

**BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA**

Application of
2210 5th, LLC

BZA Application No. 21423
ANC 5F06

STATEMENT OF THE APPLICANT

This statement is submitted on behalf of 2210 5th, LLC (the “**Applicant**”) in support of its application for special exception relief, pursuant to Subtitle X § 901.1 for entertainment, assembly, and performing arts use in the PDR-2 zone under Subtitle U § 802.1(e) and for area variance relief, pursuant to Subtitle X § 1002.1, from the condition in Subtitle U § 802.1(e)(2) that requires that an entertainment, assembly, and performing arts use in a PDR zone not abut residential use. The relief requested will facilitate use of the property located at 2210 5th Street, NE (Square 3622, Lot 811) (the “**Property**”) for an indoor digital golf range and simulator entertainment use (the “**Proposed Use**”).

I. JURISDICTION OF THE BOARD

The Board of Zoning Adjustment (the “**Board**”) has jurisdiction to grant the special exception relief requested herein pursuant to Subtitle X § 901.2 of the Zoning Regulations. The Board has jurisdiction to grant the area variance relief requested herein pursuant to Subtitle X § 1000.1.

II. DESCRIPTION OF THE PROPERTY, SURROUNDING AREA, AND PROPOSED USE

The Property is a corner lot, containing approximately 10,275 square feet of land area, and fronts on 5th Street, NE to the east and W Street, NE to the south. It sits between the Eckington and Edgewood neighborhoods in Northeast DC. The property to the west is currently vacant but construction of a multifamily building has begun. To the north of the Property is a strip of one-

story retail, including a laundromat, market, and fast-food establishment. The surrounding area consists of a mix of industrial and institutional uses, including a U-Haul storage facility, fire station, church, cement factory and other warehouse, and residential uses, both single and multifamily. The nearby major thoroughfare, Rhode Island Avenue, NE, includes a gas station, McDonald's, and AutoZone, as well as a handful of newer multifamily buildings with ground floor retail.

The Metropolitan Branch Trail runs approximately one block to the east of the Property and the Rhode Island Ave-Brentwood Metrorail Station is located less than a quarter-mile to the northeast. The Union Market District is located approximately one mile to the south of the Property. The Property is located in the northwest corner of a PDR-2 Zone. The Property is surrounded by the MU-4 Zone to the north and west, the MU-10 Zone to the northeast, and the MU-7B Zone further north across Rhode Island Avenue, NE.

The Property is currently improved with a surface parking lot and warehouse structure consisting of several bays, previously used as an autobody repair shop. The Applicant purchased the Property in 2023 and it currently sits vacant. The Applicant plans to convert the warehouse to an indoor digital golf range and simulator entertainment use as well as a matter of right cannabis dispensary that is not the subject of this application. The Proposed Use includes four (4) golf simulators. The golf simulators consist of a projected screen accompanied by a 13 foot by 15 foot green space, mimicking a driving range. Players place a golf ball several feet from the screen and take swings, hitting the ball into the mesh screen. The golf simulators will be used for recreation and for golf lessons. Each of the four (4) golf simulators planned for installation at the Property can accommodate groups of up to eight (8) players.

III. NATURE OF SPECIAL EXCEPTION RELIEF SOUGHT AND STANDARD OF REVIEW

The Applicant requests special exception relief, pursuant to Subtitle X § 901.1 and Subtitle U § 802.1(e), for entertainment, assembly, and performing arts use in the PDR-2 zone. Pursuant to Subtitle X § 901.2, the Board is authorized to grant a special exception where the special exception:

- (1) Will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps;
- (2) Will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps; and
- (3) Will meet such special conditions as may be specified in the Zoning Regulations.

11-X DCMR § 901.2.

Pursuant to Subtitle U § 802.1(e), entertainment, assembly, and performing arts uses are subject to the following special exception conditions in the PDR-2 Zone:

- (1) The use shall be located and designed so that it is not likely to become objectionable to neighboring property because of noise, traffic, parking, loading, number of attendees, waste collection, or other objectionable conditions;
- (2) The property shall not abut a residential use or residential zone;
- (3) There is no property containing a live performance, night club or dance venue either in the same square or within a radius of one thousand (1,000 ft.) from any portion of the subject property;
- (4) External performances or external amplification shall not be permitted; and
- (5) The Board of Zoning Adjustment may impose additional requirements as it deems necessary to protect adjacent or nearby residential properties, including but not limited to:
 - (a) soundproofing; (b) limitations on the hours of operation; and (c) expiration on the duration of the special exception approval.

