPORT DATE: December 31, 2019

HEARING DATE: January 8, 2020

TO: Interested Parties

FROM: Elena Sasin, Associate Planner

PROPOSAL: **Patricia Reser Center for the Arts (PRCA) Garage Condition of Approval (COA) Modification DR2019-0168**

LOCATION: The site is located at 12695 and 12600 SW Crescent Street and 3879 SW Hall Boulevard. Tax Lots 3300, 3400, and 800, on Washington County Tax Assessor's Map 1S109DD.

ZONING: RC-TO (Regional Center – Transit Oriented)

SUMMARY: The applicant, City of Beaverton, requests a modification of a condition of approval (COA) associated with a previously approved application DR2018-0123 Patricia Reser Center for the Arts and Garage. The modification includes a request to move COA No. 26, which requires submission of proof of artwork approval by the Beaverton Arts Commission for the northern elevation of the garage, to a later stage of development, specifically, prior to final Certificate of Occupancy, instead of prior to Building permit issuance. No other changes to the site or buildings are proposed.

APPLICANT and OWNER: City of Beaverton / Beaverton Urban Renewal Agency
Liz Jones / Tyler Ryerson
PO Box 4755
Beaverton, Oregon 97005

RECOMMENDATION: **APPROVAL of PRCA Garage COA Modification (DR2019-0168) subject to conditions of approval.**

BACKGROUND FACTS

Project Description

The applicant, City of Beaverton, requests to modify a previous decision for the PRCA and Garage (DR2018-0123) by extending the timing of a condition of approval, no. 26, related to artwork on the garage's northern building elevation. The subject condition is as follows:

B. Prior to building permit issuance for a building, the applicant shall:

- 26. Provide proof of artwork approval by the Beaverton Arts Commission for any artwork proposed on the northern wall of the garage. The approved artwork shall cover at least 30% of the northern garage wall, as measured from 3 feet above grade to 74.5 feet above grade. 20% to 25% of the artwork shall project at least four (4) inches from the wall but shall not cross the property line. If approval is not provided for artwork on the northern undifferentiated wall, the applicant shall revise the plans and receive Design Review approval. (Planning / ES)*

The applicant requests to move this condition to the "Prior to final occupancy permit issuance of each building permit, the applicant shall:" subsection of the conditions of approval. The applicant states this request is being made as a result of the lead artists not choosing the northern wall of the garage as their public art commission, therefore, a separate selection process is underway to find an artist for the northern wall. The applicant states that if granted, the extension of the artwork approval from building permit to final occupancy permit will allow for a timeline that supports the most inclusive and fair practices in the field of public art. The applicant's request does not include any physical changes to the previously approved development or changes to the condition itself, only when the condition is required to be met.

Key Application Dates

Application	Submittal Date	Application Deemed Complete	120-Day*	365-Day**
DR2019-0168	November 20, 2019	November 20, 2019	March 19, 2020	November 19, 2020

* Pursuant to Section 50.25.9 of the Development Code this is the latest date, without a continuance, by which a final written decision on the proposal can be made.

** This is the latest date, with a continuance, by which a final written decision on the proposal can be made.

Existing Conditions Table

Zoning	Regional Center – Transit Oriented (RC-TO)	
Current Development	Surface parking lot, landscaping, and a natural area.	
Site Size & Location	The site is located between SW Hall Boulevard and SW Rose Biggi Avenue and north of SW Crescent. The site size is approximately 2.8 acres.	
NAC	Central Beaverton	
Surrounding Uses	<p>Zoning: <u>North:</u> RC-TO <u>South:</u> RC-TO <u>East:</u> RC-TO <u>West:</u> RC-TO</p>	<p>Uses: <u>North:</u> Surface parking lot and commercial <u>South:</u> Residential (condominiums) <u>East:</u> Hall Boulevard and commercial <u>West:</u> SW Rose Biggi and hotel and commercial</p>

DESCRIPTION OF APPLICATION AND TABLE OF CONTENTS

	<u>Page No.</u>
<u>Attachment A:</u> <i>Facilities Review Committee Technical Review and Recommendation Report</i>	FR1 – FR8
<u>Attachment B:</u> <i>DR2019-0168 Modification of a Design Review Three</i>	DR1-DR10
<u>Attachment C:</u> <i>Conditions of Approval</i>	COA1

Exhibits

Exhibit 1. Materials submitted by Staff

Exhibit 1.1 Vicinity Map (page SR-5 of this report)

