



August 18, 2016

## TECHNICAL STAFF REPORT

*Planning Board Meeting of September 1, 2016*

**Case No:** ZRA-168

**Petitioner:** Demirel Plaza, LLC

**Request:** Amend Section 117.3.C of the Zoning Regulations to add nine uses permitted as a matter of right in the OT (Office Transition) District.

### I. BACKGROUND

The OT District was added to the Zoning Regulations in the 2004 Comprehensive Zoning Plan. To date, only one petition for rezoning to OT has been applied for, which was granted on February 6, 2013.

ZRA 157 (October, 2015) amended the OT District Purpose and Uses Permitted by Right sections by adding personal service uses.

The Purpose of the OT District is to serve as a transition along the edges of residential areas impacted by nearby retail/employment areas or arterial highways. The OT District is a floating zone that allows low-impact office and personal service uses adjacent to areas of residential zoning. Development is to comprise small-scale office building and personal service establishments on attractively-designed sites that are compatible with neighboring residential uses.

### II. DESCRIPTION AND EVALUATION OF PROPOSAL

This section contains DPZ's technical evaluation of ZRA-168. The Petitioner's proposed amendment text is attached to this Technical Staff Report as Exhibit A, Petitioner's Proposed Text.

#### SECTION 117.3: OT (Office Transition) District

##### Section 117.3.C. – Add nine new uses to be permitted as a matter of right

Staff recommends approval with revisions

The OT District permits the following seven uses as a matter of right:

- Animal hospitals, completely enclosed.
- Commercial communication antennas attached to structures, subject to the requirements of Section 128.0.E.4.
- One dwelling unit per business establishment within the same structure, provided the dwelling unit does not exceed 50% of the floor area of the structure.

- Government structures, facilities and uses, including public schools and colleges.
- Offices, professional and business.
- Personal service establishments, provided the floor area of such uses does not exceed 50% of the floor area of all non-residential uses on the approved OT site development plan.
- Underground pipelines; electric transmission and distribution lines; telephone, telegraph and CATV lines; mobile transformer units; telephone equipment boxes; and other similar public utility uses not requiring a Conditional Use.

The Petitioner proposes to add the following nine uses to be permitted as a matter of right:

- Antique shops, art galleries, and craft shops
- Bakeries
- Bicycle repair shops
- Blueprinting, printing, duplicating or engraving services limited to 2,000 square feet or net floor area.
- Child day care centers and nursery schools
- Clothing and apparel stores with goods for sale or rent
- Electronics repair
- Furniture, appliance and business machine repair, furniture upholstery, and similar services
- Pet grooming establishments and daycare, completely enclosed

DPZ concurs with the Petitioner that the addition of low intensity commercial uses is consistent with the policy objectives behind the creation of the OT District and provides options for developments in that zone. The zone was designed to serve as a transitional area between residential and proximate retail/employment areas. Low impact commercial uses are appropriate and compatible for transitioning between residential areas and more intense commercial areas. The addition of limited commercial uses will provide additional development opportunities, thus enhancing viable application of the District.

Additionally, rezoning transitional property to OT for limited commercial purpose, in lieu of more intense commercial districts such as B-1 or B-2, results in more compatible commercial developments and small business opportunities adjacent to residential areas.

DPZ supports the addition of the uses proposed by the Petitioner with the exception of three proposed uses; Child Day Care Centers, Nursery Schools, and Pet Day Care. The outdoor components of these uses could conflict with adjacent residential properties and create noise impacts. DPZ recommends that these uses be conditionally permitted subject to the same criteria applied in residential zones. This would allow for potential impacts such as noise, traffic and circulation to be thoughtfully addressed.

### **III. GENERAL PLAN**

The Petitioner asserts that ZRA-168 is in harmony with **Policy 5.9** of the PlanHoward 2030 General Plan.

#### **Policy 5.9**

“Continue to enhance the vitality of the Route 40 Corridor”

#### **Implementing Action a. Enhance Route 40.**

“Encourage commercial renovation, and where appropriate, mixed-use redevelopment by promoting collaboration between owners and neighbors to create attractive focal points that serve the community.”