11-U DCMR § 802.1(e).

IV. THE APPLICATION SATISFIES THE CRITERIA FOR THE REQUESTED SPECIAL EXCEPTION RELIEF

The Applicant meets the burden for special exception relief for entertainment, assembly, and performing arts use in the PDR-2 Zone, pursuant to Subtitle U § 802.1(e) because (1) the relief is harmonious with the general purposes and intent of the Zoning Regulations and Zoning Maps, (2) the relief will not tend to adversely affect the use of neighboring property, and (3) with

the exception of Subtitle U § 802.1(e)(2) for which the Applicant seeks variance relief as further described below, the Proposed Use satisfies the conditions listed in Subtitle U § 802.1(e).

A. The Relief is Harmonious with the General Purpose and Intent of the Zoning Regulations and Zoning Maps.

The requested relief is harmonious with the Zoning Regulations and Zoning Maps. The Zoning Regulations permit the Proposed Use as a special exception in the PDR-2 Zone and, therefore, the use is an anticipated use in the zone and consistent with the Zoning Regulations, subject to the special exception criteria. The Proposed Use complements the abutting MU-4 Zone to the north and west of the Property, in which the proposed use would be permitted as a matter-of-right. With new residential uses along Rhode Island Avenue, NE, as well as a new multifamily building planned for the lot directly to the west of the Property, the Proposed Use contributes to creating a rich amenity environment for existing and new residents. The Property is located in the Mid-City Area Element of the Comprehensive Plan, which encourages redevelopment of vacant buildings. 10-A DCMR § 2008.4. The Area Element also encourages “trail-oriented development” near the Metropolitan Branch Trail to attract more users of the trail and build community for new and existing residents. § 2008.10. The Property sits approximately 600 feet to the west of the Metropolitan Branch Trail and the proposed entertainment use will offer a destination for trail users and nearby residents. The Proposed Use will also adaptively re-use a vacant building and deliver an active, economically viable concept to an underutilized parcel, furthering the goals of the Comprehensive Plan.

B. The Relief Will Not Tend to Adversely Affect the Use of Neighboring Property.

The requested relief will not tend to adversely affect the use of neighboring property. First, the neighborhood is already mixed-use and includes significant industrial and commercial uses.

More specifically, the Property is located in a significant segment of PDR-zoned property along 5th Street, NE. The Property is also located between MU zones, with MU zones to the east, north and northeast. Rhode Island Avenue is merely 100 feet to the north and includes a gas station, several fast-food restaurants, and retail.

There are new and existing residential uses nearby, including the property immediately to the west, although the 5th Street corridor on which the Property fronts is still dominated by long-industrial structures and uses. Interestingly, even the property to the west that is now being developed with residential use was previously a supermarket and commercial use.

The interplay between the Proposed Uses and other complementary entertainment uses and nearby residential uses proposed by the Project are similar to the Union Market District, located approximately one mile to the south of the Property. This evolution of entertainment/commercial and nearby residential uses are similar evolving nearby. North of Rhode Island Avenue is an entertainment complex including the Alamo Drafthouse Cinema, Kraken Kourts & Skates, Bubble Planet: The Immersive Experience, and Monet: The Immersive Experience. The Proposed Use fits in well with this continued magnetization of the neighborhood and adds more incentives and interest for people to live in and visit this burgeoning neighborhood.

The Proposed Use is also limited in scope with only four (4) golf simulators, thus minimizing the number of patrons visiting the Property at any given time. As further described below, the noise level of the golf simulators is a low frequency, at only approximately 70 dB. Further, the Property previously contained industrial use on-site. This use would be completely self-contained within the existing structure. It would not change or expand the Property's existing building envelope. The Proposed Use would not extend such industrial use nor exacerbate the

building's adverse impacts on its neighbors. Therefore, the Proposed Use is not anticipated to cause any adverse effects on neighboring properties.

C. The Proposed Use Complies with the Specified Conditions.

(1) The use shall be located and designed so that it is not likely to become objectionable to neighboring property because of noise, traffic, parking, loading, number of attendees, waste collection, or other objectionable conditions.

