OF THE CITY OF PEORIA, ILLINOIS:

CONSTRUCTION COMMISSION

Special Meeting

CALL TO ORDER

The special meeting was held by the Construction Commission in Room 404 at City Hall, 419 Fulton Street, Peoria, Illinois, on June 7, 2019 at 2:00 p.m. Chairperson Shoemaker called the meeting to order at 2:02 p.m.

ROLL CALL

Roll call showed the following Commissioners were present: Bill Goad, Brad Hall, Kert Huber, Lisa Scott, Dennis Shoemaker, and Jason Snyder. Absent was John Dillon.

Staff present: Ross Black, Scot Wolf, Rich Storm, Kaylee Drea, Megan Nguyen, and Wes Stickelmaier

Commissioner DeJarld entered the special meeting at 2:22 P.M.

Commissioner Cicciarelli entered the special meeting at 2:25 P.M.

APPROVAL OF DECEMBER 11, 2018 MEETING MINUTES

First order of business was introduced by Chairman Shoemaker to approve the minutes of December 11, 2018’s meeting.

MOTION:

Commissioner Hall moved to approve the minutes of December 11, 2018. The motion was seconded by Commissioner Huber. Approved unanimously by a viva voce vote 6-0.

INTRODUCTIONS

Staff Liaison Drea introduced Jason Snyder as the new Commissioner and Megan Nguyen as the new staff liaison.

DISCUSSION OF OPEN MEETINGS ACT

Chairman Shoemaker discussed the special guidelines of the Open Meetings Act and reviewed the legality of performing an executive session during the last meeting. Chairman Shoemaker proclaimed that the Construction Commission does not have the capacity, in the State of Illinois, to call an executive session during open meetings unless the Commission was to be named in a lawsuit. Chairman Shoemaker stated that Construction Commission meetings shall not call any executive session(s) in the future.
INTRODUCTION OF AIR RIGHTS ORDINANCE CHANGE

Community Development Director Ross Black introduced the issue of air rights with a brief overview of the Warehouse District development.

Paul Kouri, from Farnsworth Group, prefaced the meeting with the approach outlined in the documents provided. Kouri introduced members of the Downtown Development Corporation present: Jeff Kolbus, Karen Jensen, and Sid Ruckriegel. Kouri emphasized the demand in the Warehouse District for residential development, specifying the need for apartments that require windows. Kouri explained that the code text currently prohibits the installation of window(s) in exterior walls located within 3’ of the property line.

Because many of the Warehouse District buildings were constructed directly on the property line, Kouri is seeking for an amended ordinance to allow for windows for future development of residential units. He referenced the chart provided as a visualization of the property line relative to permitted openings. Kouri’s proposed solution is to take the separation distance and rotate those measurements vertically. The vertical measurements could serve as a reference for buyers when purchasing air rights in order to control the space above the adjacent building(s) for future development.

Chairman Shoemaker expressed concern that a change in use could pose a threat to the neighboring property. Kouri explained that use groups are not a part of the calculations involved in determining the separation distance. Chairman Shoemaker and Kouri proceeded to discuss the green building and its theoretical compliance with existing building codes, relevant to its use.

Commissioner Huber asked if the solution, identified by Kouri, is to purchase air rights adjacent to the property. Kouri responded that it is easier for businesses to purchase air rights of an adjacent building than it is for businesses to purchase the property rights of an adjacent building.

The Commission discussed the functionality of installing a fire curtain or a sprinkle fire curtain. Kouri mentioned that an existing provision of the ordinance states any window installed on the property line must not be operable and also requires a water curtain or fire shutter.

Commissioner Huber asked if the commission’s goal, from this meeting, was to increase the context of the code. Senior Building Inspector Wolf responded that under the current ordinance, a fire wall does not allow for openings. Chairman Shoemaker agreed with Senior Building Inspector Wolf that a fire wall along the property line would not permit for any types of openings. Senior Building Inspector Wolf added that any existing openings could remain, which was agreed upon by Chairman Shoemaker who also added that if existing openings were once legal, they are still permitted and protected by the code.

Director Black identified the challenge of the building code’s language of the lot line in terms of permitted openings. Director Black referenced the visual handout and highlighted that the ordinance change would not alter the requirement that currently exists for an opening permit, even if the zoning language is amended to include a setback requirement. Director Black proposed amending the building code to allow for a form of relief from the property line standard.

Director Black emphasized that the purchase of air rights is a private transaction that would exclude the City of Peoria. Director Black theorized that without the code revision, the purchaser of the air rights would not be able to install windows for the building, essentially purchasing air rights for a blank wall.

