

Ex 7 – Daly Aff

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VIA HAND DELIVERY

Jack Young
Chairperson
Town of Lansing Zoning Board of Appeals
Lansing Town Hall Board Room

Re: FLX Strong's Written Comments Regarding Cayuga Data Campus, 228 Cayuga Drive, Zoning Interpretation Appeals 25-9 and 25-10

Dear Chairperson Young and Members of the Zoning Board,

On behalf of FLX Strong,¹ I am submitting the following comments regarding the two appeals of Fred DelFavero, Terawulf, and Cayuga Operating Company (together “Applicants”) from zoning interpretations relating to their proposed Cayuga Data Campus at 228 Cayuga Drive (the “Project”). The Applicants appeal from zoning interpretations issued by the Town’s Code Enforcement Officer on October 22, 2025, and November 10, 2025, respectively. These written comments address both appeals and should be incorporated into the administrative records for both decisions and should be considered in addition to any oral comments provided at the public hearings.

As described below, the Code Enforcement Officer correctly determined that the Project, a proposed data center, is not a permitted use in the I/R District. A data center (or a similar industry term) is a new use and not identified as one of the permitted uses in Schedule I for the Industrial/Research (“I/R”) District. Nor is a

¹ FLX Strong is a group of Town of Lansing and Tompkins County residents along with representatives from regional and statewide organizations such as Sustainable Finger Lakes, No Data Center FLX, Cayuga Lake Environmental Action Now, Democratic Socialists of American Ithaca Chapter, Campaign for Renewable Energy, NYPIRG, Seneca Lake Guardian, and Citizen Action NY. They have been working to educate the public about the serious impacts that data centers represent, both to our economy, in the form of rising electric bills and strain on the electric grid, and to our environment, in the form of noise pollution, impacts on our lakes and unnecessary CO2 emissions.

data center a “scientific research laboratory,” “general processing” facility, or a “warehouse/storage [facility] for non-agricultural goods” as the Applicants contend.

Ultimately, whether a data center should be permitted in the I/R District or elsewhere is a policy decision that must be left to the Town Board as the legislative body in the Town. On the narrow interpretative questions before the ZBA, specifically whether a data center is a permitted use in the I/R District, the plain language of the Land Use Ordinance is clear that the answer is no. The appeals should be denied.

I. What is a Data Center?

The Applicants and Code Enforcement Officer generally agree on the basic definition of a data center. The Applicants define a data center as

“a facility used to house computer systems and associated components, such as telecommunications and storage systems.”²

The Code Enforcement Officer similarly defines a data center as

“a facility “that houses servers, storage, and networking infrastructure to support digital applications and services.”³

A typical data center is primarily composed of the following architectural elements:

1. Servers, sometimes including GPUs for computationally intensive tasks;
2. Storage devices (e.g., disks and SSDs);
3. Networking infrastructure; and
4. Buildings and systems for power delivery, cooling, and physical security.

Modern data centers are often described as warehouse-scale computers because they integrate servers, storage, and networking infrastructure at large scale.⁴ Like a personal computer, they also require power supplies, cooling, and an enclosure, but on a much larger footprint.

² Applicants' Appeal 25-9 at pg. 3. As noted below, the Applicants claim in their appeal that this definition is “[a]ccording to Merriam-Webster,” but the term “data center” is not currently defined in the online version of Merriam-Webster’s dictionary.

³ Code Enforcement Officer Decision (Nov. 10, 2025) (quoting American Planning Association).

⁴ Barroso et al., The Datacenter as a Computer: An Introduction to the Design of Warehouse-Scale Machines, 3d Ed. (2019).

The proposed Cayuga Data Campus is designed as a multi-tenant facility providing power, cooling, and secure space for other organizations' computer equipment. The operator manages the physical environment and connectivity, not the data itself.⁵

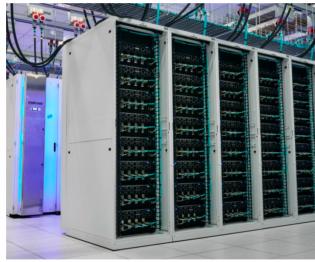
What Will Happen Inside the Cayuga Data Campus?

Long-term digital infrastructure forms the backbone of the global computing economy.



TERAWULF BUILDS AND OPERATES DATA CENTER INFRASTRUCTURE

TeraWulf owns and operates the data center infrastructure, leasing space and power to technology partners – a model known as co-location.



PARTNERS BRING GPUs AND SERVERS

- AI training & inference
- Scientific modeling
- High-performance computing



PARTNERS DEPLOY HPC AND AI WORKLOADS

Why It Matters: This is long-term digital infrastructure – not speculative or transient activity – forming the backbone of the global computing economy.



Figure 1-Terawulf Open House Presentation 10-7-25, Ex. E

The physical infrastructure of a data center is distinct from its operational capabilities, which as explained above, is driven by the needs and desires of third-party tenants, and which occurs in an entirely virtual environment. These facilities can support a wide range of computational tasks, from routine data storage to intensive applications such as AI or scientific modeling, depending on tenant needs. While tenants may use the infrastructure for various computational purposes, those activities occur virtually and do not alter the facility's physical characteristics for zoning purposes as a data center.

