PETITION TO AMEND THE ZONING REGULATIONS OF HOWARD COUNTY

DPZ Office Use Only:

Case No. ZRA-142

Date Filed: 8/29/12

1. **Zoning Regulation Amendment Request**

I (we), the undersigned, hereby petition the County Council of Howard County to amend the Zoning Regulations of Howard County as follows: to provide for a conditional use in the RC and RR zoning districts which will promote commercial solar farms in Howard County that will provide clean energy to local entities and contribute to carbon-free energy in the power grid system.

[You must provide a brief statement here. "See Attached Supplement" or similar statements are not acceptable. You may attach a separate document to respond to Section 1 in greater detail. If so, this document shall be titled "Response to Section 1"]

2. **Petitioner's Name** Bith Energy, Inc.

Address 113 West Monument Street, Baltimore, MD 21201

Phone No. (W) 410-962-1188 (H)

Email Address rdwallace@bithenergy.com

3. **Counsel for Petitioner** Thomas M. Meachum; Carney Kelehan Bresler Bennett & Scherr, LLP

Counsel's Address 10715 Charter Drive, Suite 200, Columbia, MD 21044

Counsel's Phone No. 410-740-4600

Email Address tmm@carneykelehan.com

4. Please provide a brief statement concerning the reason(s) the requested amendment(s) to the Zoning Regulations is (are) being proposed This regulation will provide for a conditional use for solar farms, which provide clean energy to local entities and contribute to carbon-free energy in the power grid system. Depending on the amount of acres the solar panels can generate enough power over a year to supply all the energy needs of 1000 homes or more, without the dispersal of carbon emissions or greenhouse gases produced by fossil fuel power generating systems.

HOWARD COUNTY COUNCIL
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5. Please provide a detailed justification statement demonstrating how the proposed amendment(s) will be in harmony with current General Plan for Howard County Solar energy as an alternative and renewable energy source is recognized in Chapter 4, under Energy Resources. Policy 4.12 affirms the need to develop an energy plan that prepares for different energy scenarios. Further, Chapter 5, Economic Development 5.3 says the County will promote future energy and green industries.

[You may attach a separate document to respond to Section 5. If so, this document shall be titled "Response to Section 5"]

6. The Legislative Intent of the Zoning Regulations in Section 100.A. expresses that the Zoning Regulations have the purpose of "...preserving and promoting the health, safety and welfare of the community." Please provide a detailed justification statement demonstrating how the proposed amendment(s) will be in harmony with this purpose and the other issues in Section 100.A. Solar farms produce electricity without producing carbon emissions or greenhouse gases. County government is a potential user. Howard County has already demonstrated its commitment to environmentally friendly practices such as the promotion of wind energy; environmentally sensitive County vehicles; and a proactive recycling system, among other examples. This would be another demonstration of that level of commitment. Costs to produce and deliver electricity produced by solar power are stable and predictable, as opposed to electrical energy derived from fossil fuels. This ensures electricity at a cost lower than that produced by fossil fuels, over time.

[You may attach a separate document to respond to Section 6. If so, this document shall be titled "Response to Section 6."]

7. Unless your response to Section 6 above already addresses this issue, please provide an explanation of the public benefits to be gained by the adoption of the proposed amendment(s) . Howard County already has a reputation as a progressive County in the country, and the promotion and encouragement of solar farms will provide the public benefit of calling attention to livability in this community. Bith Energy is already working on a smaller solar farm project on Nixon's Farm, and with the approval of this amendment, will be able to produce more solar energy.

[You may attach a separate document to respond to Section 7. If so, this document shall be titled "Response to Section 7."]

8. Does the amendment, or do the amendments, have the potential of affecting the development of more than one property, yes or no? Yes.

If yes, and the number of properties is less than or equal to 12, explain the impact on all properties affected by providing a detailed analysis of all the properties based upon the nature of the changes proposed in the amendment(s). If the number of properties is greater than 12, explain the impact in general terms.

The proposal could affect 12 or more properties given the 10 acre minimum, but the eligible properties do not include land with easements on it. The impact on eligible properties is to provide a low in height environmentally supportive alternative to cell towers for landowners who would like to make use of their property for clean energy.

[You may attach a separate document to respond to Section 8. If so, this document shall be titled "Response to Section 8."]

