



GOVERNMENT OF THE DISTRICT OF COLUMBIA

Advisory Neighborhood Commission 2E

Representing the communities of Burleith, Georgetown, and Hillandale

3265 S Street, NW • Washington, DC 20007

(202) 724-7098 • anc2e@dc.gov

February 6, 2022

Mayor Muriel Bowser
Mayor
Government of the District of Columbia
1350 Pennsylvania Avenue NW
Washington, DC 20004
muriel.bowser@dc.gov

Deputy Mayor Lucinda Babers
Deputy Mayor for Operations and Infrastructure
Government of the District of Columbia
1350 Pennsylvania Avenue, NW, Suite C-06
Washington, DC 20004
lucinda.babers@dc.gov

Mr. Everett Lott
Director
District Department of Transportation
250 M Street SE
Washington, DC 20003
Everett.Lott@dc.gov

RE: Maintenance of Brick Sidewalks in Georgetown

Dear Mayor Bowser, Deputy Mayor Babers, and Director Lott,

On January 31, 2022 ANC 2E held its regularly scheduled public meeting, which was properly noticed and attended by six commissioners, constituting a quorum. At this meeting the Commission adopted the following resolution by a vote of (6-0-0) with regard to the above-referenced matter:

On July 22, 2021, having noted that patches made of porous flexible pavement (PFP) had been illegally used by the District Department of Transportation (DDOT) to repair brick sidewalks in four locations in the Georgetown Historic District, ANC 2E asked DDOT Acting Director Everett Lott to direct DDOT to remove the illegal PFP patches (a copy of ANC 2E's July 22, 2021 message to Acting Director Lott is attached to this resolution as Exhibit A). When Acting Director Lott chose not to respond to ANC 2E's request, ANC 2E respectfully urged Mayor Muriel Bowser and Deputy Mayor for Operations and Infrastructure Lucinda Babers to direct DDOT to remove the illegally installed patches (a copy of ANC 2E's August 30, 2021 resolution is attached as Exhibit B).

COMMISSIONERS:

Kishan Putta, District 1 Jenny Mitchell, District 2 Rick Murphy, District 3
Lisa Palmer, District 5 Gwendolyn Lohse, District 6
Elizabeth Miller, District 7

In the five months that have passed since ANC 2E addressed its resolution to Mayor Bowser and Deputy Mayor Babers nothing has happened. Mayor Bowser, Deputy Mayor Babers, and Director Lott have all ignored ANC 2E's requests, and the illegal PFP patches have not been removed. More importantly, however, damaged sections of brick sidewalk in Georgetown, including at numerous locations identified by DDOT as needing repair almost a year ago, have not been repaired with brick as DDOT's regulations require. The predictable, but distressing, result is that the brick sidewalks in Georgetown are becoming increasingly unsafe and unsightly.

ANC 2E once again respectfully urges Mayor Muriel Bowser and Deputy Mayor Lucinda Babers to direct DDOT to commence repairing and maintaining the brick sidewalks in the Georgetown Historic District using brick and to immediately remove the four PFP patches that were illegally installed at the following locations:

1. 2710 P Street NW,
2. At the western end of the north side of the 2900 block of P Street NW,
3. 3301 Dent Place NW, and
4. 1640 33rd Street NW.

Commissioner Rick Murphy (2E03@anc.dc.gov) is the Commission's representative in this matter.

Respectfully submitted,

A handwritten signature in blue ink that reads "Richard G. Murphy, Jr." in a cursive script.

Rick Murphy
Chair, ANC 2E

CC: Tara Sakraida Parker, President, Citizens Association of Georgetown

Exhibit A

**ANC 2E's July 22, 2021 Message to
Acting Director Lott**

Fwd: Georgetown's Brick Sidewalks

Murphy, Rick (SMD 2E03) <2E03@anc.dc.gov>

Tue 2/1/2022 8:36 AM

To: ANC 2E Office (ANC 2E) <2E@anc.dc.gov>

Begin forwarded message:

From: "Murphy, Rick (SMD 2E03)" <2E03@anc.dc.gov>

Date: July 22, 2021 at 13:49:42 EDT

Subject: Georgetown's Brick Sidewalks

Acting Director Lott,

Thank for your message. I delayed responding until I had an opportunity to read and consider the legal opinions DDOT received from the Office of the Attorney General (OAG) and provided to Councilmember Pinto.

In the opinion that addresses DDOT's obligations under 24 DCMR Chapter 12, an opinion that DDOT did not receive until almost two months after DDOT first used Porous Flexible Pavement (PFP) to repair brick sidewalks in Georgetown, OAG concluded, "...that where the repair is for less than the full width of the sidewalk, the regulations do not prohibit the use [of PFP]." Put another way, OAG has unambiguously advised DDOT that if the repair of a brick sidewalk in Georgetown covers the entire width of the sidewalk, DDOT is required by the regulation to use brick.

