

§ 150.36 TRANSITIONAL RESIDENTIAL OVERLAY DISTRICT.**(A) Intent and purpose.**

(1) It is the intent of the Transitional Residential Overlay District (hereinafter referred to as the "TRO District") to designate an area of the city for increased density of residential development, to provide more housing options while maintaining the value and quality of Madeira's housing stock.

(2) The existing Residence B single family zoning within the district shall remain intact but the designated areas shall be eligible for increased density of residential development provided the criteria, conditions and requirements set forth in this section are met as determined by and as established by the city Planning Commission, following approval of an application for a Transitional Residential Overlay Development Plan within the TRO District.

(3) A TRO District Development Plan must be submitted to the Planning Commission, and must be initiated or authorized in writing by the property owner(s); the Planning Commission may approve, approve with modifications, or deny the detailed specific TRO Plan submitted with the application.

(4) The creation of the TRO District on the south side of Euclid Avenue between Miami Avenue and Laurel Avenue, recognizes the following unique factors which are compatible with alternative, higher density single family housing development:

(a) Commercial uses on Laurel Avenue, abutting the TRO District to the south;

(b) The high level of traffic in the intersection of Miami and Euclid, occupied by an office, the municipal building, a fire station, and a library;

(c) A power station, and additional business uses to the east; and

(d) The high level of traffic on the two lane primary street (Euclid Avenue) to the north.

(B) Applicability. This TRO District is established as an overlay district superimposed on specific areas, including the existing Residence "B" district, designated on Exhibit "A" attached to Ordinance No.08-05, passed on February 25, 2008 and is not intended to be applicable to other areas unless the zoning code is amended in accordance with the procedures set forth in the Charter of Madeira.

(C) Permitted Uses.

(1) Permitted uses in the TRO District shall be those uses permitted in the

underlying Residence "B" District, which allows single family detached residences.

(2) In addition, permitted uses in the TRO District shall include "attached townhouse" style residences, with a minimum of 1,000 square feet of floor area. For the purposes of this section, "floor area" shall only include first floor and above living areas. Floor areas of garages, cellars and basements shall not be included in the calculation of total floor area.

(a) An attached townhouse style residence is defined as a residential structure in which each dwelling unit has its own entrance and exit, and each unit occupies the ground level on at least one floor.

(b) No structure is permitted to consist of more than four attached townhouses, except for buildings referenced under (G)(9) herein.

(D) Conditional Uses. Conditional uses in the TRO District shall be the same as those for other residential districts pursuant to § 150.102, Conditional Uses in Residential Districts, and "Home Offices", pursuant to the Madeira Zoning Code § 150.101.

(E) Accessory Structures Not Allowed. Except for fences identified and approved as part of the Development Plan, detached accessory structures, including detached parking structures shall not be allowed on the subject property anywhere within the TRO District, unless the property is used in accordance with Residence B zoning.

(F) TRO Development Plan Submission Requirements. The TRO Development Plan shall be prepared, and stamped if appropriate, by licensed professional persons qualified in the planning of land development, traffic engineering, and building and landscape design. No plan shall be approved by Planning Commission unless all of the criteria set forth below are met. A TRO Development Plan may only be adopted upon determination that all the information set forth below has been provided in the application (which shall include the proposed site plan) and is in compliance (as determined by the Planning Commission) with the criteria set forth below.

(1) Site Plan Requirements:

(a) Full size plat of development, drawn to a scale of 1"=50', north arrow, and identification of site in relation to adjacent main roads;

(b) Existing and proposed property lines, and dimensions and acreage of the proposed development, certified by a registered engineer or surveyor;

(c) Existing and proposed topography at two foot contour intervals prepared and stamped by a licensed surveyor;

(d) Footprints of existing structures on lots to be developed and all adjacent lots, with notations for proposed demolition of any structures;

(e) Footprints of all proposed structures;

(f) All proposed setbacks, indicating dimension and distance from property lines to proposed structures, including decks, porches, and patios;

(g) Location and dimension of all parking facilities, park or playground areas, vehicular and pedestrian ways, other common areas, and all other impermeable public or private paved surfaces;

(h) Location and dimension of all entrances into and exits from the development;

(i) Location, construction materials, illumination and dimension of all proposed signage and lighting;

