City of Newton, Massachusetts

Department of Planning and Development

1000 Commonwealth Avenue Newton, Massachusetts 02459

Ruthanne Fuller
Mayor

Barney S. Heath
Director

MEMORANDUM

DATE: May 7, 2021

TO: Councilor Deborah Crossley, Chair, Zoning & Planning Committee
Members of the Zoning & Planning Committee

FROM: Barney Heath, Director, Department of Planning and Development
Jennifer Caira, Deputy Director, Department of Planning and Development
Zachery LeMel, Chief of Long Range Planning
Cat Kemmett, Planning Associate

RE: **#150-21 Requesting an amendment to Chapter 30**
DIRECTOR OF PLANNING & DEVELOPMENT requesting an amendment to Chapter 30 to allow for flexibility in building story heights without exceeding maximum building heights in business, mixed use and manufacturing districts and to clarify the maximum FAR in business and manufacturing districts where none is currently specified.

MEETING: May 10, 2021

CC: City Council
Planning Board
John Lojek, Commissioner of Inspectional Services
Neil Cronin, Chief of Current Planning
Alissa O. Giuliani, City Solicitor
Jonathan Yeo, Chief Operating Officer

Overview

The Planning and Development Department proposes amending provisions of the Zoning Ordinance pertaining to building and story heights in Sec. 1.5 (Rules of Measurement) and Article 4 (Business, Mixed use & Manufacturing Districts). This memo provides an overview of the revisions proposed to allow for flexibility in building story heights without exceeding maximum building heights in business, mixed use, and manufacturing districts.

Background

Working closely with the Economic Development Commission (EDC), the Planning Department recommends amending the zoning code to better reflect current trends and needs in manufacturing and Research & Development uses, as well as office space in a more general sense, in order to diversify Newton's economic base and maintain commercial tax revenue. To that end, the City Council passed revisions to the zoning code clarifying R&D uses this February.

Preserving the Past ⭐ Planning for the Future

The Newton Zoning Ordinance provides for maximum building heights in tables that tie building height directly to the number of stories. Generally a floor to floor height of 12 feet is assumed and each additional story corresponds to an additional 12 feet of allowable height. Recently, developers interested in building lab space have commented on how the current limit on story heights in business, mixed use, and manufacturing districts is a barrier to R&D uses, as well as some ground floor retail businesses. R&D uses require a minimum of 14-foot floor to floor heights and some general office uses also require additional height. New commercial buildings may also be looking for higher floor to floor heights to accommodate additional HVAC equipment in response to COVID-19. In collaboration with the EDC, the Planning Department has identified changes in the Zoning Ordinance to dimensional standards in these districts that can help create needed flexibility in the interior of buildings, while retaining the same maximum building height currently allowed.

Current Zoning

The Zoning Ordinance establishes dimensional standards for business (Sec. 4.1), mixed use (Sec. 4.2) and manufacturing (Sec. 4.3) districts, with a maximum overall height for buildings in that district as well as a maximum number of stories. An example of the pairing of those two units of measurement can be seen in the table below, excerpted from Sec. 4.1.3. This linking of building height and number of stories has led to some unintended consequences.

Height (max)	BU1	BU2	BU3	BU4	BU5
2 stories	24'	24'	36'	36'	36'
3 stories	36'	36'	36'	36'	36'
4 stories	--	48'	48'	48'	48'

For example, in BU4 a 3-story building may be up to 36 feet tall by-right, and a 4-story building may be up to 48 feet by Special Permit. But it is not clear in the table that a 3-story building in BU4 could be up to 48 feet tall by Special Permit as well. ISD and Current Planning interpret this to mean the building would need to be 4 stories tall in order to reach the maximum allowed height of 48 feet.

Because of the link established in these tables, in effect the ordinance assumes an average story height of 12 feet and does not allow for variability in story height. Limiting story heights in this way serves as an impediment to uses like R&D, which typically requires floor-to-floor height between 14 and 16 feet for increased airflow. The ability to have flexibility in story heights would also allow mixed use buildings to provide taller ground floors to differentiate retail and commercial use from residential or office spaces on the upper floors.

This pairing together of building height and story height does not exist in residential dimensional standards (Sec. 3.1). Residential uses simply have a maximum height and a maximum number of stories and may not exceed either one.

In reviewing these dimensional standards, staff have also identified several unclear or misleading aspects of the tables that this amendment would clarify. For example, the dimensional tables for business and manufacturing districts are missing the floor area ratio (FAR) in some districts for two- or three-story buildings. In Sec. 4.1.3, the FAR shows as "Not Allowed" for buildings up to 2 stories in BU3, BU4, and BU5, which is misleading. The amendment also proposes cleaning up and clarifying some of the language in the tables regarding the MU3/TOD district and Limited Manufacturing (LM) district. The MU3 district is the only non-residential district where stories and height are not linked. Therefore it is not necessary to make any changes to the MU3 district, only to clarify that Section 4.2.4 contains the height, FAR and other regulations for the MU3 district.

Proposed Zoning

Changes to Definition in 1.5.4
- Amend definition of "Story" to clarify that a building may not exceed either the maximum number of stories or the maximum allowed overall building height

Changes to Sec. 4.1
- Decouple stories and heights in the tables in section 4.1 by reformatting tables. The maximum allowed height and maximum allowed number of stories by-right and by Special Permit will remain the same.
- Revise Sec. 4.1.3 to clarify that the maximum FAR allowed in the first row applies to both 1 and 2 story buildings
- Adding in the missing FAR maximums for 1 and 2 story tall buildings in BU3, BU4, and BU5 that were left out after the 2015 recodification

Changes to Sec. 4.2
- Decouple stories and heights in the tables in section 4.2 by reformatting tables. The maximum allowed height and maximum allowed number of stories by-right and by Special Permit will remain the same.
- Revise the MU3/TOD column in 4.2.2 to clarify that 3 stories are allowed in that district by right, and for guidance on what would be allowed subject to a Special Permit to refer to Sec. 4.2.4.
- Revise 4.2.3 to refer to Sec. 4.2.4 for maximum height by Special Permit and for FAR allowed in buildings 4 stories and above

Changes to Sec. 4.3
- Decouple stories and heights in the tables in sections 4.3 by reformatting tables. The maximum allowed height and maximum allowed number of stories by-right and by Special Permit will remain the same.
- Strike dashes in Sec. 4.3.3 and replace with asterisks and a footnote referring to the Wells Avenue deed restriction and amendments for FAR in LM districts

Summary

The proposed amendments do not change the maximum by-right or Special Permit building heights in any zoning district. The amendments only allow for buildings to be built to that same height, but with less density (fewer stories). This flexibility is critical in allowing for new buildings to be constructed for lab or R&D uses. Changes to the FAR tables are a clean up item leftover from the 2015 recodification.

Next Steps

The Planning Department is requesting the Zoning and Planning Committee set a public hearing on this item for June 14th or later.

Attachment A: Draft ordinance revisions (redline)