

Responses to NIMBY's
comments posted 12/24/24

- A. The City has stated on multiple occasions that our proposed trail is consistent with Lebanon's Comprehensive Plan and does not preclude future land development.
- B. The trail route that BLT is proposing very closely matches the one presented in the Lebanon Trails Master Plan. In fact, it borders the southwest side of the abandoned mill race instead of its northeast side – a difference of only 50–60 ft.
- C. BLT is actively working on options to connect the GPMRT north to Had Irvine Park where it will join 6+ miles of existing trail that extends across the north side of town. It has been clear for several years that there is no possibility of acquiring the right of way needed to position a trail in the area NIMBY suggests northeast of the canal.
- D. The assumption that future development northeast of Santiam St. must depend on a bridge entering Wood's Trailer Park is incorrect. Developable parcels of land in that area can more easily and appropriately be handled with the creation of an access road and utilities coming from the main arterial to the north (Tennessee Rd.) rather than using the existing one-lane bridge leading into Wood's Trailer Park on Santiam St. The latter route would require widening the existing single lane private bridge to carry two lanes of traffic and sidewalks.
- E. As far as Laura LaRoque's property specifically is concerned, please refer to our separate "Closing Statement."
- F. We are confident the trail design we are working on with Udell Engineering and with the City's input will provide for a safe and efficient entry of trail-users onto Santiam St.
- G. BLT's land along Santiam St. allows plenty of room for a pedestrian bridge to cross the canal where it will fit the best and then have the trail turn toward a termination point on Santiam St. at a location that is determined to be the safest and most efficient.
- H. Recently Laura LaRoque requested a code interpretation from the City of Lebanon that relates to our trail project. That request, along with the City's response indicating that trails are allowed in the Low-Density Residential (Z-RL) Zones, are being forwarded for the Planning Commission's consideration.
- I. The City has stated that the installation of curbs and sidewalks along Santiam St. is not considered to be a necessary part of this project.
- J. The GPMRT neither blocks nor significantly restricts future land development in the area. BLT strongly rejects NIMBY's continued implication that potential future land use projects in the area somehow take priority over a public trail no matter how well that trail is designed and how important it is to the community!

Build Lebanon Trails
Conditional Use Permit Appeal
Closing Statement
(Planning File No. PD24-0237)

The following summary is pertinent to this case in several ways including NIMBY's claim that BLT has "emphatically stated that they will prohibit access to adjacent properties".

My wife and I first arranged a meeting with Laura LaRoque to discuss what we now call the GPMRT in March of 2023. We were working with BLT to acquire the abandoned mill race property near her home and learned that she had been attempting to do the same thing. It was a long process, but BLT eventually succeeded in getting the Georgia Pacific Corporation to donate the land to BLT for the specific purpose of building a public multiple use trail. The property transfer was completed on 12/12/23. Laura indicated she was a strong "trail supporter" and suggested she could help us with getting a pedestrian bridge over the canal approved and with the permitting process. She was interested in acquiring cross-canal access to her property for a housing project she had in mind, and we were very much supportive of that.

Rod Sell and I first met on site with Laura on 1/24/24. She shared an idea she had to widen the existing private concrete bridge onto her property to accommodate 2 lanes of traffic and 2 sidewalks and proposed that BLT's contractors could use her existing bridge while constructing the trail. She wanted to be sure she acquired enough property access from BLT to include needed utilities. Her ideas seemed to fit perfectly with ours and we were excited at the prospect of being able to help with her plan to develop single family homesites. Laura's bridge and utility access would require only a small piece of our Santiam St. property that did not appear to be needed for the trail. We indicated to her that the BLT Board would probably be willing to let her have it for \$1,000 - \$2,000 or potentially even less. We made clear to her that two things needed to happen before a sale could be agreed to: 1) we wanted the City to approve, at least the concept, her plan to widen the bridge and 2) we needed to have the placement of our pedestrian bridge over the canal clearly determined. Laura brought up some good questions about whether the trail would include lighting and a security fence and if it would fall under the City's Park Rules and Regulations. We explained that we intended for the GPMRT to include all of those things.

During another site visit on 7/12/24, we agreed on the dimensions of the parcel Laura would need for her bridge. She shared that she was entertaining the idea of making a significant donation to BLT to help build the security fence we were planning. The black vinyl-coated, chain-link fence would be 1,200 ft. long and she offered to solicit bids for the project with the suggestion that she might be able to sponsor the whole thing. We knew by then that enough private money had been pledged toward the project that we could build the trail out of concrete instead of asphalt and that it could be fully lighted using 18, down-facing, LED pole lights. She brought up the idea of routing the trail across her future expanded bridge and we explained the numerous reasons why that alignment would not work. We agreed that, once BLT was able to complete our two previously mentioned conditions, we intended to sell her the property she was requesting. It never occurred to us at the time that Laura (under the name of NIMBY) might, someday, end up challenging the safety and legality of the entire GPMRT project.

