



STAFF REPORT

SAUSALITO CITY COUNCIL

AGENDA TITLE:

Proposal by Ritter Center of Marin to display two Art Houses in Sausalito as part of their County-Wide fundraising and awareness campaign.

RECOMMENDED MOTION:

Approve a Resolution of the City Council of the City of Sausalito Authorizing Execution of a License Agreement for use of City Property (Dunphy Park and Robin Sweeny Park) by Ritter Center for Temporary Art Installations (Art Houses of Marin)

SUMMARY

The Ritter Center is launching a a County-wide "fundraising project that celebrates the arts and culture of Marin and its capacity and willingness to support an important cause - ending homelessness in Marin County." As part of this project the Ritter Center is asking local jurisdictions to allow the placement of "Art Houses" in their communities. The Ritter Center calls this project:

"A fun-filled, public art project modeled after successful experiences in many cities across the county and world -including the Hearts in San Francisco. Eminent local artists will be chosen to design and decorate the scale model houses, creating exquisite works of art."

As part of this project, the Ritter Center has requested the placement of two "Art Houses" in Sausalito. One at the plaza in front of the Bank of America, the other at Robin Sweeny Park. As discussed below, staff is recommending that the Council authorize the placement of the Art Houses at Robin Sweeny Park and Dunphy Park.

The "Houses" would be installed on February 28, 2010, in the late evening and be removed on or before April 30, 2010.

BACKGROUND

The Ritter Center is a nonprofit organization located in San Rafael. The Ritter Center has been providing assistance to Marin County's low-income and homeless population

Item #: 6C
Meeting Date: 2-23-10
Page #: 1

for over 28 years. Social services provided by the Center include: case management; primary health care; supplementary food and clothing; emergency financial assistance; showers, laundry, and restroom facilities; general delivery mail and voicemail.

Art Houses of Marin is a "...fundraising project that celebrates the arts and culture of Marin and it's capacity and willingness to support an important cause." Additional information about the project can be found at www.arthousesofmarin.org. This web site describes the project as follows:

"Four and a half foot tall scale model "houses" have been designed by Michael Osborne, the designer of all the hearts created for the successful Hearts in San Francisco campaign. Prominent Marin artists are being selected to decorate these model houses in the most creative fashion that their imagination desires. After being displayed for two months the Art Houses will be auctioned off."

At the January 21, 2010 Parks and Recreation Commission meeting, the Ritter Center presented a proposal to place two "Art Houses" in Sausalito as part of their County-wide project. Locations requested for possible placement were the Ferry Plaza, the plaza next to the Ice House, the plaza in front of the Bank of America, Dunphy Park, and Robin Sweeny Park.

Staff is recommending that the Council approve the placement of the Art Houses at Dunphy Park and Robin Sweeny Park. As the Downtown area is often crowded and as the "Houses" would be in place for the beginning of the tourist season, staff is recommending that Art Houses not be approved at the Ferry Plaza, Ice House or Bank of America Plaza. Staff believes that both Robin Sweeny Park and Dunphy Park are highly visible areas. Location of the Art Houses in these two parks would allow a significant number of people to view them while at the same time ensuring that there is a minimal impact to pedestrian circulation and related impacts.

The "Houses" would be installed on February 28, 2010, in the late evening and be removed on or before April 30, 2010.

Attached to the Resolution (Attachment A) is the proposed License Agreement which would allow for the placement of the Art Houses. As set forth in the License the Ritter House would be responsible for:

- The installation and removal of the Houses;
- Entering into agreements with the individual artists;
- Providing insurance; and
- Indemnifying and defending the City from any loss related to the installation of the Art Houses.

The City Manager will have the ability to review the Art Houses to ensure that they meet the following criteria:

Item #: 6c
Meeting Date: _____
Page #: 2

- Suitable for display in a public space to a diverse audience including persons of all ages;
- Do not pose a threat to public health or safety; and
- Meet applicable Americans with Disabilities Act (ADA) regulations.

FISCAL IMPACT

There would be no cost to the City as the Ritter Center would be responsible for all costs involved. There may be a financial benefit to the City through tax dollars as guests come to Sausalito to see the “Art Houses” and spend money in Sausalito while visiting.

