

1 **BITH ENERGY, INC.,** * **BEFORE THE**
 2 **PETITIONER** * **PLANNING BOARD OF**
 3 **ZRA 142** * **HOWARD COUNTY, MARYLAND**

4 * * * * *

5 **MOTION:** *To recommend approval of the Zoning Regulation Amendment petition request to*
 6 *amend Section 131 (Conditional Uses) of the Zoning Regulations to add*
 7 *Commercial Solar Facilities as permitted conditional uses in RC (Rural*
 8 *Conservation) or RR (Rural Residential) Zoning Districts as designated in the*
 9 *General Plan in accordance with the Department of Planning and Zoning*
 10 *recommendation. However, the Planning Board recommends that the Council*
 11 *examine the setback requirements further, to consider allowing Commercial Solar*
 12 *Facilities on properties that are in the Agricultural Preservation Program, and*
 13 *consider a size limitation on Commercial Solar Facilities.*

14 **ACTION:** *Recommended Approval; Vote 3 to 0.*

15 * * * * *

16 **RECOMMENDATION**

17
 18 On October 18, 2012, the Planning Board of Howard County, Maryland, considered the petition of
 19 Bith Energy, LLC for an amendment to the Zoning Regulations to amend Section 131 (Conditional Uses) to
 20 add Commercial Solar Facilities as a new conditional use category in the RC (Rural Conservation) or RR
 21 (Rural Residential) Zoning Districts.

22 The petition, the Department of Planning and Zoning Technical Staff Report and Recommendation,
 23 and the comments of reviewing agencies, were presented to the Board for its consideration. The Department
 24 of Planning and Zoning recommended approval of the petition with revisions based on findings that the
 25 proposed amendments met the evaluation criteria of being in harmony with the current General Plan for
 26 Howard County, preserving and promoting the health, safety, and welfare of the community, and providing a
 27 public benefit.

28 The Petitioner was represented by Thomas M. Meachum. Mr. Meachum stated that a 50 foot setback
 29 is an appropriate setback for a Commercial Solar Facility based on the purpose that the setback serves. Daniel
 30 Wallace testified on behalf of Bith Energy, Inc. about the role of Commercial Solar Facilities in the
 31 production of energy. Warren Woo testified on behalf of Bith Energy, Inc. about the nature of development
 32 of Commercial Solar Facilities. Mr. Woo testified that increased setbacks decrease the amount of land that
 33 may be used for Commercial Solar Facilities, causing such facilities to be less profitable. Pete Stone testified

1 on behalf of Patton, Harris, and Rust, a local civil engineering firm, about the role that landscaping buffers
2 play in the development of properties for Commercial Solar Facilities.

3 Howie Feaga testified in support of the petition on behalf of the Howard County Farm Bureau. Mr.
4 Feaga testified that approval of the petition would help the land owners save some of the equity taken by
5 Senate Bill 236, would help the environment, and would provide for the electric supply mandates that have
6 been applied to the energy companies. Mr. Feaga also testified that he would like to see Solar Commercial
7 Facilities allowed on preservation properties.

8 Randall Nixon testified in support of the petition on behalf of Nixon's Farm. Mr. Nixon testified that
9 approval of this petition would allow him to stay on the farm that he was born and raised on, and that it would
10 allow him to continue farming the land rather than subdividing and developing it. Mr. Nixon testified that
11 State Bill 236 takes away his property rights, and that approval of this petition would help to mitigate the loss
12 of those property rights. Mr. Nixon stated that with the present state of the economy, farmers need to find
13 ways to preserve their land and generate revenue. Finally, Mr. Nixon stated that because people are so
14 excited about alternative forms of energy generation, he would like to create a discovery center on his farm
15 that promotes farming using alternative energy.

16 Marty Hayes testified in support of the petition. Mr. Hayes testified that he thinks that approval of
17 this petition is the perfect way to preserve the land. Mr. Hayes also testified that approval of this petition
18 would be good for Howard County and that it is a great way to educate people in the area about renewable
19 energy.

20 Ted Mariani testified in opposition to the petition. Mr. Mariani testified that a Commercial Solar
21 Facility is an industrial plant and that the RC and RR zoning districts are agricultural and residential zoning
22 districts. Mr. Mariani also stated that he thinks a minimum lot size of 10 acres is too small for a Commercial
23 Solar Facility and that there should be a limit on how large a Commercial Solar Facility may be. Mr. Mariani
24 also testified that he thinks the setback should be 150 feet, and the type of power allowed and the voltage
25 should be defined. Finally, Mr. Mariani emphasized that Conditional Use Regulations must protect the
26 community, and that this petition is too open ended.

27 One Planning Board member indicated that he did not object to the Petitioner's proposed 50 foot
28 setback and that he would like to see Commercial Solar Facilities allowed on properties that are in the
29 Agricultural Preservation Program. This Planning Board member asked how the Petitioner's proposal would
30 affect scenic roads. Mr. Meachum responded by stating how important it is to start with a Type 'D' screened
31 landscaping buffer and then decrease the buffer only if the Hearing Examiner determines that it is appropriate.
32

33 Another Board member indicated that he also did not object to the Petitioner's proposed 50 foot
34 setback, and stated that he thought that the Type 'D' landscaping buffer mitigates the need for a 75 foot
35 setback. He indicated that he would like to see Commercial Solar Facilities allowed on properties that are in

1 the Agricultural Preservation Program.

2 One Board member indicated that he likes the idea of a 75 foot setback, but he thinks that the Council
3 should consider an upper limit on the size of Commercial Solar Facilities.

4 Josh Tzucker made the motion to recommend approval of the Zoning Regulation Amendment petition
5 request to amend Section 131 (Conditional Uses) of the Zoning Regulations to add Commercial Solar
6 Facilities as permitted conditional uses in RC (Rural Conservation) or RR (Rural Residential) Zoning
7 Districts as designated in the General Plan in accordance with the Department of Planning and Zoning
8 recommendation. However, the Planning Board recommends that the Council examine the setback
9 requirements further, to consider allowing Commercial Solar Facilities on properties that are in the
10 Agricultural Preservation Program, and consider a size limitation on Commercial Solar Facilities. Bill Santos
11 seconded the motion. The motion passed by a vote of 3 to 0.

12 For the foregoing reasons, the Planning Board of Howard County, Maryland, on this 25 day of
13 October, 2012, recommends that ZRA 142, as described above, be **APPROVED**, as noted.

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15
16 HOWARD COUNTY PLANNING BOARD

17
18 David Grabowski YB
19 David Grabowski, Chairman

20
21 ABSENT

22 Paul Yelder

23
24 Joshua Tzucker YB
25 Joshua Tzucker

26
27 Bill Santos YB
28 Bill Santos

29
30 ABSENT

31 Jacqueline Easley

32 ATTEST:

33 Marsha S. McLaughlin
34 Marsha S. McLaughlin, Executive Secretary