

8-20-2015

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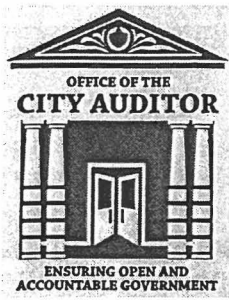
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AARON JOHANSON
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TOM CARTER
TERESA ELLIOT, PROPERTY MANAGER
PATRICK EASLY, CONTACT PERSON
CITY OF PORTLAND, OWNER
C/O PORTLAND WATER BUREAU
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EMAILED: HILLARY ADAM, LINLY REES, TOM CARTER
THERESA ELLIOTT, PATRICK EASLEY, TERRI
DAVIS, YVONNE POELWIJK, KELLY BURGOYNE, DOUGLA
MORGAN, KURT KRUEGER, DAWN KRANTZ, ROBERT
HALEY, DAWN UCHIYAMA, ELISABETH REESE
CADIGAN, MARI MOORE, SARA DRAKE, ANDERSON
TONI, MAYA RINTA

LU 14-218444 HR EN
DATE MAILED: 8/20/2015
150 LABELS 



CITY OF PORTLAND

Office of City Auditor Mary Hull Caballero

Council / Contracts

1221 S.W. 4th Avenue, Room 130, Portland, Oregon 97204

web: www.portlandonline.com/auditor/

Email: Karla.Moore-Love@portlandoregon.gov

Phone: (503) 823-4086 Fax: (503) 823-4571



August 20, 2015

Tom Carter
Teresa Elliott, Property Manager
Patrick Easley, Contact Person
City of Portland, Owner
c/o Portland Water Bureau
1120 SW 5th Ave, #600
Portland, OR 97204

RE: LU 14-218444 HR EN

Appeal of Portland Water Bureau and Mt. Tabor Neighborhood Association against Historic Landmarks Commission's decision to approve with conditions a proposal to disconnect the Mt. Tabor Reservoirs from the public drinking water system at Mt. Tabor Park located at 6325 SE Division Street. (LU 14-218444 HR EN)

To Whom It May Concern:

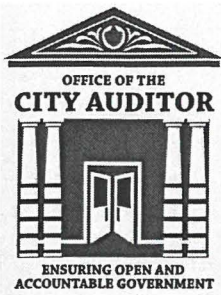
Enclosed is a copy of the Order of Council on LU 14-218444 HR EN. This Order must be recorded with the Multnomah County Recorder within 10 days of receipt of this letter. **Please send a check for \$66.00 made payable to the Multnomah County Recorder, indicating the file number on your check and SEND TO: The City of Portland, Office of the City Auditor, 1221 SW 4th Ave. Room 130, Portland, OR 97204-1900**

City Council's decision is the final review process available through the City. You may appeal this decision to the Oregon Land Use Board of Appeals (LUBA) by filing a Notice of Intent to Appeal with LUBA within 21 days of the date of decision, as specified in the Oregon Revised Statute (ORS) 197.830. Among other things, ORS 197.830 requires that a petitioner at LUBA must have appeared orally or in writing during the City's proceedings on this land review. LUBA's address is: DSL Building, 775 Summer Street NE, Suite 330, Salem, OR 97301-1283. You may call LUBA at 1-503-373-1265 or visit LUBA's website (www.oregon.gov/LUBA) for further information on filing an appeal.

Yours sincerely,
Mary Hull Caballero
Auditor of the City of Portland

By: 
Karla Moore-Love, Council Clerk

Encl.



CITY OF PORTLAND

Office of City Auditor Mary Hull Caballero

Council / Contracts

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Phone: (503) 823-4086 Fax: (503) 823-4571



NOTICE OF FINAL DECISION

TO: All Interested Persons


DATE: August 20, 2015

RE: LU 14-218444 HR EN

Appeal of Portland Water Bureau and Mt. Tabor Neighborhood Association against Historic Landmarks Commission's decision to approve with conditions a proposal to disconnect the Mt. Tabor Reservoirs from the public drinking water system at Mt. Tabor Park located at 6325 SE Division Street. (LU 14-218444 HR EN)

Enclosed is a copy of the Order of Council on LU 14-218444 HR EN to approve in part and deny in part the appeals of the Portland Water Bureau and Mt. Tabor Neighborhood Association against Historic Landmarks Commission's decision to approve with conditions a proposal to disconnect the Mt. Tabor Reservoirs from the public drinking water system at Mt. Tabor Park located at 6325 SE Division Street. If you wish to obtain a copy of the City Council's findings and decision, please contact Karla Moore-Love, Council Clerk by email at: Karla.Moore-Love@portlandoregon.gov or at (503) 823-4086.

