

AGENDA
CITY OF CHARLEVOIX CITY COUNCIL WORK SESSION

Monday, April 22, 2013

East Park, Plaza B, Bridge Street, Charlevoix, MI – 6:00 p.m.

- I. **Invocation (Pledge of Allegiance)**
 - II. **Roll Call of Members Present**
 - III. **Inquiry Regarding Possible Conflicts of Interest**
 - IV. **Requests, Petitions and Communications and Actions Thereon**
 - A. Tour of Fireplace Site
 - V. **Audience Input (written requests take precedent)**
 - VI. **Adjourn**
-

AGENDA
CITY OF CHARLEVOIX CITY COUNCIL SPECIAL MEETING

Monday, April 22, 2013 –immediately following East Park Tour

210 State Street, City Hall, City Council Chambers, Charlevoix, MI

- I. **Invocation (Pledge of Allegiance)**
- II. **Roll Call of Members Present**
- III. **Inquiry Regarding Possible Conflicts of Interest**
- IV. **Informational Public Hearing**
 - A. Consideration to Approve Fireplace Design and Fireplace donation Agreement with John Winn
- V. **Audience Input (written requests take precedent)**
- VI. **Adjourn**

The City of Charlevoix will provide necessary reasonable auxiliary aids and services, such as signers for the hearing impaired and audio tapes of printed materials being considered at the meeting, to individuals with disabilities at the meeting upon one weeks notice to the City of Charlevoix. Individuals with disabilities requiring auxiliary aids or services should contact the City of Charlevoix Clerk's Office in writing or calling the following: City Clerk, 210 State Street, Charlevoix, MI 49720 (231) 547-3250.

Posted April 18, 2013 5:00 p.m.

CHARLEVOIX CITY COUNCIL

SPECIAL MEETING AGENDA ITEM

AGENDA ITEM TITLE: Consideration to Approve Fireplace Design and Fireplace Donation Agreement with John Winn

DATE: April 22, 2013

PRESENTED BY: Mayor Carlson
Richard Hitz
Rob Straebel

ATTACHMENTS: 1. Hitz Final Fireplace Design Presentation dated April 18, 2013
2. Fireplace Donation Agreement with City and John Winn
3. Donation Acceptance Policy approved on April 15, 2013
4. Previous Agenda Item Information

BACKGROUND INFORMATION:

City Council has selected to have a special meeting to consider approval of the fireplace. The City has advertised in the local newspaper for a Public Hearing on the project. Richard Hitz has submitted Final Design Plans for Council's consideration dated April 18 and will be at this meeting.

A critical piece of the design, the sculptural screen, has not been selected at this time. Without knowing what type of sculptural screen is going to be used, Staff cannot fully review the fireplace for any possible safety or operational issues. The relationship between the sculptural screen and the natural gas burners is pivotal in creating a safe fireplace amenity. More discussion and selection of the sculptural screen needs to occur. Keep in mind the sculptural screen serves two purposes: 1) Safety, 2) Aesthetics (creating an intriguing design that is attractive when burners are not on).

We also have other questions regarding operations in the snow and wind, start up, type of controls and safety measures that will be incorporated. Although these issues can and will be resolved in the coming weeks, without more information, Staff cannot complete due diligence in our review. We also have not had our insurance carrier review the plans because they are not finalized.

Generally, the City Council approves agreements with a recommendation from Staff. Unfortunately, Staff cannot recommend City Council approve design or agreement with John Winn because of the outstanding issues.

RECOMMENDATION: A Public Hearing must be held to take comments. City Council and the public can give feedback to Mr. Hitz regarding the design to this point.

Staff believes it is premature for the City to approve design without the sculptural piece decided upon and without a full review by City Staff. The City Manager recommends the City Council take no official action until sculptural piece is decided upon and all issues are resolved. Staff and City Council must be comfortable that all outstanding operational and safety issues are resolved before we approve design and agreement with John Winn.

FIREPLACE DONATION AGREEMENT

BACKGROUND

John Winn (Winn), in conjunction with others, is being instrumental in obtaining the donation of funds for the construction of a community fireplace in East Park in the City of Charlevoix (City). In addition, Winn is willing to be responsible for installation of the fireplace and related services. In return, Winn wants to be sure that, when completed, the fireplace will be available to the community for at least 5 years. The City acknowledges Winn's efforts and agrees to his concerns. The parties desire to place their obligations in a mutually binding written contract.

AGREEMENT

The parties agree as follows:

1. Winn shall perform or cause to be performed the services described in Attachment A, which is entitled Scope of Work-Community Fireplace. Winn shall commence the services described above only after written authorization by the City Manager. Winn shall also reimburse the City \$13,494 for past invoices paid by the City for partial fireplace construction completed in 2012.
2. The City will be responsible for the following project components and costs:
 - A. Extending a natural gas service line from East Clinton Street to a natural gas meter (approximately 231 feet) installed on the east side of a sitting wall in Plaza B;
 - B. Demolition of current fireplace site;
 - C. City shall supply and install pavers around the Community Fireplace;
and
 - D. Prior to any use of the Community Fireplace in any year, the City shall take such steps as may be necessary so that all estimated operation costs for that year will be paid in advance by private donations or funding sources other than taxpayer dollars. This provision regarding a pre-condition for use of the Community Fireplace shall apply even if the City is obligated to accept ownership of the Community Fireplace as provided below;
3. The City shall have the right to fully inspect the Community Fireplace when it is completed. The City shall accept ownership of the Community Fireplace if the Community Fireplace has been constructed consistent with (a) the requirements

described in Attachment A and (b) applicable codes and permits under jurisdiction of the Charlevoix County Building Department construction.

