

**MINUTES OF THE MEETING
OF THE
LAND DEVELOPMENT AND TRANSPORTATION COMMITTEE**

February 10, 2022

A meeting of the Land Development and Transportation Committee was held at 1:00 p.m. on Thursday, February 10, 2022 via Webex Teleconferencing.

Committee Members present were:

Te'Andre Sistrunk, Chair (left at approximately 4:00 p.m.)
Jim Mims, Vice Chair
Rich Carlson
Ruth Daniels
Jeff Brown

Committee Members absent were:

None.

Staff Members present were:

Joseph Reverman, Assistant Director, Planning & Design Services
Brian Davis, Planning Manager
Julia Williams, Planning Supervisor
Dante St. Germain, Planner II
Jay Lockett, Planner II
Joe Haberman, Planning Manager
Laura Ferguson, Legal Counsel
Chris Cestaro, Management Assistant (minutes)

Others Present:

Beth Stuber, Transportation Planning
Tony Kelly, MSD

The following matters were considered:

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Approval of Minutes

Approval of the minutes of the January 27, 2022 Land Development and Transportation Committee meeting.

00:04:19 On a motion by Commissioner Carlson, seconded by Commissioner Brown, the following resolution was adopted:

RESOLVED, the Louisville Metro Land Development and Transportation Committee does hereby **APPROVE** the minutes of its meeting conducted on January 27, 2022.

The vote was as follows:

YES: Commissioners Carlson, Brown, Daniels, and Sistrunk.

ABSTAIN: Commissioner Mims.

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OLD BUSINESS

Case No. 21-ZONE-0068

Request: **Cont'd from January 27, 2022 LD&T meeting** – Change in zoning from R-6 to C-1, commercial with conditional use permit for outdoor alcohol sales and revised development plan

Project Name: Ciao's Restaurant
Location: 1203 Payne Street
Owner: Alfred Pizzonia, Jr. & Angelica Webster
Applicant: Craig Priddy
Representative: Dinsmore & Shohl, LLP – Cliff Ashburner
Jurisdiction: Louisville Metro
Council District: 4 – Jecorey Arthur
Case Manager: Joel Dock, AICP, Planning Coordinator

Notices were sent by first-class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the LD&T meeting. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

00:05:20 Brian Davis spoke on behalf of Joel Dock. He said the applicant has requested a continuance until the Feb 24th LD&T meeting to get the plan in order, to re-send the newest plan to the reviewing agencies, and to allow the applicant time to work on elevations.

The following spoke in favor of the request:

Cliff Ashburner, Dinsmore & Shohl, 101 S 5th St #2500, Louisville, KY 40202

Summary of testimony of those in favor:

00:07:15 Cliff Ashburner, the applicant's representative, briefly re-stated the applicant's reasons for requesting a continuance.

The following spoke in opposition to the request:

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No one spoke.

An audio/visual recording of the Land Development and Transportation Committee meeting related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

00:08:00 On a motion by Commissioner Carlson, seconded by Commissioner Daniels, the following resolution was adopted:

RESOLVED, the Louisville Metro Land Development and Transportation Committee does hereby **CONTINUE** this case to the **February 24, 2022** Land Development and Transportation Committee meeting.

The vote was as follows:

YES: Commissioners Mims, Carlson, Brown, Daniels, and Sistrunk.

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NEW BUSINESS

Case No. 21-DDP-0055

Request:	Revised General District Development Plan and Revised Major Preliminary Subdivision Plan
Project Name:	Hurstbourne Station
Location:	7300 Hurstbourne Pkwy
Owner:	Hurstbourne Corporate Group
Applicant:	Hurstbourne Corporate Group
Representative:	Wyatt, Tarrant and Combs
Jurisdiction:	Louisville Metro
Council District:	2- Barbara Shanklin
Case Manager:	Jay Lockett, AICP, Planner II

Notices were sent by first-class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the LD&T meeting. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

00:08:40 Jay Lockett presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

00:12:41 In response to questions from Commissioner Mims, Mr. Lockett said there are concerns from Public Works and Metro Transportation Planning regarding the roadway network; not really a concern with the road alignment. There is a major concern with a lack of connectivity from Patriot's Crossing through the subject site to Hurstbourne and Fegenbush. See recording for detailed discussion. In response to another question from Commissioner Mims, Mr. Lockett said Patriot's Crossing is proposed to be a public roadway but has not yet been recorded as public right-of-way.

00:16:02 In response to a question from Commissioner Carlson, Mr. Lockett gave a brief background about the Patriots Crossing entrance - this was considered as part of an earlier rezoning.

