GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

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Office of the Director

MEMORANDUM

TO: D.C. Zoning Commission

FROM: Andrew Altman
Director

ZONING COMMISSION
District of Columbia
Case 02-34
Exhibit 1

DATE: September 9, 2002

SUBJECT: **Setdown and Pre-hearing Report for Text Amendments to permit Optical Transmission Nodes as a matter of right within all C, C-M and M Zone Districts, and to permit Optical Transmission Nodes as a special exception use subject to BZA approval within the CR, SP, and W Zone Districts.**

This report serves as a pre-hearing statement as specified in Section 3113.

RECOMMENDATION

The Office of Planning recommends the adoption of the proposed text amendments in order to provide for Optical Transmission Nodes (OTN's) as a special exception use in the special purpose zone, and a matter of right use within the commercial and industrial zones.

BACKGROUND

This text amendment language is proposed to provide for Optical Transmission Nodes as a separate and distinct use from broadcast antennas, for which a separate text amendment is proposed. As the Zoning Regulations do not specifically define or address OTN's as a separate use, the Zoning Administrator's office has been reviewing the OTN's subject to the antenna regulations.

An OTN is a shelter that acts as a distribution and collection hub for forwarding signals that originate from a cable service processing site (headquarters), and forwarding reverse signals from cable subscribers' terminals, allowing for interactive video and high speed internet access. Forwarding of signals is done along fiber optic lines, which generates no radio-frequency emissions.

ZONING

Currently OTN's are regulated as non-commercial broadcast antennas, which is not an accurate representation of their operational behavior. Their function and building requirements significantly different from broadcast antennas. In fact, OTN's transmit, or relay, pulses along fiber optic lines and do not transmit radio waves through the air. The proposed text amendment will provide for specific language to permit OTN's as a

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specific use, separate and distinct from antennas. Generally, OTN's are proposed to be permitted as a matter of right in commercial and industrial zones and as a special exception in the special purpose zone.

ANALYSIS

An OTN hub allows for the transfer of both interactive TV cable and high speed internet. The Zoning Administrator's office has been regulating OTN's pursuant to the standards of a commercial broadcast antenna. This determination brings OTN's under the requirements of the city's antenna regulations, §701.6 in particular.

The newly proposed antenna regulations and text amendment scheduled for public hearing in October 2002, propose to delete §701.6(g) and only permit broadcast antennas by special exception beginning with the C-2 district. This change is to prevent broadcast towers from being constructed without public review in commercial zones but ***was not*** intended to apply to OTN's. Therefore, without this text amendment defining OTN's as a separate and distinct use, OTN's will continue to be controlled as broadcast antennas, and no longer be permitted by right. OTN's do not have the same operational or physical characteristics as broadcast antennas and it was not the intention of the proposed antenna regulation to include OTN's.

OP has also recommended a definition of OTN's under §199. The definition was prepared after consultation with the attorney from Cole Raywid and Braverman, L.L.P. representing Comcast Cable and was reviewed by the DC Office of Cable Television.

The OP text recommendation proposes OTN's be permitted as a matter of right within all Commercial (C), and the Industrial districts (CM and M), as the use is determined to be compatible with the commercial and industrial nature of these districts.

OP further recommends the use only by special exception in the Special Purpose (SP), Waterfront (W) and Mixed Use (CR) zones as a Utility, pursuant to §509, 608, and 907 respectively. The extension of the special exception use into these zones is based on the utility nature of the use. OTN's provide for the extension of interactive video and high speed internet that would be desirable to both commercial and residential areas. The use may be appropriate in these areas as the location may accommodate service delivery to both commercial and residential areas from one location.

SP Zone Purpose

500.1 The SP district (Special Purpose) is designed to stabilize those areas adjacent to C-3-C and C-4 districts and other appropriate areas that contain the following:
(a) Existing apartments, offices, and institutions; and
(b) Mixed use buildings.

500.2 The major purpose of the SP district shall be to act as a buffer between adjoining commercial and residential areas, and to ensure that new development is

compatible in use, scale, and design with the transitional function of this zone district.

CR Zone Purpose

600.1 The purpose of the Mixed Use (CR) zone district shall be to encourage a diversity of compatible land uses, which may include a mixture of residential, office, retail, recreational, light industrial, and other miscellaneous uses.

W Zone Purpose

900.4 The purpose of the Waterfront districts shall be to encourage a diversity of compatible land uses at various densities; including combinations of residential, office, retail, recreational and other miscellaneous uses.

