

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
ZONING COMMISSION

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Z.C. CASE NO.: 02-46  
PUBLIC HEARING  
(ZONING MAP AMENDMENT)

\* \* \* \* \*

Thursday  
February 27, 2003

\* \* \* \* \*

The Zoning Commission met at 6:30 p.m. in the Office of Zoning Hearing Room, Suite 220, 441 Fourth Street, N.W., Washington, D.C. 20001, pursuant to notice, Carol Mitten, Chairperson, presiding.

BOARD MEMBERS PRESENT:

CAROL MITTEN	Chairperson
ANTHONY HOOD	Vice Chairperson
JAMES HANNAHAM	Commissioner
JOHN G. PARSONS	Commissioner
JOHN G. MAY	Commissioner

ZONING COMMISSION STAFF :

ALBERTO BASTIDA	Secretary
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OFFICE OF PLANNING STAFF PRESENT:

STEPHEN MORDFIN  
JENNIFER STEINGASSER

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P-R-O-C-E-E-D-I-N-G-S

6:39 p.m.

CHAIRPERSON MITTEN: Good evening, ladies and gentlemen. This is a public hearing of the Zoning Commission of the District of Columbia for Thursday, February 22, 2003. My name is Carol Mitten and joining me this evening are Vice Chairman Anthony Hood and Commissioners James Hannaham, Peter May and John Parsons. And thank you for braving the snow on this evening when we're expecting some accumulation.

The subject of this evening's hearing is Zoning Commission case 02-46, this is a request by the D.C. Department of Public Works Solid Waste Management Administration for a zoning map amendment under Chapter 30 of the District of Columbia's Zoning Regulations 11 DCM for property known as Lot 11 in Parcel 169.

Notice of today's hearing was published in the D.C. Register in the Washington Times on January 10, 2003. Copies of today's hearing announcement are available to you and are located on the table near the door.

This hearing will be conducted in accordance with the provisions of a 11 DCMR Section 3121; the procedures for rulemaking hearings.

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1           The order of procedure will be as  
2 follows: Preliminary matters followed by the  
3 petitioner's presentation, reports of other  
4 government agencies including the Office of Planning,  
5 report of the effected ANC. In this case is ANC 7D.  
6 Organizations and persons in support, organizations  
7 and persons in opposition.

8           The following time constraints will be  
9 maintained in this hearing. The petitioner will have  
10 20 minutes, individuals will have 3 minutes and  
11 organizations will have 5 minutes.

12           The Commission intends to maintain these  
13 time limits as strictly as possible in order to hear  
14 the case in a reasonable period of time. The  
15 Commission reserves the right to change the time  
16 limits for presentations if necessary, and notes that  
17 no time shall be ceded.

18           All persons appearing before the  
19 Commission are to fill out two witness cards. These  
20 cards are also located on the table near the door.

21           Upon coming forward to speak to the  
22 Commission, please give both cards to the reporter  
23 who is sitting to our right.

24           The decision of the Commission in this  
25 case must be based on the public record. To avoid any

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1 appearance to the contrary, the Commission requests  
2 that persons present not engage the members of the  
3 Commission in conversation during a recess or at any  
4 other time. Staff will be available throughout the  
5 hearing to discuss procedural questions and you can  
6 direct any questions to Mr. Bastida.

7 Please turn off all beepers and  
8 cellphones at this time so as not to disrupt these  
9 proceedings.

10 At this time the Commission will consider  
11 any preliminary matters.

12 Mr. Bastida?

13 MR. BASTIDA: Yes, Madam Chairman.

14 The applicant has provided the affidavit  
15 of maintenance and it fulfills all the requirements.  
16 And if I may say, is one of the best affidavit of  
17 posting maintenance that I have seen in a long time.

18 Thank you.

19 CHAIRPERSON MITTEN: That's good to know.  
20 Something to be proud of.

21 All right.

22 MR. BASTIDA: The staff have no other  
23 preliminary matters, Madam Chairman.

24 CHAIRPERSON MITTEN: Thank you. Then I  
25 think we're ready to proceed with the petitioner's

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1 presentation.

