



City of Portland
Bureau of Development Services

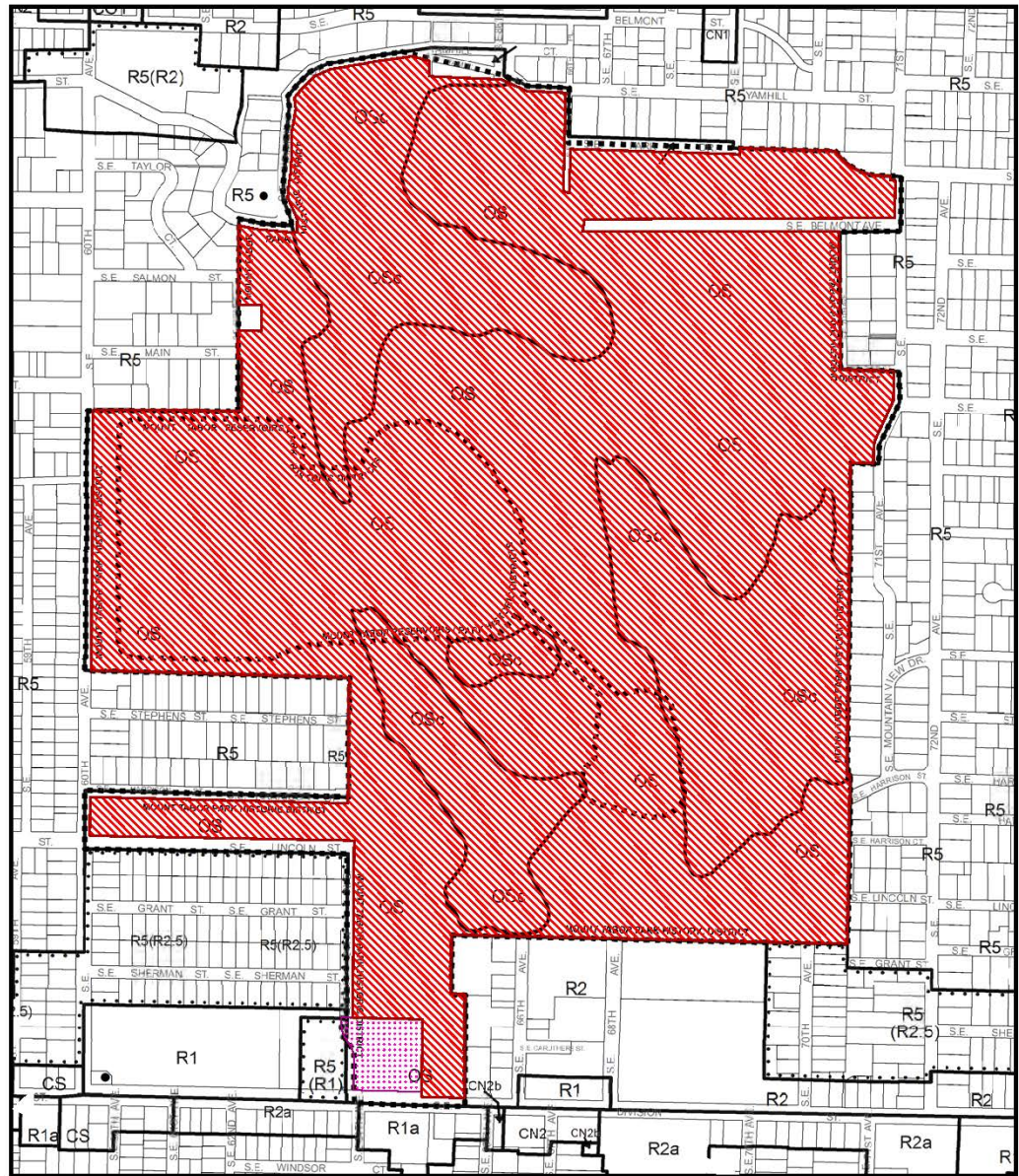
Staff Presentation to City Council

Appeal of
Type III Historic Resource Review &
Type II Environmental Review
LU 14-218444 HREN
Mt. Tabor Reservoirs Disconnection

May 28, 2015

Zoning

- OS, OSc – Open Space with Environmental Conservation overlay
- Mt. Tabor Park Historic District/ Mt. Tabor Reservoirs Historic District
- Historic Resource Review – to allow alterations to the Mt. Tabor Reservoirs and surrounding parklands; 33.846.060.G *Other approval criteria*
- Environmental Review – to allow construction of utilities and alterations to utility structures in the environmental overlay zone; 33.430.250.A



