



ORDINANCE

ESTABLISHING THE VETERANS MEMORIAL PARKWAY REDEVELOPMENT OVERLAY DISTRICT

CITY OF NASHUA

In the Year Two Thousand and Twenty-Three

The City of Nashua ordains that Chapter 190 “Land Use”, Part 2 “Zoning Districts and Supplemental Use Regulations”, Article IV “Overlay Districts”, of the Nashua Revised Ordinances, as amended, be hereby further amended to add the following new section 190-26.2 “The Veterans Memorial Parkway Redevelopment (VMPR) Overlay District”:

“§ 190-26.2. The Veterans Memorial Parkway Redevelopment (VMPR) Overlay District.

Purpose: The purpose of the Veterans Memorial Parkway Redevelopment (VMPR) Overlay District is to allow the City of Nashua to make significant progress towards meeting two of the most important goals of the Imagine Nashua Master Plan: promoting sustainable redevelopment in targeted areas and creating a greater mix of housing types [see Imagine Nashua October 12, 2021]. More specifically, establishment of the VMPR Overlay District is necessary to facilitate the remediation of environmentally challenged property adjacent to the Nashua River, and to allow one of the largest remaining undeveloped parcels in the City to be redeveloped as rental and for-sale housing. The land comprising the VMPR Overlay District will accommodate important housing alternatives for a wide array of Nashua residents, a goal noted in the City’s 2021 Housing Study. The establishment of the VMPR Overlay District and resulting redevelopment will also improve access to the Nashua River. The plans for the Veterans Memorial Parkway (f/k/a the Broad Street Parkway) (the “Parkway”) contemplated that the Parkway would provide access to this land to enable its redevelopment, and avoid material negative impact to the adjacent, existing neighborhood. Establishment of the VMPR Overlay District facilitates the remediation and redevelopment of this area. Given the completion of the Parkway, various conditions of Ordinance O-84-76 (adopted before construction of the Parkway) are no longer necessary or applicable to land in the VMPR Overlay District, and are being repealed.

- A. **Applicability.** The provisions of this section apply to any use or development located within the Veterans Memorial Parkway Redevelopment (VMPR) Overlay District whose boundaries are established on the official Zoning Map of the City by the Board of Aldermen.

B. Authority.

The City's authority to establish the VMPR Overlay District is derived from the innovative land use controls permitted under RSA 674:21, the Charter of the City of Nashua and the Master Plan of the City of Nashua [*Imagine Nashua October 12, 2021*].

C. Permitted Uses. The following uses are permitted in the VMPR Overlay District.

- (1) All uses permitted in the underlying zoning district (e.g. the C Urban Residence District (R-C District)).
- (2) A maximum total of 20,000 square feet of gross floor area in the entire VMPR Overlay District may be used for service businesses and professions which are ancillary to multi-family communities including healthcare services, retail uses, and day care facilities.
- (3) Active and passive recreational uses.
- (4) Accessory uses. Accessory uses, as permitted in the Land Use Code under section 190-15; provided that such uses need not be located on the same lot as the principal use and that any accessory use must be incidental and subordinate to a principal use within the District.

D. Procedures before Board of Aldermen. Prior to submitting applications to the Planning Board for final approval of subdivision plans, site plans, variances, and conditional use permits, an applicant (to develop land in the VMPR Overlay District) shall submit to the Board of Aldermen for approval a Master Concept Plan and a Master Development Agreement. The intent of the Master Concept Plan is to provide a schematic layout and design, to form the basis or concepts for the plans to be submitted to the Planning Board for final design and approval.

- (1) The Master Concept Plan shall include the following elements:
 - (a) Proposed subdivision (lot layout), if any
 - (b) General depiction of the location, size and height of all buildings, all open space, Green Space areas, and conceptual design of these spaces indicating their intended use.
 - (c) Conceptual architectural elevations.
 - (d) Planned improvements to the river front adjacent to the property and land to be donated to the City and preserved as open space, if any.
 - (e) Proposed buffering to adjacent residential neighborhoods.
 - (f) The anticipated, not to exceed total number of residential units.
 - (g) Anticipated locations and counts of required and proposed covered and open parking spaces.
 - (h) The proposed general layout of stormwater infrastructure.
 - (i) Existing topography and preliminary depiction of proposed topography.

