

1. ARTICLE 38

PROPOSED MOTION

AMEND ZONING MAP AND BYLAW 95 HAYDEN AVENUE AND 128 SPRING STREET (99 HAYDEN AVENUE), LEXINGTON, MA

That the Zoning Map and Bylaw of the Town be amended to eliminate the CD-14 District and its zoning regulations, and replace it with PD-6 and the Preliminary Site Development and Use Plan for the Planned Development District PD-6, consisting of Lot 22 on Town Assessors Map 17 and Lot 2B on Town Assessors Map 18, located, respectively, at 95 and 99 Hayden Avenue, Lexington, MA, as described below.

PLANNED DEVELOPMENT DISTRICT PD-6

1. **Authority to Establish a Planned Development District.** This Preliminary Site Development and Use Plan (“PSDUP”) to establish Planned Development District PD-6 (the “PD-6 District”) is prepared under the provisions of §7.3 (Planned Development Districts) of Chapter 135 of the Code of the Town of Lexington (the “Town”) as amended (the “Zoning Bylaw”). The Planning Board has published regulations further detailing the process to establish a Planned Development District which are contained in §8.0 (Planned Development Districts) of Chapter 176 of the Code of the Town (the “Planning Board Zoning Regulations”).
2. **Description of the PD-6 District.** The PD-6 District consists of Lot 22 on Town Assessors Map 17 and Lot 2B on Town Assessors Map 18, located, respectively, at 95 and 99 Hayden Avenue, Lexington, MA, which together include approximately 36 acres of land. In 2009, the Preliminary Site Development and Use Plan for the Planned Commercial District at 95/99 Hayden Avenue and 124/128 Spring Street, Lexington, Massachusetts (the 2009 PSDUP) was authorized for this site.
3. **Zoning Bylaw Applicability.** This PSDUP shall regulate development in the PD-6 District. The adoption of this PSDUP for PD-6 shall eliminate the 2009 PSDUP pursuant to §7.3.3 of the Zoning Bylaw. The standards of this PSDUP may differ from those set forth for other districts under the Zoning Bylaw. Terms used and not otherwise defined herein have the meanings as may be ascribed to them in the Zoning Bylaw. In the event of inconsistency or conflict between the text and Regulatory Plans of this PSDUP and any provisions of the Zoning Bylaw applicable to this Planned Development District, the text and Regulatory Plans of this PSDUP control. Other than the standards, uses and requirements of the PSDUP for this PD-6 District, where this PSDUP is silent with respect to any provision of the Zoning Bylaw, the Zoning Bylaw, as amended from time to time, shall apply to the PD-6 District, unless any such amendment is in conflict with this PSDUP.
4. **PSDUP to be Effective Upon Transfer.** This PSDUP establishes the zoning for the PD-6 District, and any successors and assigns in interest in the land within the PD-6 District are bound to the terms and conditions of this PSDUP.
5. **Plans and Documents.**
 - 5.1. Regulatory Material. In the event of conflict or inconsistency between the text of this PSDUP and the plans and documents incorporated by reference within it, the text of this PSDUP controls. Per §7.3.2.4 of the Zoning Bylaw, the vote of the Town Meeting shall refer to the PSDUP, which shall be considered part of the rezoning action. The following plan set titled “95

and 99 Hayden Avenue, Planned Development District PD-6, Preliminary Site Development and Use Plan (PSDUP), Regulatory Plan Set” and dated December 15, 2021, as revised on March 10, 2022 (the “Regulatory Plans”), is incorporated herein as Appendix A and made part of this PSDUP:

Regulatory Plans	By
1. Title Sheet	Environmental Partners, dated December 15, 2021, as revised on March 10, 2022
2. Property Rights and Dimensional Standards Plan	Environmental Partners, dated December 15, 2021, as revised on March 10, 2022
3. Site Construction Plan	Environmental Partners, dated December 15, 2021, as revised on March 10, 2022
4. Building Elevations	Margulies Perruzzi, dated December 15, 2021, as revised on March 10, 2022
5. Parking and Transportation Demand Management Plan	MDM Transportation Consultants, dated December 15, 2021 (as may be revised during site plan review)

5.2. Non-Regulatory Material. Per §8.6 (Nonregulatory Information) of the Planning Board Zoning Regulations, all parts of the PSDUP application submitted and not included in Section 5.1 above, if any, are considered explanations, background information, and justification for the rezoning. The complete PSDUP application is on file with the Town Planning Office.