BLT's Linn County Conditional Use Permit Application was submitted on 7/10/24. We sent Laura a copy. She thanked us and we subsequently heard nothing more from her until she arrived unannounced at the August 6th BLT Board Meeting when Rod and I were expected to be out of town. She presented a \$2,000 purchase offer for the parcel she said we had discussed and made it clear that she expected it to be signed that evening. Fortunately, Rod and I were attending the meeting online and the Board decided to table the offer. In Rod's absence, my wife and I met with Laura on site the following Tuesday and, when I pointed out that the dimensions of the property in her written offer included more than twice as much land as we had agreed to, her only comment was that it was a simple "misunderstanding" on her part. She contacted me a day or two later to suggest that we call an emergency Board Meeting to approve her purchase offer prior to the deadline for submitting appeals to our preliminary CU Permit approval. I said we couldn't do that for the reasons previously stated. She told us she felt the need to file an appeal to "protect her rights", implying that, if her purchase offer was signed, her planned appeal **might** go away. An appeal to get clarification on the many things we had discussed (lighting, fencing, hours of operation, etc.) seemed logical and very reasonable and we did not see it as something to be particularly concerned about.

While the fact that Laura felt the need to file an appeal to "protect her rights" was understandable and expected, the apparent aggressiveness and scope of her 21-page appeal was not. In fact, it took us completely by surprise. We assumed that Laura was being truthful with us during our previous interactions and still don't understand what

changed for her, but it was apparently something major. We were left to wonder whether it had always been her intention to manipulate and deceive us and we were simply too naive to recognize it.

Since the original appeal was filed, we have all received dozens of documents to review and respond to. NIMBY has questioned the legality of the trail's proposed location on many points and claimed it would be unsafe. NIMBY also insisted that full engineered drawings for the project should have been submitted prior to a Conditional Use permit being considered and that the City of Lebanon should guarantee, in advance, that they would accept ownership of the trail once it was completed. In addition, she argued that the proposed 10 ft. trail width was unacceptable and should be 12 feet even though Lebanon has been building 10 ft wide trails for several years. We provided responses to NIMBY's many questions and challenges, including written input from the Lebanon City Administration where appropriate. In each case, including the City's responses, those answers were rejected, and new challenges were introduced.

The Lebanon City Administration and the Linn County Planning Commission have both spent many hours going over and analyzing the abundant information that NIMBY has submitted along with the many pages of answers and clarifications that BLT has provided. Our original understanding was that a rough trail plan would be adequate to get a Conditional Use permit before proceeding with the much more detailed and expensive trail design we are working on now. It seems clear that, even if we had submitted the more detailed design with our original CU application, it would have made little difference in where we are today.

The Georgia Pacific Mill Race Trail is being specifically designed to provide safe, fully accessible, nonmotorized trail access to a large residential area. It not only provides a direct route to River Park, which is 1,200 feet away, but also to Gill's Landing and a new major medical campus which is planned along the Santiam River (with groundbreaking anticipated in the next 3-5 years) as well as to Riverview School, several parks, natural areas, businesses and, ultimately, the extensive recreation area and trail complex at Cheadle Lake. The property that was generously donated by the Georgia Pacific Corporation very closely approximates the one depicted in the City's Trails Master Plan. It provides an ideal alignment which offers Lebanon the best opportunity to connect over 6 miles of existing trail on the north side of town to 8 miles of existing trail on the east and south sides of town. That is a connection that BLT is realistically hoping to accomplish

within the next 5 years. If the GPMRT is built as currently proposed (including pole lights, security fence, pedestrian bridge, appropriate safety features and trail amenities), BLT has already received enough money in private donations to cover at least 80% of the anticipated cost. The design work should be completed within 3 months and trail construction could begin this summer or fall. When completed, the GPMRT will be the very definition of a successful "Community Project."

We thank the Planning Commission for all the time and effort they have put into this process. There has been, unfortunately, a great deal of information to work through. BLT is in the favorable position of having been able to do a lot of good for our community over the last 15 years. Some of what we have accomplished has come easily and some with considerable difficulty, but this current process has, unquestionably, been the most complicated and frustrating challenge we have ever faced. Through it all, we remain strongly in favor of single family homesites eventually being developed on Laura's property. We believed we were making Laura's project very simple and affordable for her but that, apparently, was not her view of it. BLT has never proposed to Laura that providing her bridge access was "contingent" on our Conditional Use permit being approved. The fact is that her actions have destroyed our previous working relationship, and it is going to take a concerted effort on both of our parts to successfully work together in the future - regardless of whether our CU permit is granted.

Thad Nelson (BLT Board Member)

Rod Sell (BLT President)



Community Development
925 S. Main Street
Lebanon, Oregon 97355

TEL: 541.258.4906
cdc@lebanonoregon.gov
www.lebanonoregon.gov

CODE INTERPRETATION Planning File No. CI-24-01

December 27, 2024

I. BACKGROUND

APPLICANT: Laura LaRoque

INTERPRETATION REQUEST: Determination of whether Public Recreational Trails are prohibited in the Low-Density Residential (Z-RL) zone.