Senior Building Inspector Wolf reviewed the code’s intent of maintaining a fire separation. Senior Building Inspector Wolf also mentioned needing language in the code that increases protection for openings.
Chairman Shoemaker commented on the function of fire walls and stated the main and primary function of fire walls to be for protection of properties in the event of a disaster, as opposed to life safety.

The Commission discussed the responsibilities of developers. Commissioner Huber emphasized the significance of air rights issues in the Warehouse District and the importance of the District and City working to become developer-friendly.

Commissioner Huber emphasized the horizontal separation distance’s differentiation to a vertical separation distance. Chairman Shoemaker agreed with Commissioner Huber’s idea that the two separation distances cannot be equated due to the extreme hazard posed in an event of a fire.

Chairman Shoemaker asked Senior Building Inspector Wolf if the International Code Council (ICC) has experience with this particular issue and, if not, what resources are available to the City of Peoria on this subject matter. Senior Building Inspector Wolf responded that no members from ICC have been contacted.

The Commission discussed provisions of the existing code to allow standard air rights and the ability to install fire and/or water curtains for single ownership properties. Chairman Shoemaker reviewed section 705.8.6 of the code with the Commission. The Commission reviewed the possibility of amending the code language to include dual ownership properties. The Commission also discussed the safety concerns posed through any potential development (referencing the handout). Chairman Shoemaker proposed that the Commission create an additional section including separate conditions for the purchase of air rights, as opposed to amending sections of the existing building code.

Director Black reviewed the Commission’s requests and concluded with the Community Development Department’s next steps to bring forth recommendations to the Commission’s next meeting.

OLD BUSINESS

The Commission reviewed an item from last meeting – a letter that was requested from Sous le Soleil.

Senior Building Inspector Wolf provided the Commission with an update that the applicant had submitted documents outlining the agreement between Sous le Soleil and the adjacent property owners.

ADJOURNMENT

MOTION:

Chairperson Shoemaker moved to adjourn the Special Commission Meeting, seconded by Commissioner Goad. Approved unanimously by viva voce vote 8-0.

The Special Meeting of the Construction Commission was adjourned at 3:16 P.M.
REPORT FOR

Downtown Development Corporation of Peoria

Air Rights Building Code Revisions
February 20, 2019

Mr. Michael Freilinger
President/CEO
Downtown Development Corporation of Peoria
403 Northeast Jefferson Avenue
Peoria, Illinois 61603

RE: Air Rights Building Code Revisions

Dear Michael:

Thank you for the opportunity to provide you with suggested revisions to the 2012 International Building Code to accommodate building improvements where Air Rights are purchased above an adjacent building. We greatly value being a part of the Peoria Warehouse District and its growth. As design professionals, the safety of building inhabitants is a responsibility we take seriously. We believe the suggested revisions herein provide a great solution for the economic viability of certain buildings in the Peoria Warehouse District and occupant safety.

AIR RIGHTS CODE OVERVIEW

The Peoria Warehouse District continues to grow, yet certain code requirements prevent specific buildings from being economically viable for development. There is a strong demand for residential units in the District. Per the Building Code (Code) residential units require windows, yet the Code prohibits the use of windows in exterior walls located within 3’ of the property line. Many of the Warehouse District building were constructed directly on the property line, thus prohibiting the development of residential units alone property lines. Residential units cannot be laid out efficiently with access to windows only on the street and alley ends of buildings. Windows are needed on all four sides of the buildings to be economically viable in the warehouse district. This is particularly true, as an example, for the largest warehouse buildings with deep and wide footprints on multiple stories.

Window Openings

There are a handful of provisions in Code written to help prevent the spread of fire from one building to another. The closer buildings are to one another, the greater the restrictions the Code requires. Many buildings in downtown Peoria, like many cities, were built with zero-lot lines, meaning a building is constructed up to the property line with no setback. The Code is most restrictive related to the fire resistance rating of these walls and the total size of openings (windows) allowed – or not allowed - in them.

One solution to the viability-vs-safety dilemma is for a property owner to purchase adjacent, flanking properties and combine the properties into one and thereby eliminating the shared property line and avoiding the no-window requirement. However, if the adjacent property owners are willing to sell, this approach is likely too costly for the economics to work, preventing the development and growth of the Warehouse District.