6. Permitted Uses.

6.1. Principal Uses. All of the following uses or any combination thereof are permitted in the PD-6 District, subject to and consistent with the dimensional, zoning and other standards provided in this PSDUP:

- a. Institutional Uses
 - (i) Child care center
 - (ii) Use of land or structures for religious purposes
 - (iii) Use of land or structures for educational purposes on land owned or leased by the Commonwealth or its agencies, subdivisions or bodies politic or by a religious sect or denomination or by a non-profit educational corporation
 - (iv) Municipal buildings or uses
 - (v) Park, playground

- b. Agricultural and Natural Resource Uses
 - (i) Exempt agricultural uses and structures as set forth in M.G.L. c. 40A §3

- c. Commercial Office Uses
 - (i) Medical, dental, psychiatric office, but not a clinic
 - (ii) Medical, dental, psychiatric office, but not a clinic, with related laboratory
 - (iii) Business or professional office

- d. Personal, Business or General Service Uses
 - (i) Beauty parlor, barber shop
 - (ii) Laundry or dry cleaning pickup station with processing done elsewhere; self-service laundromat or dry cleaning
 - (iii) Tailor, dressmaker, shoe repair
 - (iv) Real estate sales or rental
 - (v) Banking services
 - (vi) Travel agency, insurance agency, ticket agency
 - (vii) Photographic services including commercial photography
 - (viii) Repair of household appliances, small tools or equipment, rental of equipment or tools for use in a home
 - (ix) Photocopying, reproduction services but not commercial printing
 - (x) Medical clinic for outpatient services
 - (xi) School not exempt by statute
 - (xii) Instruction in music or the arts
 - (xiii) Commercial printing, publishing
 - (xiv) Pet grooming service provided that it shall be conducted entirely within the principal building and no pets shall be boarded overnight
 - (xv) Private postal service
 - (xvi) Museum, art gallery, private library
 - (xvii) Nonprofit community service center or charitable organization
 - (xviii) Private, nonprofit club or lodge of social, fraternal, veterans, professional or political association; union hall; not including a recreational club

- e. Sales or Rental of Goods and Equipment
 - (i) Convenience business use
 - (ii) Convenience goods often bought on a daily basis such as food, candy, newspapers, tobacco products
 - (iii) Other retail goods such as books, stationery, drugs, sporting goods, jewelry, photographic equipment and supplies, flowers, novelties, cards, footwear, and the like which are typically of a size that customer can carry by hand

- f. Eating and Drinking; Transient Accommodations
 - (i) Restaurant
 - (ii) Fast-food service
 - (iii) Takeout food service
 - (iv) Caterer or other establishment preparing meals for groups of people

- g. Commercial Recreation
 - (i) Indoor athletic and exercise facilities, weight reduction salon
 - (ii) Recreational facilities such as golf course, tennis or swimming club
 - (iii) Private nonprofit recreational facility such as golf course, tennis or swimming club

- h. Manufacturing, Research and Development, Life Science, and Technology Uses
 - (i) Light manufacturing
 - (ii) Research and development (R&D)
 - (iii) Biotech manufacturing

- (iv) Brewery, winery, distillery, cidery
- i. Utilities, Communications and Transportation Uses
 - (i) Parking, surface or garage
 - (ii) Radio, television studio, but without transmitting or receiving towers
 - (iii) Wireless communication facility, as permitted pursuant to §6.4 (Wireless Communication Facilities) of the Zoning Bylaw.
 - (iv) Essential services
 - (v) Solar Energy System, Building-mounted
 - (vi) Solar Energy System, Canopy
 - (vii) Solar Energy System, Large-scale
 - (viii) Solar Energy System, Small-scale
- j. Temporary Uses
 - (i) Temporary building or trailer incidental to the construction of buildings or land development
 - (ii) Temporary structures and uses not otherwise permitted in the district, provided the Building Commissioner finds that the proposed structure or use is compatible with the neighborhood

The general Operating Standards and Development Standards set forth in §E and §F of Table 1 of §3.4 (Permitted Uses) of the Zoning Bylaw shall not apply.

