



London N. Breed, Mayor
Philip A. Ginsburg, General Manager

March 15, 2021

Dear Chair Peskin, Supervisor Chan and Mandelman,

Today you will hear a proposed resolution, file [21023](#), which asserts that Charter section 4.113 applies to the temporary installation of an observation wheel in Golden Gate Parks and attempts to modify the term of an agreement between the Recreation and Park Department and Skystar Wheel LLC which has been legally approved and authorized by the Recreation and Park Commission and the Historic Preservation Commission. As the Committee has taken the unusual step of not asking the affected Department to speak at the hearing, please accept this letter as a summary of our position.

Charter Section 4.113 Does Not Apply to Temporary Installations

We have regularly consulted with the City Attorney's Office and believe that Board of Supervisors approval is not required under Charter Section 4.113 for a temporary installation in the park. This consultation has been ongoing, from the outset of the Ferris Wheel's temporary placement in Golden Gate Park, through the discussion about a permit extension, and during the Recreation and Park Commission and Historic Preservation Commission approval process.

The purpose of 4.113 was to provide an extra layer of approval on permanent changes to Golden Gate Park and Union Square. In the time since Charter section 4.113 was adopted, the section has never been required or applied to temporary installations. A review of the legislative history shows that the Board approval has only been required for large and permanent structures under 4.113 including: the new Academy of Sciences Building (2003), an extension to the Academy of Sciences Building (2013), the new tennis clubhouse at the Goldman Tennis Center (2018), a Skate Park (2007), and large buildings and infrastructure associated with the PUC's recycled water project (2014 and 2016).

The proposed applicability of Section 4.113 to a temporary installation is precedent setting and will have a chilling impact on events and activations in the park, big and small. The Department issues over 30,000 permits per year for temporary installations including: bouncy houses, water stations, stages over 115 feet tall, multi - story tents, event and construction fencing, canopies, finish lines, bleachers, viewing areas, scaffolding for camera and sound equipment, video boards, art installations, and trailers.

The proposed application of this charter section to temporary installations endangers beloved events and adds time, expense and cost to an already rigorous process.

Further, while the Board of Supervisors may accept or reject certain types of agreements negotiated by operating departments, we question whether the Board of Supervisors is vested with the power to unilaterally impose its own term of agreement on behalf of the City. In this case, a term of agreement is being proposed by members of the Board of Supervisors with no involvement by either party responsible for negotiating, implementing and honoring any agreement between the City and Skystar. The term of the approvals associated with this resolution have not been negotiated by the parties themselves.



The Wheel is Temporary – HPC and RPC Approvals Contingent on Temporary Nature

The Wheel is a temporary, mobile installation. It is not built to be permanent and was located in three different cities before coming to San Francisco. It belongs to the operator and will be taken back once this is over. The CEQA document, Historic Preservation Commission and Recreation and Parks Commission all reviewed and approved a temporary project. The historical analysis specifically relied on the temporary nature of the installation to comply with the Secretary of the Interior's Standards. The [transcript](#) of the March 3, 2021 Historic Preservation Commission unanimous approval discuss the temporary aspect of the wheel in detail.

The Wheel Brings People from all of the City and Region to San Francisco, Supports Economic Recovery

The wheel has been a welcome attraction in the park and a distraction from the dark days of COVID. About half of the tickets purchased have been from within San Francisco and about half from the region stretching from Santa Cruz to Sonoma. While the majority of the San Franciscan's purchasing tickets have been from the Richmond, a significant number of purchases have been made from all neighborhoods in the City including the Bayview and the Portola.

Originally installed as part of the GGP 150 Anniversary Celebration, the wheel also supports a program to bring kids from all over San Francisco to Golden Gate Park to Ride the Wheel. Students that are a part of programs at Jamestown, APRI, Collective Impact, Youth First, United Playaz, the Boys and Girls Club and Mo Magic have all received free tickets to enjoy the wheel. In addition, it will provide funding to allowing small local musicians to perform at free concerts in the park.

We remain perplexed at the amount of attention a joyous temporary attraction has received. We believe the observation wheel and other temporary installations in the park are an important part of the social, economic and cultural fabric of our City and should be supported.

