

**Planning Commission Minutes
April 3, 2014**

Public Hearing

CASE NO. 19042

Project Name: Portland Promise Center
1800 Portland Ave and 1810 R. Portland Ave

Owner/ Applicant: Portland Promise Center, Inc.
P.O. Box 11865
Louisville, KY 40251

Representative: Drew Watkins
PO Box 11865
Louisville, KY 40251

Jurisdiction: Louisville Metro
Council District: 5 – Cheri Bryant Hamilton

Staff Case Manager: **Julia Williams, AICP, Planner II**

Notice of this public hearing appeared in **The Courier Journal**, a notice was posted on the property, and 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 public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Request:

Change in zoning from M-2 and R-6 to CM, a Parking Waiver from Chapter 9.1.3 to reduce the required amount of parking spaces from 63 to 20 and to permit the use of on-street parking spaces not directly abutting the property per Chapter 9.1.10.D, a Waiver from Chapter 10.2.4 to permit the encroachments of and existing building and paving into a required 15' LBA along the northwest property line, a Waiver from Chapter 10.2.4 to reduce the 15' LBA along the northwest property lines to 14' and 11' as indicated on the development plan, and a District Development plan with binding elements.

Agency Testimony:

Julia Williams showed a PowerPoint presentation and reviewed the requests and case summary/background from the staff report. She showed zoning and aerial maps and discussed surrounding zoning and land uses. Ms. Williams then showed a series of

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photos of the subject site and surrounding areas. She reviewed the proposed development plan and a waivers exhibit. She then reviewed the applicable plans and policies, technical review, and staff analysis and conclusions from the staff report.

In response to Commissioner Blake's question about the uses proposed to be bound out, Ms. Williams explained that the applicant voluntarily proposed to bind out certain uses.

The following spoke in favor of this request:

Jon Henney, Gresham Smith & Partners, 101 S 5th St, Ste 1400, Louisville, KY 40202

Drew Watkins, Portland Promise Center, PO Box 11865, Louisville, KY 40251

Summary of testimony of those in favor:

Jon Henney introduced Drew Watkins.

Drew Watkins, Portland Promise Center, provided an overview of Portland Promise Center and what is proposed.

Jon Henney showed a PowerPoint presentation and reviewed the subject site using zoning and aerial maps. He showed the development plan and pointed out the R-6 area, existing building, and proposed parking. He showed an aerial photo of the site and discussed off-street parking. He explained the reason for requesting CM is because of proposed industrial uses. He showed photos of the site and interior decorations. Mr. Henney pointed out the landscape waivers and discussed the parking waiver. He reviewed the parking calculation per the Land Development Code (LDC) and showed an aerial photo displaying off-street parking in the area. He discussed comparable sites that were considered in the parking study. He also reviewed the rezoning justification and land use limitations that have been agreed to by the applicant.

Commissioner Brown asked about the off-street parking counts and asked if widths and fire lanes were taken into account. Mr. Henney confirmed.

Commissioner Brown then asked about loading/unloading areas. Mr. Watkins pointed out the loading dock and overhead door locations.

In response to Commissioner Blake's question about the number of people working at the site, Mr. Watkins stated there would be 20 people at most.

The following spoke in opposition to this request:

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No one.

The following spoke neither for nor against the request:

No one.

Deliberation

Commissioner White recognized that the request is for a downzoning and that appropriate screening is being provided. He said the proposal makes sense.

Commissioner Kirchdorfer stated that the zoning change is appropriate.

Commissioner Tomes said the down zoning is appropriate and that jobs and training are vital to revitalize neighborhoods.

Commissioner Peterson said the proposal makes sense and that he supports it.

Commissioner Jarboe pointed out that the parking issue came up at LD&T but that it is has been addressed.

Commissioner Brown raised concern about future parking problems due to the area developing rapidly. He said he would like to see more effort to provide off-street parking.

Commissioner Blake pointed out that the applicant's justification was done well.