Exhibit 1.2 Aerial Map (page SR-6 of this report)

Exhibit 2. Public Comment

No public comments received

Exhibit 3. Materials submitted by the Applicant

Exhibit 3.1 Submittal Package (dated December 26, 2019)

Exhibit 4. Agency Comments

No agency comments received

PRCA Garage COA Modification
DR2019-0168
Zoning Map



PRCA Garage COA Modification
DR2019-0168
Aerial Map



**FACILITIES REVIEW COMMITTEE
TECHNICAL REVIEW AND RECOMMENDATIONS
PRCA Garage COA Modifications
DR2019-0168**

Section 40.03.1 Facilities Review Committee:

The Facilities Review Committee has conducted a technical review of the application, in accordance with the criteria contained in Section 40.03 of the Development Code. The Committee's findings and recommended conditions of approval are provided to the decision-making authority. As they will appear in the Staff Report, the Facilities Review Conditions may be re-numbered and placed in a different order.

The decision-making authority will determine whether the application as presented meets the Facilities Review approval criteria for the subject application and may choose to adopt, not adopt, or modify the Committee's findings.

The Facilities Review Committee Criteria for Approval will be reviewed for all criteria that are applicable to the submitted application(s) as identified below:

- A. All critical facilities and services related to the proposed development have, or can be improved to have, adequate capacity to serve the proposed development at the time of its completion.***

Chapter 90 of the Development Code defines "critical facilities" to be services that include public water, public sanitary sewer, stormwater drainage and retention, transportation, and fire protection. No physical changes are proposed to the previously approved plans. The scope of this request is limited to modifying a previously issued condition of approval, in association with DR2018-0123, Patricia Reser Center for the Arts and Garage. Specifically, the applicant, City of Beaverton, requests to change the timing of the applicability of condition No. 26, which requires that the Beaverton Arts Commission (BAC) approve artwork for the northern wall of the parking garage prior to building permit issuance. The requested modification includes moving the subject condition to a later stage of review, prior to final occupancy permit issuance. Compliance with all applicable Facilities Review criteria has been previously reviewed and approved. Because the proposed modification does not include any physical changes, the site will remain adequately served.

Therefore, the Committee finds that the proposal meets the approval criterion.

- B. Essential facilities and services related to the proposed development are available, or can be made available, with adequate capacity to serve the development prior to its occupancy. In lieu of providing essential facilities and services, a specific plan may be approved if it adequately demonstrates that essential facilities, services, or both will be provided to serve the proposed development within five (5) years of occupancy.***

Chapter 90 of the Development Code defines “essential facilities” to be services that include schools, transit improvements, police protection, and pedestrian and bicycle facilities in the public right-of-way. No physical changes are proposed to the previously approved plans. The scope of this request is limited to modifying a previously issued condition of approval, in association with DR2018-0123, Patricia Reser Center for the Arts and Garage. Specifically, the applicant, City of Beaverton, requests to change the timing of the applicability of condition No. 26, which requires that the Beaverton Arts Commission (BAC) approve artwork for the northern wall of the parking garage prior to building permit issuance. The requested modification includes moving the subject condition to a later stage of review, prior to final occupancy permit issuance. Compliance with all applicable Facilities Review criteria has been previously reviewed and approved. Because the proposed modification does not include any physical changes, the site will remain adequately served.

Therefore, the Committee finds that the proposal meets the approval criterion.

- C. The proposed development is consistent with all applicable provisions of Chapter 20 (Land Uses) unless the applicable provisions are modified by means of one or more applications which shall be already approved or which shall be considered concurrently with the subject application; provided, however, if the approval of the proposed development is contingent upon one or more additional applications, and the same is not approved, then the proposed development must comply with all applicable provisions of Chapter 20 (Land Uses).***

The Committee refers to the Chapter 20 use and site development requirements tables at the end of this report. No physical changes to the site are proposed with this Modification of a Decision application. Staff will provide findings for the Modification of a Decision, to the previously approved DR2018-0123, within the applicable sections of the staff report.

Therefore, the Committee finds that the proposal meets the approval criterion.

- D. The proposed development is consistent with all applicable provisions of Chapter 60 (Special Requirements) and all improvements, dedications, or both, as required by the applicable provisions of Chapter 60 (Special Requirements), are provided or can be provided in rough proportion to the identified impact(s) of the proposed development.***

The Committee cites the Code Conformance Analysis chart at the end of this report, which evaluates the proposal as it relates to the applicable Code requirements of Chapter 60. No physical changes to the site are proposed with this Modification of a Decision application.