City Council's decision is the final review process available through the City. You may appeal this decision to the Oregon Land Use Board of Appeals (LUBA) by filing a Notice of Intent to Appeal with LUBA within 21 days of the date of decision, as specified in the Oregon Revised Statute (ORS) 197.830. Among other things, ORS 197.830 requires that a petitioner at LUBA must have appeared orally or in writing during the City's proceedings on this land review. LUBA's address is: DSL Building, 775 Summer Street NE, Suite 330, Salem, OR 97301-1283. You may call LUBA at 1-503-373-1265 or visit LUBA's website (www.oregon.gov/LUBA) for further information on filing an appeal.

Yours sincerely,
Mary Hull Caballero
Auditor of the City of Portland
By: 

Karla Moore-Love, Council Clerk

Encl.

**APPEAL OF PORTLAND WATER BUREAU AND MT. TABOR NEIGHBORHOOD
ASSOCIATION AGAINST HISTORIC LANDMARKS COMMISSION'S DECISION TO APPROVE
WITH CONDITIONS A PROPOSAL TO DISCONNECT THE MT. TABOR RESERVOIRS FROM
PUBLIC DRINKING WATER SYSTEM AT MT. TABOR PARK LOCATED AT 6325 SE DIVISION
STREET (HEARING; LU 14-218444 HREN)**

Applicant: Portland Water Bureau, represented by
Tom Carter 503-823-7463
Teresa Elliott, Property Manager 503-823-7622
Patrick Easley, Contact Person 503-823-7005
City of Portland, Owner
c/o Portland Water Bureau
1120 SW 5th Ave, # 600 / Portland, OR 97204

Site Address: 6325 SE DIVISION ST

Legal Description: TL 100 190.28 ACRES, SECTION 05 1S 2E

Zoning: OS, OSc – Open Space base zone with Environmental Conservation overlay zone

Procedure: Type III, with a public hearing before the Historic Landmarks Commission. The decision of the Historic Landmarks Commission was appealed to City Council.

Original Proposal: To respond to the federal government's Long Term Enhanced Surface Water Treatment Rule (LT2), which requires that the City of Portland cap or treat its drinking water, the Portland Water Bureau (PWB) proposed to disconnect Reservoirs 1, 5, and 6 from the city's drinking-water system and construct new piped connections, valves, and other appurtenances on site that will allow continued operation of the water system without the use of the historic open reservoirs. When completed, the proposal will allow the reservoirs to continue to be used as water features that hold non-potable water. To comply with a federal drinking-water rule, the uncovered reservoirs must be physically disconnected in a way that prevents water in them from being released—even accidentally—into the drinking water distribution system.

The project occurs within Mount Tabor Park, in southeast Portland. The entire site is owned by the City of Portland and managed by the Portland Water Bureau and Portland Parks and Recreation. Mount Tabor was first established as a distribution site for Portland's water in 1894, when two reservoirs were constructed. The reservoirs at Mount Tabor and, separately, Mount Tabor Park itself were listed in the National Register of Historic Places in 2004.

As a part of the disconnection process, some underground pipes that convey water from the reservoirs into the drinking water system will be cut and their ends plugged, and a new bypass pipe will be installed. In order to continue to deliver the necessary volume of water to the drinking water distribution system, a bypass pipe and two connecting pipes will be constructed to carry it. PWB will also install two backflow preventers, two above-ground air vents, two sub-grade vaults, and covers of different sizes and shapes over manholes, sampling ports, and vaults. The proposed work will take place at 11 discrete work areas in the park and includes only the changes required to disconnect the reservoirs from the drinking water system and to continue to operate the City's water system without water from the Mount Tabor uncovered reservoirs. The proposed changes can be reversed if, in the future, the federal LT2 rule is reversed.

