
Re: Hixson Data Center Briefing

From Nolan Ming <nming@mcminnvilletn.gov>

Date Thu 5/28/2026 11:59 AM

To McCormick, Ronald Addam <addam.mccormick@tennessee.edu>

Cc Sean Garrett <sgarrett@mcminnvilletn.gov>

Thank you Addam!

Kind regards,

Nolan
931-473-1203

From: McCormick, Ronald Addam <addam.mccormick@tennessee.edu>

Sent: Thursday, May 28, 2026 8:37 AM

To: Nolan Ming <nming@mcminnvilletn.gov>

Cc: Sean Garrett <sgarrett@mcminnvilletn.gov>

Subject: Re: Hixson Data Center Briefing

THIS EMAIL IS FROM AN EXTERNAL SENDER

Nolan,

I know several cities in the Middle TN area are doing moratoriums on high density developments. Check with the City Attorney since moratoriums are (I hate to say this sounds like a repeat of my last email) questionable since the State in 2023 passed a bill limiting the application of pending legislation review (attached) and also with the recent vested rights regulation amendments. Check with the attorney about if the city does do a moratorium, then what if the property owners still submit a site plan or permit application request during the moratorium period and you guys either deny the request or refuse to process the application based on the moratorium.

Addam

(f)

(1) During the vesting period described in subsections (c) and (d), the locally adopted development standards which are in effect on the date of submission of a preliminary development plan or the issuance of a building permit, whichever applies, shall remain the development standards applicable to the property described in such preliminary development plan or permit, except such rights shall

terminate upon a written determination by the local government under the following circumstances pursuant to subdivision (f)(2):

(A) When the applicant violates the terms and conditions specified in the approved development plan or building permit; provided, that the applicant is given ninety (90) days from the date of notification to cure the violation; provided further, that the local government may, upon a determination that such is in the best interest of the community, grant, in writing, an additional time period to cure the violation;

(B) When the applicant violates any of the terms and conditions specified in the local ordinance or resolution; provided, the applicant is given ninety (90) days from the date of notification to cure the violation; provided further, that the local government may, upon a determination that such is in the best interest of the community, grant, in writing, an additional time period to cure the violation;

(C) Upon a finding by the local government that the applicant intentionally supplied inaccurate information or knowingly made misrepresentations material to the issuance of a building permit or the submission of a development plan or intentionally and knowingly did not construct the development in accordance with the issued building permit or the approved development plan or an approved amendment for the building permit or the development plan; or

(D) Upon the enactment or promulgation of a state or federal law, regulation, rule, policy, corrective action or other governance, regardless of nomenclature, that is required to be enforced by the local government and that precludes development as contemplated in the approved development plan or building permit, unless modifications to the development plan or building permit can be made by the applicant, within ninety (90) days of notification of the new requirement, which will allow the applicant to comply with the new requirement.

(2) A written determination by the local government of the occurrence of any of the circumstances provided in subdivision (f)(1) shall cause the vested property rights to terminate; provided, however, that a local government may allow a property right to remain vested despite such a determined occurrence when a written determination is made that such continuation is in the best interest of the community.

(g)

(1) A vested development standard shall not preclude local government enforcement of any development standard when:

(A) The local government obtains the written consent of the applicant or owner;

(B) The local government determines, in writing, that a compelling, countervailing interest exists relating specifically to the development plan or property which is the subject of the building permit that seriously threatens the public health, safety or welfare of the community and the threat cannot be mitigated within a reasonable period of time, as specified in writing by the local government, by the applicant using vested property rights;

(C) Upon the written determination by the local government of the existence of a natural or man-made hazard on or in the immediate vicinity of the subject property, not identified in the development plan or building permit, and which hazard, if uncorrected, would pose a serious threat to the public health, safety, or welfare and the threat cannot be mitigated within a reasonable period of time, as specified in writing by the local government, by the applicant using vested property rights;

(D) A development standard is required by federal or state law, rule, regulation, policy, corrective action, order or other type of governance that is required to be enforced by local governments, regardless of nomenclature; or

(E) A local government is undertaking an action initiated or measure instituted in order to comply with a newly enacted federal or state law, rule, regulation, policy, corrective action,

permit, order or other type of governance, regardless of nomenclature.

(2) A vested property right does not preclude, change, amend, alter or impair the authority of a local government to exercise its eminent domain powers as provided by law.