00:17:28 In response to another question from Commissioner Carlson, Mr. Lockett gave a brief history of past proposals for this site. He explained that the

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applicant has chosen to put forth a General Development Plan at this time, with the associated subdivision; if that is approved, the applicant is likely to come back with a new Detailed District Development Plan for this site.

The following spoke in support of the request:

Jon Baker, Wyatt Tarrant & Combs, 400 West Market Street Suite 2000,
Louisville, KY 40202

Kent Gootee, Mindel Scott & Associates, 5151 Jefferson Blvd, Louisville, KY
40219

Diane Zimmerman, 12803 High Meadows Pike, Louisville, KY 40059

Matthew Elder, Holstreet Developers, 800 Stonecreek Parkway Suite 5A,
Louisville, KY 40223

David Dries, Managing Member of Hurstbourne Corporate Group

Summary of testimony of those in support:

00:18:43 Jon Baker, the applicant's representative, presented the applicant's case and showed a Power Point presentation. He emphasized the history of the site and its relation to the current case; easements; and roadway connectivity and safety (see recording for detailed presentation.)

00:35:28 In response to questions from Commissioner Carlson, Mr. Baker used an aerial photo to discuss Kyle Ridge Way; a formerly-proposed thoroughfare connecting to it; and a connection that is being proposed today from South Hurstbourne Parkway, Kyle Ridge Way, and Patriots Crossing (see recording.) Commissioner Carlson had some concerns about turning radius for emergency vehicles, fire trucks in particular. Mr. Baker said the applicant will work with the fire department to achieve a workable radius.

00:37:28 Kent Gootee, an applicant's representative, discussed the length and scale of the intersection in question. He discussed the purposes of that intersection.

00:38:25 Commissioner Carlson said that any Fire Access Road, by ordinance, must be a minimum of 20 feet wide, not 18 feet. Mr. Gootee said that, currently, Kyle Ridge Road is between 22-24 feet wide, and all the other proposed roads are 24 feet wide minimum.

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00:41:13 Commissioner Carlson asked who would be responsible for maintaining the private roads. He was especially concerned because people in the adjacent development/s would be using those roads also. Mr. Gootee said each lot is responsible for maintaining its own internal roadway network; there will also be private maintenance and access agreements. See recording for detailed discussion.

00:45:53 Matthew Elder said he is the property owner of the westernmost corner of the intersection of Fegenbush Lane and Hurstbourne Parkway. He said his property is shown on the site map as receiving access via the stub and a public connection there. He said his company's property has been approved for retail (general plan) and all of the future users/tenants have expressed great interest as shown on this revised development plan. He said the cross-access easements are stipulated in the binding elements, giving the government enforcement access in case of a violation.

The following spoke in opposition:

No one spoke.

Rebuttal

00:49:22 Mr. Baker delivered closing remarks (see recording.) He noted that, while the applicant is definitely willing to work with Metro to find a solution to this roadway network, the applicant remains opposed to any type of proposed public roadway that traverses Lot 2 in a diagonal fashion that essentially subdivides the property. The applicant believes this would be detrimental to the property and efforts to develop it.

Deliberation:

00:50:47 Commissioners' deliberation.

00:55:53 In response to questions from Commissioner Carlson, Mr. Baker discussed the plan put before LD&T in 2015 (see recording for detailed discussion.)

An audio/visual recording of the Land Development and Transportation Committee meeting related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

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01:02:18 On a motion by Commissioner Carlson, seconded by Commissioner Mims, the following resolution was adopted:

RESOLVED, the Louisville Metro Land Development and Transportation Committee does hereby **CONTINUE** this case to a date uncertain.

The vote was as follows:

YES: Commissioners Mims, Carlson, Brown, Daniels, and Sistrunk.

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NEW BUSINESS

Case No. 21-ZONE-0134

Request:	Change in zoning from R-4 & C-1 to R-6, with Detailed District Development Plan with Binding Elements
Project Name:	Greenburg Lower Hunters Trace
Location:	2328 & 2400 Lower Hunters Trace, 2403 Cady Court
Owner:	George Gagel
Applicant:	Select Homes
Representative:	Dinsmore & Shohl
Jurisdiction:	Louisville Metro
Council District:	12 - Rick Blackwell
Case Manager:	Dante St. Germain, AICP, Planner II

Notices were sent by first-class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the LD&T meeting. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

01:03:14 Dante St. Germain presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

01:07:22 Commissioner Carlson asked if there were any sidewalk connections planned from the apartments to the existing Shacklette Elementary School. Ms. St. Germain said there is no direct connection; however, there is a connection which leads to the public sidewalk, which then leads to the elementary school.