Respectfully,

Phil Ginsburg
General Manager

CC: Angela Calvillo, Clerk of the Board
Catherine Stefani, Member, Board of Supervisors
Gordon Mar, Member, Board of Supervisors
Dean Preston, Member, Board of Supervisors
Matt Haney, Member, Board of Supervisors
Myrna Melgar, Member, Board of Supervisors
Hilary Ronen, Member, Board of Supervisors
Shamann Walton, President, Board of Supervisors
Ahsha Safai, Member, Board of Supervisors
Victor Young, Clerk, Board of Supervisors, Rules Committee
Ashley Summers, Commission Secretary, Recreation and Park Commission
Manu Pradhan, Deputy City Attorney

From: [Hepner, Lee \(BOS\)](#)
To: [BOS Legislation, \(BOS\)](#)
Subject: FW: Construction drawings for the base of the Wheel
Date: Tuesday, March 16, 2021 3:03:09 PM
Attachments: [Observation Wheel Update poured base.pdf](#)

Please include in the public file for Item 17.

Thanks,
Lee

Lee Hepner
Legislative Aide
Supervisor Aaron Peskin
(415) 554-7419 | *pronouns: he, him, his*

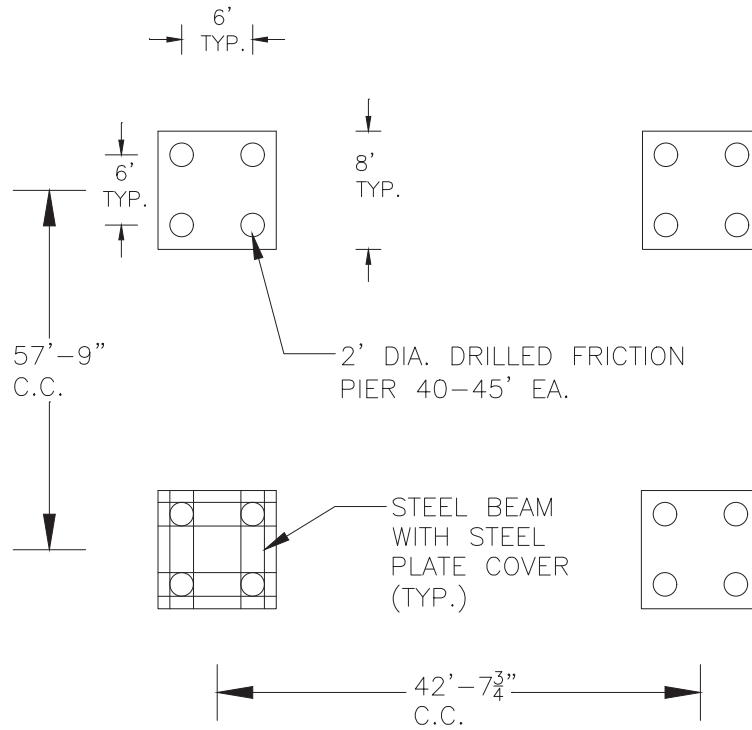
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From: Kathy Howard <kathyhoward@earthlink.net>
Sent: Tuesday, March 16, 2021 2:59 PM
To: Hepner, Lee (BOS) <lee.hepner@sfgov.org>; Aaron Peskin <aaron.peskin@earthlink.net>; ChanStaff (BOS) <chanstaff@sfgov.org>; Kelly Akemi Groth <kkgroth@gmail.com>
Cc: Preston, Dean (BOS) <dean.preston@sfgov.org>
Subject: Construction drawings for the base of the Wheel

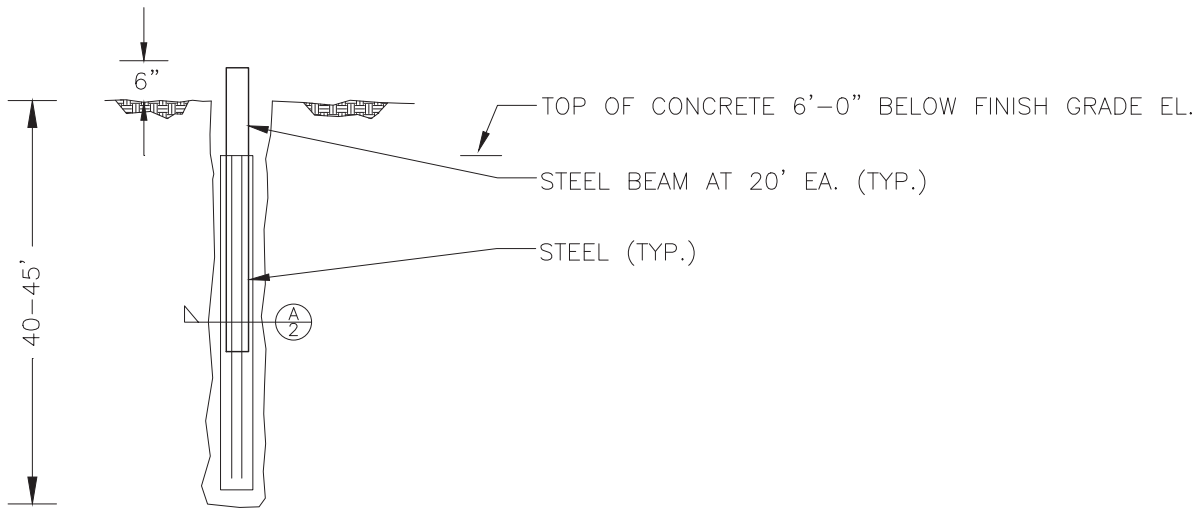
This message is from outside the City email system. Do not open links or attachments from untrusted sources.