4. Winn, on behalf of himself and others, expect the City to accept ownership and operation of the Community Fireplace in good faith so that it is a benefit to the community for many years. However, if the City removes the Community Fireplace on or before 5 years from the effective date of this contract, then, at the written request of a certified donor, the City shall reimburse the full amount the donation made by the certified donor within 60 days of the written request. A written request for a donation refund must be received by the Office of the City Clerk within 1 year from the date on which removal of the Community Fireplace begins.

5. Winn shall keep an accounting of each donation, the donor, the donation date and the method of donation (collectively, the accounting records). The method of each donation must be by a written instrument, such as a check. Winn shall obtain a copy of the written instrument as part of the accounting records. Upon acceptance of the Community Fireplace by the City, Winn shall give copies of the accounting records to the City Manager or such City office as designated by the City Manager. If a refund of a donation is required, as provide in paragraph 4, the refund shall be made only to a certified donor or the legal representative of a certified donor. A "certified donor" means a person whose donation amount, donation date and identity can be determined by the written instrument by which the donation was made or by such other documentation as the City determines is reliable. The City shall not be responsible for advising donors to take such corrective action as may be required by Federal and State law regarding the return of a donation to a municipality which has been taken as a Federal or State income tax deduction.

6. This contract shall become effective upon the execution of this document by Winn and the City.

City of Charlevoix

By: _____
Carol Ochs
Its: City Clerk
Date: _____

City of Charlevoix

By: _____
Norman I. Carlson, Jr.
Its: Mayor
Date: _____

By: _____
John Winn
Date: _____

City of Charlevoix

Donation Acceptance Policy

1. Introduction

The City truly appreciates the generosity of donors who wish to make Charlevoix a finer community for all. The residents of the City of Charlevoix have a proven track record in not only volunteering for many community initiatives and serving on various boards but also making generous donations. These efforts further enhance our quality of life and contribute to making “Charlevoix the Beautiful” a truly unique and special community. These invaluable efforts often make the difference between a good community and a great community. Examples of past donations include art work, vehicles, benches, trees and other items. The current list of donated amenities that have been partially or fully funded by the generosity of an individual, organization, or foundation is a long one. Charlevoix and its residents are very fortunate.

2. Purpose

The purpose of this policy is to establish guidelines, standards and procedures for the acceptance of personal property to the City, including the installation, long-term maintenance and operation of donated elements to the City. The City of Charlevoix (hereinafter the "City") desires to encourage donations while at the same time consider aesthetic impacts and on-going maintenance and operational costs. Any donated items become property of the City of Charlevoix.

Acceptance Guidelines and Standards established by this policy will apply to all donations made after the effective date of this policy, and shall also include the current proposal to construct a Community Fireplace in East Park.

3. Standards for New Donations

A. Definitions

Donation-an act or instance of presenting something as a gift or contribution either monetary or a physical element.

New Donations-New donations are those made after the adoption of this policy, but shall include the current proposal to construct a Community Fireplace in East Park.

B. Appearance and Aesthetics

The City and the community have an interest in ensuring the best appearance and aesthetic quality of their public lands and facilities. Donated elements and their associated acknowledgments should reflect the character of the park or facility. All

elements will be installed in such a manner that will not substantially change the character of a facility or its intended use.

C. Maintenance/Repair

Donated elements and their associated acknowledgement become City property. The community has an interest in ensuring that all elements remain in good repair. In addition, the community has an interest in ensuring that the short and long-term repair costs are reasonable and that repair parts and materials must be readily available. Donated elements must be of high quality to ensure a long life, be resistant to the elements, wear and tear, and to acts of vandalism.

D. Cost

The City has an interest in ensuring that the donor covers the full cost for the purchase, installation, and maintenance and operation during the expected life cycle of donated elements. Conversely, the City may determine that the value of a donated element far exceeds the maintenance and operational costs. Each donation is unique and should be evaluated on its own merits. Consequently, the City shall consider the following options when considering donations:

1. Require all estimated annual maintenance and operation costs be paid in advance by private donations or funding sources other than taxpayer dollars prior to use of the donated item;
2. At the time of the donation, the City must receive sufficient funds or financial commitments to cover anticipated on-going maintenance and operation costs of donated elements during their expected life expectancy.
3. The inherent value of the donation exceeds the annual maintenance and operational costs requiring no funds be contributed by the donator to the City.

