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OFFICE OF PLANNING

Office of the Director

D.C. OFFICE OF ZONING
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MEMORANDUM

TO: D.C. Zoning Commission

FROM: JLS for Andrew Altman
Director

DATE: March 14, 2003

SUBJECT: **Final Report for a Text Amendment 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.**

Case No. 02-34

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 SP, special purpose, CR Mixed use and W Waterfront zones, 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 use category. 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.

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An OTN is a facility that acts as a distribution and collection hub for forwarding fiber optic 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. An OTN facility may be housed n a stand-along structure or occupy space within an existing building. Typically an OTN occupies about 1,500 square feet of enclosed area.

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 are 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 specific language to permit OTN's as a distinct use, separate from antennas. Generally, OTN's are proposed to be permitted as

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a matter of right in commercial and industrial zones and as a special exception in the special purpose, mixed-use and waterfront zones.

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 revised antenna regulations 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 regulations 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) because 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), Mixed Use (CR) and Waterfront (W) zones as a Utility, pursuant to §509, 608, and 907 respectively. The consideration of the special exception use into these zones is based on the utility nature of an OTN. 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.

At the setdown meeting of September 9, 2002, the Zoning Commission suggested OP clarify the special exception criteria proposed for the SP zone that reads "The building shall be built to appear compatible with surrounding construction." OP has proposed clarifying language to address the exterior appearance of any new construction including exterior building material, fenestration and landscaping as the primary measures for compatibility. There is existing language in §§ 509, 608 and 907, Utilities, that allows the BZA to require setbacks and screening for utilities. OP recommends including OTN's within these review provisions.

OP suggests that the special exception criteria regarding signage be clarified by rewording the section to restrict advertisement, not signage. Since the building or space will be unmanned it may be necessary for the OTN to have a small sign identifying contacts, emergency numbers or restricting entrance to the site.

In reviewing the development potential in the SP zone, OP concludes that the residential development requirements may be excessive for an OTN compared to the commercial standards, which are limited to less than residential. It is the intent of the regulations that OTN's be compatible with surrounding development not necessarily just residential. Therefore, OP is ***not*** recommending adoption of the advertised § 509.2 (b).

COMPREHENSIVE PLAN

The Comprehensive Plan contains the following policies and objectives:

"...the attraction of new industries representative of advanced technologies as well as the support, maintenance, and expansion of existing businesses, including those necessary to serve the federal and District governments, the private sector, and the tourism industry." (§200.10)

"...encourage the growth of centers of high technology, research and development, and to provide for essential support services and nonpolluting production activities." (§1109.1)

CONCLUSION

OP concludes that the proposed text amendments are not inconsistent with the above referenced zone district policies and Comprehensive Plan sections and will facilitate the realization of those goals, subject to the revisions discussed above and as shown below. The advertised proposed text is bolded, new clarifying text that was not in the advertised version is underlined, and proposed changes are stroke through.

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~~ Any new construction solely for the purpose of housing an optical transmission node shall be built to appear compatible with surrounding construction, including exterior building material, fenestration, and landscaping;
~~(b) The building shall conform to required residential height, area and density requirements; and~~
(c) There shall be no ~~signage~~ advertisement on the building

509.3 The utilities allowed in § 509.1 **and optical transmission nodes in § 509.2** shall be subject to requirements for setbacks, screening, or other requirements as the Board deems necessary for the protection of neighboring or adjacent property.

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 node,** 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 § 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~~3~~ ~~Use as an optical transmission node~~ Any new construction solely for the purpose of housing an optical transmission node shall be subject to the following provisions:

(a) The building shall be built to appear compatible with surrounding construction, including exterior building material, fenestration, and landscaping;
(b) There shall be no ~~signage~~ advertisement on the building

608.3~~2~~ The Board may impose any requirements for setbacks, screening, or other safeguards that it deems necessary for protection of the neighborhood.

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 Node.

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 §3104 of chapter 31 of this title, subject to the provisions of this section.

907.2 ~~Use as an optical transmission node~~ Any new construction solely for the purpose of housing 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, including exterior building material, fenestration, and landscaping;
(b) There shall be no ~~signage~~ advertisement on the building

907.~~2~~3 The Board shall establish requirements for setbacks and screening.

907.~~3~~4 The Board shall establish other safeguards as deemed necessary for protection of the neighborhood.

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$_{AICP}$