

CITY OF ALAMEDA PLANNING BOARD  
**DRAFT RESOLUTION**

APPROVING PUBLIC ART APPLICATION (PLN13-0380) FOR THE MARINA SHORES  
RESIDENTIAL DEVELOPMENT AT 1551 BUENA VISTA AVENUE

WHEREAS, an application was submitted by Ken Parnell for Lennar pursuant to the City of Alameda public art ordinance (Alameda Municipal Code Section 30-65) on January 8, 2015, to provide public art at the Marina Shores residential development project; and

WHEREAS, the proposed art project consists of the installation of three humanoid figures dressed in Ohlone ceremonial attire and three tule balsa rafts, all made of recycled and corten steel; and

WHEREAS, the Community Development Department found the application to be in compliance the Public Art Ordinance; and

WHEREAS, the City Council authorizes the Planning Board to act on behalf of the Public Art Commission when the Commission is unable to meet due to a lack of quorum; and

WHEREAS, the Planning Board has been advised that, subject to meeting City standards and requirements, the proposed use would conform to the public art ordinance; and

WHEREAS, the Planning Board held a public meeting on this application on May 11, 2015, and has examined all pertinent submittals and documents.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board finds that the project is Categorically Exempt from the California Environmental Quality Act, under Section 15303 of the CEQA Guidelines – New Construction or Conversion of Small Structures; and

BE IT FURTHER RESOLVED that the Planning Board finds the proposed art proposal compliant with the following criteria pursuant to the Alameda Public Art Ordinance:

**Inherent Artistic Quality - The artistic or conceptual merit of the public art proposals, independent of other considerations.** The proposal exhibits inherent artistic quality and is consistent with the objectives and goals of the public art ordinance.

**Context - Works of art must be compatible in scale, material, form and content with its surroundings. Consideration should be given to the architectural, historical, geographical and social/cultural context of the site.** The proposed public art concept is inspired by local Native American history. The theme is appropriate given the context

established by Planning Board's approval to name new streets at Marina Shores as Balsa and Sakas, which are Native American words for tule rafts. The proposed art is also unique and different from the art proposals in recent years, which have been predominantly portrayals of Alameda's modern history. The sculptures of tule rafts also fit within the context of the project location near the waterfront. Furthermore, the locations of the installation are also appropriate for the site and will enhance the two street intersections. The placement of the sculptures at Entrance Road anticipates both future pedestrian and automobile traffic along Buena Vista Avenue and the extension of Clement Avenue. The proposal is well-conceived and compatible with the surrounding environment.

**Media - All forms of public art may be considered. Works may be either portable or permanently attached.** The high quality, recycled metal and corten steel pieces are appropriate and consistent with the intent of the public art ordinance criteria. Given that the development project is a residential development, the expression of art in the form of permanent sculptures is appropriate. The proposed concept and placement of the art also relate to the physical environment and maximize public enjoyment.

**Permanence: Due consideration shall be given to the structural and surface soundness, and to inherent resistance to theft, vandalism and weathering.** The use of durable metals in the sculptures is intended for long-term durability. The recycled metals and corten steel can be easily cleaned using paint thinners, a non-alkaline stripper or wooden scrapers. The mesh-woven composition of the sculptures also deters graffiti. The installation's placement along the public right-of-way allows for easy maintenance.

**Ability to Maintain - Significant consideration shall be given to the cost of on-going maintenance and repair anticipated, and the applicant's ability to provide adequate maintenance.** The proposed artwork will be maintained and protected by the Marina Shores Community Association, as required by the conditions of approval. The recycled metals and corten steel are extremely durable, resistant to scratches, and require only minimal maintenance. If the artwork is vandalized with paint, it can easily be cleaned. Dirt and grime can be easily removed with laundry soap, a low-pressure wash and/or proprietary cleaning materials such as car wash.

**Public Safety and Accessibility - Each work shall be evaluated to ensure that it does not present a hazard to public safety and complies with all applicable building codes and accessibility requirements.** As proposed, the project will not present a hazard to public safety. Installation of the artwork will require issuance of building permits, and the building permit plan check process will ensure that the final construction details of the project will comply with all codes and safety regulations. Final lighting plans will be required as part of the permit review to ensure energy efficient lighting will be used and to prevent glare into adjacent residential units.

**Diversity - The City is committed to acquiring public art that reflects its diverse cultural communities and perspectives. Innovative work as well as established art forms shall be encouraged.** The diverse interests of the art project are reflected in its Native American theme and the historic Ohlone settlements in Alameda and the greater

East Bay region. The artist, Jennifer (Johnson) Riley, also focuses on art representing the human form and diverse topics and backgrounds. The proposed sculptures represent an established art form.