An audio/visual recording of the Planning Commission hearing related to this case is available in the Planning & Design Services offices. Please contact the Customer Service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the CD of the April 3, 2014 public hearing proceedings.

Zoning

On a motion by Commissioner White, the following resolution was adopted.

WHEREAS, the Louisville Metro Planning Commission finds, based on the testimony, staff report, applicant's justification, and discussion, that the proposal complies with Comprehensive Plan Guideline 1 – Community Form because the site is located in the Traditional Neighborhood Form District. This district is predominantly characterized by

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predominantly residential uses, often on narrow, deep lots. Adjacent streets are typically narrow with a grid street pattern and have alleys along the rear. Sidewalks are located along the front and sides of these uses. Buildings typically have little or no setbacks from the street. Traditional neighborhoods may contain civic uses as well as approximately located and integrated neighborhood centers with a mixture of mostly neighborhood serving land uses such as offices, shops, restaurants, and services. Revitalization and reinforcement of the traditional neighborhood form is encouraged, with emphasis placed on preservation and renovation of existing buildings where the building design is consistent with the predominant design of the surrounding structures; and

WHEREAS, the Louisville Metro Planning Commission further finds that the subject property is located in a mixed use area of industrial and residential uses. Across the street from the subject property on the north side of Portland Avenue, are 5 residential lots zoned R-6 along with several lots comprising a gravel parking lot, industrial building, and vacant lots, all zoned EZ-1. South of the subject property, across 18th Street, are 2 residential uses zoned M2 and R-6, respectively from east to west. West of the site, across Baird Street is two residential uses zoned R-6. The lot proposed for the off street parking is one of two properties immediately adjacent to the existing 1800 building to the northwest. Both properties are owned by the Portland Promise Center. The lot proposed for future parking is currently vacant. The other lot contains a single family residence that's currently rented by the applicant to a tenant. Both lots are currently zoned R-6; and

WHEREAS, the Louisville Metro Planning Commission further finds that streets in this area are configured in a rectilinear grid pattern and the site is bounded by North 18th Street on the south, Portland Avenue on the east, and Baird Street on the west. The structure on the subject property was built to the property lines along these three rights-of-way. The existing building has been determined eligible for the National Historic Register and will remain with only interior modifications to accommodate future building tenants. Any proposed signage will be in compliance with the Land Development Code. Therefore, redevelopment of this structure is consistent with the Traditional Neighborhood Form District; and

WHEREAS, the Louisville Metro Planning Commission further finds that on-street parking is located along all three streets to serve customer and employee parking needs, and TARC service is available through the nearby TARC No. 43 Poplar Level route. Sidewalks are located along all three streets adjoining the property; and

WHEREAS, the Louisville Metro Planning Commission further finds that the proposed rezoning to EZ-1 will allow the applicant to accommodate the wide range of uses and users associated with their community redevelopment mission, from vocational training,

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to storage and light manufacturing associated with home repair and construction services, to startup retail and office space for incubator businesses. There will be no adverse impacts to surrounding properties as a result of the proposed operations. All activities will occur entirely within an enclosed building, there will be no noise, odor, or lighting impacts resulting from the proposed uses, the businesses will operate during normal business hours. While the proposed uses will generate additional traffic, there is more than adequate capacity of the existing roads. Therefore, the proposed rezoning complies with Guideline 1 of the Cornerstone 2020 Comprehensive Plan; and

WHEREAS, the Louisville Metro Planning Commission further finds that the proposal complies with Comprehensive Plan Guideline 2 – Centers because Guideline 2 encourages mixed land uses organized around existing compact activity centers. The subject property lies south and east of the 3 activity centers identified for the Portland Neighborhood and the 2008 approved Neighborhood Plan. The redevelopment of the existing building will represent significant reinvestment along the Portland Avenue corridor, in keeping with the recommendations of the 2008 Neighborhood Plan and will also encourage vitality and a renewed sense of place in the general neighborhood. As a result, this proposal complies with Guideline 2 of the Cornerstone 2020 Comprehensive Plan; and

