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Case #: ZBA 2018-74
Site: 70 Inner Belt Road
Date of Decision: June 20, 2018
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: June 27, 2018

ZBA DECISION

Applicant / Owner Name: CRP 70 Innerbelt, LLC
Applicant / Owner Address: 1001 17th Street, Suite 500, Denver, CO 80202
Agent Name: Justin Adams, Bloom Energy
Agent Address: 1299 Orleans Drive, Sunnyvale, CA 94089
Alderman: Matthew McLaughlin

Legal Notice: Applicant/Owner, CoreSite Real Estate 70 Innerbelt, LLC, seeks a special permit to revise the site plan and conditions of a previously approved permit (ZBA 2007-63-R3 (2/2016)) to modify the site design/layout by adding new mechanical equipment (fuel cells) to the site. IA Zone. Ward 1.

<u>Zoning District/Ward:</u>	IA Zone. Ward 1.
<u>Zoning Approval Sought:</u>	§5.3.8
<u>Date of Application:</u>	May 17, 2018
<u>Date(s) of Public Hearing:</u>	June 20, 2018
<u>Date of Decision:</u>	June 20, 2018
<u>Vote:</u>	5-0

Appeal #ZBA 2018-74 was opened before the Zoning Board of Appeals in the Visiting Nurses Association, 3rd floor Community Room, 259 Lowell Street, Somerville. Notice of the Public Hearing was given to persons affected and was published and posted, all as required by M.G.L. c. 40A, sec. 11 and the Somerville Zoning Ordinance. After one hearing of deliberation, the Zoning Board of Appeals took a vote.



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DESCRIPTION:

The current proposal is to alter the site plan to install additional mechanical equipment to the site. The proposed equipment would be multiple fuel cells and generators that will be located along the side and rear of the site near other mechanical equipment and the loading area.

FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1):

In order to grant a special permit, the SPGA must make certain findings and determinations as outlined in §5.1.4 of the SZO. This section of the report goes through §5.1.4 in detail.

1. Information Supplied:

The Board finds that the information provided by the Applicant conforms to the requirements of §5.1.2 of the SZO and allows for a comprehensive analysis of the project with respect to the required Special Permits.

2. Compliance with Standards: *The Applicant must comply "with such criteria or standards as may be set forth in this Ordinance which refer to the granting of the requested special permit."*

Revisions to Special Permits may be sought before the final Certificate of Occupancy is issued for a project that received a special permit. The final Certificate of Occupancy was issued in April of 2018. The proposed revision is not deemed de minimis because the changes would be noticeable to persons generally familiar with the plans.

Per SZO §5.3.8, revisions that are not de minimis are subject to the full notice and hearing provisions of the Somerville Zoning Ordinance.

3. Consistency with Purposes: *The Applicant has to ensure that the project "is consistent with (1) the general purposes of this Ordinance as set forth in Article 1, and (2) the purposes, provisions, and specific objectives applicable to the requested special permit which may be set forth elsewhere in this Ordinance, such as, but not limited to, those purposes at the beginning of the various Articles."*

The proposal is consistent with the general purposes of the Ordinance as set forth under §1.2, which includes, but is not limited to promote the health, safety, and welfare of the inhabitants of the City of Somerville; to provide for and maintain the uniquely integrated structure of uses in the City; to protect health; to secure safety from fire, panic and other dangers; to conserve the value of land and buildings; to adequately protect the natural environment; to encourage the most appropriate use of land throughout the City; and to preserve and increase the amenities of the municipality.

The proposal is consistent with the purpose of the IA district, which is, "to establish and preserve areas for industrial and related uses which are not incompatible with commercial uses; uses which are most appropriately located as neighbors of industrial uses including living and studio space for artists; and uses which are necessary to service the immediate needs of industrial establishments in those areas, and accessory uses to industrial uses such as day care centers, cafeterias, health facilities, and the like."



4. Site and Area Compatibility: *The Applicant has to ensure that the project "(i)s designed in a manner that is compatible with the characteristics of the built and unbuilt surrounding area, including land uses."*

The surrounding area is industrial in nature and the mechanical equipment will not be detrimental to the existing neighborhood. On the other hand, the Inner Belt neighborhood is an area that is marked as an area to transform in SomerVision and new development should be designed with future change in mind.

The location of the proposed equipment is in the back corner of the site. It is proposed to be screened with an 8' tall chain link fence with privacy slats along the rear and side of the site but will have bollards along the interior of the site to respect an existing electrical easement. The Board recommends a condition that the fence material be wood and that it surround the entire mechanical installation with the exception of a gate to allow the utility company access to the easement. The height of the fence should be allowed as part of this special permit revision per SZO §10.7.1 since this is an industrial neighborhood and there are no residential abutters that will be impacted by the proposal. The fence would be setback from the street and will serve a security purpose.

Other mechanical equipment on the site was screened in the past with arborvitae to soften the edge of this equipment area and unfortunately they are struggling to survive. The Board included a condition that the dead plants shall be replaced.