Another option is to revise the Code to allow for windows in the zero-lot line walls while maintaining a sensible degree of safety for building inhabitants for a property that owns the Air Rights above a building on an adjacent property. The following suggested Code revisions support this option.
Air Rights
If the Code provides allowances for windows in walls on property lines, the Owner of that building faces a new challenge: a scenario where the adjacent property owner decides to construct a taller building, blocking the windows required for residential occupancy. A solution to this is for the property owner who wishes to add windows to obtain the Air Rights above the adjacent building, thereby controlling the possibility of a taller building being constructed.

A Special Note Regarding Peoria’s Form-Based Code
Deeding Air Rights to an adjacent property inherently places limitations on the property deeding those rights. Specifically, if it the desire of a property owner to demolish and construct a new building in place of a one-story building with Air Rights deeded to an adjacent property, the new building will be unable to meet the Form Code requirement for new building to be a minimum two-stories in height.

The decision becomes which is of greater value to the District: the actual renovation of an existing multi-story building vs. the possibility of a tear-down being replaced by a new building. The development of existing, multi-story building appears more likely and of greater importance to the ongoing growth in the District than a demolition and replacement with a new building.

It is suggested that the Warehouse District Form Code be amended to allow a new single-story building when replacing an existing single-story building and to allow a new single-story building when being constructed where no building exists.

SUGGESTED CODE REVISIONS
The following suggested revisions to the Code allow windows in walls of air-rights buildings and to maintain safety within both buildings. Table 705.8 from the 2012 International Building Code is provided in the Appendix for convenience. The formal additions to the Code are suggested to read as follows.

Provision A – Add the follow to Chapter 2 Definitions:

1. Add the Air Rights Lot Line definition in its entirety as follows:
   "AIR RIGHTS LOT LINE. A horizontal plane located at a legally documented elevation above an existing property. A deed restriction placed on the property granting air rights is required to establish this lot line."

2. Add the following to the definition of FIRE SEPARATION DISTANCE:
   "4. Vertically to the Air Rights Lot Line."

Provision B - Add the following to Table 705.8 Maximum Area of Exterior Wall Openings...:

1. Add reference note ‘k’ to the title of the Table to read:
   "TABLE 705.8
   MAXIMUM AREA OF EXTERIOR WALL OPENINGS BASED ON
   FIRE SEPARATION DISTANCE AND DEGREE OF OPENING PROTECTION k"
2. Add reference note ‘k’ to the list below the table to read:

“k. Fire separation distances between openings and Air Right Lot Line shall be measured vertically from the lowest portion of the opening in the exterior wall. Reference note b for fire walls of buildings with differing heights shall not apply above an Air Rights Lot Line.”

3. Add reference note ‘l’ to the Table in the column labelled “FIRE SEPARATION DISTANCE” (feet) in the row labelled “3 to less than 5” to read:

“3 to less than 5

4. Add reference note ‘l’ to the notes listed below the table to read:

“l. Allowable area of 25% in lieu of 15% shall be allowed for sprinklered buildings when openings consist of inoperable windows fire-rated in accordance with the exterior wall fire rating requirements; or when openings consist of inoperable windows protected by a water curtain.”

This concludes the report.

Again, thank you for the opportunity to provide you with this analysis and suggested revisions to help the Peoria Warehouse District grow, safely. If you have questions, as is always the case, please do not hesitate to call me at 309.649.9061.

Sincerely,

FARNSWORTH GROUP, INC.

Paul E. Kouri, AIA
Senior Project Architect
APPENDIX

The following contains a portion of the 2012 International Building Code referenced above for convenience. For a complete review of applicable code information, refer to a full set of the Code.