01:09:09 In response to a question from Commissioner Mims, Ms. St. Germain described questions still remaining regarding the left turn lanes onto Lower Hunters Trace. Beth Stuber, with Metro Transportation Planning, confirmed that the auxiliary turning lane was the only thing that was in the work scope of the traffic study. See recording for detailed conversation.

01:13:27 Commissioner Brown said a 6-foot "screen" is shown on the plan. Is that in addition to the landscaping requirements? Ms. St. Germain said that,

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generally the screening is part of the landscaping plan. That is ultimately finalized at the landscape stage of development. There is a screening requirement between the residential and multi-family zoning districts. The LDC requires both a fence and landscaping.

01:15:13 In response to a question from Commissioner Carlson, Commissioner Brown, Ms. St. Germain and Ms. Stuber discussed the attached Highway Capacity Manual regarding the level of service and future traffic volumes at the intersection of Lower Hunters Trace and Dixie Highway. Diane Zimmerman, the applicant's traffic engineer, said this is not a future traffic analysis; this was taken directly from Metro Traffic Engineering synchroanalysis, indicating that this intersection is currently operating at Level C.

The following spoke in favor of the request:

Cliff Ashburner, Dinsmore & Shohl, 101 S 5th St #2500, Louisville, KY 40202

Diane Zimmerman, 12803 High Meadows Pike, Louisville, KY 40059

Mike Hill, Land Design & Development, 503 Washburn Ave # 101, Louisville, KY 40222 (available for questions)

Summary of testimony of those in favor:

01:20:24 Cliff Ashburner, the applicant's representative, presented the applicant's case and showed a Power Point presentation. He discussed the proposed night hearing (see recording for detailed presentation.) He emphasized proposed improvements to Lower Hunters Trace, including the left-turn lane. He noted that this will not be a Section 8 or subsidized development; it will be market rate housing.

01:32:03 Commissioner Mims and Mr. Ashburner discussed whether the fire department had commented on the Cady Court connection, and further discussion of the left-turn lane. A left turn lane should be installed at Mount Everest Drive. Commissioner Brown noted that the applicant met the threshold to provide the left-turn lane, and that will require road-widening.

01:37:51 In response to a question from Commissioner Brown, Mr. Ashburner said the access to the cell tower is an existing easement on the site and the applicant will accommodate it.

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01:38:33 Joe Reverman, Assistant Director of Planning & Design Services, and Mr. Ashburner discussed the Cady Court and Cady Drive connections, which are required by the Land Development Code. Mr. Ashburner said the applicant would be requesting an alternate connection or waiver from Metro Council.

The following spoke in opposition to the request:

Kenneth White, 6519 Cady Drive, Louisville, KY 40258

Stacy Hoover, 2408 Royster Way, Louisville, KY

Summary of testimony of those in opposition:

01:43:01 Kenneth White said his property sits next to Cady Court. He said he and other residents have “serious” traffic concerns. There are other large-scale developments approved for this area which will add to the already-growing traffic. He said another concern is if Cady Court would be opened as a secondary entrance/exit. Children play in the court. He asked that Cady Court not be opened or tied to this proposal.

01:47:46 Stacy Hoover said her primary concern is traffic. She asked if the school bus traffic was taken into consideration; also, was the traffic analysis done when school was in-person, or during COVID, when the school was mostly not in person. She asked if additional TARC stops would be added to serve this and other developments being added close by – this would also add to traffic. She said other residents in the community had asked her to clarify that residents don’t oppose an apartment complex; it’s the three-story buildings coming in to the neighborhood. She said area residents are concerned about MSD and drainage issues – she said she still has standing water on her property from the ice storm last week. Environmental issues – this was a working farm for many years that had weed killer and fertilizer used for years. Will there be any mitigation of this before construction?

Rebuttal:

01:55:31 Mr. Ashburner said a full traffic impact study was not done, but a limited impact analysis was done. He said this development can address traffic concerns by providing road improvements. He said the applicant has performed a Phase I and Phase II environmental analysis on the property and found that there were no toxicity issues that needed to be addressed. He said the applicant will work with MSD regarding where they need to run the storm drainage.

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Deliberation:

01:58:47 Commissioner Carlson suggested that this case be continued to another LD&T meeting (**February 24, 2022**) to give the applicant time to work out the left turn lane issue. At that time, it can be determined if the case is ready for a public hearing.

An audio/visual recording of the Land Development and Transportation Committee meeting related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

02:05:20 On a motion by Commissioner Carlson, seconded by Commissioner Brown, the following resolution was adopted:

RESOLVED, the Louisville Metro Land Development and Transportation Committee does hereby **CONTINUE** this case to the **February 24, 2022** Land Development and Transportation Committee meeting to evaluate changes that the applicant would make to the site plan for the left turn lane.