ZONING: Residential Low Density (Z-RL)

INTERPRETATION:

- Section 16.02.010.E – Consistency with Plan and Laws. Each development and use application and other procedure initiated under this code shall be consistent with the city's adopted comprehensive plan as implemented by this code, adopted master plans, and with applicable local, state, and federal laws and regulations. All provisions of this code shall be construed in conformity with the adopted comprehensive plan.

The Trails Master Plan, adopted by the City Council, establishes trails within the Residential Low Density (Z-RL) zone, including Trail 4, Trail 6, Oak Street Pedway, Trail 22, Trail 9, and portions of the Burkhart Creek Trail. The Trails Master Plan, an addendum to the Parks Master Plan, is consistent with the Comprehensive Plan and meets the goals of the Comprehensive Plan with planning for trails in the Z-RL with the following goals and policies:

Natural Environment:

G-12: Securing and maintaining public access to rivers and streams when possible.

P-6: Use designated greenways along select watercourses to protect natural vegetation and water resource values and provide public pedestrian/bicycle access where physically practical.

Community Friendly Development

G-5: Developing streets whose purpose is not solely to move automobiles safely and

efficiently, but also create a pedestrian and bicycle friendly environment.

Transportation

P-42: Acquisition of land and/or easements for bikeways and trails shall be evaluated along with the need for land for parks and open space.

P-50: The City shall work to maintain and preserve the scenic aspects of current and future separated multi-use paths.

Public Facilities and Services

P-36: Identify sites for a variety of park uses, including both passive and active recreational uses.

P-37: Seek to achieve a variety a park land, secure adequate city-wide neighborhood, and local parks, acquire unique natural areas, achieve a system of linear greenways, and create school/park and recreational areas where possible.

No comprehensive plan goals or policies expressly prohibit parks or recreational facilities from being in low-density residential zones. The Trails Master Plan is an adopted master plan that has been determined to be consistent with the comprehensive plan and approved by the City Council. As the plan has been adopted and many trails have been developed, it is clear trails in the low-density residential (Z-RL) zone are consistent with the comprehensive plan.

- The City's most specific definition of parks and recreation areas is found in Section 12.12.020 of the Lebanon Municipal Code:
 - "City Park" means all City of Lebanon-owned or maintained parks, playgrounds, and public recreation areas. The park boundaries include all sidewalks, vanity strips, and curbs in the designated area and extend through any adjacent streets to include all city rights-of-way in the designated zone.
 - "Recreation areas" means any area within a public park dedicated to recreational purposes, including but not limited to playgrounds, sports fields, gardens, walking trails, bike paths, gazebos, and other similar amenities, as well as public trails maintained by the city for public use.

Based on these definitions, a recreational trail is considered a recreation area in a city park. Although the development code may have separate definitions for recreational trails and parks, the definition above is the most specific and includes public trails in the definition of a city park.

- Terra Hydr Inc., Tonquin Industrial LLC, Bob Albertson, Donna Albertson, Albertson Trucking Inc., Mark Brown, McCammant Properties Inc., Eric Johnson, Brown Transfer

Inc., McGuire Brothers LLC, Steve McGuire (petitioners) v. City of Tualatin (respondent), and METRO (intervenor-respondent) LUBA Case No. 2013-016 was a case that dealt with the placement of a trail, and whether a trail is defined as a park. As part of the LUBA decision, the conclusion identified that a trail as a whole constitutes a park. The case is included as an attachment for reference.

- Table 16.05.070—Public Uses allowed in the residential zones identify “Other public uses such as parks and recreational facilities, open space, and pedestrian amenities” as permitted in the Z-RL zone, subject to a Conditional Use Permit or an Administrative Review if projects implement the city’s adopted facilities plans.
- Although the land use table also identifies recreational trails as a use, trails that implement the trails master plan and are maintained as part of the City of Lebanon park system are to be interpreted as categorized as “parks and recreational facilities, open space and pedestrian amenities” in conformance with the most precisely defined definition of the code.

II. DECISION AND INTERPRETATION

Based on the definitions of City Parks and Recreational Areas, the LUBA case identifying trails as parks, the adoption of the Trail Master Plan, which included several trail segments within the Z-RL zone and a land use category available that implements the definitions most directly, it is city staff’s interpretation that:

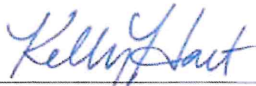
- Trails that implement the trails master plan and are maintained as part of the City of Lebanon park system are to be interpreted as categorized as “parks and recreational facilities, open space and pedestrian amenities” as listed in Table 16.05-5 in Section 16.05.070 of the Lebanon Development Code.

As such, trails are not strictly prohibited in the residential low-density zone.

III. RECORD

The City’s case file and record can be viewed in the Community Development Department at Lebanon City Hall, 925 S. Main Street, Lebanon, OR 97355, during regular business hours.

Respectfully,



Kelly Hart
Community Development Director

12/27/24

Date