The base of the wheel is in the ground. I can be permanent with this base.
KH

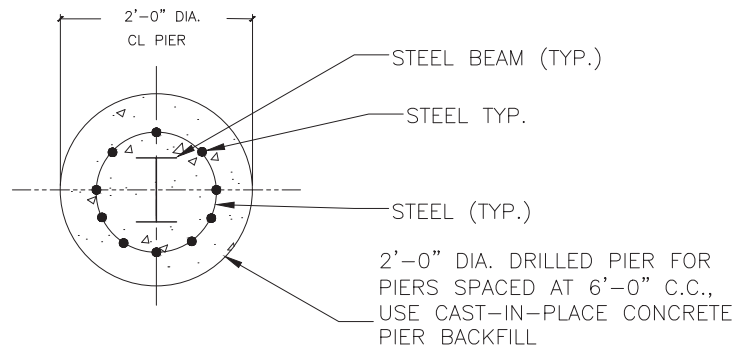


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FRICITION PIER – PLAN
 SCALE: AS SHOWN


FERRIS WHEEL PROJECT			
PROJECT:			
GOLDEN GATE PARK SAN FRANCISCO, CA			
CONTRACTOR:			
	SOIL ENGINEERING CONSTRUCTION, INC. 927 ARGUELLO STREET REDWOOD CITY, CA 94063		
(650) 367-9595 P / (650) 367-8139 F			
DATE:	SCALE:	DRAWN:	SHEET:
12/12/19	AS SHOWN	JK	1 OF 4