STAFF RECOMMENDATIONS

Approve a Resolution of the City Council of the City of Sausalito Authorizing Execution of a License Agreement for use of City Property (Dunphy Park and Robin Sweeny Park) by Ritter Center for Temporary Art Installations (Art Houses of Marin)

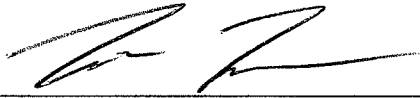
Alternatives

- A. Authorize the City Manager to sign the attached agreement and approve the placement by Ritter Center of “Art Houses” at other locations in accordance with agreement.
- B. Deny the request by Ritter Center to display “Art Houses” within the City of Sausalito.

ATTACHMENTS

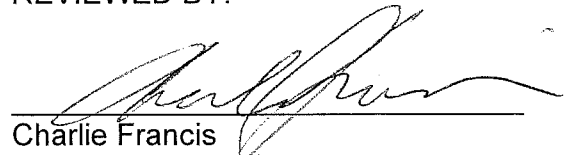
Attachment A – Resolution of the City Council of the City of Sausalito Authorizing Execution of a License Agreement for use of City Property (Dunphy Park and Robin Sweeny Park) by Ritter Center for Temporary Art Installations (Art Houses of Marin)

PREPARED BY:



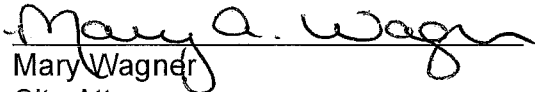
Mike Langford
Parks and Recreation Director

REVIEWED BY:



Charlie Francis
Finance and Administrative
Services Director

REVIEWED BY:



Mary Wagner
City Attorney

SUBMITTED BY:



Adam W. Politzer
City Manager

Item #: 6c
Meeting Date: _____
Page #: 4

Attachment A
RESOLUTION

RESOLUTION NO.

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF SAUSALITO AUTHORIZING EXECUTION OF A
LICENSE AGREEMENT FOR USE OF CITY PROPERTY
(DUNPHY PARK AND ROBIN SWEENEY PARK) BY RITTER
CENTER FOR TEMPORARY ART INSTALLATIONS (ART
HOUSES OF MARIN)**

WHEREAS, Ritter Center has requested that the City of Sausalito allow temporary art installations in a limited number of public places in the City in the Spring of 2010, as part of a county-wide fundraising benefit called "Art Houses of Marin;" and

WHEREAS, the City of Sausalito supports the Ritter Center county-wide fundraiser in recognition of the significant role the Ritter Center plays in advancing the City's important policy of assisting the homeless and very low-income residents of the City and the County.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Sausalito as follows:

1. The Council hereby finds that all of the above facts are true and correct.
2. The City Council hereby approves, and the City Manager is hereby authorized to execute, a License Agreement for the use of City Property (Dunphy Park and Robin Sweeney Park) by Ritter Center for the Art Houses of Marin temporary art installation fundraiser, in the form attached as Exhibit A hereto subject to final dates as approved by the City Manager.

THE FOREGOING RESOLUTION WAS PASSED AND ADOPTED at a regular meeting of the City Council of the City of Sausalito, held on the _____ day of _____, 2010, by the following vote, to wit:

AYES: Councilmembers:

NOES: Councilmembers:

ABSENT: Councilmembers:

Jonathan Leone, Mayor

ATTEST:

Debbie Pagliaro, City Clerk

60
6

EXHIBIT A

LICENSE AGREEMENT

**FOR USE OF CITY PROPERTY (DUNPHY PARK AND ROBIN SWEENEY PARK)
FOR TEMPORARY ART INSTALLATION
(Art Houses of Marin)**

THIS LICENSE AGREEMENT is made and entered into as of the ___ day of _____, 20___, by and between the City of Sausalito (“City”) and Ritter Center, a California nonprofit corporation (“Licensee”).

RECITALS

A. Licensee is producing a benefit art event throughout Marin County called “Art Houses of Marin” to raise money to fund Licensee’s essential services, and as part of that event, desires to install certain pieces of art for public display on City-owned property.

B. City is willing to grant a license to Licensee for use of certain City property, on the terms and conditions hereinafter set forth.