2 All right. And then when you begin  
3 speaking, you'll need to push the button on the base  
4 of the mike to turn it on and just introduce yourself  
5 again.

6 MR. HENDERSON: Yes. My name is Thomas  
7 Henderson. I am a solid waste administrator for the  
8 Department of Public Works for the District of  
9 Columbia.

10 And the project for which the zoning is  
11 being sought is a transfer station which will serve  
12 both the Department of Public Works and its crews as  
13 well as private solid waste companies that do  
14 business in the District.

15 If I could take just a moment to give you  
16 a little bit of background information on the project  
17 itself. We'll keep it very brief and then answer any  
18 questions you might have.

19 The District of Columbia has no solid  
20 waste disposal facilities inside its boundaries. We  
21 depend 100 percent on facilities that are located in  
22 Maryland and primarily in Virginia. So all of the  
23 waste that is generated in the District has to get to  
24 landfills or waste energy plants in Virginia. To do  
25 that efficiently what we need to do is we need to

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1 take the waste that is collected at the businesses  
2 and the homes in the District off the small  
3 collection trucks, that are designed to go stop and  
4 go, stop and go, short distances, low mileage and low  
5 miles per hour slowly. We need to move that material  
6 over fairly long distances.

7           Currently the District's contract is with  
8 Fairfax County. So our waste goes out to Lorton,  
9 Virginia, most of it. Some of also go to landfill.  
10 Most of the private waste, though, goes to a couple  
11 of private landfills that are located as far south as  
12 about 30 miles south of Richmond. So this waste has  
13 to go a considerable period of time. It's just not  
14 efficient to be moving those small trucks over those  
15 kind of trucks.

16           The solution here, as in most of the  
17 metropolitan areas, is to build some transfer  
18 stations. And that's where the small trucks come in,  
19 they unload their waste, they get right back out on  
20 the street picking up more waste while the material  
21 is reloaded onto large tractor trailers. So we go  
22 from vehicles that, say, like the District's vehicles  
23 that carry about 16 cubic yards, it gets put onto  
24 trucks that carry about 100 cubic yards. And that  
25 material is then hauled using an over-the-road

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1 tractor/trailer combination which can fairly  
2 efficiently move the material down to either the  
3 waste energy plant or to the landfills.

4 In the early to mid '90s when the  
5 District was having significant problems, the two  
6 transfer stations we have, the one at Benning Road  
7 and the one at Fort Totten through lack of  
8 maintenance and repair, were no longer able to  
9 accommodate all the waste that was coming into the  
10 District, either generate into the District or some  
11 of the suburban counties that also go through the  
12 District.

13 And what happened was a series, at one  
14 point up to 12 transfer stations, were opened mostly  
15 in old abandoned warehouse facilities. The most  
16 notorious was over at the Uline Arena which is just a  
17 few blocks from here. And these presented some  
18 pretty significant environmental impacts on those  
19 neighborhoods. They weren't designed for that  
20 purpose. They were old warehouses. They weren't  
21 designed as transfer stations. They didn't deal with  
22 the common problems you have with these facilities;  
23 queuing space for the trucks, parking for the trucks,  
24 odor controls, dust controls. None of that kind of  
25 thing because one day it was a warehouse or an old

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1 arena and the next day it was a transfer station.  
2 And it was, you know, kind of bit opposition,  
3 obviously, from the neighbors who were having to live  
4 with these things.

5 Faced with that, the Williams  
6 Administration has taken kind of a multi-task  
7 approach to it.

8 One is we tried to look at what the  
9 original problem was and the continuing problem on  
10 why these facilities existed. And that was primarily  
11 because the District did not have capacity to handle  
12 the material itself.

13 So what we've been trying to do, and  
14 we've gone back to the City Council and the Mayor,  
15 and we've got a budget to improve the two transfer  
16 stations, one of which we're going to be talking  
17 about today, and that's at Benning Road. The other  
18 one is at Fort Totten, not too far from the Metro  
19 facility there.