4. Procedure for Making a Donation

The City Council shall have the authority to approve, deny or modify all donations. Prior to preparing a written proposal, the donor or donor's representative shall contact the City Manager's Office to discuss a proposed donation. A pre-application meeting may assist the potential donor in determining if a gift will meet the criteria contained in this policy. City Staff or City Council may request additional information such as but not limited, to scaled drawings, artist's rendition or other documents or submittals to better illustrate the exact nature of the donated elements. All submittal materials shall be paid by the donor or donor's representative. The City may choose to consult with other agencies or organizations in the review process. The City Council may also send any donation proposal to the appropriate board or committee for review and subsequent recommendation to the City Council.

If a gift appears to be in accordance with this policy, the donor or donor's representative will then submit a written proposal and meet with City Staff members to determine the specific nature of the donation, proposed location, and yearly maintenance and operational costs for review and processing. The written proposal, including a Staff report, will be sent to City Council for their decision.

5. Acceptance Guidelines, Acknowledgements/Memorial Plaques

A. Acceptance Guidelines

Based upon the City's best interests, the City may accept a donation element for a specific facility or location. When considering donations, the City Council shall consider the following criteria in its decision-making process:

1. Does the proposed donation substantially interfere with the intended current or future use of the land or facility where it is being proposed to be located;
2. Uniqueness of the proposal and its ability to attract visitors to the community;
3. Whether the donated element requires relocation or installation of other equipment or infrastructure to accommodate the donation;
4. A plan exists showing the available locations for donated elements;
5. Any substantial impacts on public health, safety or welfare.
6. Recommendation of the City Staff.

The City Council is not obligated to accept donations but will consider each donation based upon its own merits. Some City facilities may be fully developed and the opportunity for donations may not be available.

B. Acknowledgements/Memorial Plaques

Donation acknowledgments and memorial plaques shall be made of bronze and be of the highest quality, life and durability. In cases where bronze plaques are not feasible, other alternative types may be considered. Donation acknowledgements/memorial plaques and its text will be approved by the City Council with all acknowledgments being tasteful and subtle.

6. Installation

If the donated element, including donor acknowledgements/memorial plaques, requires any type of installation, the installation shall be completed by a licensed contractor and/or City Staff. The donor shall select and pay for the licensed contractor and the selection of the contractor shall be

approved by the City. The licensed contractor shall assume all responsibility for construction or placement of a donated element and shall hold the City harmless for any damages to property or buildings. If installation includes City Staff, the City may require reimbursement for personnel and equipment costs associated with installation of donated element. The installation will be scheduled at a time and date as determined by City Staff so as not to unnecessarily interfere with routine maintenance activities and in a manner that minimizes impacts to the community. City Staff shall oversee the installation process to ensure compliance with the proposal.

7. Removal and/or Relocation

This section applies to both existing and new donations. When it is in the City's best interest, the City reserves the right to restore, relocate, remove or relinquish donations that are no longer suited for their original purpose. Donations do not confer special privilege or rights for the donor or any other person or entity. Donations are graciously and unconditionally accepted without obligation.

8. Donations Impacting City Parks

If a donated physical element is being proposed for a City park, Council may hold a Public Hearing on the proposed donation. In determining whether a Public Hearing is appropriate, City Council shall consider whether there is a reasonable likelihood that the donated element would have one or more significant impacts on the park or the surrounding community. Significant impacts may included but are not limited to: impacts on viewsheds, size of the proposed element, noise generation, safety concerns or other impacts deemed appropriate by City Council. Purpose of the Public Hearing will be to solicit input from City residents on the proposed donation, the anticipated significant impacts and whether any adverse impacts can be lessened or eliminated.

At the March 18, 2013 City Council meeting, City Council voted 6-0 in favor of the following motion:

“Proceed with finalizing the new design for a fireplace in Plaza B, contingent upon the benefactor paying for future design costs and reimbursing the City for invoices paid for past work on the fireplace in the amount of \$13,494, and the City directs Staff to work with Richard Hitz and Mark Buday to revise the design for the fireplace using the following parameters:

- ❖ *Use the current fireplace location;*
- ❖ *Incorporate an oval-design;*
- ❖ *Minimize the height of the fireplace to protect Round Lake viewsheds;*
- ❖ *Develop some form of seating around the fireplace;*
- ❖ *Strive for an energy-efficient fireplace;*
- ❖ *Optimize safety through appropriate design standards;*
- ❖ *Fireplace must be self-funded for operation and maintenance.*

1. Design

Staff has been working on a new design for the fireplace with Richard Hitz that meets the design objectives of the aforementioned motion. Located in Plaza B, the oval design allows for better pedestrian circulation than the square design. See attached draft final design from Richard Hitz. The oval design dimensions will be no greater than 6’x 8’x 2’. The 2’ measurement pertains to the top of the sitting wall and does not include the height of the sculptural screen. The sculptural screen will protrude higher than the sitting wall but will not substantially affect viewshed of Round Lake. The sculptural screen will be installed for two reasons: 1. Safety; and 2. To create a visually attractive fireplace when in use and not in use. The exact sculptural screen piece has not been finalized. There are benches in the design for seating that will include subtle lighting enhancements. We are using the same rock as the sitting walls in Plaza B.

