

LAND USE DECISION APPEAL

APPELLANT INFORMATION

1. Appellant

David Graves for Seattle Parks and Recreation, Applicant for Certificate of Approval
300 Elliott Avenue West, Suite 100
Seattle, WA 98119
e-mail: david.graves@seattle.gov
Ph.: (206) 684-7048

DECISION BEING APPEALED

1. **Decision appealed:** DONH-COA-01146.

2. **Property address of decision being appealed:** Victor Steinbrueck Park, 2001 Western Avenue, Seattle, WA 98121.

3. **Elements of decision being appealed:** Appellant is appealing the Pike Place Market Historical Commission's denial of the application for a certificate of approval amendment to allow the permanent removal of the two totem poles from the park.

APPEAL INFORMATION

1. What is your interest in this decision? (State how you are affected by it)

David Graves is the authorized representative of Seattle Parks and Recreation (SPR), a department of the City of Seattle (together, the "Applicant" or "Appellant") and applicant who applied for an amendment to an existing certificate of approval to make improvements to Victor Steinbrueck Park. Victor Steinbrueck Park is a public park, operated and maintained by Seattle Parks and Recreation which serves a very diverse population including urban Natives, unhoused individuals, Seattle residents and visitors. The park sits partially on property owned by SPR and partially as a leasehold on top of a parking garage currently owned by UNICO Properties. The park is located within the Pike Place Market Historic District.

On November 29, 2023, the Appellant submitted a request for an Amendment to an existing Certificate of Approval which was issued by the Pike Place Market Historic Commission (the "Commission") to allow Victor Steinbrueck Park improvement project (the "Project") to go forward. Seattle Parks and Recreation (SPR) is in the process of making improvements at the park consistent with a Certificate of Approval (CoA) issued by the Pike Place Market Historic Commission on September 9, 2019. The CoA included the following provision:

This application does not authorize any change to the totem poles in Victor Steinbrueck Park. If the totem poles must be removed for their safety or restoration, they shall be installed before Victor Steinbrueck Park is reopened.

Construction is progressing and it is anticipated that the park could be reopened to the public in April

2024. SPR requested an amendment to the CoA to allow the permanent removal of the poles. SPR is proposing to install in their places two pieces fabricated/carved by members of the local Indigenous community that are representative of the local Tribes and local Tribal culture. SPR also requested that the park be allowed to be reopened to the public while the new pieces are being carved/fabricated. These new pieces will be installed on the existing plinths using the existing attachment infrastructure. The two other requests beyond the permanent removal of the totem poles were tabled for future consideration by the Commission and are not part of this subject appeal.

SPR's rationale for seeking the Commission's approval to permanently remove the totem poles is that while the existing poles were designed by Victor Steinbrueck, with input from Marvin Oliver, a Quinault Tribal member and well respected Native carver, the actual carving work was done on Bainbridge Island by James Bender. While Mr. Bender is well respected for his carving skills, particularly in the context of replicating historic Northwest Coast art, he is a non-Native carver. Rather than showcasing work by a non-Native carver who replicates historic Native art, SPR is seeking to promote and display authentic art and culture that represents the local Tribes and is created by local Tribal artists. We want to let the local Tribes tell their own story, not perpetuate a false narrative that totem poles are ubiquitous to all Native peoples. The improvements at Victor Steinbrueck Park provide an opportunity to recognize and showcase the local indigenous culture that continues to thrive. The Central Waterfront redevelopment has a public art plan that includes art from the local Tribal communities. Once the Central Waterfront project is completed, there will be a physical as well as visual connection between the park and the waterfront that didn't previously exist. The park, and particularly the existing attachment points for the poles provide an appropriate pedestal on which to showcase Coast Salish art and culture that is representative of the local Tribes and reminds us of those that were here before the area was "discovered" and are still here.

The Commission conducted a public meeting on December 14, 2023 to consider SPR's application for an amendment to the certificate of approval to permanently, rather than temporarily, remove the two totem poles from the park. During that meeting, six commissioners were opposed to the proposal and three abstained from the vote to deny the amendment request to permanently remove the two totem poles. On January 9, 2024, the Commission issued a written decision denying the application for an amendment to the Certificate of Approval to permanently, rather than temporarily, remove the two totem poles from the park (the "Decision"). A copy of the Decision is attached as Exhibit A.

2. What are your objections to the decision? (List and describe what you believe to be the errors, omissions, or other problems with the decision.)

The Commission denied the Appellant's application under the authority granted to it under SMC Chapter 25.24 because the application did not conform to the Pike Place Market Historical Commission's Guidelines (the "Guidelines").

In the Decision, the Commission relied on guidelines 2.12.6 and 3.6.4 to deny the application. Below is a summary of the errors committed by the Commission, but it is not intended to be an exhaustive or complete list of all errors committed. Appellant reserves its right to raise any additional legal and factual issues at the appeal hearing as appropriate.

A. The Commission has broad discretion in implementing the guidelines and should have exercised that discretion when they issued the Decision.

While the existing totem poles are specifically identified as “character defining features” of the park as outlined in Guideline 2.12.6 and their removal is prohibited, totem poles in general are not permanent and a pole’s disintegration is recognized as a natural part of a pole’s life cycle¹. The Guidelines for Victor Steinbrueck Park in Sec 2.12 make no allowance or accommodation for the ultimate disintegration and removal of the existing totem poles. The permanent removal of the totem poles provides an opportunity for SPR and the Commission to plan for their replacement.

“[T]he Commission has discretionary powers to interpret these Guidelines as they may apply to individual applications. The Guidelines should stimulate harmonious and orderly development, while allowing gradual adjustment to varying and changing Market activities. They are intended to be of value to Historical District property owners, merchants, tenants, residents, governmental agencies and the general public regarding the use of space and physical appearance within the District.”² The existing totem poles were designed in the late 1970’s with the intention that the park be welcoming to Native peoples. However, no thought was given to the art and customs of the local Indigenous community. Coast Salish Tribes in the Puget Sound region did not carve totem poles. Totem poles are created by British Columbia First Nations and Alaska Natives such as the Haida and Tlingit peoples. If we were designing the park today, we would ask the local Tribes to include their art and culture as way to make the park welcoming to Native peoples. The Commission should have exercised their discretionary power and allowed the permanent removal of the existing poles so SPR could work with the local Tribes and the Commission to install in their place art that is representative of the local Tribes and their culture.

3. What relief do you want? (Specify what you want the Examiner to do: reverse the decision, modify conditions, etc.)

The Appellant requests that the Hearing Examiner reverse the Commission’s Decision and direct it to issue an Amendment to the Certificate of Approval to allow the permanent, rather than temporary, removal of the two totem poles from Victor Steinbrueck Park.

DATED this 22nd day of January, 2024.

SEATTLE PARKS AND RECREATION

By: 
David Graves, Strategic Advisor
Seattle Parks and Recreation

¹ https://indigenousfoundations.arts.ubc.ca/totem_poles

² Pike Place Market Historical Commission Use, Design, And Development Guidelines, Guideline 1.4