

# ORDINANCE 266 IS REPEALED – WHAT NOW?!?

*If a landowner were to successfully annex property to the city right now*, there is no M-3 ordinance to regulate data center development. The property would have to be rezoned to allow for this industrial use under M-1 or M-2. Due to the fact that data centers are not a listed use under either of the existing zoning guidelines, it would be an unclassified use. This means **a zoning official would have to make a determination**. Pursuant to the Michigan Zoning Enabling Act, for this type of discretionary decision the ordinance must include specific regulations and standards to guide these decisions. In most ordinances (including Mason’s) these regulations and standards are set forth in a section addressing “uses by special permit.” (See, Mason City Code, Section 94-191.)

Mason’s “uses by special permit” section allows public comment and requires a public hearing before a special use permit is issued. It also states that *“before approving a special use permit, the planning commission shall find by Clear & Convincing Proof” that the proposed development satisfies specific standards, including:*

- ensuring that the facility’s design and operation are harmonious with the existing character of the general vicinity and that its use will not change the essential character of adjacent property or the zoning district in which it is proposed;
- that it is not hazardous or disturbing to uses in the same general vicinity;
- that it will not create additional requirements at public cost for public facilities and services;
- that its use and operation will not be detrimental to any person, property, or the general welfare by noise, fumes, glare, or odors.

In addition, the Planning Commission is allowed to impose reasonable conditions that are deemed necessary to protect the general welfare and protect individual property rights. See, Section 94-191 and 94-192 of Mason City Code.