

Ex 6 – Daly Aff

CI2026-02315

Index #: EF2026-0069

Dear Zoning Board Members and attendees:

This official notarized document is my official statement regarding the information and steps taken to make my decision of the determination on the two submittals of proposed use at the 228 Cayuga Drive property, as I am unable to attend the December 10, 2025, Zoning Board of Appeals meeting for personal reasons, as well as being out of town.

First, I looked at the following definitions in Town Code:

270-5 H Industrial-Research (IR) District. The **intent of the IR District is to designate areas where some form of light manufacturing, fabrication, assembly or research, mining and power generation/utilities are appropriate and desired land uses.** These areas will become small employment centers that could contain a variety of land use activities. To achieve the type of development that **will be compatible with the surroundings**, it is appropriate to consider each proposal individually. Site planning concerns relate to accessibility, impact on nearby neighborhoods, parking and safe traffic movement, landscaping, buffers, environmental factors, lighting, **size**, location and such other elements as may be reasonably related to health, safety, property value and the general welfare of the Town.

270-3 definition of:

LABORATORY - A building or group of buildings within which are located facilities for research, investigation, testing or experimentation, but not facilities for manufacturing or selling of products except as may be necessary for prototype development or as incidental to the main purpose of the laboratory.

HAZARDOUS PRODUCTION MATERIALS - A solid, liquid, or gas associated with semiconductor manufacturing that has a degree-of-hazard rating in health, flammability, or instability of Class 3 or 4, as ranked by NFPA 704 (Standard Systems for Identification of the Hazards of Materials for Emergency Response), and which is used directly in research, laboratory, or production processes which have, as their end product, materials that are not hazardous.

MANUFACTURING ESTABLISHMENT

An establishment, the principal use of which is manufacturing, fabricating, processing, assembly, repairing, storing, cleaning, servicing or testing of materials, goods or products.

Other pertinent Town Code Sections below are the only references in Town Code of Computers:

270-37.3 Employment uses. A. Business offices. A facility for the processing, manipulation, or application of business information or professional expertise, and which may or may not offer services to the public. A business office is not materially involved in fabricating, assembling, or warehousing of physical products for the retail or wholesale market, or engaged in the repair of products or retail services.

210-3 ELECTRONIC MESSAGE DISPLAY SIGN - A sign that utilizes computer-generated data or some other electronic means to display messages through the use of light, including through flashing, intermittent, rotating, or moving light, or light that has the appearance of flashing, moving, or scrolling. Common examples would be LCD and LED signage.

CI2026-02315

Index #: EF2026-0069

25-4 Determinations of disclosure. In determining whether information has been acquired, or is reasonably believed to have been acquired, by an unauthorized person or a person without valid authorization, the Town may consider the following factors, among others:

- A. Indications that the information is in the physical possession and control of an unauthorized person, such as a lost or stolen computer or other device containing information; or

198-5 D. Voice mail, e-mail, computers, computer networks, digital media and storage and transfer devices, computer files, software programs, and all communications created on, received by, stored on or transmitted through those systems are the sole and exclusive property of the Town. Records, data, files, software, and all electronic communications contained in these systems likewise are the property of the Town. These systems and their contents are subject to inspection, examination and monitoring by authorized Town officers and personnel (or authorized third-party contractors) at any time and without notice. The authorized personnel are the Town Supervisor, the in-house IT, the Town Clerk and Deputy Town Clerk, and any of their designees as indicated by a written document bearing their original signature(s). No organic data or metadata shall be supplied in any native format unless it is cleared of any personal information.

E. Town officers and employees are advised that the computers, computer networks, e-mail systems, telephone systems (including voice mail), and other electronic communications systems (and all communications created on, received by, stored on or transmitted through those systems) are the sole and exclusive property of the Town and that there is and should not be any expectation of privacy regarding any such documents, records, or communications. Passwords are only intended to prevent unauthorized access to e-mail, computer files, or voice mail, but the Town reserves the right to allow authorized persons to access messages and files on the Town-owned systems or telephones at any time, and all employees must supply their current passwords to the Town Supervisor, who shall keep the same secured from third-party review or capture.

18-12 Use of municipal resources:

- B. No Town officer or employee may use or permit the use of Town resources for personal or private purposes, but this provision shall not be construed as prohibiting:

- (3) The occasional and incidental use during the business day of Town telephones and computers for necessary personal matters, such as family care and changes in work schedule.

Next were definitions per the NYS 2025 Building Code:

DATA CENTER. A room or building, or portions thereof, used primarily to house information technology equipment (ITE) and serving a total ITE load greater than 10kW and 20 W/ft² (215 W/m²) of conditioned floor area.

INFORMATION TECHNOLOGY EQUIPMENT (ITE). Computers, data storage, servers and network communications equipment.