- (j) The proposed layout of transportation infrastructure including, but not limited, to pedestrian infrastructure and vehicle infrastructure.
 - (k) The types and typical or preliminary locations and general character of public amenities.
 - (l) The extent and general design of all off-site improvements.
 - (m) Zoning requirements and dimensional data in a tabular format (required and proposed).
- (2) Prior to the Planning Board or the Zoning Board of Adjustment, as the case may be, granting conditional or final approval of subdivision plans, site plans, conditional use permits, variances or special exceptions the Master Concept Plan and the Master Development Agreement shall have been approved by the Board of Aldermen. The Master Development Agreement shall be recorded at the Registry of Deeds and shall include the following provisions, among others:
- (a) Off-site improvement arrangements and schedule.
 - (b) Project phasing.
 - (c) Rental inclusionary housing unit construction obligations and in lieu affordable payment schedule for owner-occupied development, as applicable.
 - (d) Repayment plan(s) for loan(s), if any, from the City.
 - (e) Project bonding requirements, as and if applicable.

E. Processes to Amend the Master Concept Plan and Master Development Agreement.

- (1) The Master Concept Plan may be amended in accordance with the procedures set forth in this section.
- (2) Material changes to the items set forth in subparagraphs (a) through (m) of Section D(1) shall be considered Major Modifications and shall require the approval of the Board of Aldermen. Any increase in the total number of units, any reduction in the number of inclusionary (affordable) housing units to be built on site shall *de facto* be considered Major Modifications.
- (3) Minor Modifications to the Master Concept Plan may be approved either by the Planning Board or by the Administrative Officer as set forth in the following sections.
- (4) (a) The following Minor Modifications to the Master Concept Plan require Planning Board approval:
 - (i) Changes to the items set forth in subparagraphs (a) through (m) of Section D(1) that are not Major Modifications but are of a nature customarily approved by the Planning Board as determined by the Administrative Officer.
 - (ii) Modifications to the proposed building(s) that decrease the number of floors of a building.

- (iii) Increases in the number of units in a building; provided, that such increases do not increase the total number of units set forth in the Master Concept Plan.
 - (iv) Changes in proposed lot areas of more than ten percent (10%).
 - (v) Modifications to the horizontal improvements of more than ten percent (10%), including surface parking spaces and drive aisles.
- (b) All changes and modifications not listed in Sections E(2), E(3) or E(4)(a), including, without limitation, the following, may be approved by the Administrative Officer, or his or her designee:
- (i) Modifications to the exterior design and/or materials used in construction of the buildings.
 - (ii) Minor modifications to the layout and location of buildings and horizontal improvements, including covered parking areas and Green Space, within parcels that do not require modifications to subdivision plans and which modifications do not decrease the amount of Green Space for the project below the 50% requirement set forth in Section F(4).
 - (iii) Modifications that do not increase the height of buildings; provided, that changes for ancillary purposes such as mechanical enclosures, elevator shafts, roof decks and associated structures and parapet walls are not either Major Modifications or Minor Modifications.
 - (iv) Adjustments to the configuration of surface parking spaces, the number of parking spaces and drive aisles; provided the number of surface parking spaces do not change by more than ten percent (10%) for the project as a whole.
 - (v) Decreases in the number of units in a building.
 - (vi) Modifications to utility layouts.
- (5) The Administrative Officer, or his or her designee, shall determine whether a particular modification is a Major Modification (under Section E(2)), a Minor Modification for which approval by the Planning Board is required (under Section E(4)(a)) or a Minor Modification which may be approved by the Administrative Officer (under Section E(4)(b)).
- (6) The Master Development Agreement may be amended only by the affirmative vote of the Board of Aldermen.

F. Dimensional Requirements. The following provisions shall govern dimensional requirements for lots and the development thereof in the VMPR Overlay District.

- (1) Subject to Section (2) below, the dimensional requirements set forth in Table 16-3 for the R-C Zoning District, as the same may be amended and replaced from time to time, will apply.
- (2) In approving subdivision plans, site plans and conditional use permits, the Planning Board may modify dimensional regulations (except for density regulations) of the underlying zoning district (as they apply to land in the VMPR Overlay District) including, without limitation, reducing frontage, lot depth, and setback

requirements, and increasing maximum floor area ratio. Such modifications or relief, as part of an application, may be approved by the Planning Board in its discretion upon the Planning Board’s determination that such modifications do not materially conflict with the Master Concept Plan or the Master Development Agreement.

- (3) Notwithstanding the parking space and aisle dimensional requirements in Section 190-193 of the Land Use Code, as amended or superseded, parking spaces in the VMPR Overlay District may be no more than 18 feet in length and drive aisles in the VMPR Overlay District may be up to 24 feet in width.
- (4) A minimum of 50% of the total land area in the VMPR Overlay District shall remain as Green Space. Green Space is defined as all active recreation, passive recreation, open space, and buffer areas that are characterized predominately by pervious or vegetated surfaces, unless otherwise exempted herein. Vegetated buffer areas may include those areas fully vegetated that are adjacent to the Nashua River, abutting residential neighborhoods, and other similarly characterized areas. Green space shall exclude appurtenant areas including, but not limited to grass strips and landscaping islands.
- (5) A minimum vegetated buffer of no less than 50 feet in width shall be maintained at all times from the outer boundaries of the VMPR Overlay District to adjacent, existing developed residential property, except for areas providing access, emergency access and/or utility services. The Planning Board shall determine vegetation and planting requirements for such vegetated buffer.