WHEREAS, the Louisville Metro Planning Commission further finds that the proposal complies with Comprehensive Plan Guideline 3 – Compatibility because the subject property is located in a mixed use area generally void of a consistent pattern of development or character. The area includes a significant number of vacant lots as well as abandoned and poorly maintained properties. The redevelopment of a historic structure that visually dominates the block will go a long way to establish a character and pattern of development for this area. The mix of uses proposed for this property is also consistent with other development in this part of Portland and in an urban setting. Therefore, the proposed rezoning is compatible with Guideline 3 of the Cornerstone 2020 Comprehensive Plan; and

WHEREAS, the Louisville Metro Planning Commission further finds that the proposal complies with Comprehensive Plan Guidelines 4 & 5 – Open Space, Natural Areas and Scenic and Historic Resources because the development site consists entirely of impervious surface, and is built to the property lines along Baird Street, 18th Street, and Portland Avenue. The planned improvements, with the exception of the small, off-street parking lot, will be confined to the interior of the existing structure. Therefore, the proposal will not adversely impact the aesthetic appearance of the existing building and will revitalize and preserve an existing structure that is eligible for the National Historic Register. There are no natural areas, open space, or scenic resources to be preserved. The area of the proposed parking is already developed as a gravel lot and the property

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is free of any environmental constraints. For these reasons, the proposed expansion complies with Guidelines 4 and 5 of Cornerstone 2020 Comprehensive Plan; and

WHEREAS, the Louisville Metro Planning Commission further finds that the proposal complies with Comprehensive Plan Guideline 6 – Economic Growth and Sustainability because Guideline 6 encourages redevelopment and reinvestment opportunities in older neighborhoods that is consistent with the form district pattern. The proposed development will allow the applicant to continue and expand its mission to provide community redevelopment opportunities for the Portland neighborhood. It also furthers the goal of preserving the traditional neighborhood form by providing reinvestment opportunity in this area while preserving an existing affected. Thus, the proposal complies with Guideline 6 of the Cornerstone 2020 Comprehensive Plan; and

WHEREAS, the Louisville Metro Planning Commission further finds that the proposal complies with Comprehensive Plan Guidelines 7 and 9 – Mobility/Transportation, Circulation, Bicycle, Pedestrian and Transit because the proposed rezoning is in compliance with Guidelines 7 and 9 of the Cornerstone 2020 Comprehensive Plan because the location of the development ensures adequate and multi-modal transportation facilities in grid streets with easy access to interstate road systems, public transit, pedestrian access, and bicycle access. No additional street improvements are required. Adequate right-of-way and infrastructure exists to serve the subject property. The additional traffic proposed by the rezoning can be accommodated through the existing street, transit and pedestrian networks. As a result, there will be no adverse impacts on existing transportation systems caused by the proposed change in zoning. Adequate parking exists in the right-of-way along the front and sides of the property along with the proposed off street parking lot, as demonstrated by the parking study provided with the requested parking waiver. Sidewalks are located along all streets as well as on neighboring streets, thereby insuring an interconnected network for pedestrian access. For all of the foregoing reasons, this proposal complies with Guidelines 7 and 9 of the Cornerstone 2020 Comprehensive Plan; and

WHEREAS, the Louisville Metro Planning Commission further finds that the proposal complies with Comprehensive Plan Guideline 10 and 11 – Flooding, Storm Water and Water Quality because since the entire site already consists of impervious surface, there will be no impact on storm water runoff. The proposed building expansion will be reviewed and approved by the Metropolitan Sewer District to ensure compliance with MSD construction standards. Best management practices as recommended by MSD will be implemented prior to commencing construction of the new addition. For the foregoing reasons, the proposed development complies with Guidelines 10 and 11 of the Cornerstone 2020 Comprehensive Plan; and