6.2. Accessory Uses. The limit and size of accessory uses set forth in §3.2.2 of the Zoning Bylaw do not apply. All accessory uses or structures customary and incidental to the principal uses or structures included in Section 6.1 above (which principal uses are also permitted as accessory uses), §3.2.1 of the Zoning Bylaw, and the accessory uses in Section 6.2 hereunder are permitted as accessory uses:

- (i) Parking of trucks or other equipment to be used for the maintenance of the buildings and grounds only; shall be parked only in a garage or in an outdoor area not within the minimum yard for the principal building and shall be screened from the view of abutting lots and the street
- (ii) Cafeterias, cafes, dining rooms, outdoor food trucks, conference rooms, function rooms, auditoriums, public meeting rooms, community space and recreational facilities
- (iii) Processing, storage and limited manufacturing of goods and materials related solely to research, experimental and testing activities

7. **Dimensional Standards.** §7.3.2.1 of the Zoning Bylaw provides that a Planned Development District does not have predetermined standards for development, and Table 2 of §4.1.1 (Schedule of Dimensional Controls) of the Zoning Bylaw does not contain standards that apply to a Planned Development District. The following are the only dimensional controls that apply to the PD-6 District, and §4 (Dimensional Controls) of the Zoning Bylaw do not apply. With the exception of Minimum Lot Area, the following requirements apply to the aggregate of all lots within the PD-6 district. No minimum lot frontage or setbacks are required along internal lot lines in the PD-6 district.

	Required
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Minimum Lot Area	0 feet
Minimum Lot Frontage	20 feet
Minimum Front Yard Setback	75 feet
Minimum Side Yard Setback	75 feet
Minimum Rear Yard Setback	75 feet
Maximum Nonresidential Floor Area Ratio	0.55
Maximum Site Coverage	30%
Maximum Building Height	80 feet
Maximum Height of Rooftop Structures (in excess of Maximum Building Height)	50 feet

Notes:

7.1. The Planning Board may grant a special permit to exceed the maximum height in feet or the percentage of horizontal coverage of Rooftop Structures erected on a building or structure allowed by this Section 7 Dimensional Standards provided it makes a determination that the structure is compatible with the scale of the neighborhood and does not negatively impact the solar access of any adjoining lot.

7.2. The height of a building in the PD-6 District shall be determined as follows:

The vertical distance between the lower elevation and the upper elevation, where the lower elevation is the mean average finished grade of the building as determined by measuring from the four extreme corners of the building, or in the case of a nonrectangular building, from reasonable equivalent locations around the perimeter of the building, and the upper elevation is the highest point of any ridge, gable, or other roof surface, excluding all Rooftop Structures and Solar Energy Systems.

7.3 Rooftop Structures shall mean any structures erected on a building, such as but not limited to air and exhaust equipment, chimneys, heating-ventilating or air-conditioning equipment, stair towers, elevator housings, parapet walls for buildings and garages, antennas, skylights, cupolas, spires, mechanical and acoustical screening and the like ("Rooftop Structures"), which may exceed the maximum height of a building in feet to the limits set forth in the table above, provided that the total horizontal coverage of such Rooftop Structures (excluding solar energy systems) on the building or parking garage structure does not exceed seventy (70) percent of the total roof area.

7.4 Where used, the calculation of Net Floor Area in the PD-6 District is determined by using 80% of the Gross Floor Area exclusive of the Gross Floor Area of areas used for parking and loading (which includes garages and other structured parking) and areas used for penthouses and utility rooms.

8. **SPGA.** The Special Permit Granting Authority ("SPGA") as designated in the Zoning Bylaw or where referred to herein is the Planning Board.

9. Other Zoning Provisions.

9.1. Landscaping, Transition and Screening. The Landscape Plan, submitted as part of the Regulatory Plans depicts the detailed landscaping for the PD-6 District. The standards of §5.3 of the Zoning Bylaw, Landscaping, Transition and Screening, do not apply except for the following:

- a. The objectives of § 5.3.1 apply.
- b. The requirements of §5.3.3 pertaining to the landscaping plan apply.
- c. The provisions of §5.3.11 Maintenance; §5.3.13, Screening of Other Uses within the Lots; and §5.3.14, Special Permit apply.

9.2. Traffic Standards. This PSDUP relies on findings in the Traffic Impact and Access Study for the PD-6 District and will be subject to the traffic demand management policies therein and as may be amended in the course of site plan review. The provisions of §5.5 (Traffic Standards) of the Zoning Bylaw do not apply to the PD-6 District.

9.3. Off-Street Parking and Loading. For the PD-6 District, the standards of §5.1 (Off-street Parking and Loading) of the Zoning Bylaw do not apply except for the following:

- a. The objectives of §5.1.1 (Purpose) of the Zoning Bylaw apply.
- b. The provisions of §5.1.3 (Parking Plan), §5.1.7 (Preferential Rideshare Parking), §5.1.8 (Bicycle Parking Facilities), §5.1.10 (Driveways), and §5.1.14 (Special Permit) of the Zoning Bylaw shall apply with respect to modifying the PSDUP provisions herein regarding off-street parking and loading.
- c. Parking design standards (including dimensional requirements, snow storage areas, and requirements for electrical vehicle charging facilities) only as may be adopted by the Planning Board in the course of site plan review.
- d. Calculation of required off-street parking spaces in the PD-6 District must be provided in compliance with the following requirements, which shall supersede any other applicable requirements of the Zoning Bylaw:

TYPE OF PRINCIPAL USE	PARKING FACTOR
Note: parking will not be required for accessory uses.	<i>(minimum number of parking spaces to be provided)</i>
OFFICE USES	
All permitted Office uses (except as otherwise classified)	1 per 333 s.f.
Medical office, out-patient clinic	1 per 200 s.f.
MANUFACTURING/RESEARCH USES	
Manufacturing, research laboratory	1 per 500 s.f.
Construction, storage, distribution and industrial service users	1 per 1,000 s.f.
All other permitted uses	As needed

f. Calculation of the required loading bays in the PD-6 District must be provided in compliance with §5.1.5 and §5.1.6 of the Zoning Bylaw.

9.4. Additional Parking Provisions.

- a. Maximum Parking. There shall be a maximum of 1,750 parking spaces in the PD-6 District.
- b. No required setbacks apply to side and rear lot lines in the PD-6 District for the paved parts of parking spaces, driveways or maneuvering aisles (which may extend up to the side and rear lot lines), except for where a landscaped screening area is required pursuant to Section 9.1.
- c. Parking for all uses (both existing and proposed) within this PD-6 District which may be required for one lot may be located on a separate lot in separate ownership (or combined in a common lot), notwithstanding any regulations or provisions to the contrary as contained in the Zoning Bylaw, so long as where such lot is not in the same ownership, a lease or easement guaranteeing long-term use of such spaces is executed and filed in the Middlesex South Registry of Deeds.
- d. Driveways on one lot may lead to and serve a parking space or loading bay on another lot, or straddle the lot line and serve a parking space or loading bay on two or more lots, notwithstanding any regulations or provisions to the contrary stated in the Zoning Bylaw, so long as where such lot is not in the same ownership, a binding agreement between the applicable property owners satisfactory in form to the Town Counsel, is executed and filed in the Middlesex South Registry of Deeds.

9.5. Signs. The PD-6 District is subject to the Regulatory Plans submitted herewith. The standards of §5.2 (Signs) of the Zoning Bylaw do not apply except for the following:

- a. The objectives of §5.2.1 (Purpose) of the Zoning Bylaw apply.
- b. The provisions of §5.2.3 (Exemptions) of the Zoning Bylaw apply.
- c. The provisions of §5.2.4 (General Regulations) of the Zoning Bylaw apply.
- d. The provisions of §5.2.5 (Prohibited Signs) apply.
- e. The provisions of §5.2.8 (Commercial Districts) of the Zoning Bylaw do not apply. Instead, a maximum of: a) one principal wall sign (that conforms to the requirements of §5.2.8.1 (f-g) of the Zoning Bylaw) per building, not including parking structures, that is no more than twelve feet in width and eight feet in height, b) one secondary wall sign that also conforms to the above requirements but not to exceed six feet in width and four feet in height, c) one standing sign per driveway curb cut as reflected in the PSDUP that is no more than (i) six feet in height and seventy five square feet in area, and d) internal directional and wayfinding signage shall be permitted by right. In addition, one directory sign conforming to §5.2.8.1(e) of the Zoning Bylaw shall be permitted per building entrance. All new or relocated wall, standing or projecting signs in the PD-6 District that conform with these requirements shall be subject to minor site plan review administered by the Zoning Administrator, as the Planning Board's designee pursuant to §9.5.4 of the Zoning Bylaw.
- f. The provisions of § 5.2.10, Special Permit, apply.
- g. Notwithstanding any applicable provision of §5.2 (Signs) of the Zoning Bylaw to the contrary, murals painted or posted directly on the exterior surface of any wall are permitted within the PD-6 District.

Any wall sign, free standing sign or other legally permitted sign presently existing on within the PD-6 District as of the submission date of the PSDUP is allowed as-of-right and may be retained and relocated within the PD-6 District, so long as it is not enlarged unless permitted by the Zoning Bylaw.

- 9.6. Illumination. The provisions of §5.4 (Outdoor Lighting) of the Zoning Bylaw apply, with all lots within this PD-6 District treated as a single lot for compliance purposes.

APPENDIX A
TO PSDUP FOR THE PD-6 DISTRICT
REGULATORY PLANS

[Under separate cover]

APPENDIX B
TO PSDUP FOR THE PD-6 DISTRICT
PARKING AND TRAFFIC DEMAND MANAGEMENT PLAN

[See attached]