The vote was as follows:

YES: Commissioners Mims, Carlson, Brown, Daniels, and Sistrunk.

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NEW BUSINESS

Case No. 21-ZONE-0075

Request:	Change in zoning from R-4 to C-1
Project Name:	Hurstbourne Labs
Location:	9021 Taylorsville Road
Owner:	Barry and Dale Crawford
Applicant:	Barry and Dale Crawford
Representative:	Paul Whitty - Bardenwerper Talbott and Roberts PLLC. & Miller Wihry
Jurisdiction:	Louisville Metro
Council District:	11- Kevin Kramer
Case Manager:	Julia Williams, AICP, Planning Supervisor

Notices were sent by first-class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the LD&T meeting. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

02:11:21 Julia Williams presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

The following spoke in favor of the request:

Paul Whitty, Bardenwerper Talbott & Roberts PLLC, 1000 North Hurstbourne Parkway, Louisville, KY 40223

Summary of testimony of those in favor:

02:17:20 Paul Whitty, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.) He noted that the City of Forest Hills is "adamantly opposed" to having any vehicular access onto Axminster Drive. He asked that a binding element be put on the General Plan stating that there be no vehicular access from the subject site onto Axminster Drive.

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NEW BUSINESS

Case No. 21-ZONE-0075

02:30:47 Commissioner Carlson and Mr. Whitty discussed the C-1 zoning classification for the proposed use. Commissioner Carlson's concern was that some C-1 uses may not be appropriate for a residential area.

The following spoke neither for nor against the request ("Other"):

Scott Harrington, legislative assistant to Councilman Kevin Kramer, 601 West Jefferson Street, Louisville, KY 40202

Summary of testimony of those neither for nor against ("Other"):

02:34:56 Scott Harrington reiterated Commissioner Carlson's concerns that some uses in C-1 would not be appropriate for a residential area. He requested that, if there is a change of use, not only does it come back before the Planning Commissioners, it should go before the Louisville Metro Council as well.

02:38:09 Mr. Whitty said the applicant would be willing to agree to a binding element limiting uses to medical laboratories, and also require Planning Commission and Metro Council approval.

The following spoke in opposition to the request:

David Poynter, 2117 Canterbrook Drive, Louisville, KY 40299

Summary of testimony of those in opposition:

02:39:25 David Poynter reiterated Commissioner Carlson's concerns. He discussed a nearby property (across the street) that had been rezoned as C-1 for a martial arts school which did not develop; however, that C-1 zoning has now allowed for a proposed dog kennel. He said the one-entrance neighborhood has experienced a lot of "turnaround traffic" coming in from Taylorsville and Hurstbourne.

Rebuttal:

02:41:33 Mr. Whitty said Mr. Poynter's concerns had also been explained to the applicant by the legal counsel for the City of Forest Hills. He said the applicant must have access to Taylorsville Road, and that is why the Childers' site has a note on its plan stating that they would have to provide access for the subject site in the event that the site will be a non-residential use. He said the applicant is willing to agree to a binding element stating that the use on the subject site will be a medical lab only, and that any change of use would have to

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go before the Planning Commission and Metro Council. See recording for detailed presentation.

Deliberation:

02:43:38 Commissioner Brown questioned the proposed binding element/s regarding no access to Axminister Drive. He said that, if the crossover access does not go through on the Childers' property, then the subject site would have no access to Taylorsville Road. Mr. Whitty said that was correct; and unless and until the applicant has that agreement, the plan cannot go forward.

An audio/visual recording of the Land Development and Transportation Committee meeting related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

The Committee by general consensus scheduled this case to be heard at the **March 3, 2022** Planning Commission public hearing.

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NEW BUSINESS

Case No. 21-ZONE-0102

NOTE: Commissioner Sistrunk left the meeting at approximately 4:00 p.m. The remainder of the meeting was chaired by Vice-Chair Mims.

Request:	Change in zoning from R-4 to R-7 with a landscape waiver
Project Name:	Freys Hill Multi-Family
Location:	3323 & 3325 Freys Hill Road
Owner:	Deerfield Co. Inc.
Applicant:	LDG Multi-family LLC
Representative:	Dinsmore and Shohl PLLC. & Sabak Wilson and Lingo
Jurisdiction:	Louisville Metro
Council District:	17- Markus Winkler
Case Manager:	Julia Williams, AICP, Planning Supervisor

Notices were sent by first-class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the LD&T meeting. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

02:48:31 Julia Williams presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.) She noted that two entrances being too close together should be rectified prior to setting a public hearing date.