In each of the four locations in Georgetown in which DDOT used PFP to repair brick sidewalks, the PFP patch extends the full width of the formerly brick sidewalk. According to the OAG opinion, DDOT was, therefore, required by 12 DCMR section 1200.7 to repair the brick sidewalks in the four locations with brick. That being the case, this is to respectfully request that DDOT immediately remove the illegally installed PFP patches, and repair the subject sections of sidewalk with brick. The illegal patches can be found at (1) 2710 P Street N.W., (2) on the north side of P Street, N.W., slightly east of the intersection with 30th Street, N.W., (3) 3301 Dent Place, N.W.; and (4) 1640 33rd Street, N.W.

I leave it to the Old Georgetown Board and the Commission of Fine Arts to comment upon OAG's conclusion that the Old Georgetown Act does not apply to DDOT's decision to use PFP to repair Georgetown's brick sidewalks. I must point out, however, that DDOT's approach to this issue is entirely inconsistent with decades of custom and practice in dealing with projects that affect the appearance and character of Georgetown. Past examples of close and collaborative cooperation among DDOT, the OGB and ANC 2E are simply too numerous to mention.

This consistent history of collaboration was arguably required by, D.C. law. The Historic Landmark and Historic District Protection Act of 1978, which applies to Georgetown, mandates, "...the protection, enhancement and perpetuation of improvements [such as brick sidewalks] and landscape features of landmarks and districts which represent distinctive

elements of the city's cultural, social, economic, political and architectural history." In the past DDOT, fulfilled its obligations under the Act by cooperating with OGB and ANC 2E.

I understand your renewed commitment to "meaningful conversation" involving DDOT, OGB and ANC 2E to be a promise to return DDOT's former practice of engaging in a meaningful way with both ANC 2E and OGB before embarking on projects that affect the appearance and character of Georgetown.

Thank you for your attention to this important matter, and for your willingness to engage meaningfully with our community. We look forward to the expeditious removal of the four PFP patches.

Best regards,

Rick Murphy
Chair, ANC 2E

On Jul 6, 2021, at 16:51, Lott, Everett (DDOT) <Everett.Lott@dc.gov> wrote:

Hi Commissioner,

Thank you for the email and for the fruitful conversation and discussion last week. I will be sharing the official legal opinion with the Councilmember and her office shortly.

Under my leadership, DDOT will continue to engage with stakeholders to include OGB, CAG, and ANC 2E. DDOT does not have a legal obligation to engage with OGB on public space considerations, such as sidewalks but I am willing to meet with all stakeholders as outlined above. As noted during our conversation, our engagement in meaningful conversation does not necessarily mean that the outcome will be different. For example, when public safety and ADA compliance issues are involved, DDOT has a responsibility to address and mitigate the safety and ADA compliance concerns as quickly as possible.

DDOT and the industry continues to maintain that PFP is the appropriate solution to make sure our public sidewalks that have been uprooted by tree roots are repaired in a timely, sustainable, and efficient manner and in a way that does not harm our trees. DDOT will ensure that all infrastructure repairs can be properly maintained to ensure continued safety.

Many thanks,

Everett
Acting Director
DDOT

From: Murphy, Rick (SMD 2E03) <2E03@anc.dc.gov>
Date: Tuesday, July 6, 2021 at 1:21 PM
To: Lott, Everett (DDOT) <Everett.Lott@dc.gov>
Cc: bpinto@dccouncil.us <bpinto@dccouncil.us>, Babers, Lucinda (EOM) <Lucinda.Babers@dc.gov>, tluebke@cfa.gov <tluebke@cfa.gov>, Tara Sakraida Parker <tara@sakraidaparker.com>, Mitchell, Jenny (SMD 2E02) <2E02@anc.dc.gov>, Palmer, Lisa (SMD 2E05) <2E05@anc.dc.gov>, Lohse, Gwendolyn (SMD 2E06) <2E06@anc.dc.gov>, Miller, Elizabeth H. (SMD 2E07) <2E07@anc.dc.gov>, Noakes,

Anna (EOM) <anna.noakes@dc.gov>, bromanowski@dccouncil.us
<bromanowski@dccouncil.us>, GHulick@dccouncil.us <GHulick@dccouncil.us>,
DeFrank, Andrew (DDOT) <Andrew.Defrank@dc.gov>
Subject: Georgetown's Brick Sidewalks

Acting Director Lott,

Thank you again for participating in the meeting Councilmember Pinto arranged last week. I have attached a letter that summarizes ANC 2E's understanding of the results of that meeting.