Therefore, the Committee finds that the proposal meets the approval criterion.

- E. Adequate means are provided or can be provided to ensure continued periodic***

maintenance and necessary normal replacement of the following private common facilities and areas, as applicable: drainage facilities, roads and other improved rights-of-way, structures, recreation facilities, landscaping, fill and excavation areas, screening and fencing, ground cover, garbage and recycling storage areas, and other facilities not subject to maintenance by the City or other public agency.

The scope of this request is limited to modifying a previously issued condition of approval, in association with DR2018-0123, Patricia Reser Center for the Arts and Garage. Specifically, the applicant, City of Beaverton, requests to change the timing of the applicability of condition No. 26, which requires that the Beaverton Arts Commission (BAC) approve artwork for the northern wall of the parking garage prior to building permit issuance. The requested modification includes moving the subject condition to a later stage of review, prior to final occupancy permit issuance. Compliance with all applicable Facilities Review criteria has been previously reviewed and approved. Because the proposed modification does not include any physical changes, the ability to provide continued period maintenance and necessary normal replacement of private common facilities and areas will not be altered.

Therefore, the Committee finds that the proposal meets the approval criterion.

F. There are safe and efficient vehicular and pedestrian circulation patterns within the boundaries of the development.

The scope of this request is limited to changing the timing of when a previously issued condition of approval, No. 26, is required to be fulfilled. The subject condition is regarding the requirement that artwork proposed for the northern elevation of the parking garage be approved by BAC. Physical changes to previously approved plans are not proposed with this Modification of a Decision application. Therefore, because no physical changes to the site are proposed, the proposal will not impact the safe and efficient vehicular and pedestrian circulation patterns within the boundaries of the previously approved parking garage and art center.

Therefore, the Committee finds that the proposal meets the approval criterion.

G. The development's on-site vehicular and pedestrian circulation systems connect to the surrounding circulation systems in a safe, efficient, and direct manner.

The scope of this request is limited to changing the timing of when a previously issued condition of approval, No. 26, is required to be fulfilled. The subject condition is regarding the requirement that artwork proposed for the northern elevation of the parking garage be approved by BAC. Physical changes to previously approved plans are not proposed with this Modification of a Decision application. Therefore, because no physical changes to the site are proposed, the proposal will not impact the previously approved safe, efficient, and direct on-site vehicular and pedestrian connections to the surrounding circulation systems.

Therefore, the Committee finds that the proposal meets the approval criterion.

H. Structures and public facilities serving the development site are designed in accordance with adopted City codes and standards and provide adequate fire protection, including, but not limited to, fire flow.

The scope of this request is limited to changing the timing of when a previously issued condition of approval, No. 26, is required to be fulfilled. The subject condition is regarding the requirement that artwork proposed for the northern elevation of the parking garage be approved by BAC. Because no physical changes to the site are proposed, the site design as previously reviewed and approved, will continue to be in accordance with adopted City codes and standards for fire protection. Fire protection will continue to be provided by Tualatin Valley Fire and Rescue (TVF&R).

Therefore, the Committee finds that the proposal meets the approval criterion.

I. Structures and public facilities serving the development site are designed in accordance with adopted City codes and standards and provide adequate protection from crime and accident, as well as protection from hazardous conditions due to inadequate, substandard, or ill-designed development.

The applicant states that no physical improvements are requested with the subject application; therefore the structures and public facilities serving the development will continue to meet City codes and will provide adequate protection from crime, accident, and protection from hazardous conditions. The installation of artwork may require building permits. The Committee finds that review of the construction documents at the Building Permit stage will ensure protection from hazardous conditions due to inadequate, substandard, or ill-designed development. However, because the request is to move the condition to after the general building permit issuance stage, and prior to final occupancy, the Committee recommend an additional condition of approval requiring that, if necessary all required Building permits be obtained through the City of Beaverton's Building Division.

Therefore, the Committee finds that by meeting the condition of approval the proposal meets the approval criterion.

J. Grading and contouring of the development site is designed to accommodate the proposed use and to mitigate adverse effect(s) on neighboring properties, public right-of-way, surface drainage, water storage facilities, and the public storm drainage system.

The scope of this request is limited to changing the timing of when a previously issued condition of approval, No. 26, is required to be fulfilled. The subject condition is regarding the requirement that artwork proposed for the northern elevation of the parking garage be approved by BAC. Because no physical changes to the site are proposed, the proposal will not include any grading or contouring of the subject site.