When the project is completed, the reservoirs will be filled using the existing inlet pipes, drained into the City's storm sewer system, cleaned and periodically refreshed. The Mt. Tabor water utility infrastructure will remain an asset of the PWB, as its location and elevation are ideal to serve current and future water supply needs.

Upon completion of the project, park users and neighbors can expect the following:

- PWB will continue to fill the reservoirs and periodically refresh the water in them. (As described in more detail below, Council approved the application subject to Condition B, which governs filling and emptying the reservoirs)
- The reservoirs will retain existing inlet pipes or weirs maintaining the ability to fill the reservoirs in a manner comparable to the existing conditions.
- The reservoirs will continue to have the ability to be drained to the sewer system and the existing wash-down piping system used for cleaning the reservoirs will remain in place.
- The historic structures will have been protected from damage and kept in their current condition with no significant impacts or changes.
- Roads, trails and grassy areas that were disturbed by construction work will have been repaired and restored.
- All excavations will have been filled to restore and blend in with the original contours and all disturbed ground will be planted to blend with the surrounding vegetation.
- PWB will restore the west dog park entrance.

Because the proposed reservoir projects occur within the Mount Tabor Park Reservoirs Historic District and within Mount Tabor Park, also a historic district, and because some of the projects will occur within the city's Environmental Conservation overlay zone, both Historic Resource Review and Environmental Review are required, as noted below.

Historic Resource Review:

Specific to the Historic Resources Review, the applicant proposes the following alterations to the Mt. Tabor Reservoirs and surrounding parklands:

- Capping and plugging existing underground pipe. In some work areas, this requires 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 (Work Areas 2, 3, 4, 5, 6, 7, 8);
- 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. Work Area 7 will include two small concrete vaults beneath the walkway with concrete lids and brushed metal hatch covers. (Work Areas 3, 4, 5, 6, 7);
- Removal of existing gates at dog off-leash area and replacement with a new double-gate for pedestrians and new vehicle gate (Work Area 2);
- 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 Work Areas 2, 5);
- Installation of buried electrical conduit (Work Areas 3, 4, 7);
- Construction of underground thrust blocks and cathodic protection system (Work Area 7);
- Construction of an above-ground electrical cabinet on concrete pad with shrub screening (Work Areas 7, 8);
- Cutting and temporarily removing historic iron pipe handrail to provide temporary access of construction vehicles, after which it will be reinstalled via welding to approximately match the existing condition (Work Area 5);
- Capping or covering outlet pipe openings in the reservoir (Work Areas 9, 10);
- Screening the inlet weir opening (Work Areas 9, 10);
- Welding shut the inlet opening inside the gatehouse (Work Areas 9, 10);
- Placing bar grating across the drain pipe opening (Work Areas 9, 10, 11);
- Screening the openings of the two pipes connecting Reservoirs 1 and 5 (Work Areas 9, 10);
- Removing the sheet metal barrier from the fence above the weir opening (Work Area 9);
- Removal of existing pipe and installation of new pipe within and outside of the Chlorination Building (Work Area 10);

- Installation of alarms in the weir and reservoir to alert when water levels in the reservoir approach the weir, encroaching on the air gap (Work Areas 10, 11);
- Small penetrations and installation of vents and condulets at the roof and east wall Gatehouse 6 East, respectively (Work Area 11);
- Removing pipe ends and installing caps on the flanges of the outlet pipes (Work Area 11);
- Installation of new pipe inside Gatehouse 6 (Work Area 11); and
- Planting of new trees along the SE Harrison entrance (Work Area 12)

Historic Resource Review is required because the proposal is for non-exempt alterations to a Portland Historic Landmark and to resources in the Mount Tabor Park Reservoirs Historic District.