2. Donation Agreement with John Winn

An agreement between the City and John Winn has been developed to define specific responsibilities for both City and John Winn. Highlights include:

1. Winn shall perform the services described in Attachment A, Scope of Work- Community Fireplace- similar to what was approved by City Council in August, 2012.
2. Winn to reimburse City \$13,494 for past invoices associated with previous, partial construction of original design.

3. City shall keep the fireplace operational for at least 5 years from the effective date of the agreement. If fireplace is removed within this five-year period, the City will be required to pay back the benefactor for all costs per Part 4 and 5 of the agreement.
4. City to supply and install pavers for Plaza B. Also, City will demolish current fireplace structure.
5. City to pay DTE for installation of a gas line from east Clinton Street to meter installed on east side of sitting wall in Plaza B.
6. City shall be obligated to self-fund the operation of the Community Fireplace. Five-year funding commitment from Todd Wyett is included in your packet. Initial annual operation cost is estimated at \$3,200.

3. Donation Acceptance Policy

Assuming City Council approves the Donation Acceptance Policy, City Council should review fireplace proposal for consistency with the policy. Specifically, City Council shall address Section 3. Standards for New Donations, Part D. and Section 5 Acceptance Guidelines, Acknowledgements/Memorial Plaques, Parts A and B. The City must also review and approve language on the plaque to be placed at the Community Fireplace. Language on the plaque has not been provided to John Winn at this point.

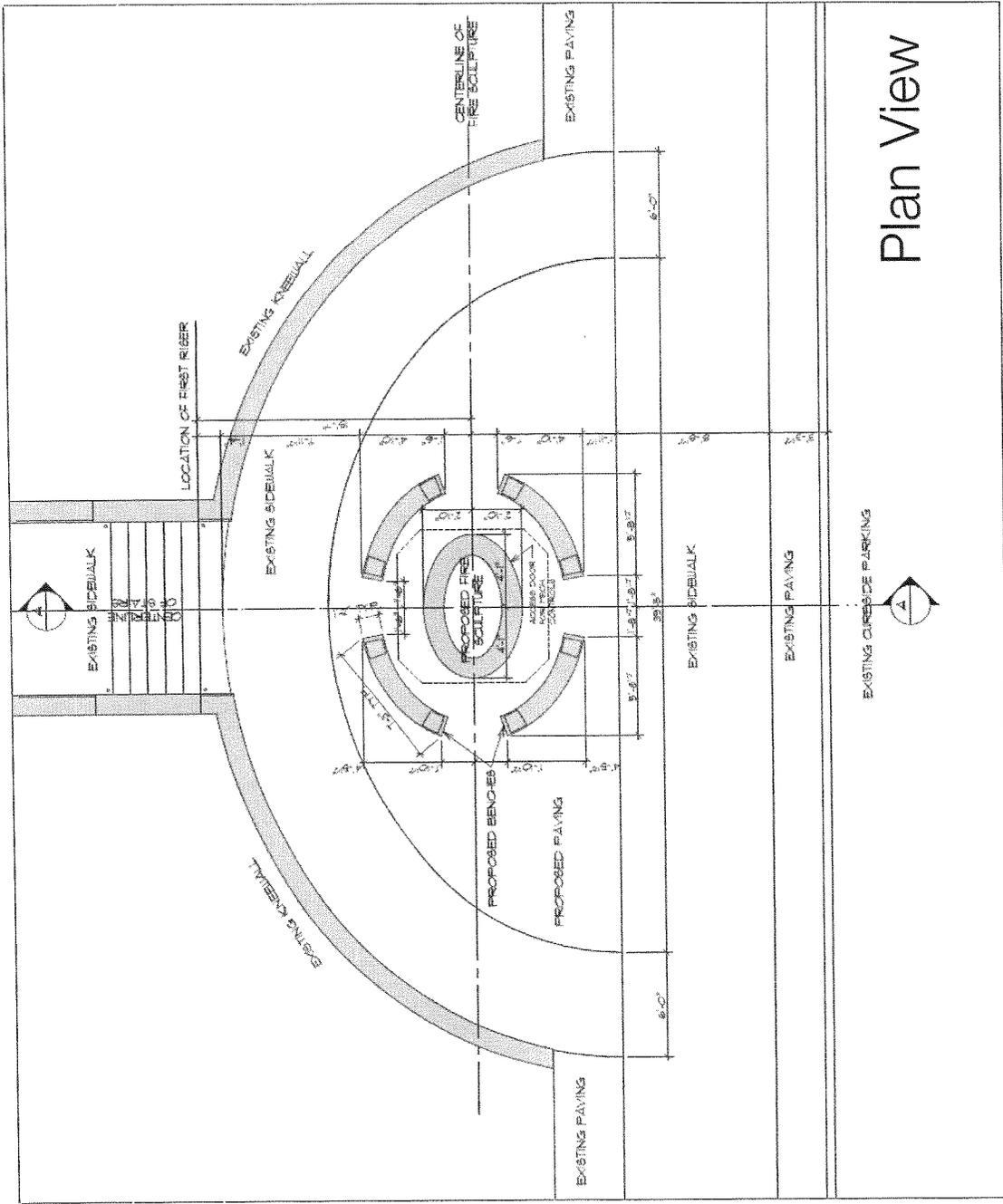
Charlevoix Fire Sculpture: Final Design

Prepared for Charlevoix City Council

by MBA Architects and Hitz Design, Inc.