Therefore, the Committee finds that the approval criterion is not applicable to the proposal.

K. Access and facilities for physically handicapped people are incorporated into the development site and building design, with particular attention to providing continuous, uninterrupted access routes.

The scope of this request is limited to changing the timing of when a previously issued condition of approval, No. 26, is required to be fulfilled. The subject condition is regarding the requirement that artwork proposed for the northern elevation of the parking garage be approved by BAC. The applicant will be required to meet all applicable accessibility standards of the International Building Code, Fire Code, and other standards as required by the ADA. Compliance with ADA requirements are reviewed with the Building Permit application. The Committee finds that review of the proposed plans at the Building Permit stage is sufficient to guarantee compliance with accessibility standards.

Therefore, the Committee finds that the proposal meets the approval criterion.

L. The application includes all required submittal materials as specified in Section 50.25.1 of the Development Code.

The applicant submitted the Modification of a Decision application on November 20, 2019, simultaneously requesting to be deemed complete on November 20, 2019. In review of the materials during the application review process, the Committee finds that all applicable application submittal requirements identified in Section 50.25.1 are contained within this proposal.

Therefore, the Committee finds that the proposal meets the approval criterion.

Recommendation:

The Facilities Review Committee finds that the proposal is limited in scope to changing the timing of when a previously issued condition of approval, No. 26, is required to be fulfilled. The subject condition, for the Patricia Reser Center for the Arts and Garage (DR2018-0123) requires that artwork proposed for the northern elevation of the parking garage be approved by BAC, prior to building permit issuance. The request is to move the condition to prior to final occupancy issuance. Because no physical changes to the site are proposed, the proposal will not include any grading or contouring of the subject site. No physical changes to the site are proposed as a result of this request, and as such, the request complies with all the technical criteria listed herein, A through L.

Code Conformance Analysis

Chapter 20 Use and Site Development Requirements Regional Center-Transit Oriented (RC-TO) Zoning District

CODE STANDARD	CODE REQUIREMENT	PROJECT PROPOSAL	MEETS CODE?
Development Code Section 20.20.20 (Regional Center-Transit Oriented)			
Commercial Amusement	Conditional Use	The proposal does not include changes to use. A previous approval (CU2018-0017) was granted for a performing arts facility. The proposed use is classified as a Commercial Amusement.	N/A
Parking as the Principal Use	Conditional Use	The proposal does not include changes to use. A previous approval (CU2018-0018) was issued for new district parking garage.	N/A
Retail	Permitted	The proposal does not include changes to use.	N/A
Development Code Section 20.20.15 (Regional Center – Transit Oriented)			
Minimum Lot Area	None	Not applicable, no new lots proposed	N/A
Floor Area Ratio (FAR)	Min: 0.60 Max: None	The proposal does not include any physical changes, therefore FAR requirements are not applicable.	
Minimum Lot Dimensions	None	Not applicable, no new lots proposed	N/A
Yard Setbacks Minimums: Front Side Rear	0' front 0' side 0' rear	Not applicable, no physical improvements proposed	N/A
Maximum Building Height	120 feet	Not applicable, no physical improvements proposed	N/A

Chapter 60 Special Requirements

CODE STANDARD	CODE REQUIREMENT	PROJECT PROPOSAL	MEETS CODE?
Development Code Section 60.05			
Design Review Principles, Standards, and Guidelines	Requirements for new development and redevelopment.	No exterior or site changes are proposed, however, to ensure the proposed modification to the timing of a condition of approval does not affect the intent of the condition, some applicable Design Review Guidelines will be reviewed in that section of the staff report.	See DR2019- 0168
Development Code Section 60.07			
Drive-up Window Facilities	Requirements for drive-up, drive-through, and drive-in facilities.	No drive-up window facilities are proposed.	N/A
Development Code Section 60.10			
Floodplain Regulations	Requirements for properties located in floodplain, floodway, or floodway fringe.	No exterior or site changes are proposed. The floodplain will not be affected by the timing of condition of approval No. 26, requiring that BAC approve artwork for the northern elevation of the parking garage.	N/A
Development Code Section 60.12			
Habitat Friendly and Low Impact Development Practices	Optional program offering various credits available for use of specific Habitat Friendly or Low Impact Development techniques.	No Habitat Friendly or Low Impact Development credits requested.	N/A
Development Code Section 60.15			
Land Division Standards	On-site surface contouring within 25 feet of a property line within or abutting any residentially zoned property.	No land division is proposed.	N/A
Development Code Section 60.25			
Off-street Loading Requirements	Minimum: 1 Type B loading space	No exterior or site changes are proposed.	N/A

RECOMMENDATION AND CONDITIONS OF APPROVAL BY THE FACILITIES REVIEW COMMITTEE:

Recommendation

The Facilities Review Committee finds that the proposal complies with all the technical criteria. The Committee recommends that the decision-making authority in **APPROVE** the proposal, subject to conditions of approval identified in Attachment C.

