

Ex 5 – Daly Aff

**TERAWULF****TOWN OF LANSING ZONING BOARD OF APPEALS**

Administrative Appeal of CEO November 10, 2025 Zoning Interpretation

Pursuant to Town Code §270-62 and Town Law §267-b(1)

Date of Submission: November 12, 2025**Project Name:** Cayuga Data Campus**Submitted by:** TeraWulf Inc./Lake Hawkeye LLC and Cayuga Operating Company LLC**I. APPLICANT INFORMATION**

Applicants: Cayuga Operating Company LLC (Property Owner)
TeraWulf Inc./ Lake Hawkeye LLC (Lessee/Developer)

Subject Property: 228 Cayuga Drive, Lansing, NY 14882

Tax Parcel No.: 11-1-3.211

Zoning District: IR – Industrial / Research

II. NATURE OF APPEAL

This administrative appeal is submitted pursuant to Town Code § 270-62 and Town Law § 267-b(1) in response to the Code Enforcement Officer's written zoning interpretation dated November 10, 2025 (the "November 10 Determination"), which denied the Applicants' October 29, 2025 site plan review application (the "October 29 Application"). The Applicants respectfully appeal that determination and seek a finding that the proposed use is properly classified as a "General Processing" and/or "Warehouse / Storage of non-agricultural goods", each a permitted principal use within the IR District under the Town of Lansing Zoning Code.

The Applicants have also appealed the CEO's October 22, 2025 determination (the "October 22 Determination Appeal"), which is pending before the Zoning Board of Appeals. The underlying factual background for the Cayuga Data Campus, as set forth in the October 22 Determination Appeal, is the same for this appeal and is incorporated herein by reference. Because the November 10 Determination addresses related issues under the same project, this appeal is being submitted for review at the same meeting. This appeal concerns the distinct grounds raised in the October 29 Application but includes cross-references to the October 22 Determination Appeal where appropriate to promote consistency and avoid redundancy.

III. SEQR CLASSIFICATION

This administrative appeal constitutes a Type II action under 6 NYCRR 617.5(c)(37), because it seeks a zoning interpretation only, and no approval of physical development or land disturbance is requested.

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IV. BASIS FOR APPEAL

A. STANDARD OF REVIEW

New York courts have long recognized that zoning ordinances must be strictly construed because they restrict the common-law rights of property owners. Zoning restrictions “should not be extended by implication.” *Matter of Allen v. Adami*, 39 N.Y.2d 275, 277 (1976); *FGL & L Prop. Corp. v. City of Rye*, 66 N.Y.2d 111, 119 (1985). Any limitation on the use of land must therefore appear clearly in the ordinance’s text.

Because these principles protect fundamental property rights, the Zoning Board of Appeals (the “Board”) plays an essential role in ensuring that zoning provisions are applied according to their plain meaning, not expanded by implication or narrowed by inference. Undefined terms should be given their ordinary meaning; otherwise, a provision “provides no guidance as to the meaning” of a permitted use and risks being unconstitutionally vague. *E & B Realty, Inc. v. Zoning Bd. of Appeals*, 275 A.D.2d 779, 781 (2d Dep’t 2000).

While administrative interpretations are entitled to deference, that deference does not extend to readings that are “irrational, unreasonable, or inconsistent with the governing statute.” *Appelbaum v. Deutsch*, 66 N.Y.2d 975, 977 (1985).

Here, the November 10 Determination departs from these settled standards. It adds restrictions that appear nowhere in the ordinance, construes undefined terms contrary to their ordinary meaning, and reaches a result inconsistent with the structure and purpose of the I/R District. The Board has both the authority and the responsibility to correct that error. Applying the law as written, the proposed data center use falls within the permitted categories of “General Processing” and “Warehouse / Storage of non-agricultural goods” as set forth in Chapter 270 of the Town Code of the Town of Lansing, New York, and Schedule I thereto (“Schedule I”).

B. The Plain Language of Schedule I Permits This Use

Schedule I permits “General Processing” and “Warehouse / Storage of non-agricultural goods” in the IR District. Those terms are not defined in the Town Code. Under New York law, undefined zoning terms are given their ordinary dictionary meaning, and any ambiguity is resolved in favor of the property owner. *Matter of Waterways Dev. Corp. v. Town of Brookhaven*, 115 A.D.3d 1152, 1153 (2d Dep’t 2014) (citing *Allen* and *FGL & L*); *Payton Lane Homeowners Ass’n, Inc. v. Village of Head of the Harbor*, 144 A.D.3d 806, 808 (2d Dep’t 2016) (applying ordinary meaning in zoning interpretation).

In the October 29 Application, the Applicants provided the relevant Merriam-Webster definitions. Processing means “to subject to a series of operations or steps,” and Warehousing means “a place for the storage of goods.” The November 10 Determination recognized these definitions, but added a limitation not found in the Town Code, restricting processing and storage to tangible materials. The Town Code does not impose that limitation.

The word goods in “Warehouse / Storage of non-agricultural goods” is also undefined. Nothing in the Town Code confines goods to physical objects. In ordinary usage, goods include items of value,

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whether tangible or intangible. Widely accepted industry and planning sources confirm that data is stored and processed in data centers, and that a data center is a physical facility for those functions. Interpreted according to ordinary meaning, data processing and data storage fall within “General Processing” and “Warehouse / Storage of non-agricultural goods,” so the proposed use is permitted by Schedule I.