INFORMATION TECHNOLOGY EQUIPMENT FACILITIES (ITEF). Data centers and computer rooms used primarily to house information technology equipment.

CI2026-02315

Index #: EF2026-0069

Next are Merriam Webster Dictionary Definitions:

Warehouse - a structure or room for the storage of merchandise or commodities

Commodities - an economic good: such as

a: a product of agriculture or mining

b: an article of commerce especially when delivered for shipment

c: a mass-produced unspecialized product

Research –noun

1: studious inquiry or examination especially : investigation or experimentation aimed at the discovery and interpretation of facts, revision of accepted theories or laws in the light of new facts, or practical application of such new or revised theories or laws

2: the collecting of information about a particular subject

3: careful or diligent search

transitive verb

1: to search or investigate exhaustively - research a problem

2: to do research for -research a book

intransitive verb

: to engage in research

Other Definitions of Data Center on internet:

Cisco Systems Definition: A data center is a secure, redundant facility for storing and sharing applications and data.

IBM Definition: A data center is a physical room, building or facility that houses IT infrastructure for building, running and delivering applications and services.

Fortinet Definition: A data center is a centralized physical facility that stores businesses' critical applications and data.

The following list are all of the allowed uses in the I/R Zoning District with the requirements to allow such use. All items listed in red are not remotely related to the 228 Cayuga Drive proposed site plans submitted.

ALLOWED USES IN I/R ZONING DISTRICT:

- Mother-in-law/assessor – is permitted with a Zoning permit
- Dwelling, ECHO housing (elder cottage housing opportunity) as temporary - Removed 60 days after use need is complete.
- Storage unit/containers – is permitted with Zoning permit
- Accessory use related to residential development - is permitted
- Church, place of public worship and related facility – is permitted with site plan
- Playground, park, noncommercial - is permitted

CI2026-02315

Index #: EF2026-0069

- Commercial plant nursery; greenhouse, garden center -is permitted with site plan
- Rooming house; tourist home – is permitted with site plan
- Kennel; animal boarding – is permitted with conditions in 270-35E
- Veterinary hospital – is permitted with conditions in 270-35F
- Keeping of chickens – is permitted with Zoning permit
- Commercial recreation: outdoors – is permitted with site plan
- Commercial recreation: indoors – is permitted with site plan
- Motel; hotel – is permitted with conditions in 270-35G
- Professional or business office (not in home) - is permitted with site plan
- Bank; financial institution – is permitted with site plan
- Retail sales, services, and storage; marine- and water-orientated – is permitted with conditions in 270-35M
- “Mini” commercial warehouse for self-storage – is permitted with site plan
- Vehicular fuel and service (except body work) – is permitted with site plan
- New and used cars sales, including garage service and repair – is permitted with site plan
- Contractor’s/landscaping yard – is permitted with site plan
- Warehouse, storage or wholesaling of non-agricultural goods or materials – is permitted with site plan
- Printing and publishing (not a home business) – is permitted with site plan
- Commercial assembly; jewelry, leather, fabric, scientific instruments and similar items (not a home business – is permitted with site plan
- Natural resource exploration (not a production facility) – is permitted with site plan
- Truck or motor freight terminal – is permitted with site plan
- Vehicle body shop, not as part of new or used car sales and service – is permitted with conditions in 270-35O
- Vehicle wrecking and salvage yard – is permitted with condition 270-35O
- Agricultural, industrial or educational research, design and production of prototypes (not as a home business) - is permitted with site plan
- General processing, light manufacturing, and assembly - is permitted with site plan
- Scientific research laboratory – is permitted with site plan
- Public utility service and distribution, including gas, electric, telephone, water and sewer, TV cable, but excluding substations, storage yards, and transmission towers - is permitted
- Public utility substation, or storage yard – is permitted with site plan
- Electric or gas transmission lines – is permitted with site plan
- Wind energy conversion system – is permitted with conditions in 270-35S
- Non-tower-based wind energy conversion system – is permitted with conditions in 270-20N
- Small-scale solar energy system - is permitted with conditions in 270-20M
- Solar Energy facility – is permitted with conditions in 270-35R
- Solid waste recycling or transfer station – is permitted with site plan
- Communications tower for the commercial or public sector reception or transmission of electronic signals – is permitted with site plan and meeting chapter 119
- Junkyard – is permitted with site plan
- Planned Development Area - is permitted with 270-32
- Small-scale battery energy storage system - is permitted

CI2026-02315

Index #: EF2026-0069

- Large-scale battery energy storage system – is permitted with site plan and 270-35T

Uses left to make determination on:

- Professional or business office (not in home) with site plan – Town Code 270-3 definition
PROFESSIONAL OFFICE - The office of a member of a recognized profession (a vocation requiring specialized knowledge of some aspect of learning, science, or art) and maintained for the conduct of that profession. The proposed is a three-building data center campus project for a minimum of 138 MW and does not meet this use.
- Warehouse, storage or wholesaling of non-agricultural goods or materials with site plan –
According to the Merriam Webster definition of warehouse included above, the proposed project does not store merchandise or commodities and does not meet this use.
- Agricultural, industrial or educational research, design and production of prototypes (not as a home business) with site plan. – According to the NYS 2025 Building Code definitions and the Terawulf website, the proposed use is a data center that is collecting data. Terawulf computers are not researching but collecting data for others to use for research, thus does not meet this use.
- General processing, light manufacturing, and assembly with site plan. The Zoning Officer does not find 138MW over three buildings to be general or light in any manner. In addition, Terawulf states on their own website that the proposed is a “large scale campus”, thus does not meet the use.
- Scientific research laboratory with site plan - as with other allowed uses, the Zoning Officer finds that with definitions included above that the proposed is a large volume data center in which collects data for others, for off site to use. In addition, per Fred DelFavero, “the facility will provide infrastructure for research”, thus does not meet the use.
- Planned Development Area with 270-32 – can be requested from the Town Board.

Per Terawulf’s webpage, www.terawulf.com/wulf-compute, the existing site on the shores of Lake Ontario is a “TeraWulf’s state-of-the-art **data center** campus”.

Also included on the website, “Lake Hawkeye Data, TeraWulf’s newest **large-scale campus**, builds on the Company’s proven expertise in transforming legacy coal facilities into **next-generation digital infrastructure**. Located on the site of the retired 300 MW Cayuga coal plant in Lansing, New York, this campus capitalizes on the substantial transmission capacity and existing industrial infrastructure” and “Lake Hawkeye is designed to begin with 50 MW of high-performance computing in the near term, scale to **138 MW** in the medium term, and ultimately accommodate **up to 400 MW**.”

Per the email narrative submitted on 18 Oct 2025 by Fred DelFavero, Project Manager, “the facility will provide **infrastructure for research**”, “there is no manufacturing or commercial production component”, and “importantly, zoning classification is determined by the primary function of the facility, and in this case **the primary function is data processing**”.

Upon review of the second site plan submittal, I view multiple locations still referencing the buildings as data centers.

CI2026-02315

Index #: EF2026-0069

Upon review of the Town Code, the definition in Town Code 270-5-H weighs upon my mind deeply as it specifically states the intent of the IR Zoning District is to be "**light**". Of the two Site Plan submittals and the Terawulf webpage, no matter how the applicant wishes to word the project, it all comes down to this 228 Cayuga Drive proposed project being three buildings of computers completing data collection, thus it is the opinion of the Zoning Officer that the primary use is "data collection center".

A large portion of the Town Codes were composed well before such uses as data collection center campus and data collection was introduced to the Town Board as a possible business within the Town of Lansing. The comprehensive plan may introduce terms and interests for development, but even the more recent updates to the Town Code have not included data collection buildings or data centers as an allowed use.

Additionally, per Town Code update from 4/19/23 by Local Law #3 of 2023 included in 270-8 titled "Uses not listed as permitted are not allowed" states that "**Any land use not specifically permitted under this chapter shall be disallowed uses unless a use variance therefor shall be properly obtained**, unless such use is a lawful pre-existing, non-conforming use, or unless such use is permitted in any newly created zone, such as (but not limited to) planned development zones. As to preexisting, nonconforming uses, this chapter shall be interpreted and applied so as to eliminate the same as soon as legally practicable".

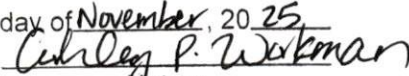
Regardless of what other municipalities have allowed or interpreted, based on the two submittals for the Planning Board, the Terawulf website, a deep review of the Town Code, and review of other resources, the Zoning Officer has determined that the proposed Data Center Campus at 228 Cayuga Drive, according to their submittals, is 138 MW of computers infrastructure on a campus of 183 acres, the use is not **light** processing or **light** warehousing, and therefore does meet any of the allowed uses in the IR Zoning District, and most importantly does not meet the intent specifically stated in the Town Code for the definition of Industrial-Research (IR) District.

As the Zoning Officer for the Town of Lansing, I'm not a resident of the Town of Lansing, I am not a resident of Tompkins County, and I've made two unbiased determinations based upon Law, Codes, and definitions without any outside influence.

The Zoning Board of Appeals may alter or overturn my determinations, the applicant may apply for a variance, or the applicant may apply for a PDU.

Respectfully, 
Scott Russell

Town of Lansing Code Enforcement Officer/Zoning Officer
29 Auburn Road
Lansing, NY 14882

Sworn to me this 24th
day of November, 2025

Notary

ASHLEY P. WORKMAN
Notary Public, State of New York
No. 01WO0012974
Qualified in Tompkins County
Commission Expires Aug. 30, 2027