There is no parking requirement for a data center; therefore, the parking requirement for this facility falls under SZO §9.5.16 for all other permitted uses. It requires 1 per employee and 0.3 per visitor. At full occupancy the site is planned to have 150 employees with a maximum of 50 visitors at any time. The proposal will result in a net loss of nine parking spaces for a total of 206 parking spaces. However, the site, even at full occupancy, will only require 172 spaces.

DECISION:

Special Permit under §5.3.8

Present and sitting were Members Orsola Susan Fontano, Elaine Severino, Danielle Evans, Josh Safdie, and Pooja Phaltankar. Upon making the above findings, Danielle Evans made a motion to approve the request for a **Special Permit**. Elaine Severino seconded the motion. Wherefore the Zoning Board of Appeals voted **5-0** to **APPROVE** the request. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes
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1	Approval is for the installation of mechanical equipment. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/Plng.							
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>May 17, 2018</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>February 13, 2018</td> <td>Modified plans submitted to OSPCD (G0.1, G1.1, G1.3, G1.2, C1.1, C1.2, and R0.1)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	May 17, 2018	Initial application submitted to the City Clerk's Office	February 13, 2018	Modified plans submitted to OSPCD (G0.1, G1.1, G1.3, G1.2, C1.1, C1.2, and R0.1)
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Any changes to the approved site plan that are not <i>de minimis</i> must receive SPGA approval.										
Construction Impacts										
2	The applicant shall post the name and phone number of the general contractor at the site entrance where it is visible to people passing by.	During Construction	Plng.							
3	The Applicant shall at their expense replace any existing equipment (including, but not limited to street sign poles, signs, traffic signal poles, traffic signal equipment, wheel chair ramps, granite curbing, landscaping, etc) and the entire sidewalk immediately abutting the subject property if damaged as a result of construction activity. All new sidewalks and driveways must be constructed to DPW standard.	CO	DPW							
4	All construction materials and equipment must be stored onsite. If occupancy of the street layout is required, such occupancy must be in conformance with the requirements of the Manual on Uniform Traffic Control Devices and the prior approval of the Traffic and Parking Department must be obtained.	During Construction	T&P							
Site										
5	Landscaping shall be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	Plng. / ISD							
6	Any dying/dead plants shall be replaced. Specifically, the arborvitae shrubs around the large generator shall be replaced with at least 3" caliper evergreens.	Perpetual	Plng. / ISD							
7	The proposed new fencing surrounding the entire area of the proposed mechanical equipment shall of a wood material to be reviewed and approved by Planning Staff.	CO	Plng. / ISD							
8	If swing gates at the entrances and exits of the site are included in the final design, these facilities will require approval by the Planning Staff as well as the Fire Prevention Bureau.	BP	PLNG/ FP							
8	<i>De minimis</i> changes to the building and site will be subject to Planning Staff review and approval; and it is further recommended that Planning Staff review and approval be required for subsequent additional signage.	BP/CO/ Perpetual	PLNG							



9	Planning Staff approval will be required for the final landscaping plan and plant list; additional trees along the Third Avenue frontage are encouraged.	CO	PLNG	
11	Lighting design shall limit light trespass, sky-lighting, and glare from the site.	BP/CO/ Perpetual	ISD/ PLNG	
12	The Applicant shall contact Planning Staff at least five working days in advance of a request for a final sign-off on the building permit to ensure the proposal was constructed in accordance with the plans and information submitted and the conditions attached to this approval.	CO	PLNG.	



Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chairman*
Danielle Evans
Elaine Severino
Josh Safdie
Pooja Phaltankar (*Alt.*)

Attest, by City Planner: _____

Alexander C. Mello

Copies of this decision are filed in the Somerville City Clerk's office.
Copies of all plans referred to in this decision and a detailed record of the
SPGA proceedings are filed in the Somerville Planning Dept.

CLERK'S CERTIFICATE

Any appeal of this decision must be filed within twenty days after the date this notice is filed in the Office of the City Clerk, and must be filed in accordance with M.G.L. c. 40A, sec. 17 and SZO sec. 3.2.10.

In accordance with M.G.L. c. 40 A, sec. 11, no variance shall take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title.

Also in accordance with M.G.L. c. 40 A, sec. 11, a special permit shall not take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and either that no appeal has been filed or the appeal has been filed within such time, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The person exercising rights under a duly appealed Special Permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone.

The owner or applicant shall pay the fee for recording or registering. Furthermore, a permit from the Division of Inspectional Services shall be required in order to proceed with any project favorably decided upon by this decision, and upon request, the Applicant shall present evidence to the Building Official that this decision is properly recorded.

This is a true and correct copy of the decision filed on _____ in the Office of the City Clerk, and twenty days have elapsed, and

FOR VARIANCE(S) WITHIN

_____ there have been no appeals filed in the Office of the City Clerk, or
_____ any appeals that were filed have been finally dismissed or denied.

FOR SPECIAL PERMIT(S) WITHIN

_____ there have been no appeals filed in the Office of the City Clerk, or
_____ there has been an appeal filed.

Signed _____ City Clerk Date _____

