

July 10, 2023

Mr. Christian Dorsey, Chair
Arlington County Board
2100 Clarendon Boulevard
Arlington, VA 22201

RE: FOOD Study Implementation and Encroachment Ordinance

I am writing to express the view of the Transportation Commission regarding the FOOD Study Implementation and Encroachment Ordinance.

The commission, by a vote of 7-2, recommends that the County Board defer the adoption of the proposed FOOD Study implementation and Encroachment Ordinance.

The commission considered this item at its June 29th, 2023 meeting. The Commission heard a presentation from County staff. There were no public speakers.

The Commission is supportive of sidewalk dining to enhance the economic viability of restaurants and the vibrancy of the Arlington streetscape. Unfortunately, as presented the Commission was not comfortable recommending adoption. Some of the Commission concerns are concrete disagreements with the ordinance and the chosen policy direction taken by staff. Others are largely flaws in the process that made the Commission ill-equipped to recommend approval.

Substantive Policy & Implementation Concerns:

- This implementation uses a "one size fits most" rule that only 6' of clear sidewalk is necessary anywhere there isn't a site plan condition requiring a wider clear sidewalk, no matter the location, sidewalk usage, sidewalk width, etc. This is likely to result in seriously constrained sidewalk widths in areas that built out early (Ballston) or still have large areas of the built environment that were constructed by-right (Clarendon). A more nuanced rule is needed.
- All sidewalk cafes in the public right-of-way are required to take space from pedestrians (the sidewalk). There is no option to take space from cars (street parking). Why must pedestrians always be the ones to give up space?
- This implementation will likely result in additional sidewalk cafes. Enforcement of sidewalk pedestrian clear zones in sidewalk cafes is already seriously sub-optimal. This implementation needs a component to improve and expand enforcement.

Process Problems:

- The encroachment ordinance was not included in the Commission's briefing materials.
- There were no staff available during the Commission's meeting who could answer Commissioner questions about the encroachment ordinance.

Combined, these two sets of issues made it impossible for the Commission to feel comfortable recommending approval at this time. We understand that a deadline is approaching that makes implementation of final rules for sidewalk cafes feel urgent, but careful questioning of staff at the Commission made it clear that staff will already be unable to process these new sidewalk café applications before the deadline arrives and will simply not pursue enforcement action against the old "TOSA" cafes until they can be handled. As such the deadline seems largely symbolic and taking another month or two to get these implementation details correct would be wise.

Present and voting in favor were commissioners Coleman, Knowlan, Muratovic, Yarie, Slatt, Terry, and Theo. Voting in opposition were commissioners Lantelme and Shannon who felt the regulations should move forward and commission concerns addressed in a follow-up process. I am happy to answer any questions at 571-482-8454 or chris@dodgersden.com.

Sincerely,

A handwritten signature in black ink that reads "Christopher M. Slatt". The signature is written in a cursive, flowing style.

Christopher Slatt, Chairman