The Proposed Use is not anticipated to be objectionable to neighboring property. The golf simulators mimic the quiet nature of the sport of golf itself and will not create any audible impact on neighboring properties. The golf balls hit a mesh screen, making little sound upon impact and such activities are completely contained within the existing masonry structure on the Property. The specifications for the golf simulators included on Page 3 of **Exhibit B**. The approximate sound level of these units is only 70 dB, which is comparable to a dishwasher or vacuum cleaner. Further, the number of patrons will be limited by the four (4) simulators, with an anticipated maximum number of players of up to approximately 32 individuals not including guests. Such a facility will also have a minimal need for employees. It is anticipated that the players, guests, and employees will draw primarily from the surrounding neighborhood and from the Metrorail station location in close proximity to the site. The modest amount of players, guests, and employees will result in no adverse impact on parking demand in the area. Similarly, the use is not anticipated to produce significant waste. All waste will be handled by a typical commercial trash hauling operation that will maintain a trash-free environment and assure that adverse impacts are not created by trash as well.

(2) The property shall not abut a residential use or residential zone.

While the Property abuts only PDR and MU zones, the Property abuts a lot which is planned for a new multifamily development immediately to the west. This new project is

currently under construction. As noted above, the new residential project to the west is occurring on a site that was long utilized as a commercial building including a supermarket. Accordingly, the Applicant is seeking variance relief from this condition as outlined in Sections V and VI below.

(3) There is no property containing a live performance, night club or dance venue either in the same square or within a radius of one thousand (1,000 ft.) from any portion of the subject property.

The Applicant is not aware of any properties within the square or within 1,000 feet of the Property containing a live performance, night club or dance venue.¹ Research into certificates of occupancy in the vicinity of the Property did not uncover any such uses within 1,000 feet of the Property.

(4) External performances or external amplification shall not be permitted.

The Applicant proposes no external performances or external amplification. As described above, the nature of the use is quiet and is completely contained within the existing structure. The use is not geared towards performances and would not include external amplification typically associated with that use pattern.

(5) The Board of Zoning Adjustment may impose additional requirements as it deems necessary to protect adjacent or nearby residential properties, including but not limited to: (a) soundproofing; (b) limitations on the hours of operation; and (c) expiration on the duration of the special exception approval.

The Applicant will comply with any additional requirements proposed by the Board, but notes that, due to the quiet nature of the Proposed Use, all interior to the existing structure, neither

¹ There are a number of entertainment uses in the vicinity, including: Kraken Kourts & Skates at 514 Rhode Island Ave, NE, permitted for Pickleball and Roller Skate Court use per CO230187; Monet: The Immersive Experience at 524 Rhode Island Ave, NE, permitted for Art Gallery use per CO2403758; the Alamo Drafthouse at 630 Rhode Island Ave, NE permitted for Movie Theater with Bar, Restaurant and Summer Garden use per CO2200818 and Restaurant use per CO2403681; and The Crucible at 412 V Street, NE, permitted for Private Club/Assembly Hall use per CO1702706. None of these uses consist of a live performance, night club or dance venue as confirmed by their certificates of occupancy.

soundproofing nor limitations on the hours of operation are necessary. Likewise, as the use is not anticipated to cause any adverse impacts on neighboring properties, the hours of operation and the duration of the special exception approval should not be limited.

V. NATURE OF VARIANCE RELIEF SOUGHT AND STANDARD OF REVIEW

The Applicant seeks an area variance from the condition that an entertainment, assembly, and performing arts use in the PDR-2 zone shall not abut a residential use or zone under Subtitle U § 802.1(e)(2). The lot located to the west of the Property is planned and under construction for multifamily residential use. Therefore, the Applicant requests variance relief from this condition.

Pursuant to D.C. Code § 6-641.07(g)(3) and Subtitle X § 1000.1, the Board is authorized to grant variance relief where it finds that three conditions exist:

- (1) The Property is affected by exceptional size, shape or topography or other extraordinary or exceptional situation or condition;
- (2) The owner would encounter practical difficulties or undue hardship if the zoning regulations were strictly applied; and
- (3) The variance would not cause substantial detriment to the public good and would not substantially impair the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map. 11-X DCMR § 1000.1.

The D.C. Court of Appeals has held that the purpose of a variance is to “prevent usable land from remaining idle.” *Palmer v. Bd. of Zoning Adjustment*, 287 A.2d 535, 541 (D.C. 1972).

VI. THE APPLICATION SATISFIES THE CRITERIA FOR THE REQUESTED VARIANCE RELIEF

The Applicant meets the burden for variance relief because (1) the Property is affected by a number of situations that make it exceptional, (2) the Applicant will face practical difficulties with strict compliance with the Zoning Regulations, and (3) the variance relief will not cause substantial detriment to the public good or the Zoning Regulations.