20 By providing capacity at those two  
21 stations there will no longer be any capacity issue  
22 that would require the private stations to exist.  
23 And at the same time, we believe that because of the  
24 size involved and being able to get some economies of  
25 scale, it is much less expensive to operate two large

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1 stations than the 5 or 6 stations that we were  
2 currently operating as of last fall. We think we  
3 will solve the neighborhood problems that have been  
4 created around the District, but primarily in the  
5 northeast and southeast sections of the city by  
6 accomplishing the redevelopment of our two sites.

7 So moving forward on that, one of the  
8 obstacles is obviously the zoning. This is a piece of  
9 property that the District acquired from the Federal  
10 Government and so was not zoned in 1958 with the  
11 zoning. The last improvements that were made there  
12 were in the early '70s before zoning was required. So  
13 as we proceeded down the road, we realized we needed  
14 to come before this group and seek zoning for the  
15 parcel.

16 And with that, I think I'll stop and  
17 entertain any questions you might have.

18 CHAIRPERSON MITTEN: All right. How long  
19 will this project take in terms of the upgrading and  
20 expansion of the facility.

21 MR. HENDERSON: Once we get under  
22 construction, it should be finished in about one  
23 year.

24 CHAIRPERSON MITTEN: And when do you  
25 anticipate getting underway?

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1 MR. HENDERSON: After we go to this  
2 board, we have to go to the BZA. And it should be  
3 within a matter of days or weeks after we get through  
4 the BZA process that construction would begin. And I  
5 believe that's scheduled for late March.

6 CHAIRPERSON MITTEN: Okay.

7 Any questions.

8 MR. HENDERSON: Just, you know, further  
9 elaborate on that. The bids for that were scheduled  
10 to be released tomorrow. I'm sure that they'll make  
11 it with the current weather conditions. But we're  
12 basically into the procurement process, and hope to  
13 be under construction shortly after the BZA hearing.

14 CHAIRPERSON MITTEN: Okay. Thank you.

15 Mr. May?

16 COMMISSIONER MAY: First question, this  
17 transfer station will be open for District vehicles,  
18 private companies. Will the general public be  
19 allowed to go in there? Will they be restricted to  
20 Fort Totten?

21 MR. HENDERSON: No. Actually what we're  
22 trying to do with the reconstruction of both transfer  
23 stations. We're building a citizen drop off facility  
24 there, which will be a full service area. It will be  
25 isolated physically from the commercial traffic,

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1 which is a real problem we have Fort Totten today.  
2 And it'll be, as I say, full service. It will allow  
3 people to bring in bulky waste as they do today, but  
4 also recyclable materials. And we hope to be open  
5 several days a month receiving household hazard waste  
6 as well, which would eliminate the need for us to  
7 have these amnesty days twice a year, which are not  
8 real customer friendly and are very, very expensive.

9 We actually think we will be able to  
10 operate every weekend a year out of these designed  
11 facilities for the same cost as two weekends at the  
12 amnesty facility.

13 COMMISSIONER MAY: Okay. I have to say,  
14 having done the amnesty, I've never heard of it  
15 referred to that way, but having gone to it it  
16 actually was very user friendly and all you did was  
17 drive up and they took the stuff right out of your  
18 car.

19 MR. HENDERSON: It will be the same  
20 procedures, it's just you won't be there with  
21 thousands of other people. You'll, hopefully, only  
22 be there with a couple of dozen.

23 COMMISSIONER MAY: Yes. It's worked very  
24 well every time I have been there.

25 MR. HENDERSON: Well, we can thank Ms.

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1 Hammond, who is here, who is the one who runs that  
2 for us every year.

3 COMMISSIONER MAY: Okay. Well, it's  
4 worked great so far, well at least my experience was.

5 But I'm still a little confused. You're  
6 saying that the citizen dropoff is going to be at  
7 Benning Road or Fort Totten or both?

8 MR. HENDERSON: At both.

9 COMMISSIONER MAY: At both?

10 MR. HENDERSON: Right.

11 COMMISSIONER MAY: Okay. Right.

12 MR. HENDERSON: Right. Benning Road was  
13 an old incinerator plant. And what we're doing,  
14 there's currently basically all but under  
15 construction, the contract award has been made, we  
16 have already demolished the old smoke stacks out  
17 there. And now we're going in and demolishing a  
18 portion of the air pollution control equipment from  
19 the old incinerator. And that will make room for the  
20 citizen drop off area. So it will sit behind the  
21 building. And, as I said, it will allow us to  
22 isolate the traffic and not mix the commercial and  
23 the residential traffic.