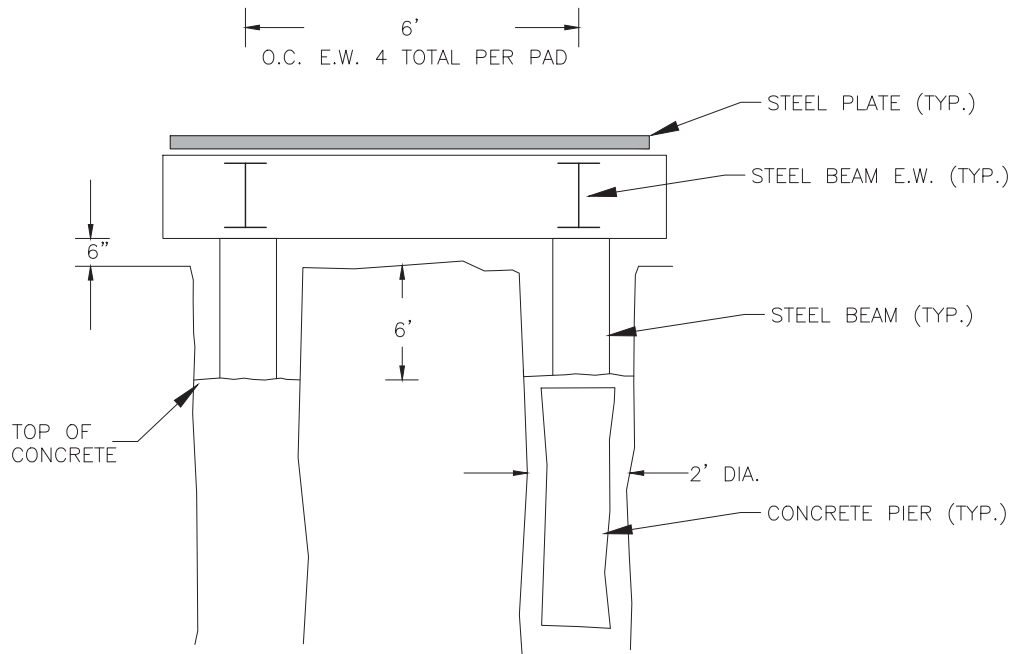


1 SECTION - FRICTION PIER
 2 SCALE: AS SHOWN



A SECTION - PIER
 2 SCALE: AS SHOWN


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GOLDEN GATE PARK SAN FRANCISCO, CA			
CONTRACTOR:			
		SOIL ENGINEERING CONSTRUCTION, INC. 927 ARGUELLO STREET REDWOOD CITY, CA 94063	
(650) 367-9595 P / (650) 367-8139 F			
DATE:	SCALE:	DRAWN:	SHEET:
12/12/19	AS SHOWN	JK	2 OF 4



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FRICION PIER – DETAIL
 SCALE: AS SHOWN

FERRIS WHEEL PROJECT			
PROJECT:			
GOLDEN GATE PARK SAN FRANCISCO, CA			
CONTRACTOR:			
 SOIL ENGINEERING CONSTRUCTION, INC. 927 ARGUELLO STREET REDWOOD CITY, CA 94063			
(650) 367-9595 P / (650) 367-8139 F			
DATE:	SCALE:	DRAWN:	SHEET:
12/12/19	AS SHOWN	JK	3 OF 4

From: [Hepner, Lee \(BOS\)](#)
To: [BOS Legislation, \(BOS\)](#)
Cc: [Peskin, Aaron \(BOS\)](#)
Subject: FW: Definition of temporary in the Music Concourse landmarking document
Date: Tuesday, March 16, 2021 2:56:58 PM
Attachments: [Landmark Leg - Attach.G - as amended and passed by BOS.pdf](#)

Please include in the public file for Item No. 17.

Thanks,
Lee

Lee Hepner
Legislative Aide
Supervisor Aaron Peskin
(415) 554-7419 | *pronouns: he, him, his*

[District 3 Website](#)

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From: Kathy Howard <kathyhoward@earthlink.net>
Sent: Tuesday, March 16, 2021 1:23 PM
To: Kelly Akemi Groth <kkgroth@gmail.com>; ChanStaff (BOS) <chanstaff@sfgov.org>
Cc: Aaron Peskin <aaron.peskin@earthlink.net>; Hepner, Lee (BOS) <lee.hepner@sfgov.org>
Subject: Definition of temporary in the Music Concourse landmarking document

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See Attachment G, part of the landmarking of the Music Concourse. End of Page 3.

Typographic Errors in Red

Attachment G

(Planning Commission Recommendation, June 16, 2005, as modified by the Board of Supervisors in its action on the Designation Ordinance. Copies of this Ordinance and related attachments and materials are on file with the Clerk of the Board of Supervisors in File No. 051590)

Procedures for Certification of Appropriateness for Music Concourse for Incorporation into the Landmark Designation Ordinance for the Music Concourse

Page 1 of 3

(NOTE: All work specified in the Surface Improvements Project is considered approved work as of November 18, 2004 and are not subject to these review procedures. However, any significant changes to the design of this approved project that would normally require a Certificate of Appropriateness per the guidelines below, shall be reviewed by the Landmarks Preservation Advisory Board (LPAB).

The San Francisco Recreation and Park Department (SFRPD) shall within six months of the date of designation, fund, create, maintain, and update, as necessary, a Tree Management Plan (Plan) for the Landmark Music Concourse. This shall include treatment, and maintenance guidelines for the trees in the historic grid-like pattern in the Concourse Bowl that are found within the Landmark boundary. The LPAB shall review and comment on the Plan where the plan fails to respond to the requirements of the Landmark Designation. SFRPD shall report to the Recreation and Parks Commission and LPAB whenever updates are made to the plan.

Alterations that require a Certificate of Appropriateness: The following alterations shall require Certificate of Appropriateness approval pursuant to Planning Code, Sections 1005 through 1005.8

