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MEMORANDUM

DATE: May 9 2024

TO: R. Lisle Baker, 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
Olivia James, Community Engagement Specialist

RE: **#24-24 Request for discussion and possible ordinance amendments relative to aiding small businesses impacted by development**
COUNCILORS ALBRIGHT AND KELLEY request the Planning Department with the assistance of the Economic Development Commission, research and develop mechanisms including ordinance changes or other means to assist local businesses impacted by development similar to the Somerville work. The goal of this docket item will be to help small commercial/retail/independent and locally-owned businesses remain in Newton as development occurs.

MEETING: May 13, 2024

CC: City Council
Planning Board
Economic Development Commission
Anthony Ciccariello, Commissioner of Inspectional Services
Jonathan Yeo, Chief Operating Officer
Alissa O. Giuliani, City Solicitor

Overview

This year, the City Council Zoning and Planning Committee (ZAP) has discussed and taken up numerous items to incentivize small business, existing and new, throughout Newton. In April, the City Council approved a series of zoning amendments removing red tape for small businesses under docket #133-24, [see memo here](#). In addition, ZAP suggested Planning staff develop additional small business friendly zoning amendments at their March 25 meeting, [see report here](#). The draft

amendments proposed below come out of that ZAP discussion and consultation with City staff (Planning staff, Law, and ISD).

Zoning Amendments

Staff have drafted three specific amendments for the City Council's consideration. The first one is considered a clean-up/clarification item:

1. Delete the "Fast Food Establishment" use and incorporate into "Restaurant" use.

The second two are substantive and specifically address ZAP's charge to further Newton's status as a small business friendly community:

2. Explicitly allow for shared "makerspaces" and/or co-working.
3. Define "Place of Amusement" Use and allow by-right with standards.

Attachment A below provides background information, rationale, and draft language for each of the these items.

Next steps

If supportive, ZAP may wish to set a June public hearing date for the proposed amendments. In addition, Planning staff will work closely with the Economic Development Commission (EDC) to develop a prioritized list of other small business friendly zoning amendments to be brought forward at a later date.

Attachments

Attachment A Draft ordinance revisions – Incentivizing Small Business

1. Delete the “Fast Food Establishment” use and incorporate into “Restaurant” use (Sec. 6.4.15. and Sec. 6.4.31)

Issue:

As defined, many businesses serving food can be categorized as both a fast-food establishment and restaurant. Examples of this include Starbucks, Chipotle, and McDonalds. The difference is that the Zoning Ordinance does not allow fast-food establishments in most commercial districts, where restaurants are either allowed by-right or special permit in all commercial districts. Because of this, a new food business coming in is almost never categorized as a fast-food establishment, even if it meets the existing definition. Planning staff believe the definition fast-food establishment was a reaction in the 1970s to the rise of drive-thru businesses. Given this, the recommendation is to delete the fast-food establishment use and create a special permit requirement within the restaurant use if any drive-thru component is provided.

Proposed Change:

Existing Language	Proposed Language
<p>6.4.15. Fast Food Establishment</p> <p>A. Defined.</p> <p>1. Fast Food Establishment. An establishment whose primary business is the sale of food for consumption on or off the premises which is:</p> <p>a. Primarily intended for immediate consumption rather than for use as an ingredient or component of meals;</p> <p>b. Available upon a short waiting time; and</p> <p>c. Packaged or presented in such a manner that it can be readily eaten outside the premises where it is sold.</p>	<p>6.4.15. Fast Food Establishment</p> <p>A. Defined.</p> <p>1. Fast Food Establishment. An establishment whose primary business is the sale of food for consumption on or off the premises which is:</p> <p>a. Primarily intended for immediate consumption rather than for use as an ingredient or component of meals;</p> <p>b. Available upon a short waiting time; and</p> <p>c. Packaged or presented in such a manner that it can be readily eaten outside the premises where it is sold.</p>
Existing Language	Proposed Language
<p>6.4.31.C. Standards for Special Permit Uses</p>	<p>6.4.31.C. Standards for Special Permit Uses</p> <p><u>8. In all districts, any restaurant with a drive-thru component.</u></p>

2. Explicitly allow for shared “makerspaces” and/or co-working (Sec. 4.4. and Sec. 6.4.27)

Issue:

Currently, shared working space (co-working, communal kitchens, etc.) are not explicitly allowed within the Zoning Ordinance. A strictly co-working space, like the very successful Writer’s Block in Nonantum, can be categorized as an office use and therefore allowed. However, spaces that can support culinary incubators/test kitchens, and creative design/fabrication spaces are not. The recommendation below looks to update and define the current “Business Incubator” use to make this small business promoting change.