24 COMMISSIONER MAY: Okay. Fort Totten is  
25 being renovated right now, right?

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1 MR. HENDERSON: Well, we're currently  
2 making -- after we got into the design, not much work  
3 had been done out there since 1972. And we found that  
4 we needed to make some emergency repairs. They  
5 couldn't even wait for the construction.

6 So what we're in the process of doing is  
7 now we're almost finished, if we can ever get another  
8 warm day. Because you can't pour concrete when it's  
9 below 40 degrees. So we haven't had many of those  
10 this winter. But we're just about finished with  
11 doing the emergency repairs we had to do to the  
12 tipping floor out there.

13 But Fort Totten and Benning Road will  
14 basically have the same design at the end of the  
15 process. Again, keeping the commercial and the  
16 residential traffic separated.

17 COMMISSIONER MAY: Okay. The only other  
18 question I had is that the amount of information that  
19 we have, I mean you can see sort of the footprint of  
20 the building and where it will be on the site, but  
21 there isn't really any indication of what's new,  
22 what's existing. And I understand the new one is  
23 going to be not as tall as the existing is going to  
24 be?

25 MR. HENDERSON: Right. Right. I've got

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1 at least a site plan I can show you that shows what  
2 the actual really new building will be.

3 COMMISSIONER MAY: All right. I think my  
4 concern has to do with, you know, visibility from the  
5 parklands.

6 MR. HENDERSON: It actually is -- the  
7 area -- this is the existing building. The traffic  
8 flow right now is in this access road. And the  
9 citizen dropoff we put right here in the front so  
10 that they never mix with the commercial traffic.

11 This is the existing building that will  
12 remain. And what we're doing is we're basically  
13 adding a 50 foot addition to that building and it  
14 actually will be about 30 feet lower than the  
15 existing building. So from the parkland, I don't  
16 really think it will be visible.

17 It's actually an old landfill that they  
18 really haven't done anything with it at this point. I  
19 don't think there will be much visibility of that.

20 COMMISSIONER MAY: Thank you.

21 CHAIRPERSON MITTEN: Mr. Hood?

22 COMMISSIONER HOOD: Thank you.

23 Mr. Henderson, let me just start off by  
24 saying it's good to see that the city is now coming  
25 into the 21st century dealing with these facilities.

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1                   Let me just ask you as respect to both  
2 sites, I know we're here basically for the Benning  
3 Road site tonight, are you going to offer the same  
4 services at both sites, at Fort Totten and at Benning  
5 Road?

6                   MR. HENDERSON: Yes.

7                   COMMISSIONER HOOD: What's going --

8                   MR. HENDERSON: Our plan is that  
9 physically they will be the same and the same  
10 services. We won't run the same hours. They'll be  
11 slightly different. For example, like on weekends,  
12 you know, we don't really need both facilities to be  
13 open except for residents. But they're going to be  
14 physically almost identical and the services provided  
15 will be identical, commercial and residential.

16                   COMMISSIONER HOOD: So the residential  
17 piece at both facilities --

18                   MR. HENDERSON: Yes, sir.

19                   COMMISSIONER HOOD: Okay. Will be open  
20 on Saturdays?

21                   MR. HENDERSON: Yes.

22                   COMMISSIONER HOOD: Some of the private  
23 facilities have what they call an odor mechanism that  
24 sprays out to the air and that's how they control the  
25 odor.

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1 MR. HENDERSON: Right.

2 COMMISSIONER HOOD: I would hope that the  
3 District moving into the new century, the 21st  
4 century will deal with it a little better than that.  
5 Because when you walk and ride by Queen's Chapel that  
6 -- I don't know what that's out there for. It's just  
7 out there spraying air. But when it's 90 degrees and  
8 you live in that neighborhood, I can assure you that  
9 it smells a lot different, that little odor that they  
10 say well they're cleaning the air, or whatever  
11 they're doing out there, is not adequate.