DPZ concurs with the petitioner’s assertion that adding low impact commercial uses to the OT District will expand opportunity for the redevelopment/renovation of transitional areas and promote more compatible developments with adjacent residential areas. The additional commercial uses will enhance the OT District’s potential for mixed-use development, since it will expand options for marketable businesses.

Furthermore, DPZ believes that ZRA-168 is in harmony with **Policy 10.1** of the PlanHoward 2030 General Plan.

#### **Policy 10.1**

“Protect and enhance established communities through compatible infill, sustainability improvements, and strategic public infrastructure investments.”

#### **Implementing Action d. Flexible Infill.**

“Consider zoning modifications that would provide more flexibility in order to allow limited, compatible infill that enhances an existing community.”

The OT District enhances the potential for compatible redevelopment of transitional areas under commercial pressure. The low impact uses of OT District will provide a more compatible option for redevelopment compared to districts such as B-1, SC, or POR that allow intense commercial uses that can have more significant impacts on adjacent residential properties.

### **IV. AGENCY COMMENTS**

The Department of Recreation and Parks, and the Bureau of Environmental Health had no comments on ZRA-168.

### **V. DPZ RECOMMENDED REVISIONS**

DPZ’s recommended revisions are attached to this Technical Staff Report as Exhibit B, DPZ’s Proposed Text.

**Section 117.3.A, Purpose**

DPZ recommends adding language to incorporate the low-intensity commercial use category into the purpose statement in order to align it with the proposed uses.

**Section 117.3.B.1, Requirements for OT District**

This section requires property to have frontage on and direct access to arterial roads in order to be eligible for the OT District. This requirement is inconsistent with other commercial and transitional districts. For example, the other commercial floating zones, B-R, B-R-X, and CEF are allowed on collector and arterial roads. Additionally, non-floating commercial zones, such as B-1 and B-2, are permitted on collector and arterials roads. This requirement is very limiting and may have contributed to the scarce application of the OT district. Therefore, DPZ recommends adding major collector roads to Subsection B.1 to maintain consistency with other commercial/transitional districts and expand the application of OT to transitional areas.

Additionally, DPZ proposes to strike the restriction on establishing the OT District adjacent to or across from another OT District. This criterion unnecessarily limits the application of the OT District and hinders the viability of creating a transitional area. If the OT floating zone can be established adjacent to more intense districts such as M-1 and B-2, it would be rational to apply it adjacent to another OT District which is much less intense.

**Section 117.3.C, Uses Permitted as a Matter of Right**

The seven proposed uses are low-intensity commercial uses consistent with the District’s purpose to provide transitional development between residential and commercial development. However, DPZ recommends that Child Day Care Centers and Nursery Schools, and Pet Day Care be subject to evaluation as Conditional Uses due noise impacts associated with the outdoor functions of these uses and potential circulation impacts.

DPZ recommends using terminology consistent with the Zoning Regulations to describe permitted residential space, electronic equipment repair, and to expand the proposed bicycle repair category to include sales.

Finally, DPZ proposes to replace the residential area restriction to be consistent with the current language for similar zones, adopted in the 2013 Comprehensive Zoning Plan (see footnote #1).

**VI. RECOMMENDATION**

**APPROVAL WITH REVISIONS.**

For the reasons noted above, the Department of Planning and Zoning recommends APPROVAL WITH REVISIONS of ZRA-168 in Exhibit B, DPZ’s Proposed Text.

Approved by:

 8-17-16  
Valdis Lazdins, Director Date

**NOTE: The file on this case is available for review at the Public Service Counter in the Department of Planning and Zoning.**

**EXHIBIT A - PETITIONER'S PROPOSED TEXT**

(CAPITALS indicate text to be added; [[brackets indicate text to be deleted]])