(j) Location of dumpsters, with required sufficient screening, and location of mailboxes;

(k) Location of all utilities, and location and directional flow of existing and proposed water lines, storm and sanitary sewers, and areas for on-site water retention and detention (see list below -approval contingent upon approval of the Metropolitan Sewer District);

(l) Elevations of proposed structures, including notation for proposed building height;

(m) Location of all existing vegetation, noting whether it will remain or not, and proposed landscaping and screening, including trees, flower beds, shrubs, mounding, grass, and open space, as well as location of all irrigation devices for the landscaping;

(n) Elevations of all proposed vegetation, and a table listing the common and botanical names of all proposed plants to be planted or retained on the site;

(o) Traffic circulation and access including adequacy of adjacent streets, entrances and exits, traffic flow, sight distance, curb cuts, turning lanes, and existing or recommended traffic signalization, and emergency vehicle access; and

(p) Public sidewalks which shall be maintained and/or extended wherever proposed development is adjacent to Euclid Avenue.

(2) Additional Submission Requirements:

(a) A traffic management plan, provided by a licensed engineer, that includes but is not limited to a traffic count along Euclid Avenue, prior to development, and a projection of the traffic impact after development, illustrating line of sight issues, alignment with driveways or streets on the north side of Euclid Avenue, identification of sight-distance issues related to access to the proposed development, and distance to adjacent driveways on the south side of Euclid Avenue;

(b) A notarized statement explaining in detail the use to which the property shall be put and the anticipated effect which the proposed development shall have upon adjacent property;

(c) A letter from MSD indicating the availability of sewer service;

(d) A legal description of the lots;

(e) A description of all exterior building materials and colors;

(f) A plant list (an accepted plant list from the city may be used) indicating the common name and botanical name of plants shown on the development site plan;

(g) A schedule for construction, and cost estimates for the completion of the development including all public and private improvements, and landscaping;

(h) Plans, if any, to dedicate any streets or other property to the city;

(i) A performance bond or other acceptable security and other legal data to ensure completion of streets, buffer and amenities in accordance with the accepted plans; and

(j) The ratio of pervious to impervious surface areas.

(G) TRO Development Plan Criteria. Planning Commission may not approve any TRO Development unless it has been reviewed by the Architectural Review Officer (ARO), and meets all of the criteria set forth below:

(1) Density of the TRO development shall be limited to no more than ten (10) dwelling units per acre, calculated on the entire (gross acreage of the) development site;

(2) The plan shall depict a ten-foot minimum side and rear yard landscaped setback from property lines which abut a commercial use or commercial zone;

(3) The plan shall depict a 15-foot minimum side and rear yard landscaped setback from property lines where the subject property abuts a residential use or zoning district;

(4) The plan shall depict a 20-foot minimum front yard landscaped setback from the right-of-way [Euclid Avenue];

(5) The plan shall depict a minimum of ten (10) feet between structures;

(6) Structures fronting on Euclid Avenue shall be no more than 35 feet in height, measured from the existing pre-development grade on Euclid Avenue to the peak of the roof, at the front of each dwelling unit; structures not adjacent to Euclid Avenue shall be no more than 35 feet in maximum height, measured from the grade established after the installation of the street and utilities;

(7) Each dwelling unit shall have a minimum of two enclosed parking spaces, and, in addition, a minimum of two unenclosed parking spaces per unit available on site. Garage doors shall not face directly onto Euclid Avenue;

(8) The architect/artist rendering of buildings and the landscaping must provide evidence to the Planning Commission that such buildings and landscaping shall be designed and built in such a manner as to be compatible with the look and feel of single-family dwelling units, and Planning Commission will take into consideration the orientation and finishes of all buildings relative to the surrounding properties; flat roofs are not deemed compatible with the look and feel of single family dwelling units; therefore pitched roofs shall be required on all buildings constructed in the TRO District;

(9) The massing of buildings adjacent to the frontage of Euclid Avenue shall be controlled such that no more than three units shall be constructed as one single building, and all buildings adjacent to Euclid Avenue shall have their architectural front facing toward Euclid Avenue;

(10) Architectural features shall incorporate such characteristics and materials as are normally associated with single family residential homes, and must be approved by the ARO as being in character with the surrounding residential areas; neither exterior insulation finishing system ("EIFS"), nor aluminum, nor vinyl siding materials shall be permitted;

