



Agenda Item #:	1
Meeting Date:	July 25, 2018
Responsible Staff:	Deane Mellander

SUBJECT:

Zoning Text Amendment TXT2018-00249 - to Delete the Restriction on the Sale or Consumption of Alcoholic Beverages Associated with a Commercial Indoor Multi-Purpose Sport Facility; So-Five, Inc., Applicants

RECOMMENDATION

(Include change in law or Policy if appropriate in this section):

Staff recommends approval of the Proposed Text Amendment.

The proposed text amendment has been filed for the purpose of amending the definition of "Sport Facility, Multi-Purpose, Indoor, Commercial" to delete the restriction on the sale and/or consumption of alcoholic beverages on the premises.



Overview

Case: TXT2018-00249

Location: City-wide

Staff: Deane Mellander
Planning and Zoning
240-314-8224
dmellander@rockvillemd.gov

Applicant: Sofive, Inc., c/o Charles Lagayette

Filing Date: May 21, 2018

Exhibits: 1. Text Amendment Application
2. Proposed Text Amendment

Background

Zoning Text Amendment TXT2018-00249 has been filed for the purpose of amending the definition for a “Sport Facility, Multi-Purpose, Indoor, Commercial” to delete the restriction on the sale or consumption of alcoholic beverages on the premises of the facility. This use is currently defined as follows:

Sport Facility, Multi-Purpose, Indoor, Commercial – A multi-purpose indoor facility that does not permit sale or consumption of alcoholic beverages on the premises, and provides for recreational facilities including, but not limited to, the following activities: ice hockey, figure skating, recreational ice skating, indoor soccer, in-line skating, and health and fitness activities, excluding shooting galleries or ranges, conducted in a building containing not less than 60,000 square feet of gross floor area. Such a facility may also contain meeting rooms.

This use was added to the Zoning Ordinance by Zoning Text Amendment TXT95-0145, adopted by the Mayor and Council on June 12, 1995. The language regarding the restriction on alcohol sales was not part of the original proposal. That matter came up during the review by the Planning Commission and at the public hearing before the Mayor and Council. The submitted language was amended to include the restriction in the final version and was adopted by the Mayor and Council. The use was permitted in the

then I-1 (Service Industrial) Zone and allowed as a special exception use in the then I-4 (Restricted Industrial) Zone.

Project Analysis

The use is currently permitted in the MXTD (Mixed-Use Transit District), MXCD (Mixed-Use Corridor District), MXE (Mixed-Use Employment), MXB (Mixed-Use Business), and I-L (Light Industrial) zones, and allowed as a conditional use in the MXNC (Mixed-Use Neighborhood Commercial) Zone, the condition being that the use is only allowed in a basement or cellar. At present there is only one existing Commercial Indoor Sport Facility, located on Southlawn Court. A minor site plan amendment (change of use) for a second facility was recently approved by the Chief of Zoning for a site on Westmore Avenue in the I-L Zone. The developers for this new facility are the applicants for this text amendment.

The text amendment proposes to delete the language in the definition prohibiting the sale or consumption of alcoholic beverages. When the Planning Commission reviewed TXT95-0145 in 1995, there appears to have some discussion about the appropriateness of alcohol sales in connection with the use, though that topic was not included in the Commission's final recommendation to the Mayor and Council. When asked about this at the public hearing, the applicant's attorney indicated that they had no plans to include alcohol sales as part of their development. When the final version of the text amendment came back to the Mayor and Council for adoption, the restriction on alcohol sales had been inserted in the language, which was then adopted.

Staff has no objection to the proposed revision. We note that similar uses such as Commercial Indoor Recreational Establishment; Commercial Outdoor Recreational Establishment; Health and Fitness Establishment; and Rental Hall for Meetings and Social Occasions do not have any restriction on alcohol sales within their definitions. All alcoholic beverage sales are subject to licensing by the Montgomery County Department of Liquor Control. The Department of Liquor Control indicates that the operation would most likely require a Class H beer and wine license, which requires bathrooms for both sexes and at least 10 tables/30 seats for the patrons.

It seems inappropriate to single out one type of use with this type of restriction within the Zoning Ordinance, particularly when the legislative history does not indicate why the restriction was included. Staff therefore recommends approval of Zoning Text Amendment TXT2018-00249 as submitted.

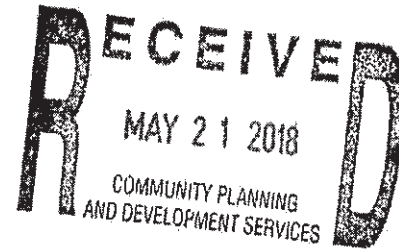
Community Outreach

Notice of the filing of the text amendment was sent to the neighborhood and homeowners association via the City's listserv. The notice included the proposed dates for the Planning Commission meeting and the Mayor and Council public hearing, which is scheduled for September 17. A subsequent notice was sent out noting the change in the Planning Commission date from July 11 to July 25.

Attachments

- Attachment 1.1.A: Application as Filed (PDF)
- Attachment 1.1.B: Proposed Text Amendment (PDF)

May 21, 2018



MEMORANDUM

TO: Deane Mellander, Principal Planner

FROM: Sara Taylor-Ferrell, Deputy City Clerk *SK*

RE: Text Amendment - TXT2018-00249
Sofive, Inc. c/o Charles Lagayette, CEO, Applicant

Attached is a date-stamped copy of the above-referenced application filed by Sofive Inc. c/o Charles Lagayette, CEO. This application seeks to change Text Amendment Article 3, as follows; "Sport Facility, Multi-Purpose, Indoor, Commercial – A multi-purpose indoor facility that does not permit sale or consumption of alcoholic beverages on the premises and provide for recreational facilities", located at 1008 Westmore Avenue, Rockville, MD 20850.