C. Restrictions Not Found in the Text Should Not Be Implied

The November 10 Determination raises several concerns that do not appear in Schedule I. Established canons caution against extending zoning restrictions by implication. See *Suburban Club of Larkfield, Inc. v. Town of Huntington*, 56 Misc. 2d 715, 720, 289 N.Y.S.2d 813, 826 (Sup 1968).

1. Scale and Intensity

The Determination states that the project’s 138 MW scale, with potential expansion to 400 MW, exceeds the I/R District’s “light manufacturing” intent. Purpose statements aid interpretation but cannot add enforceable limits where the text imposes none. Town Code § 270-5(H) describes the I/R District as accommodating light manufacturing, fabrication, assembly or research, mining and power generation or utilities. The inclusion of power generation or utilities reflects that the District anticipates large-scale infrastructure in appropriate locations. Schedule I does not include megawatt caps, employment thresholds, or other quantitative limits for General Processing or Warehouse / Storage. The former use of the site as a 108 MW power plant also indicates that the proposed use represents reduced external impacts compared to historic operations.

2. The “Data Center” Label

The Determination emphasizes that “data center” is not listed as a separate use. That does not end the analysis. The Town Code requires the Board to determine whether the proposed activities fall within listed categories, regardless of the industry label. As explained in the October 29 Application, the project involves the processing of research data through continuous computational operations and the storage of that data within enclosed facilities. Those activities correspond directly to the ordinary meaning of “General Processing” and “Warehouse / Storage of non-agricultural goods,” both of which are expressly permitted in the IR District.

Courts applying New York zoning law classify uses by what the facility does, not by how it is named. *Bonded Concrete, Inc. v. Zoning Bd. of Appeals of Town of Saugerties*, 268 A.D.2d 771 (3d Dep’t 2000). The Applicants are not asking the Board to recognize a new, unlisted use. The Applicants seek a determination that the proposed use is permitted under categories already present in Schedule I. No separate listing for “data center” is required when the proposed activities fit existing permitted uses.

This interpretation does not invite an open-ended expansion of permitted uses. Each application must demonstrate that its activities align with Schedule I’s listed categories. The October 29 Application establishes that this facility’s purpose, scale, and infrastructure conform to the permitted uses of the IR District. Approval on that basis would not alter the ordinance’s scope, but simply apply it as written.

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3. The “Inconsistency” Claim

The November 10 Determination reads a conflict between describing the facility as General Processing and Data Warehouse and as a modern research and technology campus. These phrases describe different aspects of the same facility, the zoning classification on the one hand and the purpose and function on the other. Modern research facilities frequently have overlapping characteristics, and these descriptors are complementary. Processing data, the means, and conducting research, the purpose, are aligned.

4. Building Code Definitions

The November 10 Determination cites Building Code definitions of Data Center and Information Technology Equipment. The Building Code regulates construction and safety. The Zoning Code regulates land use. Courts do not import definitions from unrelated statutes with different purposes unless the legislature directs otherwise. See *Appelbaum v. Deutsch*, 66 N.Y.2d 975, 977 (1985). Even if considered, those definitions do not change the ordinary meaning of processing in the Town Code.

D. Laboratory Classification and Coordination with the October 22 Determination Appeal

In the alternative, as articulated in the October 22 Determination Appeal, the proposed facility satisfies the Town Code definition of Laboratory in § 270-3, facilities for research, investigation, testing, or experimentation. Where a proposed use reasonably fits within more than one permitted category, interpretation should favor the property owner. *C. DeMasco Scrap Iron & Metal Corp. v. Zirk*, 62 A.D.2d 92, 98 (2d Dep’t 1978), aff’d, 46 N.Y.2d 864 (1979). The Board may rely on the October 22 Determination Appeal for the full Laboratory analysis without repeating the same arguments here.

E. Consistency with the Town’s Comprehensive Plan

The 2018 Comprehensive Plan encourages redevelopment or retrofitting of aging or abandoned industrial sites, and infill projects that make use of existing infrastructure. The Cayuga Data Campus implements these goals by transforming a retired power plant into a non-emitting research facility with closed-loop cooling, located within a continuous industrial and utility corridor. This policy context reinforces the reasonableness of interpreting Schedule I according to its ordinary meaning.

V. FINDINGS AND JUSTIFICATION

The Town Code permits General Processing and Warehouse / Storage of non-agricultural goods in the I/R District. Those undefined terms should be applied according to their ordinary meaning, and no additional limitations should be implied. As demonstrated in the October 29 Application, the proposed activities involve data processing and storage that align with these categories. Alternatively, and as detailed in the October 22 Determination Appeal, the use satisfies the Laboratory definition under § 270-3, as addressed in the October 22 Determination Appeal.

The Applicants respectfully defer to the Zoning Board of Appeals’ determination as to which of the permitted use classifications most appropriately applies, and seek a text-based interpretation consistent with the Town Code.

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1. Reverse the Code Enforcement Officer's November 10, 2025 determination.
2. Determine that the proposed use qualifies as General Processing and/or Warehouse / Storage of non-agricultural goods, each a permitted principal use in the IR District.
3. Alternatively, determine that the proposed use qualifies as a Scientific Research Laboratory, a permitted principal use in the IR District.
4. Confirm that the project may proceed to site plan review as a permitted principal use without a variance.

VII. EXHIBITS SUBMITTED

Exhibit 1: Code Enforcement Officer Zoning Interpretation (November 10, 2025)

Exhibit 2: Zoning Map and Parcel Identification

Exhibit 3: Project Renderings