**DR2019-0168
ANALYSIS AND FINDINGS FOR
DESIGN REVIEW THREE APPROVAL
(Modification of a Decision)**

Section 40.03.1 Facilities Review Approval Criteria:

The applicant for development must establish that the application complies with all relevant standards in conformance with Section 50.25.1.B and all the following criteria have been met:

Facilities Review Approval Criteria Section 40.03.1.A-L

Staff has reviewed the applicable Facilities Review criteria in Attachment A to this report. Staff cites the findings presented in Attachment A in response to the Facilities Review approval criteria. As identified in Attachment A, above, the proposal meets Criteria A-L, and therefore meets the criterion for approval.

Therefore, the Committee finds that the proposal meets the criteria.

Planning Commission Standards for Approval:

Section 40.20.15.3.C of the Development Code provides standards to govern the decisions of the Commission as they evaluate and render decisions on Design Review Applications. The Commission will determine whether the application as presented, meets the Design Review Three approval criteria. The Commission may choose to adopt, not adopt or modify the Committee's findings. In this portion of the report, staff evaluates the application in accordance with the criteria for Type 3 Design Review.

Section 40.20.15.3.C Approval Criteria: In order to approve a Design Review Three application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:

1. *The proposal satisfies the threshold requirements for a Design Review Three application.*

The applicant proposes to modify a condition of approval, associated with a previously approved application, DR2018-0123, the construction of non-residential buildings within the RC-TO zone. DR2018-0123 approved the construction of an arts center, approximately 43,235 square feet in size and a district parking garage of approximately 156,500 square feet in size. The total floor area exceeds 50,000 gross square feet of non-residential floor area and the development does not abut any Residential zoning district. The applicant's proposal to modify a condition of approval does not include any physical changes to the previously approved arts center or garage but does modify the timing of the condition requiring artwork on the northern elevation of the approved garage. Furthermore, Section 50.95.6. of the Development Code states that, "The process type for an application to modify a decision shall be based upon the thresholds for the appropriate application listed in Chapter 40". Therefore, the approved development meets Threshold 1 for a Design Review Three application.

1. *New construction of more than 50,000 gross square feet of non-residential floor area*

where the development does not abut any Residential zoning district.

Therefore, staff finds that the criterion is met.

2. ***All City application fees related to the application under consideration by the decision making authority have been submitted.***

The applicant paid the required fees for a Design Review Three application.

Therefore, staff finds that the criterion is met.

3. ***For proposals meeting Design Review Three application thresholds numbers 1 through 6, the proposal is consistent with all applicable provisions of Sections 60.05.35 through 60.05.50 (Design Guidelines).***

Staff cites the Design Guidelines Analysis at the end of this Design Review section, which evaluates the proposed modification as it relates the applicable Design Review Guidelines found in Section 60.05 of the Development Code. The applicant's request for Modification of a Decision (Section 50.95) is limited to modifying the timing of when a previously issued condition of approval must be satisfied. The specific condition of approval, No. 26 of DR2018-0123, requires that the applicant submit proof of artwork approval by the Beaverton Arts Commission for any artwork proposed on the northern wall of the parking garage, prior to Building permit issuance. The applicant states that the subject request is to extend the approval time for the artwork to final occupancy permit issuance to provide adequate time to conduct the public art selection process. Staff recommend modifying the condition of approval to also include the requirement that the artwork not only be approved by the Beaverton Arts Commission but also installed prior to final occupancy. Additionally, because the installation of the artwork could occur after the most of the building permits are reviewed for the development, staff recommend a condition of approval that if necessary, a building permit must be obtained for the artwork.

Staff finds that the proposal meets the applicable Guidelines.

Therefore, staff finds that by meeting the conditions of approval the criterion is met.