The public hearing has been set for September 17, 2018, which means it will need to be advertised and sent to the Washington Post no later than August 27, for publication in the August 30 and September 6 edition.

Thank you.

cc: Debra Daniel, City Attorney
Jim Wasilak, Acting Director, CPDS
Robert DiSpirito, City Manager

Attachment 1.1.A: Application as Filed (2152 : Text Amendment TXT2018-00249 - Indoor Sport Facility)



Application for

Text Amendment**TXT**

2/09

City of Rockville*Department of Community Planning and Development Services*

111 Maryland Avenue, Rockville, Maryland 20850

Phone: 240-314-8200 • Fax: 240-314-8210 • E-mail: Cpds@rockvillemd.gov • Web site: www.rockvillemd.gov

Application Information:Is this an Amendment to Existing Text? ☒ YES ☐ NOAdd New Zone Classes: ☐ YES ☒ NOAdd New Uses: ☐ YES ☒ NO

Number of new uses: _____

Ordinance # _____

2018 MAY 21 AM 10:30

CITY CLERK'S OFFICE

*Please Print Clearly or Type*Property Address Information 1008 WESTMORE AVENUE, ROCKVILLE, MD 20850Project Description Indoor Sports Facility**Applicant Information:***Please supply Name, Address, Phone Number and E-mail Address*Applicant SOFIVE, INC. c/o Charles Lagayette, CEO, 662 Manhattan Avenue, Brooklyn, NY 11222-3114;
(347) 790-5032; charles.lagayette@sofive.comProperty Owner WESTMORE ROAD ASSOCIATES, LLC c/o Kenwood Management Company
5272 River Road, Suite 360, Bethesda, MD 20816-1453; (301) 656-7790; billsinger@kenwoodmgt.com

Architect _____

Engineer JOHNSON BERNAT ASSOCIATES c/o Kevin Johnson, PE, 205 N. Frederick Ave., Suite 100,
Gaithersburg, MD 20877; (301) 963-1133 ext. 227; kjohnson@jba-inc.comAttorney MILLER, MILLER & CANBY c/o Soo Lee-Cho, Esq., 200-B Monroe St., Rockville MD 20850;
(301) 762-5212; slcho@mmcanby.com**STAFF USE ONLY****Application Acceptance:**

Application # _____

OR

Date Accepted _____

Staff Contact _____

Application Intake:

Date Received _____

Reviewed by _____

Date of Checklist Review _____

Deemed Complete: Yes ☒ No ☐

Attachment 1.1.A: Application as Filed (2152 : Text Amendment TXT2018-00249 - Indoor Sport Facility)

Application is hereby made with the Rockville Mayor and Council for Approval of a change in the text of the Zoning and Planning Ordinance of Rockville, Maryland.

Page 28 Article 3 Section _____

FROM: Which reads as follows Sport Facility, Multi-Purpose, Indoor, Commercial - A multi-purpose indoor facility that does not permit sale or consumption of alcoholic beverages on the premises and provides for recreational facilities

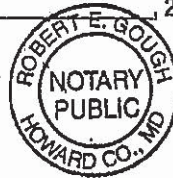
TO: Reads as follows Sport Facility, Multi-Purpose, Indoor, Commercial - A multi-purpose indoor facility that does not permit sale or consumption of alcoholic beverages on the premises and provides for recreational facilities

By: Soo Lee Cho
Soo Lee-Cho, Esq. on behalf of Applicant SOFIVE, INC.

Subscribed and sworn before this 17th day of May, 2018

My Commission Expires Robert E. Gough

Notary Public



ROBERT E. GOUGH
Notary Public, State of Maryland
County of Howard
My Commission Expires January 17, 2019

The following documents are furnished as part of the application:

- ☒ A Complete Application
- ☒ Filing Fee

Comments on Submittal: (For Staff Use Only)

TXT

ATTACHMENT TO APPLICATION
TO THE CITY OF ROCKVILLE FOR A
TEXT AMENDMENT TO THE ZONING ORDINANCE

Applicant: Sofive Inc., c/o Charles Lagayette

The applicant proposes to amend the zoning ordinance adopted on December 15, 2008, and with an effective date of March 16, 2009, by inserting and replacing the following text (underlining indicates text to be added; ~~strikethroughs~~ indicate text to be deleted; * * * indicates text not affected by the proposed amendment). Further amendments may be made following citizen input, Planning Commission review and Mayor and Council review.

Amend Article 3, "Definitions; Terms of Measurements and Calculations", as follows:

25.03.02 – Words and Terms Defined

* * *

Sport Facility, Multi-Purpose, Indoor, Commercial – A multi-purpose indoor facility that ~~does not permit sale or consumption of alcoholic beverages on the premises,~~ and provides for recreational facilities including, but not limited to, the following activities: ice hockey, figure skating, recreational ice skating, indoor soccer, in-line skating, and health and fitness activities, excluding shooting galleries or ranges, conducted in a building containing not less than 60,000 square feet of gross floor area. Such a facility may also contain meeting rooms.