



## **ADVISORY NEIGHBORHOOD COMMISSION 3E**

**TENLEYTOWN**

**AMERICAN UNIVERSITY PARK**

**FRIENDSHIP HEIGHTS**

**CHEVY CHASE**

**WAKEFIELD**

**FORT GAINES**

c/o Lisner-Louise-Dickson-Hurt Home 5425 Western Avenue, NW Washington, DC 20015

<https://anc3e.org>

### **RESOLUTION REGARDING DDOT #10905297**

#### **WHEREAS:**

1. Osman Barre seeks permission from the District Department of Transportation's ("DDOT") Public Space Committee ("PSC") to install a sidewalk café in front of Steak N Egg Kitchen at 4700 Wisconsin Avenue.
2. Without first seeking the necessary permit, however, the applicant's contractor conducted extensive work, including substantial paved regrading of the public space in front of the property.
3. The applicant then operated an unpermitted sidewalk café for several months.
4. DDOT eventually realized that the unpermitted work and operation had occurred and issued a Stop Work Order.
5. The applicant thereafter filed the instant application.
6. Steak N Egg Kitchen ("Steak N Egg") is a popular restaurant in our area.
7. Like all our local businesses, ANC 3E wants Steak N Egg to thrive.
8. We are concerned, however, that Steak N Egg may be seeking relief that is not ordinarily available to similarly-situated applicants.
9. In particular, it has been our understanding that PSC will generally not permit permanent repaving of public space for the purpose of a sidewalk café. Indeed, a DDOT reviewer of the application, Evlyn Israel, stated that she could find no permit for the work completed but that, in any case, "PSRD PLANNING WOULD NOT HAVE PERMITTED THE DESIGN AS SHOWN WITH THE PAVED PLATFORM."<sup>1</sup>
10. Per Mr. Barre, a DDOT employee who spoke to him about filing his application did not ask or suggest to him that he remove or substantially change the paved platform that Ms. Israel said would not have been permitted if applied for in the first place.
11. An ANC member sent three separate e-mails over several days to PSC officials asking them to clarify whether the paved platform sought by Steak N Egg is something that PSC would ordinarily permit for similarly-situated applicants. No response was received.
12. We are left with the un rebutted suspicion that PSC might be considering approving the instant application primarily because the otherwise impermissible paving has already been done. If this is even close to being so, it would represent a failure of the rule of law, and it would encourage the attitude we already observe frequently among those who build in public space that "it is better to beg forgiveness than to ask for permission."

---

<sup>1</sup> "Application Summary," at 3 (emphasis in original) [available at [https://anc3e.org/wp-content/uploads/10905297\\_4700-WISCONSIN-AVENUE-NW\\_Occupancy.pdf](https://anc3e.org/wp-content/uploads/10905297_4700-WISCONSIN-AVENUE-NW_Occupancy.pdf)]

**NOW THEREFORE BE IT RESOLVED:**

1. To the extent that PSC would ordinarily grant the relief the applicant seeks to similarly-situated applicants, we do not object to it. To the extent that PSC would be unlikely to grant such relief to similarly-situated applicants, we oppose it.

The resolution passed by a vote of 0-0-0 at a properly noticed meeting held on February 9, 2022, at which a quorum was present, with Commissioners Bender, Cohen, Hall, and Quinn in attendance.

ANC 3E

---

by Jonathan Bender  
Chairperson