4. ***For additions to or modifications of existing development, the proposal is consistent with all applicable provisions of Sections 60.05.35 through 60.05.50 (Design Guidelines) or can demonstrate that the additions or modifications are moving towards compliance of specific Design Guidelines if any of the following conditions exist:***

- a. ***A physical obstacle such as topography or natural feature exists and prevents the full implementation of the applicable guideline; or***
- b. ***The location of existing structural improvements prevent the full***

implementation of the applicable guideline; or

- c. *The location of the existing structure to be modified is more than 300 feet from a public street.***

The proposed modification is limited to the timing of a previously issued condition of approval, associated with DR2018-0123. The proposal does not include any physical changes to the previously approved development. Therefore, this criterion, which pertains to physical additions or modification of existing development, does not apply.

Therefore, staff finds the criterion is not applicable.

- 5. *For DRBCP proposals which involve the phasing of required floor area, the proposed project shall demonstrate how future development of the site, to the minimum development standards established in this Code or greater, can be realistically achieved at ultimate build out of the DRBCP.***

The applicant does not propose a DRBCP.

Therefore, staff finds the criterion is not applicable.

- 6. *For proposals meeting Design Review Three application Threshold numbers 7 or 8, where the applicant has decided to address a combination of standards and guidelines, the proposal is consistent with all applicable provisions of Sections 60.05.15 through 60.05.30 (Design Standards) except for the Design Standard(s) where the proposal is instead subject to the applicable corresponding Design Guideline(s). [ORD 4531; March 2010]***

The proposal does not include any physical changes, nor does it meet threshold 7 or 8. Therefore, this criterion is not applicable.

Therefore, staff finds the criterion is not applicable.

- 7. *For proposals meeting Design Review Three application Threshold numbers 7 or 8, the proposal is consistent with all applicable provisions of Sections 60.05.15 through 60.05.30 (Design Standards) except for the Design Standard(s) where the proposal is applying to instead meet the applicable Design Guideline(s).***

The proposal does not include any physical changes, nor does it meet threshold 7 or 8. Therefore, this criterion is not applicable.

Therefore, staff finds the criterion is not applicable.

- 8. *Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.***

The applicant has submitted all documents related to this request for Design Review Three (Modification of a Decision) approval. Staff recommend a modification to the subject condition of approval (No. 26 of DR2018-0123) to include the requirement to install the artwork prior to final occupancy. Staff recommend an additional condition of approval that the applicant obtain a Building permit, if necessary, for the artwork installation. No additional application or documents are needed at this time.

Therefore, staff finds that by meeting the conditions of approval the criterion is met.

DESIGN REVIEW GUIDELINES ANALYSIS

In the following analysis, staff have only identified the Design Guidelines which are relevant to the subject request to modify the timing of a previously issued condition of approval. Non-relevant Guidelines have been omitted.

60.05.35 *Building Design and Orientation Guidelines.* *Unless otherwise noted, all guidelines apply in all zoning districts.*

1. *Building Elevation Design Through Articulation and Variety*

B. Building elevations should be varied and articulated to provide visual interest to pedestrians. Within larger projects, variations in architectural elements such as: building elevations, roof levels, architectural features, and exterior finishes should be provided. (Standard 60.05.15.1.A and B)

The applicant requests to modify the timing of a condition of approval (no. 26), associated with DR2018-0123. The development reviewed under DR2018-0123 was a district parking garage and arts center. The northern wall of the garage was mostly undifferentiated, in part due to the wall's proximity to a party line and the need to comply with Building Code regulations. However, the applicant proposed artwork on the northern wall of the garage to address the design guideline. To be recognized as artwork, the artwork must be approved by the Beaverton Arts Commission before being installed. Furthermore, in an effort to encourage articulation on this elevation, the condition of approval requires that a portion of the artwork project a minimum of four inches from the wall. This condition is listed under the conditions to be accomplished prior to building permit issuance, so that if a building permit was needed for the artwork, it could also be reviewed. The applicant's request to modify the timing of the condition of approval, by extending the approval deadline to final occupancy, does not change the compliance to the subject Guideline and sufficient articulation and variety will continue to be provided with the modified condition. To ensure that the artwork is installed prior to final occupancy, staff recommends a modification to the condition of approval requiring that the artwork be approved by the Beaverton Arts Commission and installed prior to final occupancy. Furthermore, because the artwork installation may require a Building permit, staff recommend an additional condition that if necessary, a Building permit must be obtained prior to the installation of the artwork.

Therefore, staff finds that by meeting the condition of approval, the Guideline is met.