ZONING

-  Site
-  Also Owned



This Site is Located Within The:
 Mount Tabor Park Historic District
 Mount Tabor Park Reservoirs Historic District

File No. LU 14-218444 HR,EN
 1/4 Section 3136.3137.3236.3237
 Scale 1 inch = 500 feet
 State_Id 1S2E05 100
 Exhibit B (Nov 24, 2014)

Vicinity

SE Belmont

SE 60th

SE 71st



SE Hawthorne

SE Division

Proposal Summary

Disconnect the Reservoirs from the public drinking water supply

- **Capping and plugging existing underground pipe**, including excavation of earth and existing roadways, removal of existing pipe, and installation of new piping with restoration of the earth and roadways to existing or comparable conditions;
- **Removal of existing trees and landscaping and restoration of such landscaping**, as feasible, based on location of existing and proposed piping, and areas capable of accepting new plantings;
- **Removal of existing underground vaults and construction of new underground vaults**, including manhole covers, cast iron valve covers, air/vacuum release valves, above-ground vents;
- **Construction of above-ground electrical cabinets on concrete pads** with shrub screening;
- **Screening the inlet weir openings and pipe openings**, placing bar grating across the drain pipe openings;
- **Removing pipe ends and installing caps on the flanges of the outlet pipes**; and
- **Minor alterations at Gatehouse 6 East**, including small penetrations and installation of vents and condulets at the roof and east wall, respectively.

Historic Landmarks Commission Decision

Approval with Conditions (Historic Review)

- A. As part of the building permit application submittal, the following development-related conditions (A – E) must be noted on each of the 4 required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled “ZONING COMPLIANCE PAGE- Case File LU 14-218444 HR EN. All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled “REQUIRED.”

- B. Following completion of the disconnection, Reservoirs #1, #5, and #6 must continue to hold water within the normal historic operating range for each reservoir, which is 50% to 75%. The reservoirs must be maintained and cleaned, and may be emptied (partially or fully) for brief periods, as necessary, to address system operational requirements, to maintain security, regulatory compliance, or for safety concerns. The reservoirs shall not be partially or fully emptied for more than 60 days total, either consecutive or non-consecutive, within a calendar year, except in emergency circumstances. Any proposal to permanently remove visible water from the site, as required in the preceding sentence, will require a follow-up land use application to be reviewed by the Historic Landmarks Commission.

Historic Landmarks Commission Decision

Approval with Conditions (Historic Review)

- C. Within 5 years of final approval of this land use review, the City of Portland shall develop an interpretation program that tells the history of the Mt. Tabor Reservoirs and the Bull Run water delivery system, including the proposed disconnection. Prior to application for a Type II land use review, the City of Portland shall request and complete a Design Advice Request with the Historic Landmarks Commission in order to obtain advice on the parameters of the interpretation program.
- D. The applicant will engage a qualified archaeologist to assess the project's potential to impact archaeological resources. This assessment should include review by a qualified geo-archaeologist and be completed prior to issuance of construction permits. In the event of any archaeological discovery, work potentially affecting the archaeological resources will be stopped, the State Archaeologist will be notified, and the procedures specified by state regulations will be followed.
- E. The City of Portland shall formally adopt the May 2009 Mount Tabor Reservoirs Historic Structures Report and fully implement the short- and long-term restorative recommendations and maintenance therein, including removal of non-historic elements, such as light fixtures and conduit, and restoration of the contributing resources of the Mt. Tabor Park Reservoirs Historic District by December 31, 2019.

Historic Landmarks Commission Decision

Approval with Conditions (Environmental Review)

- A. **A BDS construction permit may be required.** Copies of the approved Exhibits C.15, C.18, C.32, C.35, C.52, and Exhibit A.1 Appendices C and F. LU 14-218444 HR EN and Conditions of Approval listed below, shall be included within all plan sets submitted for permits (building, Zoning, grading, Site Development, erosion control, etc. See “Other Technical Requirements” listed above). These exhibits shall be included on a sheet that is the same size as the plans submitted for the permit and shall include the following statement, "Any field changes shall be in substantial conformance with approved LU 14-218444 HR EN Exhibits C.15, C.18, C.32, C.35, and C.52."
- B. Temporary construction fencing shall be installed according to Section 33.248.065 or 33.248.068 (Tree Preservation Plans/Tree Protection Requirements), except as specified below. Temporary chain link, construction fencing shall be placed along the Limits of Construction Disturbance for the approved development, as depicted on Exhibit C.32 & C.35 Construction Management Plans, and as described in Exhibit A.1 Appendices C and F (Construction Management Plan and Tree Protection Plan) or as required by inspection staff during the plan review and/or inspection stages.
1. No mechanized construction vehicles are permitted *in the environmental zones* outside of the approved "Limits of Construction Disturbance" delineated by the temporary construction fence. All planting work, invasive vegetation removal, and other work to be done outside the Limits of Construction Disturbance, shall be conducted using hand held equipment.
 2. All temporary construction areas *in the environmental zones* shall be revegetated, using native vegetation, as described in the Construction Management Plan in Exhibit A.1 Appendix C.
- C. Failure to comply with any of these conditions may result in the City's reconsideration of this land use approval pursuant to Portland Zoning Code Section 33.700.040 and /or enforcement of these conditions in any manner authorized by law.