April 18, 2013

- Plan View
- Perspective 1
- Style Sheet: Fire Branch Sculpture
- Crooked River Lodge
- Design Parameters: Plan View
- Design Parameters: Sections
- Next Step: Construction Documents



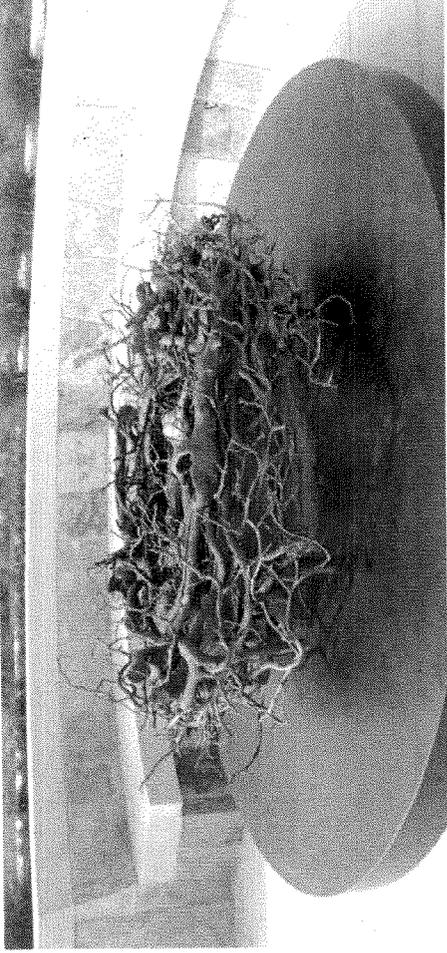
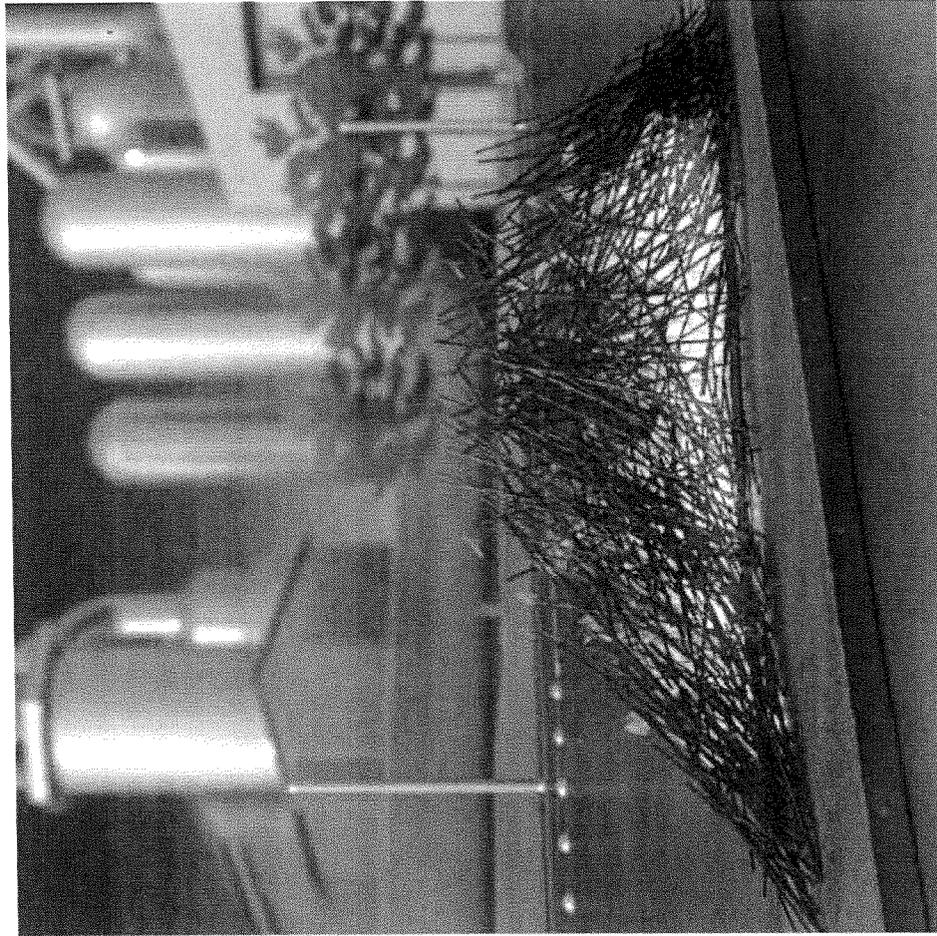
Plan View

