

III. ZONING REQUIREMENTS AND RELIEF REQUESTED

PDR-2	Regulation	Proposed	Relief
U § 802(e)	Special Exception for entertainment, assembly, and performing arts uses	Entertainment venue (indoor golf simulator) proposed	Requested – Special Exception
U § 802(e)(2)	Location cannot abut a residential use	Residential use under construction to the west	Requested – Area Variance

IV. ANALYSIS

Special Exception for Entertainment Uses

The applicant proposes to establish a golf simulator use, which is classified as an entertainment, assembly, and performing arts use, a special exception use in the PDR-2 zone. The relevant criteria are reviewed below.

802.1 The following uses shall be permitted in any of the PDR zones if approved by the Board of Zoning Adjustment as a special exception pursuant to Subtitle X, Chapter 9 and subject to the applicable conditions for each use below:

[...]

(e) Entertainment, assembly, and performing arts uses, subject to the following 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 nature of the use and its proposed scale mean that it should not become objectionable to neighboring properties. The facility would include four golf simulators, and the applicant estimates that a maximum of 32 players could play at any one time across the four stations. It is anticipated that the use would primarily serve nearby residents, or those arriving by metro. The DDOT report indicates that there would likely be some minor increase in pedestrian, bicycle, and vehicular traffic, but not enough to render the use incompatible with its surroundings. The golf use would be completely indoors, and any minor sound generated by the use should be shielded from nearby residential uses by the existing masonry structure.

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

The subject property abuts a new residential use to the west. The applicant has applied for the necessary variance from this section, and that variance analysis can be found 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's research into nearby entertainment uses indicates that none of their certificates of

occupancy include live performance, night club, or dance venue as a permitted use.

- (4) *External performances or external amplification shall not be permitted; and*

The application states that no outdoor performances or sound amplification is proposed with the use.

- (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;*

OP recommends no additional requirements for the use. The golf use would be completely indoors, and any minor sound generated by the use should be shielded from nearby residential uses. Similarly, because of the relatively small-scale of the use, OP does not anticipate any other undue impacts, and therefore does not recommend limitations on hours of operation or duration of the approval.

General Special Exception Criteria – Subtitle X § 901.2

- 901.2 (a) *[Granting the special exceptions] Will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps;*

Granting the requested special exception would be in harmony with the intent of the Zoning Regulations. Entertainment uses are deemed to be permissible in the PDR zone, and the intent of the special exception review is to ensure that the uses do not present undue impacts to nearby property. In general, therefore, the use is appropriate in this zone. In this particular instance, given the limited impacts of this use on adjacent properties, granting the special exception should not impair the intent of the Regulations to protect nearby uses. Furthermore, if the subject lot shared the same zoning as the rest of the square, the use would be a matter of right use. Similarly, a property owner on an adjacent lot, zoned MU-4, could establish an identical use as a matter of right. The Regulations, therefore, seem to indicate that the nature of the proposed use would be compatible with its immediate surroundings.

- 901.2(b) *[Granting the special exceptions] Will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps;*

As addressed in the above analysis, the requested special exceptions for an entertainment use would not appear to adversely affect the use neighboring property. There should be no undue impacts regarding factors such as noise, light, air or privacy.

Variance to Location Restriction

The applicant requests relief from the restriction of U § 802.1(e)(2), which states that an

entertainment use cannot abut a residential use. A new residential building is under construction on the lot to the west of the subject site, necessitating the variance. OP's analysis of the three-part variance test is below.

i. Extraordinary or Exceptional Situation or Condition Resulting in Peculiar and Exceptional Practical Difficulties To the Property Owner

a. Extraordinary or Exceptional Situation

The subject property is encumbered by exceptional conditions:

- Location of the building on the lot – The existing building was constructed away from 5th Street, with a paved area, formerly used for vehicle storage, located between the building and the street. This configuration results in minimal street presence for any potential commercial users of the site.
- Unusual configuration of the building – The existing building was built for auto repair uses, and its floor plate and garage doors do not lend themselves to a wide range of commercial uses. Furthermore, the structural arrangement of the building columns could make modification to a more useable footprint difficult.
- History of difficulty establishing a commercial use – The applicant documents a series of failed businesses on the site, just in the past few years, including a moving company, an audio-visual company, and a fish wholesaler. The application states that the configuration of the building and its location on the site make it difficult to find viable tenants.

b. Strict Application of the Zoning Regulation Would Result in Exceptional Practical Difficulties

The applicant is impacted by a practical difficulty resulting from the exceptional conditions affecting the property. The owner has a demonstrated history of difficulty finding viable commercial tenants for the property, and, given the exceptional conditions, would likely continue to have difficulty maintaining a long-term lease. The unusual siting and configuration of the building are not ideal for most commercial tenants. The proposed golf simulator use, however, would be one of the few uses whose footprint would be compatible with the existing building. Other tenants may require structurally difficult and expensive building expansions. The individual golf simulator units would fit into the multi-bay layout of the former auto repair building.

ii. No Substantial Detriment to the Public Good

As described in the special exception analysis above, the proposed use is unlikely to generate undue impacts to surrounding properties. While this proposed use is classified as an entertainment use and would be adjacent to a residential use, it should not generate significant external effects. There may be slight increases in traffic to the site or on-street parking utilization, but DDOT has no objection to approval of the project. The proposed use would be limited in scale, with a maximum of about 32 users at any one time, and should not generate significant noise. The golf use would be contained entirely indoors, inside the mostly-masonry building, and any minor amount of noise should be attenuated by the building itself. Also, the garage doors into the golfing area open away from the residential use and towards other non-residential uses across 5th Street.

iii. No Substantial Impairment to the Intent, Purpose, and Integrity of the Zoning Regulations

Granting the requested relief should not impair the intent of the Regulations. Entertainment uses are deemed to be permissible in the PDR zone, and the intent of the regulation in question is to ensure that the uses do not present undue impacts to nearby residential uses. In general, therefore, the use is appropriate in this zone. And in this particular instance, given the limited impacts of this use on adjacent properties, granting the variance should not impair the intent of the Regulations to protect nearby uses. Furthermore, if the subject lot shared the same zoning as the rest of the square, the use would be a matter of right use. Similarly, a property owner on an adjacent lot, zoned MU-4, could establish an identical use as a matter of right. The Regulations, therefore, seem to indicate that the nature of the proposed use would be compatible with its immediate surroundings.

V. COMMENTS OF OTHER DISTRICT AGENCIES

A DDOT memo stating no objections to the application is at Exhibit 31 of the record.

VI. ANC COMMENTS

An ANC memo in support of the application is at Exhibit 21.

VII. COMMUNITY COMMENTS

As of this writing there are no comments from the community in the record.

VIII. VICINITY MAP