Best regards,

Rick Murphy
Chair, ANC 2E

Washington, DC joins Moms Demand Action to recognize National Gun Violence Survivors Week - Feb. 1-7, 2022. Read and share stories and experiences of survivors and community members at momentsthatsurvive.org and visit the [Gun Violence Memorial Project](#) at the National Building Museum . #GVSurvivorsWeek #BBDC

Exhibit B

**ANC 2E's August 30, 2021 Resolution
Regarding Porous Flexible Pavement
Patches**



GOVERNMENT OF THE DISTRICT OF COLUMBIA

Advisory Neighborhood Commission 2E

Representing the communities of Burleith, Georgetown, and Hillandale

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September 8, 2021

Mayor Muriel Bowser
Mayor
Government of the District of Columbia
1350 Pennsylvania Avenue NW
Washington, DC 20004
muriel.bowser@dc.gov

Deputy Mayor Lucinda Babers
Deputy Mayor for Operations and Infrastructure
Government of the District of Columbia
1350 Pennsylvania Avenue, NW, Suite C-06
Washington, DC 20004
lucinda.babers@dc.gov

Mr. Everett Lott
Interim Director
District Department of Transportation
250 M Street SE
Washington, DC 20003
Everett.Lott@dc.gov

RE: Removal of Illegally Installed Porous Flexible Pavement Patches on Brick Sidewalks in the Georgetown Historic District

Dear Mayor Bowser, Deputy Mayor Babers, and Director Lott,

On August 30, 2021 ANC 2E held its regularly scheduled public meeting, which was properly noticed and attended by six commissioners, constituting a quorum. At this meeting the Commission adopted the following resolution by a vote of (6-0-0) with regard to the above-referenced matter:

On March 23, 2021, without any prior consultation with either ANC 2E or the Old Georgetown Board (OGB), the District Department of Transportation (DDOT) announced its intention to use Porous Flexible Pavement (PFP) to repair brick sidewalks damaged by tree roots in the Georgetown Historic District. The announcement signaled an abrupt and unilateral end to DDOT's long-standing practice of cooperating with ANC 2E and the OGB when making decisions that affect the appearance of the federally-protected Georgetown Historic District. Remarkably, DDOT's announcement of the policy change made no reference to the agency's obligation under the District of Columbia Municipal Regulations (DCMR) to use brick to repair sidewalks in Georgetown.

COMMISSIONERS:

Kishan Putta, District 1 Jenny Mitchell, District 2 Rick Murphy, District 3
Anna Landre, District 4 Lisa Palmer, District 5 Gwendolyn Lohse, District 6
Elizabeth Miller, District 7 Matias Burdman, District 8

At public meetings held on March 30, 2021 and May 3, 2021, ANC 2E adopted resolutions urging DDOT to delay implementation of its plan to use PFP in Georgetown until there had had been an opportunity to have a meaningful discussion among stakeholders of how best to maintain the safety, accessibility, and appearance of brick sidewalks in the Georgetown Historic District. DDOT refused to pause the project, and proceeded to replace the entire width of sections of brick sidewalks in the following four locations in Georgetown with PFP:

1. 2710 P Street NW,
2. on the north side of P Street NW, slightly east of the P Street and 30th Street NW intersection,
3. 3301 Dent Place NW, and
4. 1640 33rd Street NW.

On June 30, 2021, at a Zoom meeting convened by Councilmember Brooke Pinto, DDOT Acting Director Everett Lott agreed to provide copies of legal opinions discussing DDOT's obligations under the Old Georgetown Act and 24 DCMR Chapter 12 to Councilmember Pinto and authorized Councilmember Pinto to share the opinions with representatives of ANC 2E and the Citizens Association of Georgetown (CAG).

In mid-July, ANC 2E received a copy of a legal opinion authored by Deputy Attorney General Brian Flowers that had as its subject, "Does the District's replacement of sidewalk bricks in Georgetown with another material comply with 24 DCMR Chapter 12?" The opinion was dated seven days **after** the Zoom meeting convened by Councilmember Pinto and roughly 60 days **after** DDOT replaced four sections of brick sidewalks in Georgetown with PFP. In his opinion, Deputy Attorney General Flowers unambiguously advised DDOT that if the repair of a brick sidewalk in Georgetown (or in any of the other four historic districts identified in the regulation) covers the entire width of the sidewalk, DDOT is required by the regulation to use brick. In each of the four locations in Georgetown where DDOT used PFP to repair damaged brick, the repair covers the entire width of the sidewalk. DDOT has indisputably violated its own regulation.

By email addressed to Acting Director Lott dated July 22, 2021, ANC 2E noted the implications of the legal opinion provided by Deputy Attorney General Flowers, and respectfully requested removal of the illegally installed PFP patches. To date, Acting Director Lott has not responded to ANC 2E's request and the PFP patches have not been removed.

With the above as background, ANC 2E respectfully urges Mayor Muriel Bowser and Deputy Mayor for Operations and Infrastructure Lucinda Babers to direct DDOT to remove the PFP patches illegally installed in the Georgetown Historic District and to repair the four affected sections of sidewalk with brick.

Commissioner Rick Murphy (2E03@anc.dc.gov) is the Commission's representative in this matter.

Respectfully submitted,

A handwritten signature in blue ink that reads "Richard G. Murphy, Jr." in a cursive script.

Rick Murphy
Chair, ANC 2E

CC: John Falcicchio, Deputy Mayor for Planning and Economic Development
Councilmember Brooke Pinto, Ward 2
Andrew DeFrank, Community Engagement Specialist, DDOT