900.5 Waterfront districts shall also be intended to be relatively self-contained by supplying a variety of housing, service, employment; and recreational opportunities in one (1) location. This characteristic allows one (1) area to serve many different needs of a single population and to thereby reduce the amount of vehicular traffic generated by the uses in the districts.

According to cable representatives, maintenance on OTN's will be performed on an as needed basis and there will be no routine maintenance visits as there may be with other telecommunication facilities. Therefore, the Office of Planning recommends that parking standards be required at a fairly low ratio – one space for each 3,000 square feet of gross floor area. No loading facilities will be necessary, as deliveries will not be made to these sites once construction is complete therefore, OP does not recommend a loading space.

CONCLUSION

OP believes the proposed text amendments are not inconsistent with the above referenced policies and will facilitate the realization of those goals, subject to the revisions discussed above and as shown below:

CHAPTER 1 THE ZONING REGULATIONS

Amend §199 DEFINITIONS as follows:

199.1 When used in this title, the following terms and phrases shall have the meanings ascribed:

Optical Transmission Node – a facility that is utilized as remote terminal units for the operation of such things as cable television systems, high-speed internet access and interactive video, not including any broadcast antenna or related towers for the transmission of radio waves.

CHAPTER 5 SPECIAL PURPOSE DISTRICTS

Amend §509 UTILITIES (SP) to include a new §509.2 to read as follows:

509.1 If declared necessary in the public interest by the Public Service Commission, a telephone exchange, public utility pumping station, electric substation using non-rotating equipment, or a natural gas regulator station shall be permitted in an SP district if approved by the Board of Zoning Adjustment in accordance with the conditions specified in ~~§3108~~ **3104** of chapter 3 1 of this title, subject to the provisions of this section.

509.2 Use as an optical transmission node shall be permitted in an SP district if approved by the Board of Zoning Adjustment in accordance with the conditions specified in §3104 of chapter 31 of this title, subject to the provisions of this section:

(a) The building shall be built to appear compatible with surrounding construction;
(b) The building shall conform to required residential height, area and density requirements; and
(c) There shall be no signage on the building.

Renumber 509.2 to 509.3
Renumber 509.3 to 509.4

CHAPTER 6 MIXED USE DISTIRCTS

Amend §608 UTILITIES (CR) as follows:

608.1 Use as an electric substation, natural gas regulator station, public utility pumping station, **optical transmission nodes,** or telephone exchange, shall be permitted in a CR district when authorized by the Board of Zoning Adjustment in accordance with the conditions specified in ~~§3108~~ **3104** of Chapter 31 of this title, if the Board considers that this use is appropriate in furthering the objectives of the Mixed Use districts, subject to the provisions of this section.

608.2 The Board may impose any requirements for setbacks, screening, or other safeguards that it deems necessary for protection of the neighborhood.

608.3 Use as an optical transmission node shall be subject to the following provisions:

(a) The building shall be built to appear compatible with surrounding construction;

(b) There shall be no signage on the building.

CHAPTER 7 COMMERCIAL DISTRICTS

Amend §701 USES AS A MATTTER OF RIGHT (C-1) as follows:

701.6 The following uses shall also be permitted a C-1 district:
(j) Optical Transmission Nodes.

CHAPTER 9 WATERFRONT DISTRICTS

Amend §907 UTILITIES as follows:

907.1 If the Board considers that it is appropriate in furthering the objectives of the Waterfront district, an electric sub-station, natural gas regulator station, public utility pumping station, **optical transmission node,** or telephone exchange shall be permitted as a special exception in a Waterfront district when authorized by the Board of Zoning Adjustment in accordance with the conditions specified in §31084 of chapter 31 of this title, subject to the provisions of this section.

907.2 Use as an optical transmission node shall be subject to the provisions of this section:

(a) The building shall be built to appear compatible with surrounding construction;
(b) There shall be no signage on the building.

CHPATER 21 SCHEDULE OF REQUIREMENTS FOR PARKING SPACES

Amend § 2101.1 to include the following:

2101.1 On and after May 12, 1958, all buildings or structures shall be provided with parking spaces as specified in the following table:

USES	NUMBER OF PARKING SPACES REQUIRED
OPTICAL TRANSMISSION NODES:	
All districts	**1 for each 3.000 ft.1 of gross floor area**

AA/sjm$_{AICP}$