**Feasibility - Proposed works shall be evaluated for feasibility and factors to be considered include, but are not limited to: project budget, timeline, artist's experience, soundness of materials, City approval requirements, and level of community support.** The project is feasible and achievable within the project timeline to be completed prior to occupancy of the last residential unit. Staff anticipates the public art to be well-received by the community because it will reinforce the local street names Balsa and Sakas, as well as highlight Native American history in Alameda. The tule raft sculptures also relate well to the project's proximity to the waterfront.

**Duplication - To assure that the public art is a fine art product, the artist will be asked to warrant that the work is unique.** The proposed artwork is unique and qualifies as a fine art product. While similar art forms depicting Ohlone people and tule rafts may exist, the final sculptures will be individually made, unique works of art.

BE IT FURTHER RESOLVED that the Planning Board of the City of Alameda hereby approves the Public Art Application No. PLN13-0380, pursuant to Alameda Municipal Code Section 30-65, subject to the conditions listed below:

1. Building Permits: The plans submitted for building permits and construction shall be in substantial compliance with the public art proposal prepared by Jennifer Riley, titled "Jennifer Riley Proposal for Public Art," and on file in the office of the City of Alameda Community Development Department, except as modified by the conditions listed in this resolution. Plans submitted for building permits shall show dimensions of the sculptures, construction detail of the pedestals, and any necessary structural and electrical lighting details as required by the Building Official. The base pedestals and installation methods shall be designed to co-exist with any bio-swales intended to treat stormwater runoff.
2. Installation: The final Certificate of Occupancy for the last residential building shall not be issued until the public art requirements have been satisfied. Satisfaction shall mean construction of the art installation with all public art standards and conditions imposed by the City of Alameda.
3. Notice of Completion: The applicant shall inform the City of the approximate date the project will be installed or completed in compliance with sections 30-65.8 (f) and 30-65.9 of the public art ordinance.
4. Final Budget Reconciliation: Upon final installation of the art, and prior to issuance of the final certificate of occupancy for the development project, the applicant shall provide City staff copies of final receipts to be reconciled with the approved public art budget. The applicant shall pay any unused amount in the budget as a monetary contribution

into the Public Art Fund. Such payment shall be made prior to issuance of the final certificate of occupancy for the development project.

5. Notice of Ceremonies: The applicant shall notify the Community Development Department regarding any unveiling or dedication ceremonies for the public art project. An unveiling or dedication is strictly optional. In the event the applicant chooses to conduct an unveiling or dedication, City staff shall provide the applicant with an invitation list of City Council members, Public Art Commission members and other appropriate guests. City staff shall work with the applicant to promote press opportunities and public interest in the public art project.
6. Maintenance Agreement: The property owner is responsible for maintaining the art installation, including repairs, should it be damaged, destroyed, or become inaccessible. The maintenance and long-term management of the art installation is not the responsibility of the City. The property owner shall maintain, or cause to be maintained, in good condition the Public Art continuously after its installation and shall perform necessary repairs and maintenance to the satisfaction of the City. The maintenance obligations of the property owner shall be contained in an agreement approved by the City and recorded against the property by the applicant.
7. Removal: The permanent removal of public art requires approval by the Public Art Commission. Should the property owner wish to remove the subject art, the City must be notified in advance by way of submitting a Public Art Application and payment of processing fees required by the City. The property owner shall replace the Public Art with public art of equal or greater value, as defined by the public art ordinance.
8. Identification signage: Applicant shall be required to obtain approval from the Community Development Department of identification signage that shall be developed in compliance with the Public Art Identification Signage Guidelines.
9. Hold Harmless. The City of Alameda requires that the applicant, or its successors in interest, defend, indemnify, and hold harmless the City of Alameda or its agents, officers, and employees from any claim, action, or proceeding against the City or its agents, officers, and employees to attack, set aside, void, or annul, an approval of the City concerning this approval, which action is brought within the time period provide for in Government Code Section 66499.37. The City of Alameda shall promptly notify the applicant of any claim, action or proceeding and the City shall cooperate fully in the defense. If the City fails to promptly notify the applicant of any claim, action, or proceeding, or if the City fails to cooperate fully in the defense, the applicant shall not hereafter be responsible to defend, indemnify, or hold harmless the City.

The decision of the Planning Board shall be final unless appealed to the City Council, in writing and within ten (10) days of the decision by completing and submitting an appeal form paying the required fee.

NOTICE. No judicial proceedings subject to review pursuant to California Code of Civil

Procedure Section 1094.5 may be prosecuted more than ninety (90) days following the date of this decision or final action on any appeals plus extensions authorized by California Code of Civil Procedure Section 1094.6.

NOTICE. The Conditions of Project Approval set forth herein include certain fees and other exactions. Pursuant to Government Code Section 66020(d)(1), these Conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations and other exactions. You are hereby further notified that the 90 day appeal period in which you may protest these fees and other exactions, pursuant to Government Code Section 66020(a) has begun. If you fail to file a protest within this 90-day period complying with all the requirements of Section 66020, you will be legally barred from later challenging such fees or exactions.

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