**SECTION 117.3: OT (Office Transition) District**

**C. Uses Permitted as a Matter of Right**

1. Animal hospitals, completely enclosed.
2. ANTIQUE SHOPS, ART GALLERIES, CRAFT SHOPS.
3. BAKERIES.
4. BICYCLE REPAIR SHOPS.
5. BLUEPRINTING, PRINTING, DUPLICATING OR ENGRAVING SERVICES LIMITED TO 2,000 SQUARE FEET OF NET FLOOR AREA.
6. CHILD DAY CARE CENTERS AND NURSERY SCHOOLS.
7. CLOTHING AND APPAREL STORES WITH GOODS FOR SALE OR RENT.
8. [[2.]] Commercial communication antennas attached to structures, subject to the requirements of Section 128.0.E.4.
9. [[3.]] One dwelling unit per business establishment within the same structure, provided the dwelling unit does not exceed 50% of the floor area of the structure.
10. ELECTRONICS REPAIR.
11. FURNITURE, APPLIANCE AND BUSINESS MACHINE REPAIR, FURNITURE UPHOLSTERING, AND SIMILAR SERVICES.
12. [[4.]] Government structures, facilities and uses, including public schools and colleges.
13. [[5.]] Offices, professional and business.
14. PET GROOMING ESTABLISHMENTS AND DAYCARE, COMPLTELY ENCLOSED.
15. [[6.]] Personal service establishments, provided the floor area of such uses does not exceed 50% of the floor area of all non-residential uses on the approved OT site development plan.
16. [[7.]] Underground pipelines; electric transmission and distribution lines; telephone, telegraph and CATV lines; mobile transformer units; telephone equipment boxes; and other similar public utility uses not requiring a Conditional Use.

**EXHIBIT B - DPZ'S PROPOSED TEXT**

(CAPITALS indicate text to be added; [[brackets indicate text to be deleted]].)

**SECTION 117.3: OT (Office Transition) District**

**A. Purpose**

The OT District is established to allow low-impact office, [[and]] personal service uses AND LOW-INTENSITY COMMERCIAL USES adjacent to areas of residential zoning. The OT District is a floating district that will provide a transition along the edges of residential areas impacted by nearby retail/employment areas or arterial highways carrying high volumes of traffic. The standards of this district should result in small-scale office buildings, [[and]] personal service establishments AND LOW-INTENSITY COMMERCIAL USES on attractively-designed sites that are compatible with neighboring residential uses.

**B. Requirements for OT District**

The OT District may be established at a particular location if the following requirements are met:

1. The site has frontage on and direct access to an arterial OR MAJOR COLLECTOR road.
2. The site abuts or is directly across a public street from
  - a. A nonresidential zoning district that is zoned for commercial or employment uses [[, but not another OT District]], or
  - b. A government building or use, including public schools, that adjoins a non-residential district.
3. Reference standards for approvals in Subsection G of this Section.

**C. Uses Permitted as a Matter of Right**

1. Animal hospitals, completely enclosed.
2. ANTIQUE SHOPS, ART GALLERIES, CRAFT SHOPS.
3. BAKERIES.
4. BICYCLE SALES AND REPAIR.
5. BLUEPRINTING, PRINTING, DUPLICATING OR ENGRAVING SERVICES LIMITED TO 2,000 SQUARE FEET OF NET FLOOR AREA.
6. CLOTHING AND APPAREL STORES WITH GOODS FOR SALE OR RENT.

7. [[2.]] Commercial communication antennas attached to structures, subject to the requirements of Section 128.0.E.4.
- [[3. One dwelling unit per business establishment within the same structure, provided the dwelling unit does not exceed 50% of the floor area of the structure.]]
8. FURNITURE, APPLIANCE AND BUSINESS MACHINE REPAIR, FURNITURE UPHOLSTERING, AND SIMILAR SERVICES.
9. [[4.]] Government structures, facilities and uses, including public schools and colleges.
10. ONE SQUARE FOOT OF RESIDENTIAL SPACE IS PERMITTED FOR EACH SQUARE FOOT OF COMMERCIAL SPACE AND MUST BE LOCATED WITHIN THE SAME STRUCTURE<sup>1</sup>.
11. [[5.]] Offices, professional and business.
12. PET GROOMING ESTABLISHMENTS, COMPLETELY ENCLOSED.
13. [[6.]] Personal service establishments, provided the floor area of such uses does not exceed 50% of the floor area of all non-residential uses on the approved OT site development plan.
14. REPAIR OF ELECTRONIC EQUIPMENT, RADIOS, TELEVISIONS, COMPUTERS, CLOCKS, WATCHES, JEWELRY, AND SIMILAR ITEMS<sup>1</sup>.
15. [[7.]] Underground pipelines; electric transmission and distribution lines; telephone, telegraph and CATV lines; mobile transformer units; telephone equipment boxes; and other similar public utility uses not requiring a Conditional Use.