9. If there are any other factors you desire the Council to consider in its evaluation of this amendment request, please provide them at this time. Please understand that the Council may request a new or updated Technical Staff Report and/or a new Planning Board Recommendation if there is any new evidence submitted at the time of the public hearing that is not provided with this original petition. The actual use consists of solar panels contained within a racking system, and a sample of their description and picture is included with the Petition. The panels themselves are always at an angle to catch the sun's rays. The panels do not produce any noise since they have no moving parts. The inverter converts the DC power generated by the panels into AC power to make it available to the grid. The inverters are the gray boxes shown in the exhibit. They emit a low hum not heard beyond the property line. Because the panels have no moving parts, they require little in the way of maintenance. Site inspections are conducted 5-6 times a year, and the maintenance is mostly lawn cutting. The system is remotely monitored and metered. Should the need for service arise, it would be handled by a pickup truck coming onto the site with a few workers. The facility is fenced with locked gates. Because of the lack of noise or any other impact from this use, setbacks from all lot lines are proposed to be 50 feet. The Hearing Examiner will consider each situation and determine the appropriate level of perimeter landscaping, which can include the highest level of screening, Type D.

[You may attach a separate document to respond to Section 9. If so, this document shall be titled "Response to Section 9."]

10. You must provide the full proposed text of the amendment(s) as a separate document entitled "Petitioner's Proposed Text" that is to be attached to this form. This document must use this standard format for Zoning Regulation Amendment proposals; any new proposed text must be in CAPITAL LETTERS, and any existing text to be deleted must be in [[Double Bold Brackets]]. In addition, you must provide an example of how the text would appear normally if adopted as you propose.

After this petition is accepted for scheduling by the Department of Planning and Zoning, you must provide an electronic file of the "Petitioner's Proposed Text" to the Division of Public Service and Zoning Administration. This file must be in Microsoft Word or a Microsoft Word compatible file format, and may be submitted by email or some other media if prior arrangements are made with the Division of Public Service and Zoning Administration.

11. The Petitioner agrees to furnish additional information as may be required by the Department of Planning and Zoning prior to the petition being accepted for scheduling, by the Planning Board prior to its adoption of a Recommendation, and/or by the County Council prior to its ruling on the case.

12. The undersigned hereby affirms that all of the statements and information contained in, or filed with this petition, are true and correct. The undersigned has read the instructions on this form, filing herewith all of the required accompanying information. If the Petitioner is an entity that is not an individual, information must be provided explaining the relationship of the person(s) signing to the entity.

Bith Energy, Inc.	R Daniel Vaelh 8/27/2012
Petitioner's name (Printed or typed)	Petitioner's Signature Date Director of Renewable Energy Systems
Petitioner's name (Printed or typed)	Petitioner's Signature Date
Petitioner's name (Printed or typed)	Petitioner's Signature Date

Thomas G. Greachmond

Counsel for Petitioner's Signature

[If additional signatures are necessary, please provide them on a separate document to be attached to this petition form.]

FEE

The Petitioner agrees to pay all fees as follows:

Filing fee .....$695.00. If the request is granted, the Petitioner shall pay $40.00 per 200 words of text or fraction thereof for each separate textually continuous amendment ($40.00 minimum, $85.00 maximum)

Each additional hearing night..... $510.00*

The County Council may refund or waive all or part of the filing fee where the petitioner demonstrates to the satisfaction of the County Council that the payment of the fee would work an extraordinary hardship on the petitioner. The County Council may refund part of the filing fee for withdrawn petitions. The County Council shall waive all fees for petitions filed in the performance of governmental duties by an official, board or agency of the Howard County Government.

APPLICATIONS: One (1) original plus twenty (20) copies along with attachments.

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For DPZ office use only:

Hearing Fee $ _____

Receipt No. _____

PLEASE CALL 410-313-2395 FOR AN APPOINTMENT TO SUBMIT YOUR APPLICATION

County Website: www.howardcountymd.gov

Revised: 07/12
T:\Shared\Public Service and Zoning\Applications\County Council\ZRA Application

INSTRUCTIONS TO THE APPLICANT/PARTY OF RECORD

- As required by State Law, applicants are required to complete the AFFIDAVIT AS TO CONTRIBUTION that is attached, and if you have made a contribution as described in the Affidavit, please complete the DISCLOSURE OF CONTRIBUTION that is attached.

- If you are an applicant, Party of Record (i.e., supporter/protestant) or a family member and have made a contribution as described in the Affidavit, you must complete the DISCLOSURE OF CONTRIBUTION that is attached.

- Filed affidavits and disclosures will be available for review by the public in the office of the Administrative assistant to the Zoning Board during normal business hours.

- Additional forms may be obtained from the Administrative Assistant to the Zoning Board at (410-313-2395) or from the Department of Planning and Zoning.

