



Did You Know?

Fiber Rights: The Overlooked Utility in Data Center Deals

by Rachel Boyce

Did you know that one of the most critical—and often underestimated—“utilities” in a data center deal isn’t water, power, or sewer, but the legal right to put fiber where you need it, when you need it? Securing long-haul and last-mile connectivity frequently turns on locking down easements, licenses, and rights-of-way early, aligning them with site control, and “future-proofing” route rights, so today’s single-carrier path can scale into tomorrow’s diverse, redundant network. This is where real estate and land use diligence earns its keep: mapping and recording corridor rights; synchronizing them with subdivision, title, and zoning milestones; and negotiating relocation and access provisions that keep projects moving even when routes change. In practice, one of the fastest ways to slow a build is to leave fiber rights until the end; one of the most effective ways to accelerate it is to treat connectivity rights like core “dirt” from day one.

Land Use and Site Selection for Data Centers: From Zoning to Powered Land Deals

by Camarin Madigan, Anne Li, and Megan Lin

Land use is often an early hurdle in data center development. Data center projects can require a wide range of land use approvals, and the level of public participation, scope of review, and timeline for issuance depends heavily on location. A critical first step is understanding the local general plan and zoning ordinance to determine whether data centers are permitted outright or with some form of administrative, conditional, special use, or similar use permit. If not—or if the use is not contemplated at all—the entitlement process will be longer and more complex, potentially requiring a legislative text amendment or a rezone. Developers should also consider whether related infrastructure, such as substations, switching stations, or other necessary onsite utility infrastructure, are allowed as an independent or accessory use. In general, industrial zones are more likely to permit data centers and related infrastructure. Next, it is equally critical to evaluate whether there are other restrictions—like master plans, zoning overlays, critical areas, and shorelines and buffers—that could affect development of the site. Finally, developers should consider whether offsite utilities and road infrastructure must be improved or extended to serve the development (and the feasibility and costs of such improvements) and confirm conformance with onsite development standards, such as setbacks, height restrictions, separation from sensitive uses (like residential neighborhoods or schools), local noise ordinances, design review, and parking and landscaping requirements. These last considerations are usually not an outright bar to development but can impact project design, costs, and timelines.

How Data Center Site Selection is Evolving

In past years, many developers and hyperscalers followed a land-banking model—acquiring property first and planning to secure power, construct the facility, and procure racks and equipment later. More recently, there’s been a rise in “powered land” deals, where site control and committed power are acquired together. In some cases, intermediaries take options on land and coordinate interconnection approvals in advance, aiming for a back-to-back closing between the land option and the ultimate sale to the data center developer—with power effectively bundled into the transaction. However, supply chain delays and long interconnection queues continue to change structure and timing of deals. Today, developers are often ordering critical equipment before they’ve even finalized a site. That shift requires more flexible contract terms—allowing delivery to multiple potential locations or temporary storage while power and land are secured.





Navigating the AI-Driven DRAM Shortage: Critical Contract Terms for Supply Chain Resilience

by Chris Wieman

There is a global AI-driven shortage of dynamic random-access memory (DRAM) that is expected to last at least through 2028. Shortages of one kind or another are likely the “new normal” as infrastructure demand, geopolitical risk, and other supply chain bottlenecks are likely to create new, and deepen existing, shortages of critical components in the years ahead.

When negotiating strategic supply agreements, it is critical for buyers to put in place mechanisms and supplier obligations that will improve continuity of services and limit operational disruption when one of these shortages occurs and for suppliers to preserve flexibility, so they do not face outsized risk from force majeure events. For purchasers, provisions related to buffer inventory requirements, reserve capacity, and MFNs are all critical tools to accomplish this goal. Beyond the contract, parties should also implement operational processes to reduce supply chain risk and address issues such as sole sourcing, tariffs, and rare earth restrictions. The appropriate strategies will vary depending on the availability of supply, liquidity, and relative leverage of the parties. It is important to consider external disruptions and resource restrictions when you are negotiating supply agreements and planning your supply chain strategy.