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WHEREAS, the Louisville Metro Planning Commission further finds that the proposal complies with Comprehensive Plan Guideline 12 – Air Quality because the proposed development complies with Guideline 12 of Cornerstone 2020 because it represents an efficient land use pattern in an area with existing infrastructure to accommodate the proposed development. The proposed development must also be reviewed by the Air Pollution Control District for compliance with its regulations; and

WHEREAS, the Louisville Metro Planning Commission further finds that the proposal complies with Comprehensive Plan Guideline 13 – Landscape Character because the subject property consists entirely of impervious area. The proposed development will meet the landscaping requirements of the Land Development Code. For this reason, the proposal complies with Guideline 13 of the Cornerstone 2020 Comprehensive Plan; and

WHEREAS, the Louisville Metro Planning Commission further finds that the proposal complies with Comprehensive Plan Guidelines 14 and 15 – Infrastructure and Community Facilities because the subject property is served by existing infrastructure which has adequate traffic carrying capacity to accommodate the proposed development. The site also has an adequate supply of potable water and water for firefighting purposes and is served by the Louisville Fire Department; and

WHEREAS, the Louisville Metro Planning Commission further finds that the proposal complies with KRS 100.213 because the existing zoning of the property is not appropriate, while the Enterprise Zone zoning is appropriate. The property is located in the Traditional Neighborhood Form District, which encourages redevelopment and re-investment that preserves existing structures and is compatible with the surrounding character; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby
RECOMMEND to the legislative body of the Louisville Metro Council that the change in zoning from M-2 and R-6 to CM on property described in the legal description be
APPROVED.

The vote was as follows:

YES: Commissioners Brown, Jarboe, Peterson, Kirchdorfer, Blake, Tomes, and White

NO: No one.

NOT PRESENT FOR THIS CASE: Commissioners Proffitt, Turner, and Hughes

ABSTAINING: No one.

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Waiver #1 - Chapter 9.1.3 to reduce the required amount of parking spaces from 63 to 20 and to permit the use of on-street parking spaces not directly abutting the property per Chapter 9.1.10.D resulting in a 32% waiver request

On a motion by Commissioner White, the following resolution was adopted.

WHEREAS, the Louisville Metro Planning Commission finds, based on the testimony, staff report, applicant's presentation, that the parking waiver is in compliance with the comprehensive plan because there is adequate parking to accommodate the proposed use as demonstrated in the parking study, along with availability of transit, pedestrian, and bicycle facilities, so the waiver will not adversely impact the neighborhood; and

WHEREAS, the Louisville Metro Planning Commission further finds the applicant is constructing a new off-street parking lot on an adjacent lot under same ownership to provide additional parking spaces; will utilize 16 on-street spaces immediately adjacent to the site, and; proposed to use and additional 30 on-street spaces in close proximity to the site; and

WHEREAS, the Louisville Metro Planning Commission further finds that the waiver has been based on the smallest possible reduction of parking spaces after available TARC and NRHP eligibility credits have been considered, along with all available on street parking immediately adjacent to the site; and

WHEREAS, the Louisville Metro Planning Commission further finds that there is adequate parking demonstrated through the associated parking study; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Waiver from Chapter 9.1.3 to reduce the required amount of parking spaces from 63 to 20 and to permit the use of on-street parking spaces not directly abutting the property per Chapter 9.1.10.D resulting in a 32% waiver request on property described in the legal description.

The vote was as follows:

YES: Commissioners Brown, Jarboe, Peterson, Kirchdorfer, Blake, Tomes, and White

NO: No one.

NOT PRESENT FOR THIS CASE: Commissioners Proffitt, Turner, and Hughes

ABSTAINING: No one.

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Waivers #2 and #3:

- **Chapter 10.2.4 to permit the encroachments of and existing building and paving into a required 15' LBA along the northwest property line with a distance of 122'.**
- **Chapter 10.2.4 to reduce the 15' LBA along the northwest property lines to 14' and 11' as indicated on the development plan.**

On a motion by Commissioner White, the following resolution was adopted.