A. The Property is Affected by Exceptional Situations or Conditions

The Property is affected by several factors that contribute to its exceptional situation and conditions. The D.C. Court of Appeals has held that the exceptional situation or condition relates not just to the “land,” but to the “property” and that the “property generally includes the permanent structures existing on the land.” *Clerics of St. Viator v. District of Columbia Bd. of Zoning Adjustment*, 320 A.2d 291, 293 (D.C. 1974). The Court of Appeals has further held that the exceptional or extraordinary condition may arise from a “confluence of factors.” *Ait-Ghezala, V. District of Columbia Bd. Of Zoning Adjustment*, 148 A.3d 1211, 1217 (D.C. 2016).

The Property is unusual in that it consists mostly of a surface parking lot with an oddly-configured warehouse structure towards the rear, constructed in 1945, according to District permitting records. The unassuming warehouse structure was designed by French architect Louis de LaDurantaye who designed numerous buildings in the District, including the Homestead Apartments at 812 Jefferson Street, NW, which is a historic landmark in the DC Inventory and National Register of Historic Places.² A vinyl addition with a slanted roof was added to the warehouse structure more recently. The resulting L-shaped structure is constrained by its narrow depth, the large bays purpose-built for a prior autobody repair shop use, and the unusual slanted roof of the addition. The age and configuration of the bays, along with the resulting location of building supports and structural elements, presents a configuration that is difficult to modify. The surface parking lot takes up the majority of the Property and, for many years, the lot was cluttered with dozens of vehicles, sometimes stacked on top of one another. The structure on the Property was constructed in its unique configuration when the property to the west contained commercial uses and the parking and vehicular area on the Property’s east side was logical.

² *Homestead Apartments*, D.C. Historic Sites, <https://historicsites.dcpreservation.org/items/show/1082>.

Further, the Property is vacant and unutilized. The Applicant has faced obstacles leasing the oddly configured space with its unique structure. The space is small, consisting of approximately 3,000 square feet, made up mostly by bays for the prior autobody shop use. There is no storefront due to the large garage doors and the building is set back from the street frontage. The Applicant previously attempted to lease the space to a moving company, an audio visual company, and ProFish, a seafood wholesaler, but none of these prior businesses were able to successfully utilize the Property due to its unusual configuration. ProFish was unable to use the space for anything but trash storage; the moving company could only use the Property for truck parking; and the audio visual company could not develop its business within the building configuration in order to drive a sufficient customer base. The odd configuration and constrained nature of the improvements do not lend themselves to many potential uses in the current leasing market, but would work well with the Proposed Use.

The Property's uniquely shaped building is uncommonly situated along the border of an MU and PDR Zone. The Proposed Use would be matter-of-right within this structure if located in any of the other lots within this square, which are all zoned MU-4. The PDR zoning of the property is a vestige of a different time, resulting in an unfortunate zoning of the southeast corner of Square 3622. The recent change to the Property's Future Land Use Map designation – to include a residential designation along with the PDR designation – further underscores the zoning of this site could be an anachronism.

In addition, the building on the lot to the west of the Property just started its construction. If not for such project recently beginning, this relief would not be necessary.

These various factors, including the awkward and impractical shape of the warehouse structure and its internal vehicular bay configuration, the various ages of structures and the

Property's history, as well as the Property's seemingly misplaced PDR zoning surrounded by MU zoning, combine to create an exceptional situation that has contributed to the Property's vacancy for a number of years.

B. The Applicant Will Face Practical Difficulty with Strict Zoning Compliance

The Applicant faces practical difficulty in strictly complying with the Zoning Regulations because the Property abuts a mixed-use zone and, with a residential building planned on the abutting lot, the Property will no longer comply with the special exception condition set forth in Subtitle U § 802.1(e)(2). The Applicant is constrained by the unusual nature of the Property, and particularly the former automotive repair and industrial structure, as described above, which has led to its vacancy.

The Court of Appeals has held that the standard for practical difficulty is met when “compliance with the area restriction would be unnecessarily burdensome” and “the practical difficulties are unique to the particular property.” *Barbour v. District of Columbia Bd. Of Zoning Adjustment*, 358 A.2d 326, 327 (D.C. 1976). The Court has further held that the Board may consider the economic use of a property in determining what constitutes an unnecessary burden and that economic harm may be sufficient when coupled with a “significant limitation on the utility of the structure.” *Gilmartin v. District of Columbia Bd. Of Zoning Adjustment*, 579 A.2d 1164, 1170-1171 (1990).