Environmental Review:

A portion of the Mt. Tabor site is within the City's Environmental Conservation overlay zone. Certain standards must be met to allow the work to occur by right. If the standards are not met, an Environmental Review is required. In this case, two elements of this project take place within the environmental overlay zones:

- **Construct a 48-inch steel pipe** from Conduit 3 to the pipe in SE Lincoln Drive near a park entrance (in Work Area 3). About 350 feet of the pipe are within the Environmental Conservation zone.

The main itself is 48 inches in diameter, and requires a trench that provides three feet of clearance on each side. The resulting excavation will be a trench approximately ten feet wide. To dig such a trench and work safely alongside and within it, a disturbance area approximately 35 feet wide is needed.

The work involves the following elements:

- Construct a new 48-inch pipe in SE Lincoln Drive. About 350 feet of the pipe is within the environmental conservation overlay zone, and all 350 feet in the EC overlay will be located beneath the existing pavement of SE Lincoln Drive. The remaining 500 feet of pipe is outside the EC overlay and not subject to environmental review.
 - Install a flow meter, appurtenances and vault with two manholes in the paved driveway.
 - Install two small electrical conduits and wiring in the paved driveway.
 - Install five CIV covers in locations to be determined.
- **Vault Work in Gravel Access Road** (Work Area 6). Conduit 4 is 56-inches in diameter. It will be disconnected from the distribution system at this location by cutting and plugging the pipe on the south side of the vault. The remaining portion of Conduit 4 will continue to service Reservoir 5. The second pipe (Conduit 2) is 44-inches in diameter and also follows this gravel road. It will be cut and plugged just past the vault, after it connects with the 30-inch diameter pipe. Valves will be installed on the conduits and the distribution pipe to control the direction of flow.

A new combination air/vacuum release valve will be installed inside the existing vault, to allow the release of entrapped air or relative vacuums and avoid damage to the pipes. A vent pipe will be installed on top of the same vault to allow air to freely flow in and out of it.

All of the excavation and ground disturbance required to complete this work will take place within the boundaries of the gravel driveway and existing vault disturbance areas.

The construction work in Work Areas 3 and 6 will avoid removing trees or other vegetation from environmental resource areas. In both locations work will occur in existing driveways and developed areas around existing vaults.

The disturbance areas described for the projects exceed the utility line development standards listed in Zoning Code section 33.430.150, and are therefore subject to environmental review.

The City Council evidentiary hearing was opened in the Council Chambers, 1221 SW 4th Avenue on May 28, 2015 at approximately 2:00 p.m. Bureau of Development Services staff, the Portland Water Bureau, and the Mt. Tabor Neighborhood Association made presentations and the Council heard testimony from all members of the public who wished to speak. Council held the record open until June 11, 2015 at 5:00 p.m. for additional evidence and argument and continued the hearing to 2:00 p.m. on June 25, 2015 for final rebuttal and Council deliberation. At the June 25, 2015 hearing, the two appellants jointly requested a continuance as they were working toward agreement on the appeal issues. Council continued the hearing to a 9:30 a.m. time certain on July 15, 2015. At the July 15, 2015 hearing, the two appellants confirmed they had reached agreement on the language of conditions for the land use application. Council made a unanimous tentative decision (5-0) to approve the application with modified conditions, and requested that City staff return with findings on August 19, 2015 at 11:00 a.m. On August 19, 2015 at 11:00 a.m. Council voted 5-0 to adopt findings and a final decision to approve in part and deny in part the appeals of the Portland Water Bureau and Mt. Tabor Neighborhood Association against Historic Landmarks Commission's decision to approve with conditions a proposal to disconnect the Mt. Tabor Reservoirs from the public drinking water system at Mt. Tabor Park located at 6325 SE Division Street.

DECISION

Based on evidence in the record and adoption of the Council's Findings and Decision in **Case File LU 14-218444 HREN** and by this reference made a part of this Order, **it is the decision of Council to Approve in part and Deny in part the** appeals of the Portland Water Bureau and Mt. Tabor Neighborhood Association and uphold the Historic Landmarks Commission's decision with modification.