NOW THEREFORE, in consideration of the mutual promises contained herein, the parties agree as follows:

1. License. The City grants Licensee, its officers, employees, agents and volunteers, permission to use that portion of the City’s property described and/or shown in **Exhibit A** (hereafter, the “Premises”), for the temporary placement of certain works of art, including necessary installation/security devices for such art and related identifying signs, all as designated in **Exhibit B** (hereafter, “Artwork or Artworks”), for Licensee’s 2010 “Art Houses of Marin” benefit, in accordance with the terms and conditions specified herein.

2. As-is Condition. Licensee acknowledges and agrees that the Premises are being licensed and accepted in their “as-is” condition, without representation or warranty of any kind, and subject to all applicable laws, rules and ordinances governing their use. Licensee represents and warrants to City that it has investigated and inspected, either independently or through agents of Licensee’s own choosing, the condition of the Premises and the suitability of the Premises for Licensee’s intended use. Licensee has determined, based solely on its own investigation, that the Premises are suitable for Licensee’s intended use. Licensee acknowledges and agrees that neither City nor any of its agents have made, and City hereby disclaims, any representations or warranties, express or implied, concerning the Premises, the physical or environmental condition of the Premises, the present or future suitability of the Premises for Licensee’s event, or any other matter whatsoever relating to the Premises.

3. Term. Except as otherwise terminated as provided herein, the term of this Agreement shall be from _____ to _____.

4. Permitted Uses. Licensee may enter and use the Premises only for the uses specified in paragraph 1 of this License, and for no other purposes; Licensee's use of the Premises hereunder shall be subject to the following standards, conditions and limitations:

a. Design Standards. Licensee shall be responsible for soliciting Artworks for the "Art Houses of Marin" event; however, Licensee acknowledges and agrees that in addition to any selection process of Licensee, any Artwork proposed to be displayed on City property pursuant to this License Agreement shall be reviewed and approved by the City prior to installation for consistency with the following criteria and design standards:

i. The Artwork shall be suitable for display in a public space to a diverse audience including persons of all ages.

ii. The Artwork shall not pose a threat to public health or safety.

iii. The Artwork shall meet applicable Americans with Disabilities Act ("ADA") regulations.

b. City Approval of Artworks. All Artworks proposed for installation pursuant to this License Agreement shall be reviewed and approved in writing by the City Manager or his designee prior to installation. Licensee shall contact the City Manager at least one (1) month prior to the planned date of installation to arrange for inspection of the completed Artwork by the City Manager or his designee. In the event the City Manager or his designee determines, in his sole discretion, that any particular Artwork is inconsistent with the design standards set forth in subsection (a) of this section, Licensee shall not install the disapproved Artwork.

c. Installation of Artworks. Licensee shall be responsible for any equipment, materials, and labor needed to install and secure each Artwork, and the plan for installation of any Artwork, including method and schedule of installation, shall be submitted to the City Manager or his designee for approval at least two (2) weeks prior to installation of each Artwork. City shall coordinate with the site managers for the installations, assigning staff to be on site during installations.

5. Licensee Responsibility for Individual Artworks. Licensee hereby acknowledges that the City shall not enter into license agreements with individual artists participating in the "Art Houses of Marin" benefit, and agrees that Licensee will be responsible for ensuring that any agreements between Licensee and individual artists participating in the "Art Houses of Marin" benefit shall not violate the terms of or conflict with this License Agreement or with City's or Licensee's rights and obligations hereunder. Notwithstanding the foregoing, prior to installation of any particular Artwork, Licensee shall provide to City a written waiver, signed by the artist who created the Artwork, of the artist's rights pursuant to the Visual Artists Rights Act (17 U.S.C. §§106A and 113(d)), the California Art Preservation Act (Cal. Civ. Code §§987 et seq., and any other similar laws, in the form attached hereto as **Exhibit C**.

6. License Personal. The license herein granted is personal to Licensee and its officers, employees, agents and volunteers, and no right hereunder may be assigned, sublet or otherwise transferred in whole or in part.