(11) Landscaping shall be installed which creates a physical and visual buffer from adjoining properties, and for this purpose, a combination of live plantings shall be planted within the front, side and rear yard setbacks, and common areas, shall be planted according to acceptable nursery industry standards; and shall comply with the following criteria:

(a) All landscaping materials shall consist of only live plantings, and shall be installed and maintained according to accepted nursery industry procedures;

(b) Landscaping planted within the side and rear setbacks of the TRO

development site shall create a dense vegetative screen, which shall be equally effective in winter and summer;

(c) Shrubs planted in the side and rear setback areas of the TRO development site shall be a minimum height of 3 ½ feet when planted, and shall achieve a height of six feet, no later than 24 months after the initial installation;

(d) When the required screening is located along the area extending from the building to the street, the height shall be consistent with sight distance from the street for safety purposes;

(e) Each shrub shall be planted sufficiently close to the next shrub, according to nursery industry standards, to provide an effective, dense screen;

(f) Deciduous trees shall be a minimum caliper of three inches at the time of planting (if deciduous trees are used for screening purposes, additional materials must be used to create a dense buffer);

(g) Evergreen trees shall be a minimum of eight feet in height at the time of planting; and

(h) Violation of these provisions shall be grounds for the city to refuse to issue a certificate of occupancy;

(12) Air conditioning units and dumpsters must be shielded from view by suitable fencing and or landscaping as determined reasonable by the ARO;

(13) Exterior lighting shall be minimal and limited to that necessary for safety, and shielding; height and overflow of lighting shall be analyzed and only approved if it minimizes impact onto adjacent property, and as determined reasonable by the ARO; and

(14) Storm water drainage must be based upon a minimum of 25 year storm frequency, utilizing on site absorption and/or temporary detention.

(15) The plan shall depict a public sidewalk which shall be maintained and/or installed parallel to Euclid Avenue wherever the applicant's property is adjacent to Euclid Avenue;

(16) Dwelling units within the subject property need not be located on separate lots or separate units divided by lot lines; and dwelling units, including garages, may share common walls. Subject property that is within a Transitional Residential Overlay District may be developed as a condominium provided the development adheres to the applicable requirements of the Ohio Revised Code and the requirements of this Section 150.36. If the developer intends to subdivide the property, it may request approval for subdivision either as part of the Final

Development Plan approval process or subsequent to Planning Commission's approval of the Final Development Plan. However, the subdivision of the property shall only be authorized as incidental and accessory to the requirements for buildings, infrastructure, easements and other physical features that conform to the requirements and criteria set forth elsewhere in these Transitional Residential Overlay District Regulations. Therefore, no subdivision of property intended for development pursuant to the regulations of Section 150.36 shall be permitted prior to approval of a Final Development Plan that meets the requirements of this Transitional Residential Overlay District. The purpose of this requirement is to prohibit the establishment of any new lot that does not meet the dimensional and other requirements of the underlying zoning district (including but not limited to minimum area, depth and width), unless the lot is part of a Final Development Plan approved in accordance with this Section 150.36.

Thus, approval of any lots that are intended to be part of a Transitional Residential Overlay District is specifically conditioned upon the lot being developed in accordance with Final Development Plans approved in accordance with the Transitional Residential Overlay District Regulations. There shall be no zoning certificate, building permit nor any certificate of occupancy issued for any lot that has been created as part of a Transitional Residential Overlay District unless the improvements are substantially consistent with the Final Development Plan. Furthermore, all plats depicting a subdivision of land, in whole or in part, of a Final Development Plan shall contain thereon an appropriate executed Declaration limiting development of lots to only buildings and improvements depicted on an approved Final Development Plan.

This amendment to Section 150.36 specifically finds that the lots depicted on Exhibit A (attached hereto and incorporated as part of the amendment to this Section 150.36) do, in fact, comply with the requirements of this Section 150.36 and may, therefore, be approved for recording as long as the lots submitted substantially comply with those depicted on Exhibit A.

