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Barney S. Heath
Director

MEMORANDUM

DATE: February 11, 2022

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: **#126-22 Requesting an amendment to Chapter 30**
DIRECTOR OF PLANNING requesting technical amendments to the Newton Zoning Ordinance, Chapter 30 to address missing or incorrectly transcribed ordinance provisions, fix inconsistencies, and clarify ambiguous language.

MEETING: February 14, 2022

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 regularly recommends updates Chapter 30, the Zoning Ordinance, in order to correct internal inconsistencies, improve clarity, and fix typos or errors.

This memo provides an overview of the revisions proposed. For each item, staff have provided a brief explanation of the issue followed by the expected impact of proposed changes in an annotated redline, as well as side-by-side comparison of the existing text and suggested revisions. (Attachment A).

Looking Ahead

Staff recommends the ZAP Committee set a public hearing for this item for March 28, 2022.

Attachment A

Draft ordinance revisions

1. Sustainability- FAR and exterior insulation (Sec. 1.5.5.B.2)

Issue

According to Sec. 1.5.5.B.1.b.iii, when exterior insulation is added to a building within a Residential District, the calculation of gross floor area shall be taken from the exterior face of the structural wall. This allows the thickness of exterior insulation to be excluded from the measurement of FAR in residential districts. This update was made in 2019 as part of a package of sustainable development standards that promote and incentivize energy efficient design and renovations.

However, due to the format of Section 1.5.5, this exemption only applies to Residential Districts. All other districts, even if the building is residential, cannot take advantage of this sustainability incentive. Staff believe this to be an oversight through review of the 2019 proposal and in conversations with the Law Department who assisted with the drafting of the zoning amendments.

Newton has committed to adopting and refining measures to curb greenhouse gas emissions as called for in the Newton Climate Action Plan. Exempting exterior insulation from the gross floor area calculation in all zoning districts, for all buildings, incentivizes higher levels of sustainability in new construction, removes barriers to energy efficient renovations to existing buildings that would otherwise be penalized, and creates a more equitable and consistent policy citywide.

Proposed change

Amend Sec. 1.5.5.B.2 by adding new subsection B, which allows the same deduction for exterior insulation that currently exists in Residential Districts to apply to "All Other Districts" as well.

Existing Language	Proposed Edits
<p>2. All Other Districts. The sum of the floor area of all principal and accessory buildings whether or not habitable shall be taken from the exterior face of the exterior walls of each building without deduction for hallways, stairs, closets, thickness of walls, columns or other features, except as excluded below:</p>	<p>2. All Other Districts. The sum of the floor area of all principal and accessory buildings whether or not habitable shall be taken from the exterior face of the exterior walls of each building without deduction for hallways, stairs, closets, thickness of walls, columns or other features, except as excluded below:</p>
<p>A. Gross floor area shall not include any portion of a basement used for storage, parking, or building mechanicals</p>	<p>A. Gross floor area shall not include any portion of a basement used for storage, parking, or building mechanicals; <u>and</u></p>
	<p>B. <u>Exterior insulation added to a building, in which case gross floor area shall be taken from the exterior face of the structural wall.</u></p>

2. Maximum stories by Special Permit in MU2 and MU4 (Sec. 4.2.2.B.3)

Issue

Due to a scrivener’s error, the listed maximum stories by special permit in MU2 and MU4 is incorrect. The ordinance currently has the maximum allowed stories by special permit as 5 in MU2, when it should be 4.

There is also a long-existing error in this section that lists the maximum allowed stories by special permit in MU4 as 8, when it should say 5.

Proposal

Revise the maximum special permit height for MU2 back to 4 stories. Revise the maximum special permit height for MU4 to back to 5 stories.

Stories	MU1	MU2	MU3/TOD	MU4
Stories (max) - by Right	3	2	3	3
Stories (max) –by Special Permit. See also Sec. 4.2.23	4	5 4	11	8 5

3. Maximum height by-right in MU4 (Sec. 4.2.3)

Issue

The by-right maximum height in MU4 is listed incorrectly in Sec. 4.2.3 due to scrivener's error. The ordinance currently says that the by-right height for MU4 is 24’ and the by right stories is 3, when it should be 36’ and 3 stories.

Proposed change

Revise language so the by-right height is 36’ to align with the 3 stories allowed by-right.

	MU1	MU2	MU3	MU4

Building and structure height				
Height (max)				
Height – by Right	36'	24'	36'	24' <u>36'</u>
Height – by Special Permit	48'	48'	170'	60'

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