**L. CONDITIONAL USES**

CONDITIONAL USES IN THE OT DISTRICT ARE SUBJECT TO THE DETAILED REQUIREMENTS FOR CONDITIONAL USES GIVEN IN SECTION 131.0. FOR THE LIST OF PERMITTED CONDITIONAL USES, REFER TO THE CHART IN SECTION 131.0.

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<sup>1</sup> DPZ's proposed text is the current language for these adopted uses in the 2013 Comprehensive Zoning Plan.

**SECTION 131.0.N – Conditional Uses**

**13. Child Day Care Centers and Nursery Schools, Day Treatment and Care Facilities**

A Conditional Use may be granted in the RC and RR Districts, on properties that are not ALPP purchased or dedicated easement properties, and in the R-ED, R-20, R-12, R-SC, R-SA-8, R-H-ED, R-A-15, R-APT, R-VH, HO, [[or]] HC, **OR OT** Districts for day treatment and care facilities, child day care centers and nursery schools, provided that:

- a. On-site circulation and parking areas shall be designed to minimize vehicular/pedestrian conflicts and to provide safe areas for dropping off and picking up passengers.
- b. The minimum lot size in the RC and RR Districts shall be three acres and the minimum lot size in the R-ED, R-20, R-12, R-SC, R-SA-8, R-A-15, R-APT, R-VH, HO, or HC Districts shall be one acre, except that uses approved prior to October 6, 2013 shall not be subject to this criteria.
- c. Outdoor play areas or activity areas shall be fenced, located to the side or rear of the principal structure, and buffered from adjoining residential properties by landscaping or adequate distance or both.
- d. Parking areas shall be located and landscaped to minimize their visibility from roads and adjacent residential properties.
- e. The design and massing of proposed structures or additions to existing structures shall be generally compatible in scale and character with residential properties in the vicinity of the site, as demonstrated by architectural elevations or renderings submitted with the petition. Additional setbacks from property lines and landscape buffering shall be required if necessary to make the appearance of the site compatible with surrounding residential properties.
- f. For facilities with a capacity of more than 30 children or adult clients at one time, the following standards apply:
  - (1) The site has frontage on and direct access to a collector or arterial road designated in the General Plan, except that expansions of a Conditional Use that was approved prior to July 12, 2001 are permitted.
  - (2) Buildings, parking areas and outdoor activity areas will be at least 50 feet from adjoining residentially-zoned properties other than public road right-of-ways.
  - (3) At least 20% of the area within the building envelope shall be green space, not used for buildings, parking area or driveways. The building envelope is formed by the required structure setbacks from property lines and public street rights-of-way.



### 39. Pet Day Care Facilities

A Conditional Use may be granted in the RC, RR, [[or]] R-20, **OR OT** Districts for pet day care facilities, provided that:

- a. IN THE RC, RR, OR R-20 DISTRICTS, the minimum lot size shall be one acre.
- b. All day care business functions must be completely enclosed within a building. Noise must not be perceptible at lot lines.
- c. The Hearing Authority may set hours of operation and limitations on the number and type of pets cared for.
- d. The facility shall not be located on a shared driveway.
- e. Parking areas shall be located and landscaped to minimize visibility from roads and adjacent residential properties.
- f. There shall be no overnight boarding of pets.
- g. Outdoor areas for walking or exercising pets may be permitted provided that pets shall not be left unattended in such an area. The Hearing Authority may set a limit on the number of pets permitted simultaneously in the outdoor area. The perimeter of this outdoor area shall be fenced and landscaped to ensure that animals are confined to the property and to minimize the visibility of the enclosure. All fencing shall comply with all requirements for fences as noted elsewhere in Section 128.0. The petitioner must clearly delineate the outdoor area on the Conditional Use plan.
- h. Disposal of wastes must be such that odors or other emissions are not perceptible at lot lines.
- i. On an ALPP purchased or dedicated easement property, the following additional criteria are required:
  - (1) The use shall not interfere with farming operations or limit future farming production.
  - (2) Any new building or building addition associated with the use, including any outdoor storage and parking area shall count towards the cumulative use cap of 2% of the easement.

**Note: Also update Conditional Use chart in Section 131.0.N.**