12 MR. HENDERSON: Right. Right. That's the  
13 real problem we've had with the private facilities.  
14 It's not that the private sector can't operate  
15 facilities well. But what we have are old warehouses.  
16 In that case, a couple of old warehouses that one day  
17 they were a warehouse and the next day they were a  
18 transfer station.

19 I mean, you know, we've gone through  
20 about an 18 month process of working with, you know,  
21 one of the best engineering firms in the country who  
22 specializes in nothing but solid waste work to make  
23 sure that we don't have those kinds of problems. And  
24 the main way you do that, frankly, is to make sure  
25 that the waste doesn't stay there, that it moves

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1 within a matter of, hopefully, minutes if not hours  
2 of the time it arrives. And these are stations that  
3 are designed to move the material quickly.

4 We will be able to load a truck in about  
5 10 minutes. So we can keep the trucks moving and the  
6 flow, and that's the main way you eliminate it.

7 What do we have, we have built ins what  
8 is state of the art ventilation and dust control  
9 systems. Because if nothing else, we want it to be a  
10 pleasant work environment for our employees.

11 COMMISSIONER HOOD: Right. And the trucks  
12 will be covered going through the city and  
13 everything?

14 MR. HENDERSON: Absolutely.

15 COMMISSIONER HOOD: Okay. Now, let me  
16 just ask you, you mentioned earlier that some of the  
17 private haulers now have bought into this concept.

18 MR. HENDERSON: Yes.

19 COMMISSIONER HOOD: Have all bought into  
20 it or is it a chance that, say, if they get mad with  
21 the city and they still have their sites, let's refer  
22 to Queen's Chapel. There's a chance they get mad  
23 with the city and they'll leave their site open at  
24 Queen's Chapel?

25 MR. HENDERSON: Okay. What we did was we

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1 went back to the two largest haulers that control  
2 most of the waste stream. That's Waste Management,  
3 Inc. and Browning Ferris Industries, which was owned  
4 by Allied Waste.

5 And we negotiated an agreement with them  
6 where they will exclusively use our stations once  
7 they're up and running for all of the solid waste  
8 that's generated in the District. And in Waste  
9 Management's case who has Queen's Chapel, that's 20  
10 years. That does a couple of things for us.

11 One is since we are for all practical  
12 purposes going into business, becoming what the  
13 courts call a market participant, and we're looking  
14 for volume to make sure that we have the most  
15 economical facilities possible. And that did that. It  
16 also allows us, for example, Waste Management as part  
17 of this agreement has already shutdown the worse of  
18 the facilities, which was the one at Uline Arena.  
19 They closed that within 2 weeks of signing the  
20 agreement with us. And they are now using our  
21 facilities, you know, on an interim basis as well as  
22 Queen's Chapel.

23 BFI has reduced the amount of waste  
24 that's going into their transfer station at W Street  
25 by two-thirds and they have agreed that they will no

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1 longer use that facility at all after December 31st  
2 of this year.

3 So as far as Queen's Chapel is concerned  
4 and the Half Street facility, which is in southeast,  
5 near South Capitol Street Bridge, we're working along  
6 on another track which is revise our current  
7 regulations.

8 Frankly, the regulations that were put  
9 into effect to try to put these facilities out of  
10 business were so arbitrary and capricious that no  
11 court would enforce them. So what we are doing is we  
12 are in the process now of putting together with the  
13 health department and with DCRA, and the planning  
14 department and other agencies, along with the ANCs  
15 and the industry what I call a 50 state standard.  
16 Basically, you know, what good regulations should  
17 look like that. You get good regulations on the  
18 book, you can enforce them.

19 And all the existing owners basically  
20 know that they're going to have either come up to  
21 speed or they're going to have to shutdown at -- you  
22 know, when those new regs going into business. And  
23 we think that a court will enforce that. Because (1)  
24 we have reasonable rules, and (2) they will not be  
25 creating a public health crises because the District

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1 will have capacity and there will be alternatives  
2 available for that waste to move out of the District.