The Property is currently vacant and unutilized. Due to the unusual characteristics of the former auto repair structure and the portion of the structure that remains unleased, the Applicant has been unable to utilize the last remaining vacant component of the Property.

The unique automotive repair bays in the structure and the narrowness of its configuration severely limit the types of tenants that can utilize the remaining component of the building. This

is demonstrated by the Applicant's inability to realize the true economic potential of the Property since its purchase of the Property in 2023. While the structure constrains most users of the property, the proposed golf simulators uniquely fit into the automotive repair bays. In addition, the narrow configuration of the building is ideal for this particular use. If the Proposed Use is not permitted at the site, it is likely that the Property would be vacant indefinitely.

The building's structure is also not conducive to reconfiguring the building to accommodate other configurations for potential tenants. Such building reconfiguration would require the removal of its existing masonry supports and potentially endanger the viability of the structure itself, along with introducing additional "seams" to create waterproofing and insulation issues along the existing building and any new addition.

The significant setback from the street along 5th Street and the minor frontage along W Street also limit the degree of tenant interest in this building. Many tenants do not want to move into such a building without such a street presence. As a result, only an entertainment user such as the Proposed Use can utilize this building.

Due to the Property's PDR zoning in an otherwise purely MU-4 zoned square with residential uses, the Applicant is foreclosed from providing its entertainment use without a variance.

The Court of Appeals has held that the purpose of a variance is to "prevent usable land from remaining idle." 287 A.2d 541. Here, the Applicant seeks to revitalize a historically underutilized Property that, for many years, sat as an eyesore in the neighborhood. Strict compliance with the Zoning Regulations would preclude the Applicant from pursuing this creative and adaptive reuse of the Property that would otherwise benefit the community, particularly nearby residents including those who will live adjacent to the Property, with a neighborhood amenity.

C. The Variance Relief Will Not Cause Substantial Detriment to the Public Good or the Zoning Regulations and Maps

The requested variance relief will not cause detriment to the public good. Rather, the proposed entertainment use will benefit the neighborhood, providing new recreational use that enriches the surrounding neighborhood by offering an opportunity to mingle. The Proposed Use is quiet by nature and, therefore, will have no audible impact on nearby residential uses.

Similarly, the Proposed Use will not generate adverse traffic impacts. It will not generate noxious fumes or any adverse effects that would spill over onto the adjacent properties or the community.

In fact, allowing the proposed use at the Property allows for the Property to be more integrated with, and appropriate and beneficial for, the surrounding residential community while also enhancing the offerings and activity ecosystem in the PDR property around the Property. PDR-zoned properties in this vicinity, particularly in the nearby Union Market District, have increasingly converted to entertainment-type uses and this property similarly begs for adaptive reuse. The Proposed Use would be in accordance with the continued evolution of these nearby use and development patterns.

As PDR zones evolve throughout the city, the Proposed Use complements the planned-for multifamily development next door as well as the new residential uses along Rhode Island Ave, NE. The Applicant seeks to revitalize the corner lot and the Proposed Use will offer a means of entertainment to help create an amenity-rich environment for the nearby existing and planned-for residents and guests. As described above, the Proposed Use will also further District goals by adding an amenity in close proximity to the Metropolitan Branch Trail, incentivizing ridership.

Further, the Proposed Use is not a type of entertainment or assembly use that was considered to create the condition in Subtitle U § 802.1(e)(2). Such section was drafted to

safeguard residents from locating to potentially incompatible uses such as concert halls. Rather, as discussed above, the use will be ideally situated adjacent to a residential use and offer enhanced recreational and entertainment options without the downside of any adverse impacts. This use would be significantly more compatible with the adjacent residential use than the auto repair shop that previously utilized the Property or any number of matter of right industrial uses that could located on the Property as a matter of right.

VII. COMMUNITY OUTREACH

The Applicant presented the application to Advisory Neighborhood Commission (“ANC”) 5F on October 21, 2025. The ANC voted unanimously to support the application, noting that the Applicant proffered that noise levels will not carry to adjacent properties.

VIII. CONCLUSION

For all of the above reasons, the Applicant has satisfied the standards for the requested special exception and variance relief in this case and requests approval for such relief.

Respectfully Submitted,

/s/ Jeff C. Utz
Jeff C. Utz

/s/ Lee S. Templin
Lee S. Templin