- Completed form may be mailed to the Administrative Assistant to the Zoning Board at 3430 Courthouse Drive, Ellicott City, MD 21043.

- Pursuant to State Law, violations shall be reported to the Howard County Ethics Commission.

PETITIONER: Bith Energy, Inc.

AFFIDAVIT AS TO CONTRIBUTION

As required by the Annotated Code of Maryland
State Government Article, Sections 15-848-15-850

I, Bith Energy, Inc., the applicant in the above zoning matter

_____, HAVE _____ HAS ~~HAVE~~ NOT

made any contribution or contributions having a cumulative value of $500 or more to the treasurer of a candidate or the treasurer of a political committee during the 48-month period before application in or during the pendency of the above referenced zoning matter.

I understand that any contribution made after the filing of this Affidavit and before final disposition of the application by the County Council shall be disclosed within five (5) business days of the contribution.

I solemnly affirm under the penalties of perjury and upon personal knowledge that the contents of the foregoing paper are true.

BITH ENERGY, INC.

Name: R. Daniel Wallace
Daniel Wallace

Date: _____

PETITIONER: _____

_____

DISCLOSURE OF CONTRIBUTION

As required by the Annotated Code of Maryland
State Government Article, Sections 15-848-15-850

This Disclosure shall be filed by an Applicant upon application or by a Party of Record within 2 weeks after entering a proceeding, if the Applicant or Party of Record or a family member, as defined in Section 15-849 of the State Government Article, has made any contribution or contributions having a cumulative value of $500 or more to the treasurer of a candidate of the treasurer of a political committee during the 48-month period before the application was file or during the pendency of the application.

Any person who knowingly and willfully violates Sections 15-848-15-850 of the State Government Article is subject to a fine of not more than $5,000. If the person is not an individual, each officer and partner who knowingly authorized or participated in the violation is subject to the same penalty.

APPLICANT OR
PARTY OF RECORD: _____

RECIPIENTS OF CONTRIBUTIONS:

Name	Date of Contribution	Amount

I understand that any contribution made after the filing of this Disclosure and before final disposition of the application by the County Council shall be disclosed with five (5) business days of the contribution.

Name: _____

Date: _____

PETITIONER: Bith Energy, Inc.

AFFIDAVIT AS TO ENGAGING IN BUSINESS WITH AN ELECTED OFFICIAL

As required by the Annotated Code of Maryland
State Government Article, Sections 15-848-15-850

I, Bith Energy, Inc., the applicant in the above zoning matter

_____, AM IS ~~AM~~ NOT

Currently engaging in business with an elected official as those terms are defined by Section 15-848 of the State Government Article of the Annotated Code of Maryland.

I understand that if I begin engaging in business with an elected official between the filing of the application and the disposition of the application, I am required to file an affidavit in this zoning matter at the time of engaging in business with elected official.

I solemnly affirm under the penalties of perjury and upon personal knowledge that the contents of the foregoing paper are true.

BITH ENERGY, INC.

Name: R. Daniel Wallace
Daniel Wallace

Date: _____

PETITIONER'S PROPOSED TEXT

Definitions

Solar Facility, Commercial	A group of ground mounted solar collectors used to generate photovoltaic power, where less than 50% of the power generated is consumed by the principal use on the site.
Solar Collector	A device, structure or a part of a device or structure for which the primary purpose is to transform solar radiant energy into electrical energy.

Solar Facility, Commercial

A conditional use may be granted in the RC or RR Zoning Districts for a commercial solar facility, provided that:

a. The land on which the commercial solar facility is proposed may not be in the Agricultural Land Preservation Program and it may not be encumbered by any Environmental Preservation Easements.

b. The parcel on which the commercial solar facility is proposed must be a minimum of 10 acres in size.

c. All structures and uses must meet a minimum 50 foot setback from all property lines.

d. No structure or use may be more than 25 feet in height.

e. A 'Type D' landscaping buffer must be provided around the perimeter of the proposed commercial solar facility unless the Hearing Authority determines that an alternative buffer is sufficient.

f. All security fencing must be located between the landscaping buffer and the commercial solar facility.

g. The facility shall comply with all applicable local, state, and federal laws and provisions.

h. A facility that is no longer used shall be removed from the site within one year of the date that the use ceases.

i. The premises shall be maintained at all times in a clean and orderly condition, including the care or replacement of plant materials required in the landscaping plan. The responsibility for compliance with this provision shall be with all parties having a lease or ownership interest in the commercial solar facility. The applicant shall provide the Hearing Authority with details regarding maintenance and access for the site.