3 COMMISSIONER HOOD: Let me just for  
4 clarification, now Waste bought into the proposal  
5 from the city as far as Uline. But Queen's Chapel is  
6 also run by Waste.

7 MR. HENDERSON: Right.

8 COMMISSIONER HOOD: And they didn't buy  
9 into it for the Queen's Chapel site?

10 MR. HENDERSON: No, they did.

11 COMMISSIONER HOOD: Oh, they did.

12 MR. HENDERSON: The thing is that until  
13 we get new facilities on line, we do not have the  
14 capacity to take any more waste than we are right  
15 now. We physically -- if they closed down today, we  
16 would have a real crises on our hands because we do  
17 not have the facilities to move that material out of  
18 the District. Until we get our renovations completed,  
19 there is physically no way to handle it.

20 I mean, we are busting at the seams. We  
21 were able to take what they had from Uline Arena and  
22 a little bit from BFI. But at this point we're really  
23 at our capacity until we get our construction  
24 finished.

25 COMMISSIONER HOOD: Okay. Well, thank

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1 you, Mr. Henderson. I can tell you this has been a  
2 long time coming. A long time. Thank you.

3 CHAIRPERSON MITTEN: Anyone else? Mr.  
4 Parsons?

5 COMMISSIONER PARSONS: Mr. Henderson, I  
6 want to congratulate you and your team for  
7 accomplishing this, especially the ANC support.

8 MR. HENDERSON: Thank you, sir.

9 COMMISSIONER PARSONS: The letter we have  
10 received tonight.

11 MR. HENDERSON: Yes. In fact, a single  
12 member District member who wrote that actually is the  
13 one who lives -- he has just about the closest house  
14 to the facility. It's quite a ways away, but he has  
15 almost I think the closest house.

16 COMMISSIONER PARSONS: What I wanted to  
17 explore a little bit was the conditions of the  
18 transfer that occurred from the National Park Service  
19 to the District of Columbia for this site that you  
20 mentioned earlier.

21 MR. HENDERSON: Okay.

22 COMMISSIONER PARSONS: In the 1960's.  
23 And as I recall, that had to do with a burning trash  
24 dump in Kenilworth that was extinguished. And this  
25 land then was made available for what was called

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1 incinerator number five.

2 MR. HENDERSON: Right.

3 COMMISSIONER PARSONS: Which you've  
4 removed the stacks from. It's visually good.

5 So now the use is being converted from an  
6 incinerator to a trash transfer station. And I don't  
7 see any problem with that. And what I'm concerned  
8 about for this Commission is that we would be zoning  
9 this property for manufacturing which could last in  
10 perpetuity and someday after we're long gone, that  
11 the use may no longer be necessary. And there is no  
12 more trash.

13 MR. HENDERSON: Right.

14 COMMISSIONER PARSONS: Or something else  
15 we can't comprehend.

16 MR. HENDERSON: Right.

17 COMMISSIONER PARSONS: And it's my home  
18 that this land will revert ultimately to back to the  
19 park system. So the permanency of our zoning  
20 undertaking is concerning me, that if we place a  
21 zoning category on this property that theoretically  
22 outlasts in perpetuity and after we're long gone it  
23 may be conceived or presumed that it is for that  
24 purpose.

25 And the comprehensive plan, as you

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1 probably know, currently calls for this to be  
2 parkland. That it is green on the land use map.

3 MR. HENDERSON: Yes.

4 COMMISSIONER PARSONS: So we have to do  
5 this, I think, with a great deal of care.

6 MR. HENDERSON: Yes.

7 COMMISSIONER PARSONS: To ensure that if  
8 this use is abandoned, that it doesn't become some  
9 manufacturing plant in the future. And similarly at  
10 Fort Totten.

11 And when the Commission adopted its  
12 regulations for trash transfer stations, we knew very  
13 well that these two facilities existed directly  
14 adjacent to parks, but we put into our regulations  
15 that there should be a distance --

16 MR. HENDERSON: Right.

17 COMMISSIONER PARSONS: -- in location  
18 between these facilities and parks in a new start.

19 MR. HENDERSON: Right.

20 COMMISSIONER PARSONS: So I would ask you  
21 this: How much coordination have you undertaken with  
22 the National Park Service at these two proposed  
23 facilities as your neighbor?