E. Building elevations visible from and within 200 feet of an adjacent street or major parking area should be articulated with architectural features such as windows, dormers, off-setting walls, alcoves, balconies or bays, or by other design features that reflect the building's structural system. Undifferentiated blank walls facing a street, common green, shared court, or major parking area should be avoided. (Standards 60.05.15.1.B, C, and D)

The applicant requests to modify the timing of a condition of approval (No. 26), associated with DR2018-0123. The development reviewed under DR2018-0123 was a district parking garage and arts center. The northern wall of the garage, which faces a parking area on an adjacent lot, was proposed as being mostly undifferentiated, in part due to Building Code regulations for fire protection. Furthermore, the RC-TO (Downtown Regional Center – Transit Oriented) zoning district allows for no minimum setback, if the development does abut residentially zoned property. Therefore, buildings are permitted at the property line, per the Development Code Development Standards found in Section 20.20.15. In an effort to address both the Building Code, and Development Code Design Guideline to create visual interest on this wall, the applicant proposed to treat the wall with public art. In response to the applicant's proposal to use artwork as a way to address certain Design Guidelines, a condition of approval was issued to ensure that the artwork would be confirmed by the Beaverton Arts Commission (No. 26 of DR2018-0123) prior to installation. The condition, as approved, is required to be fulfilled, prior to Building permit issuance, however due to changes in the artist selection process, the applicant requests that this condition be extended to prior to final occupancy, to allow for a better public process and ultimately a stronger art concept for this highly visible north wall. The applicant's request to change the timing of the previously issued condition will not change the previously approved development's compliance with this Design Guideline or the intent of condition of approval No. 26. As aforementioned, staff recommend a modification to condition of approval No. 26 to ensure that the artwork is installed as well as approved by the Beaverton Arts Commission, prior to final occupancy. Staff also recommend a condition of approval that the applicant obtain a Building permit, if necessary for the artwork.

Therefore, staff finds that by meeting the conditions of approval, the Guideline is met.

Section 50.95 Modification of a Decision - Procedures.

The applicant has requested modifications to a condition of approval of the previously approved Design Review Three (DR2018-0123) for the PRCA and Garage, therefore, Section 50.95 of the Development Code is applicable to the request.

- 1. An applicant or successor in interest may file with the Director an application to modify a prior decision that was the subject of a Type 1, Type 2 or Type 3 procedure. In addition to other requirements, such an application to modify a prior decision shall describe the nature of the proposed change to the original decision and the basis for that change, including the applicable facts and law, together with the fee prescribed for that application type necessary to modify the prior decision. Such an application to modify a prior decision shall be subject to the approval criteria and development regulations in effect when the Director receives a complete application for the modification.**

The applicant has requested this modification to a condition of approval associated with a decision, originally approved through a Type 3 procedure, DR2018-0123, therefore, the applicant must return to the Planning Commission to request a modification. The applicant states that the required materials have been submitted with this Modification of a Decision for a Type 3 Design Review application. The applicant explains that the request is limited to modifying Condition of Approval No. 26, which requires the Beaverton Arts Commission to approve the public art for the northern elevation of the garage prior to Building Permit issuance. More specifically, the applicant requests to extend the timing of the subject condition to be applicable prior to final occupancy, instead of prior to Building permit issuance. No physical changes to the previously approved development are proposed. The applicant has submitted a complete application and fee for the modification request. Staff has addressed the relevant approval criteria for the Design Review Three as well as the Facilities Review section of this report and found that the proposal is compliant with all applicable approval criteria, contingent upon a staff recommended modification of the subject condition of approval and one additional condition of approval. All other original conditions of approval of DR2018-0123 remain effective.

Therefore, staff find by meeting the Conditions of Approval, the proposal meets the criterion for approval.

- 2. An application for modification is subject to pre-application conference and completeness review; provided, the Director shall only require an application for modification to contain information that is relevant or necessary to address the requested change or the facts and regulations on which it is based. An application for modification is not subject to the neighborhood review meeting requirement.**

The applicant met with staff accordingly for a pre-application conference on October 2, 2019 (PA2019-0069), and was provided the information necessary to apply for a Modification of Decision application.

Therefore, staff find the proposal meets the criterion for approval.

- 3. An application for modification does not extend the deadline for filing an appeal and does not stay appeal proceedings. An application for modification is subject to the 120 day requirement pursuant to ORS 227.178.**

This applicant does not request to extend the deadline for filing an appeal. The applicant states that the 120-day requirement for the modification application is acknowledged.