At a minimum, the vegetated buffer shall adhere to the following standards:

- 1 tree per 400 square feet of buffer area
- 40% of trees shall be deciduous
- 40% of trees shall be evergreen
- Spacing between trees shall not exceed 40 linear feet
- 1 shrub per 40 square feet of buffer area
- 20% of shrubs shall be deciduous
- 40% of shrubs shall be evergreen
- All plantings shall be native species and any invasive species as listed by the State of New Hampshire shall be prohibited
- All plantings must have a hardiness suitable for the Nashua region as defined by the USDA Plant Hardiness Zone Map.

Planting Minimums	Deciduous Trees	Evergreen Trees	Shrubs
Height at Planting	12 feet	6 feet	2 feet
Caliper at Planting	2.5 inches	n/a	n/a
Height at Maturity	30 feet	30 feet	4 feet

Preservation of Vegetation: Priority will be given to the preservation of large, healthy trees and shrubs whenever possible. No storage of materials or vehicles shall be located, or disturbances to the soil shall occur, within the dripline of trees to be preserved. In instances where trees over 30 feet in height are able to be

preserved as part of the buffer, the minimum spacing of new trees from preserved trees may be extended to 50 linear feet.

G. Special Conditions. The following conditions shall also apply to land in the VMPR Overlay District.

- (1) In connection with its approval of a Master Development Agreement, the Board of Aldermen may modify particular terms, conditions and/or requirements set forth in Section 190-48 of the Land Use Code and (ii) establish other terms and conditions governing the number of affordable units, types of affordable units and arrangements for payments in lieu; provided, that the Master Development Agreement shall not increase the Bonus Density Ratio otherwise provided in Section 190-48.
- (2) Any lot located in the VMPR Overlay District may contain more than one principal structure.
- (3) Project density (under Table 15-1 of the Land Use Code) will be based on gross acreage of land involved in the project, with reference to the R-C District density provision (12.5 units per acre). The underlying density calculation will be based on the acreage of the full project site without reduction for any subsequent conveyances of such land (e.g. to City).
- (4) If any land is developed in the VMPR Overlay District, it shall provide access (by public and/or private roads) from the Veterans Memorial Parkway to the boundary between the VMPR Overlay District and Map 62, Lot 100, for ingress, by vehicles and by foot, to Map 62, Lot 100, which access may include ingress and egress through Map 62, Lot 100 from Map 62, Lot 101, Map 127, Lot 102, Map 127, Lot 131, Map 127, Lot 41, Map 127, Lot 42, Map 127, Lot 43 and Map 127, Lot 44. If any land is developed in the VMPR Overlay District, the applicant shall provide a pedestrian right-of-way to the Nashua River, at a location determined by the Planning Board in connection with its approval of any subdivision or site plan.
- (5) Conditions 2, 3, 4, 5, 6, 8, 9 and 10 of Ordinance O-84-76 are hereby repealed. Conditions 1 and 7 of Ordinance O-84-76 remain in effect.
- (6) In the event of any conflict between the provisions of this Section 192-26.2 and other provisions of the Land Use Code, the provisions of this Section 192-26.2 shall control.

This legislation shall take effect upon passage.

LEGISLATIVE YEAR 2023

ORDINANCE: O-23-044

PURPOSE: Establishing the Veterans Memorial Parkway Redevelopment Overlay District

ENDORSERS: Mayor Jim Donchess
Alderman Tom Lopez

**COMMITTEE
ASSIGNMENT:**

FISCAL NOTE: None.

ANALYSIS

This ordinance establishes an overlay district. For informational purposes, a plan showing the overlay district is attached.

State statute (RSA 675:2) and NRO Section 190-132 require a public hearing and referral to the city planning board. The public hearing is conducted by the aldermanic planning and economic development committee with notice published in a newspaper of general circulation and posted in two public places at least ten calendar days prior to the date of the hearing. (Notice period does not include the day notice is posted or the day of the public hearing. RSA 675:7, I). See RSA 675:7, I-a for notice requirements to individual owners for changes that affect 100 or fewer properties.

A super majority vote (two-thirds (2/3)) of all members present of the board of aldermen would be required if a protest petition is filed pursuant to RSA 675:5. The Planning Board and Board of Aldermen shall consider whether the proposed zoning amendment is consistent with the Master Plan.

Approved as to form: Office of Corporation Counsel

By: /s/Celia K. Leonard

Date: February 9, 2023