It is the decision of Council to:

Approve in part, and deny in part, the appeals of the Historic Landmarks Commission decision of Approval of a Historic Resource Review and Environmental Review in the Mt. Tabor Park and Mt. Tabor Park Reservoirs Historic Districts. The Council approves the application of the Portland Water Bureau as follows:

Historic Resource Review

Council **approves** the following alterations to the Mt. Tabor Reservoirs and surrounding parklands:

- Capping and plugging existing underground pipe. In some work areas, this requires 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 (Work Areas 2, 3, 4, 5, 6, 7, 8);
- 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. Work Area 7 will include two small concrete vaults beneath the walkway with concrete lids and brushed metal hatch covers. (Work Areas 3, 4, 5, 6, 7);
- Removal of existing gates at dog off-leash area and replacement with a new double-gate for pedestrians and new vehicle gate (Work Area 2);
- 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 Work Areas 2, 5);
- Installation of buried electrical conduit (Work Areas 3, 4, 7);
- Construction of underground thrust blocks and cathodic protection system (Work Area 7);
- Construction of an above-ground electrical cabinet on concrete pad with shrub screening (Work Areas 7, 8);
- Cutting and temporarily removing historic iron pipe handrail to provide temporary access of construction vehicles, after which it will be reinstalled via welding to approximately match the existing condition (Work Area 5);
- Capping or covering outlet pipe openings in the reservoir (Work Areas 9, 10);

- Screening the inlet weir opening (Work Areas 9, 10);
- Welding shut the inlet opening inside the gatehouse (Work Areas 9, 10);
- Placing bar grating across the drain pipe opening (Work Areas 9, 10, 11);
- Screening the openings of the two pipes connecting Reservoirs 1 and 5 (Work Areas 9, 10);
- Removing the sheet metal barrier from the fence above the weir opening (Work Area 9);
- Removal of existing pipe and installation of new pipe within and outside of the Chlorination Building (Work Area 10);
- Installation of alarms in the weir and reservoir to alert when water levels in the reservoir approaches the weir, encroaching on the air gap (Work Areas 10, 11);
- Small penetrations and installation of vents and condulets at the roof and east wall Gatehouse 6 East, respectively (Work Area 11);
- Removing pipe ends and installing caps on the flanges of the outlet pipes (Work Area 11);
- Installation of new pipe inside Gatehouse 6 (Work Area 11); and
- Planting of new trees along the SE Harrison entrance (Work Area 12)

Approvals per Exhibits C-1 through C-52, signed, stamped, and dated February 9, 2015, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related conditions (A – D) 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 between 50% and 85% of capacity, which is the range accepted to produce the site’s characteristic iconic views. Periods outside of that range must be kept to a minimum. The reservoirs must be maintained and cleaned and the City shall use its best efforts to manage the reservoirs so that three out of four reservoir basins will be kept full (as close to 85% as possible) while the fourth is being drained, cleaned and refilled. The reservoirs 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. Any proposal to permanently remove visible water from the site, as required in the preceding sentence, will require a follow-up land use application.
- 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.

Environmental Review

Council **approves** an Environmental Review for:

- Construct approximately 350 feet of 48-inch steel pipe in Work Area 3, within the Environmental Conservation zone; and
- Conduct Vault Work in Work Area 6, within the Environmental Conservation zone.

This approval is per Exhibits C.15, C.18, C.32, C.35, C.52, and Exhibit A.1 Appendices C and F, signed, stamped, and dated February 9, 2015, and subject to the following conditions:

- 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.

Note: In addition to the requirements of the Zoning Code, all uses and development must comply with other applicable City, regional, state and federal regulations.

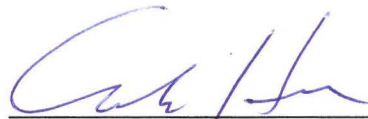
This decision applies to only the City's environmental regulations. Activities which the City regulates through PCC 33.430 may also be regulated by other agencies. In cases of overlapping City, Special District, Regional, State, or Federal regulations, the more stringent regulations will control. City approval does not imply approval by other agencies.

Both appellants prevailed in part, with revised conditions to satisfy the approval criteria.

IT IS SO ORDERED:

AUG 20 2015

Date



Mayor Charlie Hales
Presiding Officer at Hearing of
August 19, 2015
9:30 a.m. session