- 1) A plan or proposal involving the removal, relocation, replacement or significant alteration to the appearance of contributory features within the landmark boundary listed in Attachment F, or introduction of new features not already established in the landmark boundary;
- 2) A plan or proposal involving major changes within the landmark boundary. Major changes within the landmark boundary, including the Concourse Bowl, shall mean:
 - a) Significant changes to the elevation or topography that would alter the character of the Bowl;
 - b) Introduction of new fencing, gates, railings, barriers, walls;
 - c) Introduction of new lighting;
 - d) Introduction of new ramps and stairs; and
 - e) Introduction of paved surfaces where there had previously been no paving or changing a paving surface in material, color, profile or elevation.
- 3) A plan or proposal involving major changes to contributory features in the Concourse Bowl. Major changes in the Concourse Bowl shall mean:
 - a) Any changes to the size, configuration, topography or elevation of the Concourse Bowl;
 - b) Discontinuing the historic use ~~X~~ significantly changing the number of moveable benches that provide seating for large gatherings in the Concourse Bowl (at present March 2005 there are approximately 250 benches in the Bowl, historically there were over 1,000). The Bowl shall retain a minimum bench count of 150 otherwise a Certificate of Appropriateness is required.

Attachment G

(Planning Commission Recommendation, June 16, 2005)

Procedures for Certification of Appropriateness for ^{Tree} Music Concourse for Incorporation into the
Landmark Designation Ordinance for the Music Concourse

Page 2 of 3

- c) Removal of any tree (other than for the purposes listed in 1(a)(i) below) with a trunk diameter of six inches or over 4 feet in height within the Concourse Bowl;
- d) Planting a new tree outside the established historic grid-like tree pattern within the Concourse Bowl;
- e) Planting a new tree smaller than 24" box size within the historic grid-like tree pattern within the Concourse Bowl;
- f) Any change to the established pollarded shape and height of the historic grid-like tree pattern within the Concourse Bowl;
- g) Planting a new tree other than *Platanus x acerifolia* (London Plane) or *Ulmus glabra* (Scotch Elm);
- h) New excavation, including trenching other than for repair to existing pipes and conduits within the Concourse Bowl; and
- i) Failure to replace a tree missing from the grid as prescribed in the Tree Management Plan or within 6 months of removal, whichever is less.

Alterations within the landmark boundary that do not require a Certificate of Appropriateness:

- 1) Ordinary Maintenance. Ordinary Maintenance shall mean:
 - a) Removal:
 - i) Emergencies: All trees posing an imminent hazard shall be mitigated, including potential removal without public notification. Within 10 days of the removal of a tree from the Bowl, SFRPD shall submit to the Landmarks Board a report written by an ISA-certified arborist detailing the technical reasons for removal.
 - ii) Routine maintenance: Trees outside the Concourse Bowl removed for other than emergency purposes shall be posted with high visibility notices for 30 days. The notices shall include the reason for the removal, a comment period, proposed date of removal, and contact information. Tree removals shall recognize wildlife habitat, such as nesting birds (Language revised per Landmarks Board's Letter of Intention, see Exhibit D).
 - b) Replacing a tree with a minimum 24" Box size tree of the same species within the Concourse Bowl;
 - c) Pruning, fertilizing, mulching, seeding, planting, mowing, watering;
 - d) Minor changes to an existing paving condition. Minor changes to the existing paving condition shall be limited to repaving and resurfacing with the same material and without significantly ~~change~~ ^{changing} the profile or elevation of the surface; and
 - e) Repainting or cleaning, rehabilitation, or conservation of fixed elements such that procedures and materials meet the *Secretary of the Interior's Standards*;
- 2) The introduction, removal, moving, replacement, or alteration of minor fixed elements within the landmark boundary. Minor fixed elements shall mean:
 - a) Benches (except for the permanent removal or relocation of the benches in front of the bandshell or the permanent introduction of benches elsewhere shall require a certificate of appropriateness);
 - b) Trash receptacles (with the exception that no dumpster be permanently staged within the Concourse Bowl);

Attachment G

(Planning Commission Recommendation, June 16, 2005)

Procedures for Certification of Appropriateness for ^{the} Music Concourse for Incorporation into the
Landmark Designation Ordinance for the Music Concourse

Page 3 of 3

- c) Permanent signs and plaques of less than one square foot (permanent means signs and plaques intended to remain in place for more than three months), unless it is required to meet ADA and standard traffic safety requirements, or to promote the responsible use and protection of the Landmark Music Concourse;
 - d) Soft-edge planting beds; and
 - e) Plants, shrubs and trees with a trunk diameter of less than six inches and a height of less than 4 feet.
- 3) Temporary installations that are not attached in any way to the trees in the Concourse Bowl. Temporary installations shall mean:
- a) Movable furniture;
 - b) Tents;
 - c) Temporary barriers for public safety;
 - d) Temporary art installations and displays; and
 - e) Portable performance stages and equipment.

Final reading was: 12-6-05