7. Termination; Removal or Alteration of Improvements. Notwithstanding the term set forth in paragraph 3:

a. If Licensee defaults with respect to any obligation, covenant or condition of this License Agreement, and fails to correct the default within five (5) days after the receipt of notice from the City to do so, City may immediately terminate this License Agreement by giving written notice to the Licensee.

b. If City determines, in its sole discretion, that Licensee's use of the Premises unduly impedes or restricts the movement of pedestrians, or creates an undue risk to public health or safety, or otherwise constitutes a public nuisance, the City may terminate this License Agreement upon two (2) days notice to Licensee.

c. City may terminate this License Agreement if the City finds that the Artworks do not meet the Design Standards set forth in section 4(a) of this License Agreement.

d. In the event of emergency, determined in the sole discretion of the City, City may, at its sole option and without notice to Licensee, alter, remove or protect at Licensee's sole expense, any and all Artworks installed or placed in, on, under or about the Premises by Licensee.

e. If at any time prior to or during the term of this License Agreement, City finds any part of the Premises to be inappropriate for any reason for installation of the Artwork, City shall have the right, in its sole discretion, to designate an alternate location on City-owned property for installation of the Artworks.

8. Surrender and Restoration. Upon termination of this License Agreement, Licensee, at its sole cost and expense, shall promptly and safely remove all Artworks, signs and any other personal property placed on the Premises, restore the Premises to their original condition, clean the premises and cease any further use of the Premises as provided herein. Should Licensee neglect to restore the Premises to a condition satisfactory to City, City may perform such work or have such work performed, and Licensee shall immediately reimburse City for all direct and indirect costs associated with such work upon receipt of a statement therefor.

9. Indemnification; Risk of Loss. Licensee shall indemnify, release, defend and hold harmless the City, its elected and appointed officials, officers, agents, employees and volunteers, against any claim, demand, suit, judgment, loss, liability or expense of any kind, including attorneys' fees and administrative costs, arising out of or resulting in any way, in whole or in part, from any acts or omissions, intentional or negligent, of Licensee or Licensee's elected or appointed officials, officers, agents and employees or volunteers, or from Licensee's occupancy, use or misuse of the Premises pursuant to this License Agreement.

Licensee shall assume all risk of loss, damage, or injury to Licensee, or its property including any and all Artworks, arising out of or connected to its use or occupation of the Premises

pursuant to this License Agreement, and shall indemnify and hold the City harmless from any claim related to such loss, damage or injury.

10. Insurance. Licensee shall maintain in effect during the term of this License Agreement, at no expense to City, insurance in a form approved by the City Attorney, as follows:

a. Worker's Compensation insurance with statutory limits as required by the Labor Code of the State of California.

b. Comprehensive General Liability Insurance, in the minimum amount of one million dollars (\$1,000,000) per occurrence for death, bodily injury, personal injury, and property damage. Said policy shall be endorsed with the following specific language:

i. "The City of Sausalito, its elected and appointed officials, officers, employees and volunteers, are named as additional insureds under this policy."

ii. "The insurance provided herein is primary coverage to the City of Sausalito with respect to any insurance or self-insurance maintained by the City, and shall not call upon City's insurance or coverage for any contribution."

c. Licensee shall submit to the City certificates of insurance and properly executed endorsements evidencing the term, coverage, limits and endorsements as required above.

11. Compliance with Laws. Licensee shall observe and comply with all applicable federal, state, City, or other governmental statutes, ordinances, and regulations now in force or which hereafter may be in force, including the ADA.

12. Notices. Any notice required under this License Agreement shall be in writing. Delivery of such written notice shall be deemed sufficiently given forty-eight (48) hours after deposit in the United States Mail, registered or certified, return receipt requested, with postage thereon fully prepaid, or upon personal delivery, addressed as follows:

If to City: Adam Politzer, City Manager
City of Sausalito
420 Litho Street
Sausalito, CA 94965

If to Licensee: Ritter Center
Attn: _____
16 Ritter Street
P.O. Box 3517
San Rafael, CA 94912

Either party may at any time change its address for notices by giving written notice of such change in the manner provided above.

13. Attorneys' Fees. If either party should commence a legal action or proceeding to enforce the terms of this License Agreement, the prevailing party in the proceeding shall receive, in addition to court costs, reasonable attorneys' fees, including the reasonable value of services rendered by the City Attorney's Office.

IN WITNESS WHEREOF, the parties hereto have executed this License Agreement as of the day and year first written above.