Table 705.8

<table>
<thead>
<tr>
<th>FIRE SEPARATION DISTANCE (feet)</th>
<th>DEGREE OF OPENING PROTECTION</th>
<th>ALLOWABLE AREA*</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 to less than 3 ft.</td>
<td>Unprotected, Nonsprinklered (UP, NS)</td>
<td>Not Permitted</td>
</tr>
<tr>
<td></td>
<td>Unprotected, Sprinklered (UP, S)</td>
<td>Not Permitted</td>
</tr>
<tr>
<td></td>
<td>Protected (P)</td>
<td>Not Permitted</td>
</tr>
<tr>
<td>3 to less than 5 ft.</td>
<td>Unprotected, Nonsprinklered (UP, NS)</td>
<td>Not Permitted</td>
</tr>
<tr>
<td></td>
<td>Unprotected, Sprinklered (UP, S)</td>
<td>15%</td>
</tr>
<tr>
<td></td>
<td>Protected (P)</td>
<td>15%</td>
</tr>
<tr>
<td>5 to less than 10 ft.</td>
<td>Unprotected, Nonsprinklered (UP, NS)</td>
<td>10%</td>
</tr>
<tr>
<td></td>
<td>Unprotected, Sprinklered (UP, S)</td>
<td>25%</td>
</tr>
<tr>
<td></td>
<td>Protected (P)</td>
<td>25%</td>
</tr>
<tr>
<td>10 to less than 15 ft.</td>
<td>Unprotected, Nonsprinklered (UP, NS)</td>
<td>15%</td>
</tr>
<tr>
<td></td>
<td>Unprotected, Sprinklered (UP, S)</td>
<td>45%</td>
</tr>
<tr>
<td></td>
<td>Protected (P)</td>
<td>45%</td>
</tr>
<tr>
<td>15 to less than 20 ft.</td>
<td>Unprotected, Nonsprinklered (UP, NS)</td>
<td>25%</td>
</tr>
<tr>
<td></td>
<td>Unprotected, Sprinklered (UP, S)</td>
<td>75%</td>
</tr>
<tr>
<td></td>
<td>Protected (P)</td>
<td>75%</td>
</tr>
<tr>
<td>20 to less than 25 ft.</td>
<td>Unprotected, Nonsprinklered (UP, NS)</td>
<td>45%</td>
</tr>
<tr>
<td></td>
<td>Unprotected, Sprinklered (UP, S)</td>
<td>No Limit</td>
</tr>
<tr>
<td></td>
<td>Protected (P)</td>
<td>No Limit</td>
</tr>
<tr>
<td>25 to less than 30 ft.</td>
<td>Unprotected, Nonsprinklered (UP, NS)</td>
<td>70%</td>
</tr>
<tr>
<td></td>
<td>Unprotected, Sprinklered (UP, S)</td>
<td>No Limit</td>
</tr>
<tr>
<td></td>
<td>Protected (P)</td>
<td>No Limit</td>
</tr>
<tr>
<td>30 or greater</td>
<td>Unprotected, Nonsprinklered (UP, NS)</td>
<td>No Limit</td>
</tr>
<tr>
<td></td>
<td>Unprotected, Sprinklered (UP, S)</td>
<td>Not Required</td>
</tr>
<tr>
<td></td>
<td>Protected (P)</td>
<td>Not Required</td>
</tr>
</tbody>
</table>

For SI: 1 foot = 304.8 mm.
UP, NS = Unprotected openings in buildings not equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1.
UP, S = Unprotected openings in buildings equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1.
P = Openings protected with an opening protective assembly in accordance with Section 705.8.2.
a. Values indicated are the percentage of the area of the exterior wall, per story.
b. For the requirements for fire walls of buildings with differing heights, see Section 706.6.1.
c. For openings in a fire wall for buildings on the same lot, see Section 706.8.
d. The maximum percentage of unprotected and protected openings shall be 25 percent for Group R-3 occupancies.
e. Unprotected openings shall not be permitted for openings with a fire separation distance of less than 15 feet for Group H-2 and H-3 occupancies.
f. The area of unprotected and protected openings shall not be limited for Group R-3 occupancies, with a fire separation distance of 5 feet or greater.
g. The area of openings in an open parking structure with a fire separation distance of 10 feet or greater shall not be limited.
h. Includes buildings accessory to Group R-3.
i. Not applicable to Group H-1, H-2 and H-3 occupancies.
j. For special requirements for Group U occupancies, see Section 406.3.2.
## Fire Separation Distance

<table>
<thead>
<tr>
<th>Distance between Building and Property / Air Rights Line</th>
<th>Allowed Windows</th>
</tr>
</thead>
<tbody>
<tr>
<td>Property Line or Air Rights Line</td>
<td>No Windows Allowed</td>
</tr>
<tr>
<td>0’ to &lt; 3’</td>
<td>Allowable Windows Size</td>
</tr>
<tr>
<td>3’ to &lt; 5’</td>
<td></td>
</tr>
<tr>
<td>5’ to &lt; 10’</td>
<td></td>
</tr>
<tr>
<td>10’ to &lt; 15’</td>
<td></td>
</tr>
<tr>
<td>15’ to &lt; 20’</td>
<td></td>
</tr>
<tr>
<td>20’ or more</td>
<td>No Limit to Window Size</td>
</tr>
</tbody>
</table>

## Air Rights

- Air Rights ‘Property’
- Fire Separation Distance