24 MR. HENDERSON: There has been some  
25 discussions with them. I haven't been privy to any of

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1 those myself. I think as far as your general  
2 proposition goes, I don't think we have any  
3 disagreement or argument with that.

4 I think our primary concern would be that  
5 we are making a significant investment there, and it  
6 is an investment more than dollars. I mean, these are  
7 some of the facilities that the city can't really  
8 exist without.

9 COMMISSIONER PARSONS: Right.

10 MR. HENDERSON: And so we do see them  
11 there for a considerable period of time. For example,  
12 Fort Totten, this will be the third time it has been  
13 rebuilt.

14 COMMISSIONER PARSONS: Yes.

15 MR. HENDERSON: For solid waste purposes,  
16 but it's been an incinerator, it's been a transfer --  
17 one style of transfer station. Now it's going to be  
18 second one.

19 So I think we certainly are mindful and  
20 don't disagree with your concept at all. I think we  
21 are concerned that the public on the other hand has  
22 some protections that if there's maintenance required  
23 at the facility, or that type thing, that that be  
24 allowed in the future. Because we would really like  
25 to see some other alternatives, but there really

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1 aren't any at this point in time other than building  
2 a --

3 COMMISSIONER PARSONS: Understand.

4 MR. HENDERSON: -- facility like out at  
5 Lorton that Fairfax County has or that they have in  
6 Montgomery County. You know, there really is no  
7 alternative at this point in time.

8 COMMISSIONER PARSONS: I'm not sure you  
9 know the answer to this. I certainly don't. But in  
10 that the National Capital Planning Commission  
11 transferred this land, that's their jurisdiction and  
12 authority, transferred this land from the Federal  
13 Government to you, do you know if you require the  
14 approval of the Planning Commission for this  
15 facility?

16 MR. HENDERSON: I don't believe on this  
17 one we do. On some other projects we're working on  
18 we do. But I don't believe we do on this one.

19 COMMISSIONER PARSONS: Okay. I guess I  
20 would offer some disagreement with the need to screen  
21 this from the park. But that probably is a matter  
22 that is better taken up at the Board of Zoning  
23 Adjustment.

24 MR. HENDERSON: I mean, our primary  
25 difficulty is, and if you look at the footprint of

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1 the facility that's already there, there's not even a  
2 skoosh more room, as they say in the jeans  
3 commercials. We would certainly be willing if we had  
4 access to parks, you know, adjacent park property as  
5 far as providing some additional screening. We  
6 wouldn't have a problem with that. We would welcome  
7 being able to do that. It's just we're physically not  
8 able to do that without going through them.

9 COMMISSIONER PARSONS: Well, that's the  
10 right answer.

11 MR. HENDERSON: Okay.

12 COMMISSIONER PARSONS: If you don't know  
13 it, I shouldn't be coy with you. I represent the  
14 National Planning --

15 MR. HENDERSON: I understand that.  
16 Somebody told me that just before the hearing.

17 COMMISSIONER PARSONS: Okay.

18 MR. HENDERSON: But, I mean, given access  
19 to the property, I mean we would certainly appreciate  
20 the opportunity to really to provide some screening.  
21 We want to be a good neighbor to both the park and  
22 to the residential community nearby.

23 COMMISSIONER PARSONS: All right. Thank  
24 you very much.

25 MR. HENDERSON: Sure.

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1 CHAIRPERSON MITTEN: Anyone else?

2 All right. Thank you, Mr. Henderson.

3 MR. HENDERSON: Thank you very much. We  
4 appreciate you coming out on this night. We had to  
5 work because we also do snow, but you know you  
6 didn't. So we do appreciate it. Thank you.

7 COMMISSIONER PARSONS: So you're driving  
8 a plow tonight, are you?

9 MR. HENDERSON: No, but I've got about  
10 100 -- a little over a 100 people out there driving  
11 plows tonight. And we're all pretty tired from the  
12 last two weeks.

