

OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS
Stella B. Werner Council Office Building
100 Maryland Avenue, Suite 200
Rockville, Maryland 20850
(240) 777-6660

IN THE MATTER OF:
TERRA ENERGY
Applicant

Jeffrey Ferrel
For the Applicant

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OZAH Case No. CU 24-13(a)
CU 24-13(b)

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AMENDMENT TO THE HEARING EXAMINER’S REPORT AND DECISION

On November 20, 2024, the Hearing Examiner issued a Report and Recommendation recommending approval of two conditional uses as submitted by the Applicant Terra Energy for a cable communications system conditional use under Section 59.3.5.2.A and public utility structure conditional use under Section 59.3.6.7.E of the Zoning Ordinance to operate a data center and battery storage located on Lots 8 & 9 on Martinsburg Road, Tax Account numbers 03-03853280 and 03-3853291 in Dickerson, Maryland. *See Hearing Examiner’s Report and Decision (HE Report)*. On November 27, 2024, the Applicant’s attorney submitted a Motion to Amend requesting two additional conditions be added to those previously identified and approved by the Hearing Examiner in the HE Report. Counsel requested the additional conditions in the “interest of accommodating a post-hearing request by Ms. Taylor, and pursuant to her verbal commitment not to appeal or seek reconsideration of the Hearing Examiner’s Report and Decision.”¹

¹ Ms. Caroline Taylor participated in the public hearing on October 3, 2024 and is a party of record to this matter.

Pursuant to Rule 4.2(g) of the OZAH Rules of Procedure, the Hearing Examiner may “rule on procedural requests, motions, or similar matters”. In addition, Rule 4.10 permits the Hearing Examiner to reopen the record to “take official notice of documents or records”. The Hearing Examiner reopens the record to accept Applicant’s Motion to Amend dated November 27, 2024 and will include the Motion in the official record as Exhibit 35. Upon review and consideration of the Motion as submitted, the Hearing Examiner finds the Applicant’s Motion to Amend the HE Report to add two additional conditions to be reasonable and consented to by Ms. Taylor. The HE’s Report is hereby amended to add the following conditions numbered sequentially to the previously approved conditions.

12. Groundwater or well water will only be used for domestic water purposes and not for the cooling of Data Centers.
13. Back-up power will be provided by a Battery Energy Storage System, Natural Gas Generators or some other method or fuel type not contemplated or known at the time of this approval. The use of Diesel as a primary fuel source will not be permitted unless a requirement is demonstrated by the developer. If Diesel is a requirement of the project, an emissions capture system will be installed to further mitigate emissions concerns related to this fuel type

This amendment and addition of conditions 12 and 13 does not affect the Hearing Examiner’s overall recommendation in the case.

Issued this 5th day of December, 2024.



Kathleen E. Byrne
Hearing Examiner

COPIES TO:

Robert Harris, Esq.
Attorney for the Petitioner
Ms. Caroline Taylor, Party

Barbara Jay, Executive Director, Montgomery County Board of Appeals
Robert Kronenberg, Deputy Director, Planning Department
Patrick Butler, Chief Up County, Planning Department
Mark Beall, Planning Department
Greg Nichols, Manager, Department of Permitting Services
Victor Salazar, Department of Permitting Services
Michael Coveyou, Director, Finance Department
Elana Robison, Esquire, Associate County Attorney