Any and all lots proposed to be created as part of a Final Development Plan in a Transitional Residential Overlay shall comply with the following criteria:

(a) The creation of the lots shall not alter any of the building layouts or other improvements, including but not limited to roadways, sidewalks, easements and fences depicted on the applicable Final Development Plan approved for the Transitional Residential Overlay District by the Planning Commission.

(b) The establishment of any and all lots shall not alter or lessen the responsibility of the Homeowners' Association to maintain or construct the infrastructure and other improvements and grounds that exist within the common areas of the Transitional Residential Overlay District.

(c) No property line proposed or approved on a Final Development Plan shall intersect with dwelling units except to track a common wall.

(17) It is recognized that the unique lots created within the Transitional Residential Overlay District, in furtherance of the Final Development Plan, do not meet numerous requirements for lots that may be created in other residential districts. The lots do not meet minimum requirements of other lots within the City in residential districts. For example, these lots within the Transitional Residential District do not meet frontage requirements, minimum area requirement, minimum setback requirement, shape requirements and other requirements not specifically named herein which are required in other residential districts. The approval of lots within the Transitional Overlay District shall not be construed as permitting or authorizing any other lots to be approved by variance or by other application for subdivision of other property not located within this Transitional Residential Overlay District.

(18) While this amendment authorizes the subdivision of property within the area of a Final Development Plan formed within a Transitional Residential Overlay District, it is recognized and assumed that the developer may apply for record plat approval of lots in phases as small as two lots at a time. The City Manager shall issue any necessary documentation to allow these lots to be recorded at the Hamilton County Auditor and Recorders' Offices, provided the record plat submitted for review is substantially consistent with the lots depicted on Exhibit A or on any other lots approved in conjunction with any other Final Development Plan approved within this Transitional Residential Overlay District.

(19) Paragraph (G) of this Section 150.36 establishes certain setback and landscaping criteria that must be satisfied by a Final Development Plan. The establishment of additional interior lot lines (such as depicted on Exhibit A) do not alter the minimum setbacks and landscaping requirements set forth in Paragraph (G). The requirements of Paragraph (G) should not be construed to be applied to any interior lots proposed or created.

(H) Application and Review. The applicant submitting a TRO Development Plan shall, in the application, address all the criteria set forth above. The applicant may identify certain portions of any criteria if it intends to supplement the information at a later time. The application shall contain an acknowledgement by the applicant that Planning Commission shall not be bound nor shall it be permitted to make a final decision until such time as the information necessary to satisfy the requirements of each criteria is presented in sufficient detail. The application shall also provide an acknowledgement by the applicant that if Planning Commission modifies or composes conditions for the approval of an application, no final approval shall be granted until documents or other evidence indicating compliance with the modifications or conditions has been incorporated into the application, submitted and reviewed by Planning Commission, before final approval by Planning Commission is determined.

(1) Application procedure.

(a) Any person or company intending to apply for approval of a TRO District Development Plan shall first schedule a pre-application conference with the City Manager or his designee. At this conference, the prospective applicant must present in writing to the City Manager a preliminary proposal for a TRO District Development Plan.

(b) The purpose of the pre-application conference will be to, generally, evaluate the impact on adjacent areas and neighborhoods and identify the benefits achieved, such as better use of property, stabilizing future changes and providing a transition area. This information should also identify the adjoining property owners and any existing non-conforming uses.

(c) Upon completion of the pre-application conference an application may be filed with the office of the City Manager. The application shall be in compliance with the requirements of this chapter and in such form as approved by the City Manager. If the application does not conform to the requirements of this chapter, the applicant shall be notified by the City Manager and no further consideration of the application shall occur until it is in compliance with the terms of this chapter.

(2) Public hearing and decision.

(a) Upon receipt of an application in the format prescribed by this chapter; the City Manager shall forward the application to the Planning Commission for consideration. The Planning Commission shall review said TRO District development plan and shall hold a public hearing on such application. Notice of such hearing shall be sent to all property owners within 200 feet of the proposed TRO District development not less than ten days prior to the scheduled hearing.

(b) Subsequent to the public hearing, the Planning Commission shall either approve the TRO District Development Plan as submitted, approve a modified plan with conditions, or deny approval of the plan. Five members of Planning Commission must vote in the affirmative to approve any such application either as submitted or modified. Approval of this plan shall be considered approval of a preliminary TRO District development plan. Approval of the preliminary development plan shall not constitute any authority to proceed with construction or development. Such approval shall only authorize the applicant to submit a proposed final development plan.