Proposed Fire Feature Area



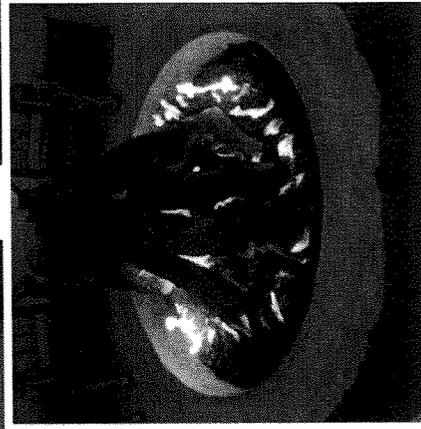
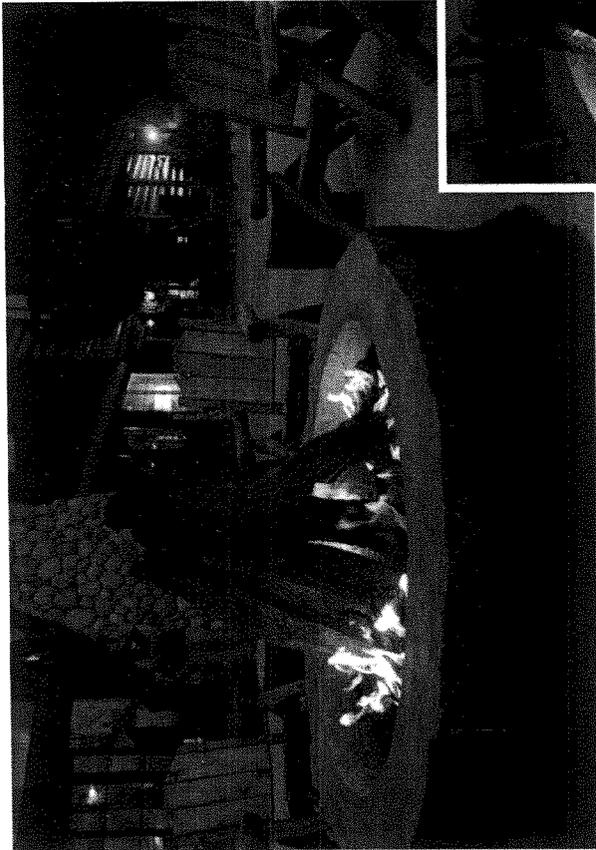
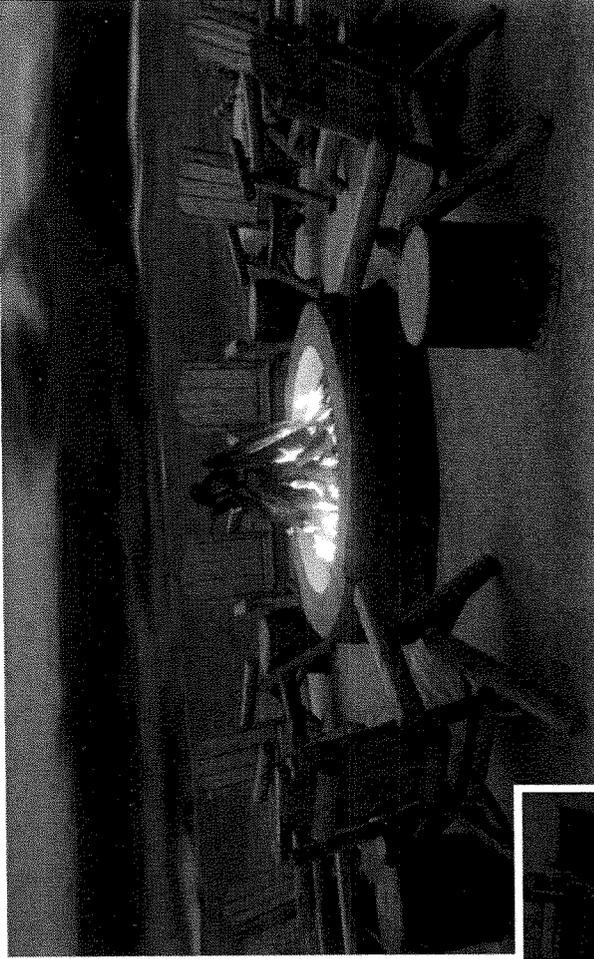
Perspective 1