CITY OF SAUSALITO:

By _____
ADAM W. POLITZER
City Manager

Dated: _____

RITTER CENTER, LICENSEE:

By _____
Its _____

Dated: _____

ATTEST:

APPROVED AS TO FORM:

DEBBIE PAGLIARO, City Clerk

MARY WAGNER, City Attorney

Exhibits:

- A. Description of Licensed Premises
- B. Description of Artworks, including signs, installation/security devices
- C. Artist's Release and Waiver

Exhibit A1

Wood chip area along side walk in Dunphy Park.
House occupying a space of 55" square. X 54" high bolted to steel base to be determined.

Option A—Center of Park



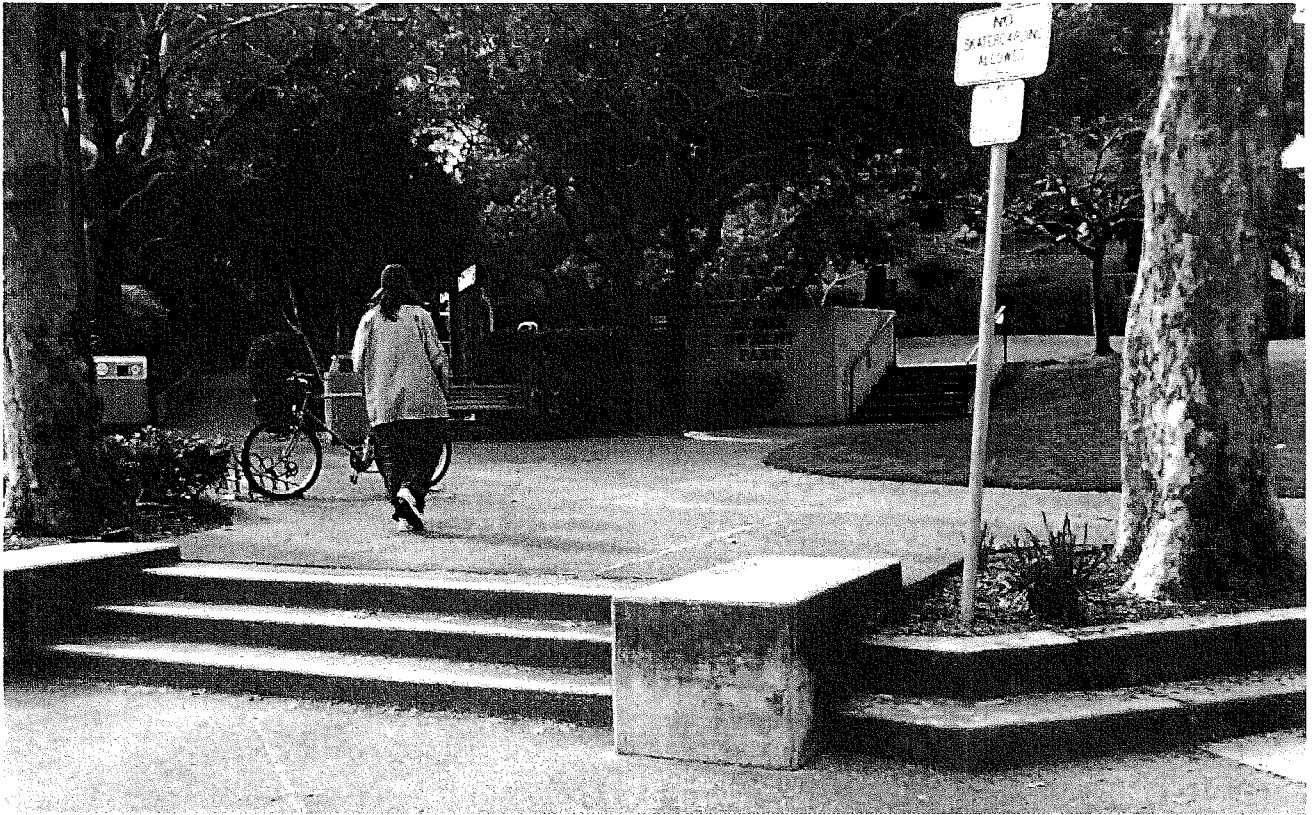
Option B—North West Corner of Park



60
12

Exhibit A2

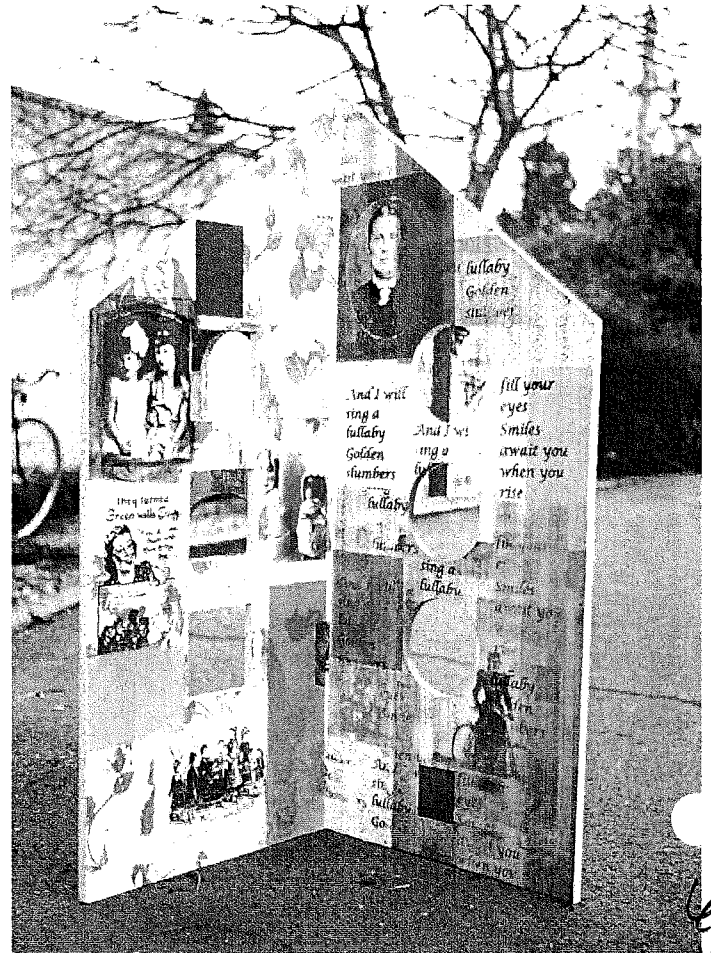
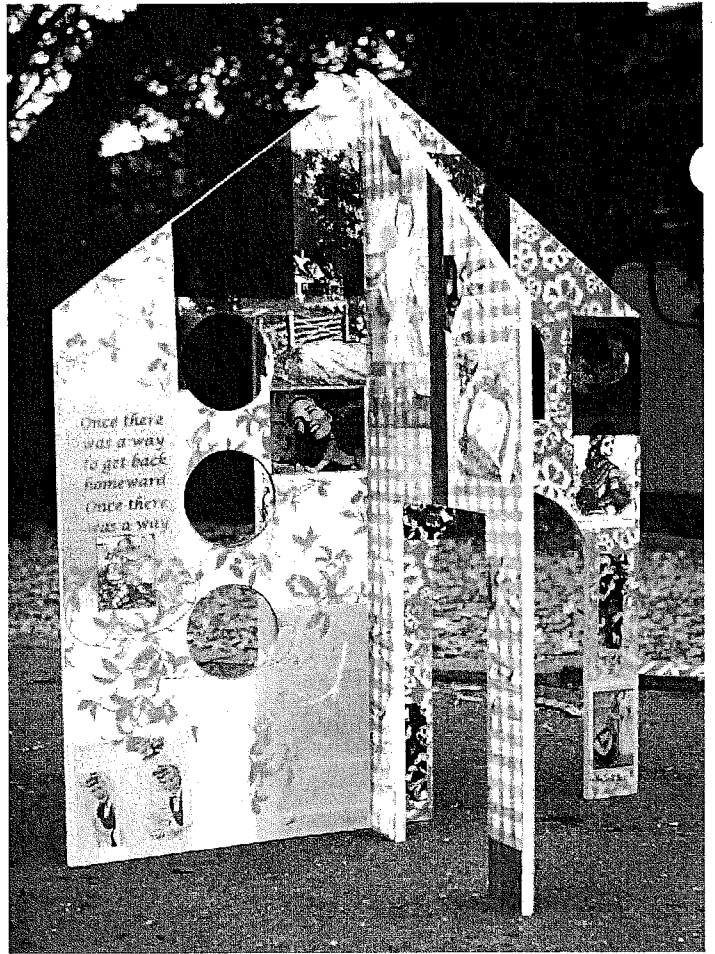
Concrete area in south east side of Robin Sweeny Park.
House occupying a space of 55" square. X 54" high bolted to steel base to be determined.