Therefore, staff find the proposal meets the criterion for approval.

- 4. Only a decision that approves or conditionally approves an application can be modified. A decision denying an application cannot be modified. Refer to Section 50.99.**

The applicant has applied to modify the conditionally approved Design Review Three (DR2018-0123) as part of the application package approved for the PRCA and Garage.

Therefore, staff find the proposal meets the criterion for approval.

- 5. An application for modification shall be subject to a Type 1, Type 2, or Type 3 procedure as determined by the Director.**

The approved PRCA Garage project was originally processed under the Type 3 review procedures. The requested modification to the approved condition associated with the project will follow the Type 3 review procedures.

Therefore, staff find the proposal meets the criterion for approval.

- 5. The process type for an application to modify a decision shall be based upon the thresholds for the appropriate application listed in Chapter 40. In all cases, regardless of the thresholds listed in Chapter 40, when a proposed modification involves a condition of approval, that condition of approval can be modified or removed only by the same decision making authority that issued the original decision and through the same procedure that was followed to establish the condition to be modified. Modification or removal of a condition of approval shall only be granted if the decision making authority determines any one of the following:**

- A. The applicant or owner has demonstrated that a mistake of law or fact occurred, and that the mistake was substantial enough to warrant modification or removal of the condition to correct the mistake.**

The applicant states that no mistake of law or fact occurred to necessitate the subject condition of approval modification request.

Therefore, staff find the criterion for approval is not applicable.

- B. The condition could not be implemented for reasons beyond the control of the applicant and the modification will not require a significant modification of the original decision.**

The Planning Commission approved DR2018-0123 during the public hearing of February 6, 2019 and adopted Condition of Approval No. 26, which requires submission of proof of artwork approval by the Beaverton Arts Commission for artwork on the north garage wall prior to building permit issuance. The applicant states that the PRCA and Beaverton Central District Garage Art Framework was approved by the Public Art Commission and Beaverton Arts Commission on October 9, 2019. The applicant states that during the course of executing the public art for the project, it became apparent the condition of approval could not be satisfied by the time of building permit issuance due to the time needed for the public art solicitation. Therefore, the applicant requests to extend the approval time for the artwork to final occupancy permit issuance to provide adequate time to conduct the public art selection process.

Therefore, staff find the proposal meets the criterion for approval.

- C. The circumstances have changed to the extent that the condition is no longer needed or warranted.**

The applicant states that the condition is still needed and the request is limited to modify the timing to satisfy the condition of approval.

Therefore, staff find the criterion for approval is not applicable.

- D. A new or modified condition would better accomplish the purpose of the original condition.**

The applicant states that the time extension to satisfy the condition of approval at the time of final occupancy permit instead of at building permit issuance will result ultimately in a better public art selection process than the original timeline can accommodate. The applicant further explains that the public art selection process follows the protocols and best practices of city, county and state government agencies across the country, including those adopted by the City of Beaverton's Public Art Committee (PAC) and Beaverton Arts Commission (BAC) and as such, an artist or artist team will be selected by a diverse group of panelists that represent artists and arts professionals, community representatives, staff members, and stakeholders from the project team on December 20, 2019, after a five-week open call (Request for Qualifications) and subsequent vetting of applications.

Therefore, staff find the proposal meets the criterion for approval.

Recommendation

Based on the facts and findings presented, staff recommend **APPROVAL** of **DR2019-0168 (PRCA Garage COA Modification)** subject to the applicable conditions identified in Attachment C.

CONDITIONS OF APPROVAL**DR2019-0168 Design Review Three (Modification of a Decision)**

(Note: Proposed new language is underlined.)

C. Prior to final occupancy permit issuance of each building permit, the applicant shall:

1. All conditions of approval for DR2018-0123 remain effective, except for condition of approval No. 26, which is modified herein. (Planning / ES)
2. Provide proof of artwork approval by the Beaverton Arts Commission for any artwork proposed on the northern wall of the garage, prior to installation. The approved artwork shall cover at least 30% of the northern garage wall, as measured from 3 feet above grade to 74.5 feet above grade. 20% to 25% of the artwork shall project at least four (4) inches from the wall but shall not cross the property line. If approval is not provided for artwork on the northern undifferentiated wall, the applicant shall revise the plans and receive Design Review approval. (Planning / ES)
3. If necessary, obtain all required Building permits through the City of Beaverton's Building Division. (Building / CW)