13 COMMISSIONER PARSONS: And then you got  
14 to pick up trash in the morning, huh?

15 MR. HENDERSON: Well, and we do have to  
16 pick up trash in the morning, that's true.

17 Thank you very much.

18 CHAIRPERSON MITTEN: Thank you.

19 Now we'll turn to Mr. Mordfin from the  
20 Office of Planning.

21 MR. MORDFIN: Good evening, Madam Chair  
22 and members of the Commission. My name is Stephen  
23 Mordfin with the Office of Planning, and the Office  
24 of Planning requests to stand on the record.

25 CHAIRPERSON MITTEN: All right. We like

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1 that.

2 Does anyone have any questions for Mr.  
3 Mordfin?

4 All right. I don't see anyone here from  
5 the ANC, I don't think.

6 And I would just note that we received a  
7 letter from Mr. Murchison today, although the letter  
8 is dated December 30, 2002. And it notes that the  
9 ANC supports the facility, although this letter is  
10 not adequate to garner the great weight that the ANC  
11 is entitled to, but we will take note of their  
12 position.

13 And then is there anyone else here who  
14 would like to testify this evening?

15 All right. I would just like to make note  
16 of the fact that at our setdown in December we had  
17 asked -- or maybe it was January. I'm losing track  
18 of time. But at the setdown we had asked for a  
19 letter of interpretation from the City Council to  
20 address the issue that Mr. Parsons touched on, which  
21 is that we are not -- our rules do not allow us to  
22 put zoning in place that is inconsistent with the  
23 comprehensive plan. And inasmuch as there is  
24 conflicting information in the comprehensive plan  
25 between what the generalized land use map says, which

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1 we give the greatest use to the land use map says  
2 that says this should be parks and open space and  
3 then there's other provisions that say that the  
4 Benning Road facility should be upgraded and  
5 expanded, and also that money has been set aside for  
6 that purpose, we're just asking the City Council for  
7 a letter of interpretation on that point.

8 So, otherwise we would be able to, I  
9 think, vote on this tonight. But as soon as we  
10 receive that letter, we'll be able to move forward.

11 I just looked at Mr. Hood's BZA schedule.  
12 You're on for April 22nd. And we'll make sure that  
13 you have action from us so that you won't be delayed  
14 in anyway with the BZA. So, just want to give you  
15 that assurance.

16 So, is there anything else before us this  
17 evening, Mr. Bastida?

18 MR. BASTIDA: No, Madam Chairman.

19 The only thing I would like is that the  
20 petitioner would provide me with a copy of the  
21 exhibit that they show, that it can be put into the  
22 file no bigger than 8? by 17. And he probably, you  
23 know, do that in the next week or so. Okay. Thank  
24 you.

25 COMMISSIONER MAY: 11 by 17 I think is

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1 what you mean.

2 MR. BASTIDA: What?

3 COMMISSIONER MAY: 11 by 17 is what you  
4 meant to say.

5 MR. BASTIDA: I mean, I'm sorry. Thank  
6 you. 11 by 17.

7 CHAIRPERSON MITTEN: Okay. Thank you.

8 And I would like to thank you all for  
9 coming out tonight as well. And Mr. Bastida noted the  
10 item that he would like to receive. And we would also  
11 leave the record open for the Council interpretation  
12 whenever we would be able to receive that, I think.

13 And the Commission will make a decision  
14 on this case at one of our regular monthly meetings.

15 And, as I said, we will not hold you up for your BZA  
16 hearing. And you can keep in touch with Mr. Bastida  
17 about when that will be, but we usually have our  
18 meetings on the second Monday of the month.

19 And then if we take affirmative action on  
20 this request, the proposed action much be published  
21 in the D.C. Register as proposed rulemaking with a  
22 reasonable period for comments. That's usually 30  
23 days. And in addition, the proposed rulemaking will  
24 be referred to the National Capital Planning  
25 Commission for federal impact review.

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1                   The Zoning Commission would then take  
2 final action at a public meeting following receipt of  
3 the public comments, and the NCPC comments, after  
4 which a written final rulemaking and order will be  
5 published.

6                   I now declare today's public hearing  
7 adjourned.

8                   (Whereupon, at 7:14 p.m. the public  
9 hearing was adjourned.)

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