Aerial View of Fire Sculpture Area



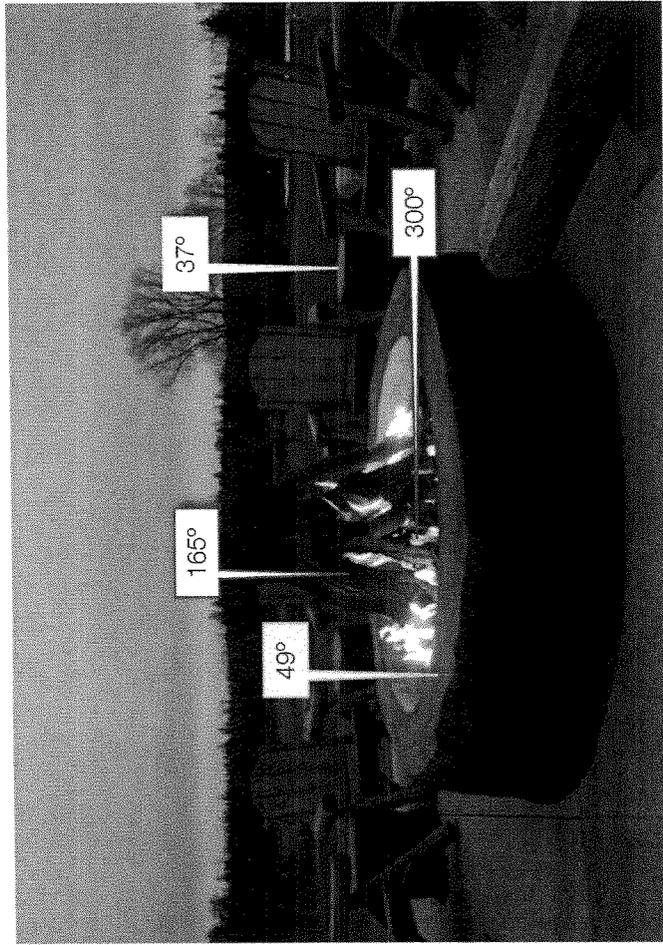
Style Sheet: Fire Branch Sculpture

Above Left: Stainless Steel Rods
Upper Right: Cast Bronze Nest
Lower Right: Cast Bronze Driftwood



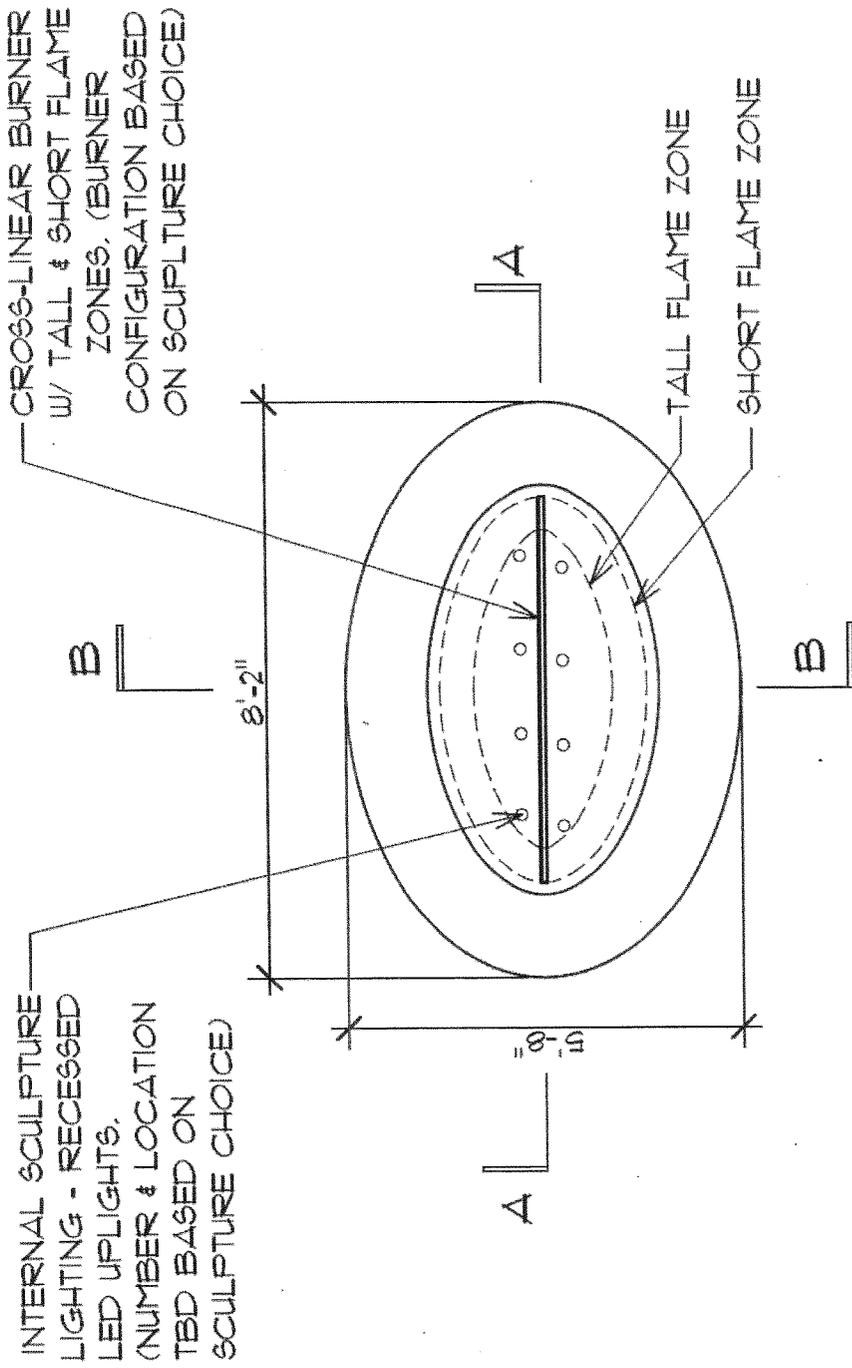
This outdoor fire feature is used and enjoyed by guests year round. It does not get hot enough to melt the snow off of chairs, placed about 2.5' away from the rim of the circle. Typically users move their chairs closer to get warm.