WHEREAS, the Louisville Metro Planning Commission finds, based on the testimony, staff report, applicant's presentation, that the waiver will not adversely affect adjacent properties because screening will still be provided in the form of either a fence or landscape material. One of the affected adjacent properties is owned by the applicant. The impacts to both properties will be limited to the rear yards and the garage area; and

WHEREAS, the Louisville Metro Planning Commission further finds that the waiver will not violate the Comprehensive Plan because screening will still be provided; and

WHEREAS, the Louisville Metro Planning Commission further finds that the applicant is only seeking to reduce those portions of the required buffer width necessary to construct a small parking lot; and

WHEREAS, the Louisville Metro Planning Commission further finds that the area of the proposed small parking lot being constructed on the site, which is creating the need for the waiver, is currently gravel and presently being used as parking. The new lot will improve the visual character of the area, thus producing a net beneficial effect. The parking will be screened from view by the adjacent residential uses so the intent of the buffer will still be provided. Strict application of the buffer requirements would prohibit the applicant from providing some amount of off-street parking, creating an unnecessary hardship; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the following Waivers on property described in the legal description:

- Waiver from Chapter 10.2.4 to permit the encroachments of and existing building and paving into a required 15' LBA along the northwest property line with a distance of 122'.
- 3. Waiver from Chapter 10.2.4 to reduce the 15' LBA along the northwest property lines to 14' and 11' as indicated on the development plan.

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The vote was as follows:

YES: Commissioners Brown, Jarboe, Peterson, Kirchdorfer, Blake, Tomes, and White

NO: No one.

NOT PRESENT FOR THIS CASE: Commissioners Proffitt, Turner, and Hughes

ABSTAINING: No one.

District Development Plan

On a motion by Commissioner White, the following resolution was adopted.

WHEREAS, the Louisville Metro Planning Commission finds, based on the testimony, staff report, applicant's presentation, that the proposal preserves and repurposes a historic building. Other natural resources are not evident on the site; and

WHEREAS, the Louisville Metro Planning Commission further finds that the existing roadways and sidewalks will remain the same; and

WHEREAS, the Louisville Metro Planning Commission further finds that the open space on the site would be the buffers. The buffers ensure the compatibility of the site with the adjacent residential; and

WHEREAS, the Louisville Metro Planning Commission further finds that MSD has preliminarily approved the drainage; and

WHEREAS, the Louisville Metro Planning Commission further finds that due to the buffers provided and the historic nature of the existing structure the site design is compatible with the adjacent property and neighborhood; and

WHEREAS, the Louisville Metro Planning Commission further finds that the proposal is in compliance with the Comprehensive Plan and LDC; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the District Development Plan on property described in the legal description **SUBJECT** to the following binding elements.

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be

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submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.

2. The following uses are not permitted on the property unless prior approval is obtained from the Development Review Committee: Tattoo, body art, and piercing parlors, billiard parlors, game rooms, and similar entertainment uses, bingo halls and parlors, any establishment holding a retail malt beverage license, retail package liquor license, or any other ABC license allowing the sale of alcohol, except for restaurant establishments wishing to sell wine or beer with their meals including combination restaurant/micro-breweries, adhesives manufacture and packing, chemical manufacture and packing. Notice of a request to amend this binding element shall be given in accordance with the Planning Commission's policies and procedures. The DRC may require a public hearing on the request to amend this binding element.
3. The development shall not exceed 44,800 square feet of gross floor area.
4. No pennants, balloons, or banners shall be permitted on the site.
5. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
6. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to obtaining a permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.

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7. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
8. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system permitted on the site.
9. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
10. No idling of trucks shall take place within 200 feet of single-family residences. No overnight idling of trucks shall be permitted on-site.

The vote was as follows:

YES: Commissioners Brown, Jarboe, Peterson, Kirchdorfer, Blake, Tomes, and White

NO: No one.

NOT PRESENT FOR THIS CASE: Commissioners Proffitt, Turner, and Hughes

ABSTAINING: No one.