02:54:05 Joe Reverman, Assistant Director of Metro Planning & Design Services, said he was under the impression that the Metro Transportation approval was given in error, and that this case should not be heard until Transportation has given their approval. Ms. Williams said the applicant will address this during their presentation. Beth Stuber, with Metro Transportation Planning, confirmed that she has not seen any new entrance proposal.

The following spoke in favor of the request:

Cliff Ashburner, Dinsmore & Shohl, 101 S 5th St #2500, Louisville, KY 40202

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Kelli Jones, Sabak Wilson & Lingo, 608 S 3rd St, Louisville, KY 40202

Summary of testimony of those in favor:

02:57:42 Cliff Ashburner, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

03:00:00 Mr. Ashburner addressed the accesses (see recording.) He said that, for now, the property will be kept under 200 units until the access issue is worked out.

03:06:56 In response to a question from Commissioner Carlson, Mr. Ashburner said his presentation had a typographical error on the first slide. The applicant is requesting a change in zoning to R-7, **not** R-6.

03:07:53 In response to another question from Commissioner Carlson, Kelli Jones, an applicant's representative, discussed planned mitigation measures to address vehicle headlight intrusion into adjacent residents' properties (landscaping, buffering, and fencing.) In addition, the adjacent development sits above the subject site, so any vehicle headlights will be shining into a hill. She said the applicant will have an exhibit of that buffer area when they come back to LD&T.

The following spoke neither for nor against the request ("Other"):

Paul Hinson, 10507 Wemberley Hill Boulevard, Louisville, KY 40241

Leon Duke, 10417 Wemberley Hill Boulevard, Louisville, KY 40241

Summary of testimony of those neither for nor against:

03:10:23 Paul Hinson discussed the wooden fence that has been at the property line since the early 1990's. He expressed concerns about the zone category being requested; the height of the buildings; security along the property line; the lighting in the parking lot; and traffic along Freys Hill Road (narrow two-lane road.)

03:16:17 Leon Duke asked to see an environmental impact study. His property also backs up to the fence. He said there are only 1.2 car spaces

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planned for each apartment; he said this is inadequate. He discussed the left-turn lane from Westport Road turning onto Freys Hill, which he said has already been extended. He said this is the main access for a Thornton's and a strip mall with three restaurants in it. He said this commercial area has already made it difficult for residents to get to and from their condominium development.

The following spoke in opposition to the request:

Mary Boyce, 10410 Wemberley Hill Boulevard, Louisville, KY 40241

Leslie Gaither, 10501 Sawyer Place, Louisville, KY 40241

Stephen Sedita, 2609 Evergreen Lane, Louisville, KY 40223

David Hickerson, 10519 Sawyer Place, Louisville, KY 40241

Johnnie Rice, 10513 Sawyer Place, Louisville, KY 40241

Summary of testimony of those in opposition:

03:19:51 Mary Boyce said her main concern is traffic, particularly since there is only one way in and out to her development.

03:20:38 Leslie Gaither said Freys Hill Road is a two-lane, no-shoulder road. Where are the school buses supposed to stop? The traffic is already too much for Freys Hill Road. She said there is no sidewalk that goes all the way to the park - it ends on the other side of Sawyer Place.

03:22:26 Stephen Sedita said the traffic on Westport at Freys Hill Road is already bad. Freys Hill Road is a narrow, winding, hilly road. The project is not compatible with any other residences in the area.

03:24:30 David Hickerson said his main concern is traffic, particularly on Freys Hill. He said three story buildings are too high and too dense for the area.

03:26:36 Johnnie Rice said her main concern is traffic. She said if there is an issue along Freys Hill, there is nowhere for vehicles to pull over or get around an accident. She said the three story buildings are too big and too dense.

03:28:42 Mr. Hinson asked how many letters/emails had been received about this project. Ms. Williams estimated about 20-30 (this includes multiple page letters.)

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Rebuttal:

03:30:09 Mr. Ashburner delivered rebuttal (see recording.)

Deliberation:

03:31:48 Commissioners' deliberation.

An audio/visual recording of the Land Development and Transportation Committee meeting related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

03:34:37 On a motion by Commissioner Carlson, seconded by Commissioner Brown, the following resolution was adopted:

RESOLVED, the Louisville Metro Land Development and Transportation Committee does hereby **CONTINUE** this case to the **February 24, 2022** Land Development and Transportation Committee meeting.

The vote was as follows:

YES: Commissioners Mims, Carlson, Brown, and Daniels.

ABSENT: Commissioner Sistrunk.

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The meeting adjourned at approximately 4:35 p.m.

Chairman

Division Director