

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

Application of
ARP Morse LLC

BZA Application No. _____
ANC 5D01

STATEMENT OF THE APPLICANT

This application is made by ARP Morse LLC (the “**Applicant**”) to the Board of Zoning Adjustment (the “**Board**”) for special exception relief pursuant to Subtitle U § 802.1(c) to permit an eating and drinking establishment with a live performance venue (the “**Use**”) to occupy the existing building on the property located at 400 Morse Street NE (Square 3589, Lot 29) (the “**Property**”) in the PDR-1 Zone District.

I. NATURE OF RELIEF SOUGHT

The Applicant requests that the Board approve a special exception pursuant to Subtitle U § 802.1(c) for approval of an eating and drinking establishment with a live performance venue in the PDR-1 Zone District .

II. JURISDICTION OF THE BOARD

The Board has jurisdiction to grant the relief requested pursuant to Subtitle X § 900.2 of the Zoning Regulations.

III. DESCRIPTION OF THE PROPERTY AND SURROUNDING AREA

The Property consists of approximately 4,122 square feet of land area located at the northeast corner of Morse and 4th Streets NE. The Square is bounded by Morse Street NE to the south, 4th Street NE to the west, Neal Place NE to the north, and 5th Street NE to the east. The Property is located in the PDR-1 Zone District, as shown on the Zoning Map attached as Exhibit A.

The Property is located in the Union Market neighborhood, which is characterized by moderate- and medium-density development and a vibrant mix of uses including eating and

drinking establishments, a variety of retail and service uses, multifamily residential buildings, offices, and wholesale vendors. Properties within the immediate vicinity are primarily zoned PDR-1, with many sites also subject to medium and high density PUD-related zoning designations, and limited pockets of MU-8 and MU-9-zoned land. The Gallaudet University campus further east and the rowhome neighborhood south of Florida Avenue NE are zoned RF-1, and further to the southwest is the NoMa neighborhood, which includes areas zoned D-5 and various PDR designations. The Property is well-served by public transit, and is located approximately 0.3 miles walking distance from the NoMa/Gallaudet Metrorail Station and one (1) block (0.1 miles walking distance) from the 90-series Metrobus lines along Florida Avenue NE.

The Property is improved with a two-story building originally constructed in 1931 and currently occupied by an existing eating and drinking establishment, which will be replaced by the new Use proposed in this Application. The Property is located within the Union Market Historic District, and the existing building is part of a small block of buildings on the east side of the 1200 block of 4th Street NE that is considered contributing in the Historic District.

IV. PROPOSED USE

The Applicant proposes a new eating and drinking establishment that will include a live performance venue. As shown on the architectural plans (“**Plans**”) attached as Exhibit B, the proposed eating and drinking establishment will occupy the 1st and 2nd levels of the building, including the existing 2nd story terrace, as that space is currently used by the existing eating and drinking establishment occupying the building. The live performance component of the proposed use will be located on the 1st floor, as shown in the Plans. More specifically, the proposal is for a Country & Western-themed bar/lounge/restaurant concept that will include musical performances as a fixture of its operations. The Use will be operated by Ten Five Hospitality, a boutique operator

that also has high-end restaurants and entertainment venues in other major markets (Los Angeles, Miami, Las Vegas, and New York) and is widely recognized for delivering exceptional dining and hospitality experiences. The eating and drinking use will feature a full menu of classic American barbecue-centered offerings in keeping with the establishment's Country & Western theme, including entrees such as smoked brisket, short ribs, and barbecue chicken, along with a full complement of side dishes, salads, appetizers, and desserts.

V. THE APPLICATION SATISFIES THE CRITERIA FOR THE REQUESTED RELIEF

The Applicant requests special exception approval pursuant to Subtitle U § 802.1(c) to establish a new eating and drinking establishment with a live performance venue in the PDR-1 Zone District. For the reasons discussed below, the Application satisfies the special exception standards, including the specific criteria set forth in Subtitle U § 802.1(c) and the review standards applicable to all special exceptions under Subtitle X § 901.2.