**PLAZA BY BANK OF AMERICA
NOT RECCOMENDED BY STAFF**

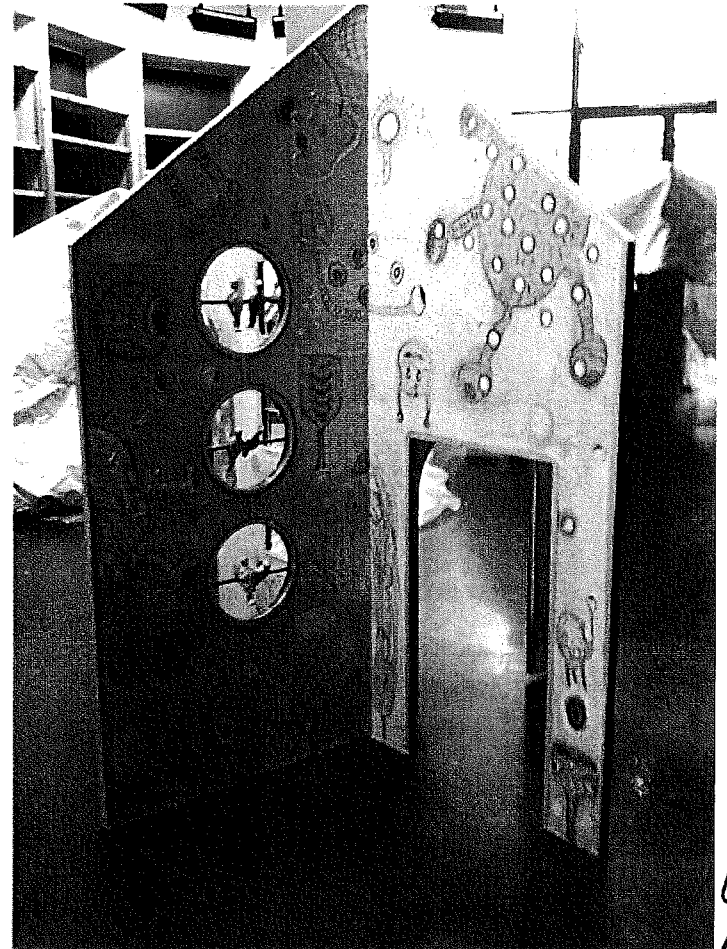
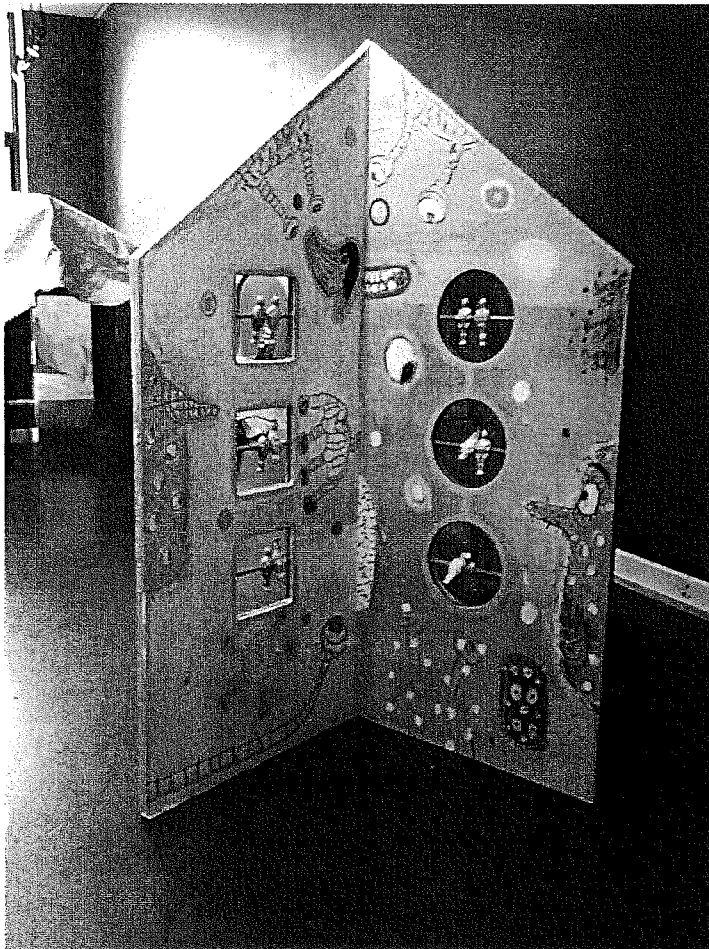
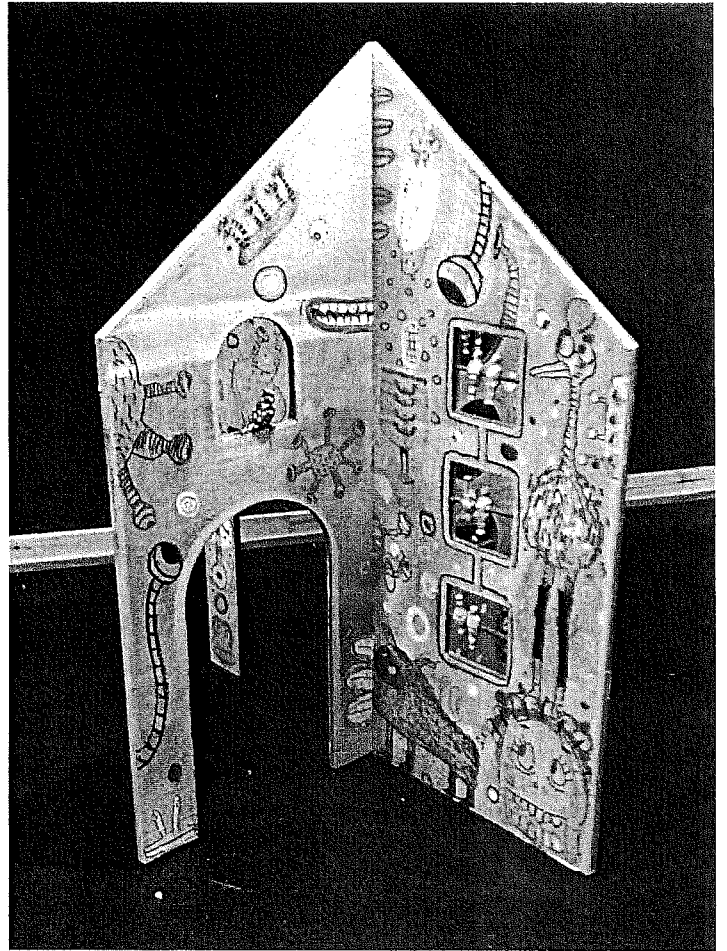
6C
13

EXHIBIT B1
Art House by Kathryn Holt



62
14

EXHIBIT B2
Art House by Heather Wolcoxon



66
15

EXHIBIT C

ARTIST'S RELEASE AND WAIVER
["Art Houses of Marin" Event]

The undersigned Artist hereby acknowledges and agrees that neither the City of Sausalito nor its officers, employees, agents, or volunteers shall be liable for any distortion, mutilation, modification or destruction, by accident, act of God or person, of any artwork created by Artist and displayed on public property of the City of Sausalito for and as part of the Ritter Center's "Art Houses of Marin" event. The undersigned Artist hereby waives any and all claims, arising at any time and under any circumstances, against City, its officers, agents, employees, and volunteers, arising under the federal Visual Artists Rights Act (17 U.S.C. Sections 106A and 113(d)), the California Art Preservation Act (Cal. Civil Code Sections 987 et seq.), and any other local, state, federal or international laws that convey rights of the same nature as those conveyed under 17 U.S.C. Section 106A, Cal. Civil Code Sections 987 et seq., or any other type of moral right protecting the integrity of works of art.

ARTIST

Dated: _____

[signature]

[print name]

[address]

[telephone number]

60
16