(3) This section shall not preclude, change, amend, alter or impair the authority of a local government to exercise its zoning authority, except a vested property right, once established as provided for in this section, precludes the effect of any zoning action by a local government which would change, alter, impair, prevent, diminish, or otherwise delay the development of the property, while vested, as described in an approved development plan or building permit.

(4) In the event the local government enacts a moratorium on development or construction, the vesting period authorized pursuant to this section shall be tolled during the moratorium period.

(h).

Addam McCormick, AICP
Senior Planner-Middle Tennessee Region
UT Center for Local Planning



INSTITUTE *for* PUBLIC SERVICE

193 Polk Ave
Nashville, TN 37210

addam.mccormick@tennessee.edu
(615) 253-1151
ips.tennessee.edu

From: Nolan Ming <nming@mcminnvilletn.gov>
Sent: Thursday, May 28, 2026 8:11 AM
To: McCormick, Ronald Addam <addam.mccormick@tennessee.edu>
Cc: Sean Garrett <sgarrett@mcminnvilletn.gov>
Subject: Re: Hixson Data Center Briefing

Addam,

Thank you for sharing this information. What are your thoughts on a moratorium on data centers to allow time to research, define, and understand them?

Kind regards,

Nolan
931-473-1203

From: McCormick, Ronald Addam <addam.mccormick@tennessee.edu>
Sent: Thursday, May 28, 2026 7:44 AM
To: Nolan Ming <nming@mcminnvilletn.gov>
Subject: Re: Hixson Data Center Briefing

Mr. Ming,

With the recent TCA changes to the Board of Zoning and Appeals review process, if the city decides to set up the use only being permitted as a conditional use with defined conditions make sure those conditions are clearly defined in the ordinance. There is some debate that the recent amendments to TCA removed the defined authority for an Appeals Board to review conditional uses/special exceptions. A recent amendment defined that the review would be initially reviewed by a defined staff member. The Appeals Board would be able to review an appeal of the staff's decision. Another section of TCA still allows the local board to define special exceptions review by the Appeals Board so until we get some court cases to review this or additional TCA amendments, then the key is to make sure any conditional use/special exception review is based on clear review criteria specific to each defined conditional use and the Board's decision be made based on objective criteria. My understanding of the issue that created the amendments included Appeals Boards basically making subjective legislative type decisions instead of limited administration decisions based on defined specific review criteria. Another option would be to define regular permitted use approval criteria required for the use permitted in an industrial district including noise, buffer to residential areas, etc. In reading the report provided, the possible ordinance regulations seem reasonable to protect the community. I would be cautious of defining a conditional use or even permitted use review criteria regarding a minimum number of employees since other permitted industrial uses do not require a minimum employee requirement. I could see this requirement regarding an Industrial Development Board's review for a PILOT or TIFF district tax deferment.

If the owners apply for a site plan or permit prior to the conditional use or a defined permitted use with defined approval criteria ordinance amendment being formally approved by the City's Board, then the owners would not be under any ordinances and regulation put in place after they applied. The TCA vested rights section states that the applicable project regulations in place at the submittal of the site plan or permit application apply for the project while the vested rights are valid.

I could review any ordinance amendment or set up a meeting to come down or we could do a remote Teams call to discuss an amendment with you and the Planning Staff.

Referenced TCA Sections:
13-7-205

(b)

(1) The chief legislative body shall provide and specify, in its zoning or other ordinance, general rules to govern the organization, procedure, and jurisdiction of the board of appeals, which rules shall not be inconsistent with this part or part 3 of this chapter, and the board may adopt supplemental rules of procedure, not inconsistent with this part or part 3 of this chapter or such general rules.

(2) The general and supplemental rules of procedure:

(A) Shall require:

(i) Maintenance of a record of the board's proceedings, including resolutions, transactions, motions, and actions, which are public records;

(ii) Election from its membership of a chair and other officers as the board deems necessary; and

(iii) The presentation of relevant proof by parties to the proceedings; and

(B) May address the inclusion of statements of reasons for the board's actions as part of each motion or action, including such findings of fact and statements of material evidence as the board may deem pertinent.

13-7-207. Powers of board of appeals.

(a) The board of appeals has the power to:

(1) Hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, permit, decision, or refusal made by the municipal building commissioner or any other administrative official in the carrying out or enforcement of any provision of any ordinance enacted pursuant to this part and part 3 of this chapter; and

(2) [Deleted by 2025 amendment.]