Appellant #1 – Portland Water Bureau

Reasons for Appeal (Requests to remove Conditions below)

1. **Condition B – “The reservoirs shall not be partially or fully emptied for more than 60 days total, either consecutive or non-consecutive, within a calendar year, except in emergency circumstances.”**

PWB contends that this aspect of the condition is impossible to meet due to the time required to empty each reservoir for cleaning.

HLC’s primary concern was that there not be extended periods where the reservoirs are empty and that the historic water levels be maintained.

2. **Condition E – “The City of Portland shall formally adopt the May 2009 Mount Tabor Reservoirs Historic Structures Report and fully implement the short- and long-term restorative recommendations and maintenance therein, including removal of non-historic elements, such as light fixtures and conduit, and restoration of the contributing resources of the Mt. Tabor Park Reservoirs Historic District by December 31, 2019.”**

PWB contends that this condition is beyond the scope of the project and that approval criterion #9 is met without this condition.

HLC’s primary concern was to ensure the long-term preservation of these historic resources following their disconnection.

Appellant #2 – Mt. Tabor Neighborhood Association

Reasons for Appeal

1. **BDS failed to require identification of legal lot boundaries to demonstrate the applicant has the authority over the subject property;**
 - The property is owned by the City; PWB is acting as an agent for the City; Parks has agreed to work with the Water Bureau.
2. **The proposal changes the amount of existing basic utility use by more than 10%; therefore a Conditional Use Review is required;**
 - Section 33.815.040.A does not apply because: the proposal is not for a new conditional use, a change to another use in another category, adding another use, or changing any specifically approved amount of the existing conditional use.
3. **The exterior improvement area exceeds 1500 square feet; therefore a Conditional Use Review is required;**
 - The exterior improvement area does not exceed 1500 square feet. The record shows a net loss of exterior improvement area.
4. **The record lacks sufficient evidence demonstrating that the applicant retain and preserve the reservoirs; therefore approval criterion #1 is not met;**
 - Condition B requires the reservoirs be filled with water at their historic levels in order to ensure that approval criterion #1 is met; the approval criterion does not require that the water be potable.
5. **The project jeopardizes the existing conditional use status and does not ensure possible future restoration of the historic function of the site; therefore approval criteria #2 and #9 are not met.**
 - The conditional use status of the site is not jeopardized by the disconnection as this status is not changing; While not specifically required by the approval criteria, the disconnection is designed to be reversible in response to public comments. Approval criteria #2 and #9 are met with the conditions attached to each.

Appellant #2 – Mt. Tabor Neighborhood Association

Requests of Appellant #2

1. Deny the Applicant's challenge to the clause in Condition B that protects constancy of the iconic views.
2. Deny the Applicant's challenge to Condition E. Instead, respect the HLC mandate for historic preservation work at the historic Mt. Tabor reservoir site.
3. Correct the "scrivener's error" in Condition B, i.e., strike the incorrect "50%-75%" reference supplied by BDS staff during the HLC deliberations, and replace it with "65%-85%," which is the range set forth by Applicant testimony (Exhibit H-51).
4. Clarify the language of Condition B, i.e., revise the current text – "the normal historic operating range" – to read "the normal historic operation range producing iconic views."
5. Limit the timeline of Condition E's preservation work, so as to be concurrent with the timeline of other project construction. As such we ask Council to shorten the completion deadline for the preservation work to May 2017.
6. Strengthen the HLC's efforts to protect Tabor's historic assets. We ask you to require the Applicant to within one year, craft a written, long-range preservation plan (including at least five years of budget projections) in concert with SHPO and under a Design Advice Review with the HLC, to be formally adopted before Council.
7. Direct the applicant to 1) file for a Conditional Use Review before proceeding further; and 2) develop a plan to protect the site's existing Conditional Use status ("basic utility").

Options

- 1. Adopt the Historic Landmarks Commission's decision of approval with conditions, thus denying the appeals; or***
- 2. Modify the Historic Landmarks Commission's decision of approval with conditions by revising, adding, or eliminating conditions, thus accepting part or all of either appellants' appeals;***

end of staff presentation