A. The Use Is 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 (Subtitle U § 802.1(c)(1)).

The Use, as proposed, is not likely to become objectionable to neighboring properties due to any of the matters identified in Subtitle U § 802.1(c)(1). The proposed bar/lounge/restaurant/live performance venue is ideally located within the vibrant Union Market neighborhood, which features a varied mix of uses, including retail and serve uses and numerous eating and drinking establishments, supporting a dynamic neighborhood nightlife to achieve an optimal urban mixed-use environment. The proposed Use will complement the existing active mix of uses and contribute to further activation of the area's pedestrian environment and overall vibrancy. The live performance venue component of the Use will be operated entirely internally, with no external

performances or amplification, mitigating any potential impacts on the surrounding area as relates to noise.

The Use also will not create any undue negative impacts with respect to traffic, parking, or loading. No off-site parking or loading facilities are required or provided for the Property and existing eating and drinking establishment currently occupying building, and none are required for the new Use.¹ However, the Use will be amply served by public transit given the Property's close proximity to the nearby NoMa/Gallaudet Metrorail Station (approximately 0.3 miles walking distance from the Property) and Metrobus lines one (1) block away (approximately 0.1 miles walking distance) along Florida Avenue NE. Based on the Property's location, the Applicant anticipates that the vast majority of customers coming to the Property will arrive via public transit or on foot. Loading operations for the building, along with trash collection, will continue to be conducted via the rear public alley immediately east of the Property as is currently the case.

In addition, the Use will not present any undue negative impacts based on the number of attendees, as the Applicant does not propose any expansion of the existing space occupied by the current eating and drinking establishment in the building. Rather, the Use will further contribute to the overall vibrancy and balanced mix of uses within the Union Market neighborhood.

B. The Property Does Not Abut a Residential Use or Residential Zone (Subtitle U § 802.1(c)(2)).

There are no residential uses or residentially-zoned properties abutting the Property, as required. The abutting building to the north of the Property is zoned PDR-1 and is occupied by a wholesale food supplier.

¹ The existing building was constructed prior to the adoption of parking and loading requirements, and no additional parking or loading is required for a change use without expansion for a historic resource such as the building. *See* 11-C DCMR §§ 705.3 and 901.5(c).

- C. There Is No Property Containing a Live Performance, Night Club, or Dance Venue in the Same Square or Within a Radius of 1,000 feet from the Property (Subtitle U § 802.1(c)(3)).

The Applicant is not aware of any other live performance, night club, or dance venue located within Square 3589 or within 1,000 feet of the Property.²

- D. The Use Will Not Include any External Performances or External Amplification (Subtitle U § 802.1(c)(4)).

As required, all performances will be conducted inside the building, and there will be no external amplification of such performances.

- E. No Additional Requirements Are Necessary to Protect Adjacent or Nearby Residential Properties (Subtitle U § 802.1(c)(5)).

The Applicant does not propose any additional requirements or restrictions for the proposed Use and does not believe any such requirements or restrictions are necessary in this case, particularly given the ideal location of the proposed restaurant/bar/lounge/live performance venue within the well-activated and vibrant urban environment of the Union Market neighborhood.

- F. The Requested Relief Will Be in Harmony with the General Purpose and Intent of the Zoning Regulations and Zoning Maps and Will Not Tend to Affect Adversely the Use of Neighboring Property (Subtitle X § 901.2).

For all the same reasons discussed above, granting the requested special exception approval for the proposed Use is in harmony with the intent of the Zoning Regulations and will not result in adverse effects to neighboring properties. The proposed restaurant/bar/lounge/live performance venue will contribute to the existing rich mix of uses within the Union Market neighborhood, which includes numerous other eating and drinking establishments and retail and service uses, along with office and residential uses, which achieves the vibrant, urban environment long-

² The entertainment use recently approved by the Board in Case No. 21224 for the property located at 530-540 Penn Street NE, at the far north end of the Union Market district, is not within 1,000 feet of the Property, which is located near the southern edge of the neighborhood.

envisioned by District planning officials and the community for this area. The Use will bring a new dining option for neighborhood residents, workers, and visitors, and the live performance venue component of the Use will offer a small-scale setting for artist performances further promoting the District's performing arts scene. Moreover, this exciting new Use will be well-located in an active, transit-oriented, pedestrian-friendly and walkable neighborhood.

VI. CONCLUSION

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

Respectfully submitted,

/s/ Jeff C. Utz

/s/ Lawrence Ferris