(3) Where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the enactment of the zoning regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any regulation enacted under this part and part 3 of this chapter would result in peculiar and exceptional practical difficulties to or exception or undue hardship upon the owner of such property, authorize, upon an appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardship; provided, that such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan and zoning ordinance.

(c)

(1) A local government may, by ordinance, delegate initial jurisdiction over specified special exceptions, for interpretation of the map, or for decisions upon other special questions upon which the board of appeals is authorized by such ordinance to pass, to the local building commissioner or other administrative official.

(2) For matters delegated pursuant to subdivision (c)(1):

(A) The board's jurisdiction is appellate only;

(B) The local building official or other administrative official shall make the initial ruling based on the criteria set forth in the ordinance; and

(C) The delegation ordinance must specify which special exceptions have been delegated to the local building commissioner or other administrative official.

(3) The ordinance must include specific and objective standards by which special exceptions are evaluated.

(4) A request for a special exception must not be denied on the basis of health, safety, or general welfare, unless those bases are defined in the ordinance.

(5) For any request for a special exception, or request for interpretation of the map, the local building commissioner or other administrative official to whom jurisdiction has been delegated must render a decision within one hundred twenty (120) days of submission of a complete application, and the board must render a decision within one hundred twenty (120) days of the filing of an appeal. An applicant may consent to an extension or waive these deadlines. An application is

deemed to be approved if the local building commissioner, other administrative official, or board fails to approve, deny, or extend with consent the application within the required time period.

13-4-310

(b)

(1) A vested property right is established, with respect to any property, upon the submission to the local government in which the property is situated of:

(A) A preliminary development plan;

(B) A final development plan where no preliminary development plan is required by ordinance or regulation; or

(C) A building permit allowing construction of a building where there is no requirement for prior approval of a preliminary development plan for the property on which that building will be constructed.

(2) Notwithstanding subdivision (b)(1), a vested property right is not established unless the plan or building permit substantially complies with the requirements of local development ordinances and regulations pursuant to subsection (e).

(3) During the vesting period described in subsections (c) and (d), the locally adopted development standards that are in effect on the date of submission of a preliminary development plan or the date of approval of a building permit, as described by this subsection (b), shall remain the development standards applicable to that property or building during the vesting period.

Example Ordinance

D. Industrial Activities: **Data Processing Facilities** Light Industrial Activities Heavy Industrial Activities Mining, Drilling and Quarrying Scrap Operations Transport and Warehousing

207 Industrial Activities A. Data Processing Facilities Includes a building, dedicated space within a building, or group of structures used to house a large group of computer systems and associated components, such as telecommunications and data processing systems, to be used for the remote storage, processing, or distribution of large amounts of data. Such facilities include computationally-intensive applications such as blockchain technology and cryptocurrency mining, but do not include facilities incidental or accessory to another primary use. Such facilities may also include air handlers, power generators, water cooling and storage facilities, utility substations, and other associated utility infrastructure to support operations. May also be referred to as a “Data Center”.

C. Heavy Industrial Activities Manufacturing or other enterprises with significant external effects, or which pose significant risks due the involvement of explosives, radioactive 19 materials, poisons, pesticides, herbicides, or other hazardous materials in the manufacturing or other process. Examples include but are not limited to: • Explosives • Asphaltic Cement Plants • Smelting and Refining of Metals and Alloys • Waste Disposal by Compacting or Incineration, as a principal use • Manufacturing, Warehousing, Recycling or Disposal of Battery and **other Energy Storage Products and Equipment**



INSTITUTE *for* PUBLIC SERVICE

193 Polk Ave
Nashville, TN 37210

addam.mccormick@tennessee.edu
(615) 253-1151
ips.tennessee.edu

From: Nolan Ming <nming@mcminnvilletn.gov>
Sent: Wednesday, May 27, 2026 3:35 PM
To: McCormick, Ronald Addam <addam.mccormick@tennessee.edu>
Subject: Fw: Hixson Data Center Briefing

You don't often get email from nming@mcminnvilletn.gov. [Learn why this is important](#)

Just FYI

Kind regards,

Nolan
931-473-1203

From: Nolan Ming <nming@mcminnvilletn.gov>
Sent: Tuesday, May 26, 2026 2:30 PM
To: Sean Garrett <sgarrett@mcminnvilletn.gov>
Subject: Hixson Data Center Briefing

See attached.

Kind regards,

Nolan Ming
City Administrator | City of McMinnville, Tennessee
101 E. Main St, McMinnville, TN 37110
Office: 931.473.1203