(c) A proposed final TRO District development plan shall be submitted within six months of the date of the Planning Commission meeting at which the preliminary plan was approved. Planning Commission may extend this period for a period upon a showing of good cause by the applicant. The final plan must be substantially consistent with the preliminary plan in all respects. If the Planning Commission finds that a proposed final plan of a development area is in substantial

accordance with and represents a detailed version of the preliminary plan, as previously approved, that the final plan complies with all of the conditions and adjustments which may have been imposed in the approval of the preliminary plan, that it is in accordance with the criteria and provisions and purpose of this chapter and this code, that all agreements, contracts, deed restrictions, dedications, declarations of ownership and other required documents are in acceptable form and have been executed, that all fee payments have been made, then the Planning Commission shall approve such final plan and certify its approval to the City Manager and City Council. Certification of the approval shall be for informational purposes only.

(d) Following the approval of a final plan, the City Manager shall issue such permits as are necessary and under his jurisdiction, upon payment of the required fees, and conditioned upon the receipt and approval by the City Law Director of the home owner association by-laws and the declarations of covenants and restrictions which shall require the continued property maintenance of all landscaping material and shall keep them in a proper neat and orderly appearance free from refuse and debris at all times and all unhealthy or dead plant material shall be replaced within a one year or by the next planting period, and shall provide for the maintenance of all landscaping, screening, mounding, buffering, structures, drives and parking areas, and buildings; and that failure to do so shall be a violation of this zoning code enforceable in all ways in law or in equity as any other violation of the Madeira zoning code.

(3) Major Amendments of the Plan. A major amendment of an existing plan shall require a review and approval of the Planning Commission in the same manner and with the same requirements imposed by this chapter for approval of an original TRO District development plan. A major amendment shall include:

(a) Any increase in the impervious area coverage in excess of 5% of the amount approved in the original plan;

(b) The enlargement of any building from the size originally approved, or the consolidation of use of adjoining TRO District development plans;

(c) A change in the arrangement or massing of buildings or any changes in the use of building spaces designated on the original development plan;

(d) An increase in the number of residential units;

(e) A change in the vehicular circulation or the placement or arrangement of parking spaces;

(f) Any significant reduction in the effectiveness of open spaces, landscape buffers and edges;

(g) Any significant change in the design elevations, roof pitch, materials or massing of the buildings.

(4) Minor amendments of the plan. A TRO District development plan must be approved by the City Manager and the ARO. In any event, all applications for minor amendments shall be in writing and all actions of the City Manager and ARO shall be documented. Either official may refer the request for approval of a minor amendment to the Planning Commission if the official determines that the request should be considered a major amendment. Minor amendments shall include:

(a) Internal changes to buildings and structures;

(b) Changes to the front of a building;

(c) Changes to signs which are not being enlarged and are consistent with what was previously approved by the Planning Commission;

(d) Amendments to the drainage pattern; and

(e) Replacement of existing lighting provided it remains effectively shielded.

(Ord. 08-05, passed 2-25-08)

§ 150.99 PENALTIES.

(A) In addition to the remedies provided in § 150.27, whoever fails to conform to any of the provisions of this Zoning Code, or fails to obey any lawful order of the city manager issued pursuant to such provisions, shall be guilty of a misdemeanor and shall be fined not to exceed \$150 for each offense, and each day's continuance of the violation shall be considered a separate offense.

(B) Any person or entity which undertakes to do a specific piece of work or service in construction, alteration, or addition using their own means or methods, without submitting themselves to the control of another in respect to all details of the work or service; who fails to conform to any provision of this Zoning Code; or who fails to obey any lawful order of the City Manager issued pursuant to such provisions, shall be guilty of a misdemeanor and shall be fined not more than \$150 for each offense. Each day's continuation of the violation shall be considered a separate offense. If the violator is a person or entity regularly engaged in construction, alteration, or addition, then they shall be fined not more than \$150 for each offense and each day's continuation of the violation shall be considered a separate offense.

(Ord. 1084, passed 1-17-72; amend. Ord. 88-46, passed 11-7-88; Am. Ord. 04-22, passed 9-13-04)