Crooked River Lodge: Outdoor Fire Feature



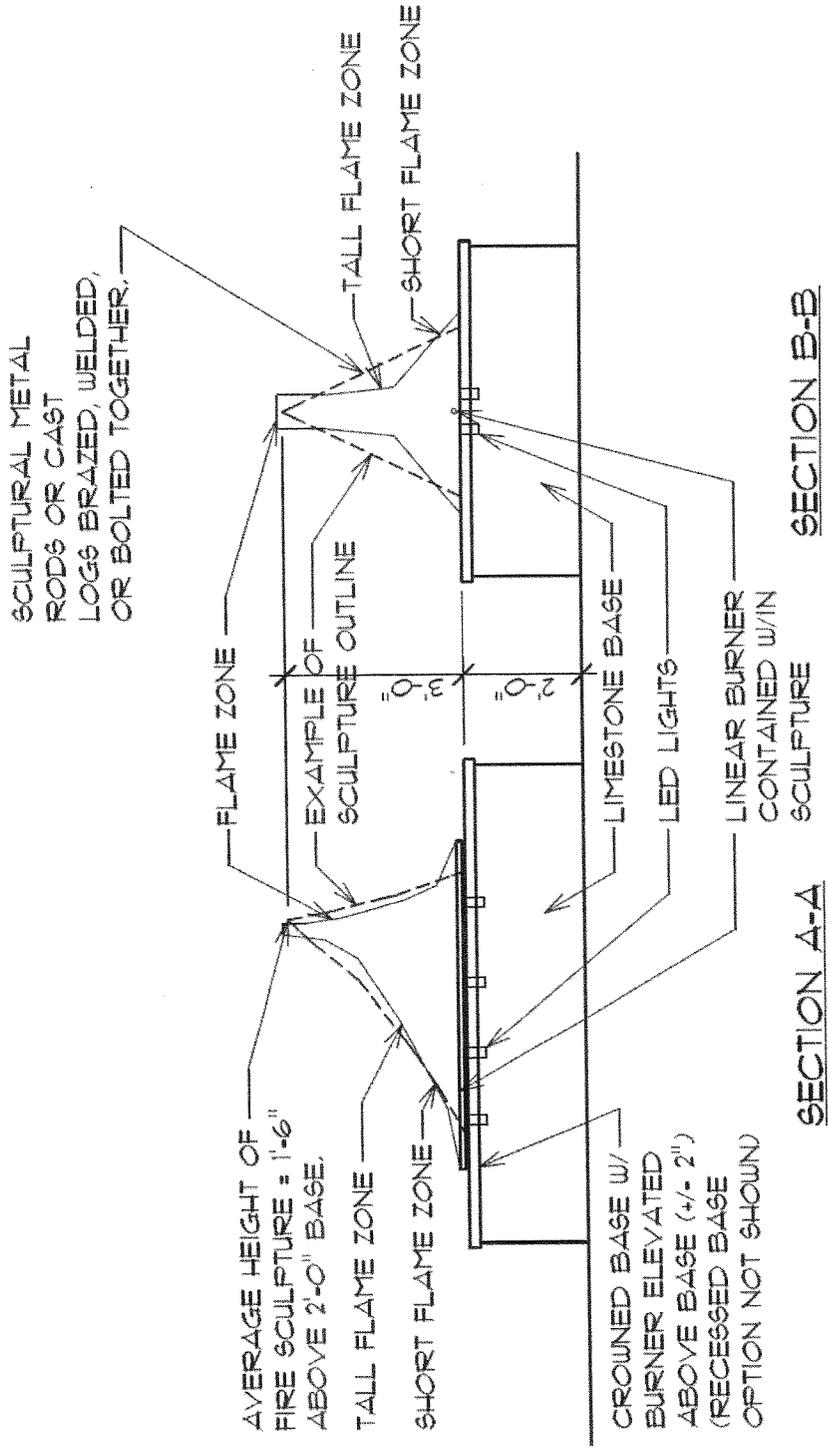
The rim of the fire circle is approximately 8" thick and constructed of a concrete blend formulated especially for this use. The rim, even after the fire being lit all day, does not get hot enough to burn your hand.

Crooked River Lodge: Outdoor Fire Feature



Fire Sculpture Design Parameters

Plan View - No Scale



Sections A-A and B-B
No Scale

Fire Sculpture Design Parameters

Next Step: Construction Documents

- **Required Documents**
 - Final Elevations
 - Plans
 - Sections
- **Required Specifications**
(Including but not limited to)
 - Fire Sculpture Selection
 - Fire Sculpture electrical and mechanical requirements
 - Fire Sculpture connection to slab
- Concrete slab mix
- Concrete slab drainage/slope
- Concrete slab reinforcement
- Concrete slab expansion/contraction control
- Concrete slab connection to foundation
- CMU reinforcement
- CMU connection to foundation
- Stone veneer details
- Bench top material selection
- Bench top finish and connection details