Proposed Change:

Existing Language	Proposed Language
<p>6.4.6. Business Incubator</p> <p>A. Defined. [reserved]</p>	<p>6.4.6. Business Incubator</p> <p>A. Defined. [reserved] <u>Uses that provide multi-purpose facilities with dedicated space for multiple creative business enterprises. Business incubators include, but are not limited to:</u></p> <p><u>1. Co-working. A commercial or non-profit organization providing multiple individuals and small firms access to workplace facilities, including but not limited to, artist studios, office suites, for-rent ‘hot-desks’, dedicated workstations, conference rooms, meeting rooms, event space, resource libraries, and business or administrative support services.</u></p> <p><u>2. Culinary Incubator. An organization providing start-up catering, retail, and wholesale food businesses with shared kitchen facilities and often providing business planning, access to finance, mentoring, and other business or administrative support services.</u></p> <p><u>3. Creative Incubator. An organization providing startup and early-stage arts and creative enterprises with shared facilities and often providing business planning, access to finance, mentoring, and other business or administrative support services.</u></p> <p><u>4. Design & Fabrication Center. A facility providing individuals and small firms access to professional tools & equipment; classes & training; lab, workshop, and studio space; and storage for tools and supplies.</u></p> <p><u>B. Standards for Allowed Uses.</u></p> <p><u>1. Business Incubators are not allowed abutting a residential district.</u></p> <p><u>C. Standards for Special Permit Uses.</u></p> <p><u>1. Business incubators abutting a residential district.</u></p>

Docket #24-24

Sec. 5.1.4. Number of Parking Stalls

Use	Parking Stalls Required	Allowed by Special Permit
Commercial		
<u>Business Incubator</u>	<u>1 per 1,000 sf</u>	

Sec.4.4.1. Business, Mixed Use & Manufacturing Districts

Existing Language

Commercial Uses	BU1	BU2	BU3	BU4	BU5	MU1	MU2	MU3	MU4	M	LM	Definition / Listed Standard
Business Incubator	P	P	P	P	--	P	P	P	--	P	P	Sec. 6.4.6

Proposed Language

Commercial Uses	BU1	BU2	BU3	BU4	BU5	MU1	MU2	MU3	MU4	M	LM	Definition / Listed Standard
Business Incubator	P	P	P	P	<u>P--</u>	P	P	P	<u>P--</u>	P	P	Sec. 6.4.6

3. Place of Amusement Define and allow by-right where appropriate (Sec. 4.4., Sec. 6.3.15, and Sec. 6.4.28)

Issue:

Currently, Place of Amusement is not defined and is not permitted by-right in any zoning district. These are uses, particularly indoor ones, that enliven Newton’s village centers and commercial areas. A recent proposal for an indoor golf simulator had to be turned away because it is not allowed in the zone where they were looking to locate. It should be noted that the City Council allowed this use as part of the Village Center Zoning amendments (VC2 and VC3). By further defining this use, the current use “Theater”, which is not defined, can be incorporated.

Proposed Change:

Existing Language	Proposed Language
<p>6.4.28. Place of Amusement, Indoor or Outdoor</p> <p>A. Defined. [reserved]</p>	<p>6.4.28. Place of Amusement, Indoor or Outdoor</p> <p>A. Defined. [reserved] <u>Uses that provide gathering places for participant and spectator recreation, entertainment, or other assembly activities including, but not limited to, cinema, theater, bowling alley, dance hall, and/or venue of a professional or semi-professional sports team.</u></p> <p><u>B. Standards for Allowed Uses.</u></p> <p><u>1. Places of amusement may provide accessory food or beverage service for on-site consumption.</u></p> <p><u>C. Standards for Special Permit Uses.</u></p> <p><u>1. In the Business Use 1-2 and Mixed Use 3-4 districts, indoor places of amusement uses occupying space in excess of 12,500 square feet may seek a special permit.</u></p>

Existing Language	Proposed Language
<p>6.3.15. Theatre, Hall</p> <p>A. Defined. [reserved]</p>	<p>6.3.15. Theatre, Hall</p> <p>A. Defined. [reserved]</p>

Docket #24-24

Sec.4.4.1. Business, Mixed Use & Manufacturing Districts

Existing Language

Commercial Uses	BU1	BU2	BU3	BU4	BU5	MU1	MU2	MU3	MU4	M	LM	Definition / Listed Standard
Place of amusement, indoor or outdoor	--	SP	--	--	--	--	--	SP	SP	--	SP	Sec. 6.4.28

Proposed Language

Commercial Uses	BU 1	BU2	BU3	BU4	BU5	MU 1	MU 2	MU3	MU4	M	LM	Definition / Listed Standard
Place of amusement , indoor	P/S P-	P/SP SP	P/S P-	P/S P-	P/S P-	P/S P-	P/S P-	P/SPS P	P/SPS P	P/S P-	P/SPS P	Sec. 6.4.28
Place of amusement , outdoor	- SP	SP	--SP	--SP	--SP	--SP	--SP	SP	SP	--SP	SP	Sec. 6.4.28

Sec. 5.1.4. Number of Parking Stalls

Use	Parking Stalls Required	Allowed by Special Permit
Commercial		
Theaters, halls, clubs, auditoriums and other places of amusement or assembly in a hotel, motel, <u>Place of amusement</u>	1 per 12 seats plus 1 per 600 sf 1 per every 3 employees plus .25 per 45-sf used for meeting functions	