⁵ Excerpt from "Independent Assessment of the Proposed Cayuga Data Center Campus," Nov. 3, 2025, attached as **Exhibit A**; *See also* Excerpt from Terawulf, Inc. Form 10-K (Fiscal Year Ended Dec. 31, 2024) at pgs. 1-2, 13, attached as **Exhibit B**.

II. What legal standard applies to the appeals?

Under N.Y. Town Law § 267-b(1), the ZBA has the authority to reverse or affirm an interpretation of the Land Use Ordinance by the Code Enforcement Officer.

The goal of any statutory interpretation analysis “is to discern the [Town Board’s] intent,” *Matter of Wallach v. Town of Dryden*, 23 N.Y.3d 728, 744 (2014), specifically the intent when the law or ordinance was enacted. *People v. Mitchell*, 38 N.Y.3d 408, 411 (2022).⁶

The starting point in this analysis is always the text of the ordinance, which must be interpreted according to its plain meaning. *Matter of Peyton v. New York City Bd. of Stds. & Appeals*, 36 N.Y.3d 271, 280 (2020). In construing the plain meaning of the ordinance, it should be construed as a whole and its various sections considered together. *Id.* Words and terms should be interpreted with their “usual and commonly understood meaning,” unless there is a definition in the ordinance or the context of the ordinance provides a special meaning. *Id.*; *see also Matter of Witkowich v. Zoning Bd. of Appeals of Town of Yorktown*, 133 A.D.3d 679, 680 (2d Dept. 2015).

The Applicants make much of the fact that any ambiguity in the text must be construed in their favor, but this principle applies only where there is *actual* ambiguity. Provisions are “not ambiguous merely because the parties interpret them differently.” *John Mezzalingua Assoc., LLC v. Travelers Indem. Co.*, 211 A.D.3d 1553, 1557 (4th Dept. 2022).

The mere fact that an applicant proposes a novel use does not create ambiguity where the ordinance is otherwise clear. *See Matter of Shields v. Virts*, 2017 N.Y. Misc. LEXIS 1601, at *6 (Supr. Ct., Monroe Cnty., Apr. 26, 2017) (stating that a statute is not rendered ambiguous simply because its plain language does not apply to the facts at bar). It is, after all, “a basic tenet of zoning jurisprudence that an ordinance which lists permitted uses excludes any uses that are not listed.” *Old Westbury v. Alljay Farms, Inc.*, 100 A.D.2d 574, 575 (2d Dept. 1984); *see also* Ordinance § 270-8. Under this legislative scheme, if an applicant’s proposed use is not listed in the ordinance, then it is clear that the proposed use is not permitted.

Finally, a note of caution regarding the legal references in the Applicants’ appeals. Several legal authorities cited in the Applicants’ submissions appear to be inaccurate or do not correspond to the quoted language. This is a problem because the ZBA must rely on accurate legal precedent, and incorrect citations could

⁶ The current iteration of the Town’s Land Use Ordinance was adopted in 2003 and then subsequently amended from time to time. However, the uses at issue in these appeals (scientific research laboratory, general processing, and warehouse/storage facility for non-agricultural goods) appeared in earlier iterations of the Ordinance dating back to at least 1998. *See Exhibit C* (Excerpts from 1998 and 2001 Ordinances).

mislead the Board about applicable law. The table below summarizes the apparent discrepancies.

Appeal	Applicants' Citation	Discrepancy
Pg. 2 (25-10)	<i>Matter of Allen v. Adami</i> , 39 N.Y.2d 275, 277 (1976) and <i>FGL & L Prop. Corp. v. City of Rye</i> , 66 N.Y.2d 111, 119 (1985) as stating that zoning restrictions "should not be extended by implication."	The quoted language does not appear in either decision cited.
Pg. 2 (25-10)	<i>E&B Realty, Inc. v. Zoning Board of Appeals</i> , 275 A.D.2d 779, 781 (2d Dept. 2000) as stating that an undefined provision in a zoning ordinance "provides no guidance as to the meaning" of a permitted use and risks being unconstitutionally vague.	The quoted language does not appear in the decision cited.
Pg. 2 (25-10)	<i>Matter of Waterways Dev. Corp. v. Town of Brookhaven</i> , 115 A.D.3d 1152, 1153 (2d Dept. 2024), for the proposition that any ambiguity is resolved in favor of the property owner.	The citation is for a different case, <i>South Buffalo Dev., LLC v. PVS Chem. Solutions, Inc.</i> , 115 A.D.3d 1152 (4 th Dept. 2014), which does not stand for the proposition stated.
Pg. 2 (25-10)	<i>Payton Lane Homeowners Ass'n, Inc. v. Village of Head of the Harbor</i> , 144 A.D.3d 806, 808 (2d Dept. 2016), for the proposition that undefined zoning terms are given their ordinary dictionary meaning.	The citation is for a different case, <i>Matter of Panevan Corp. v. Town of Greenburgh</i> , 144 A.D.3d 806 (2d Dept. 2016), which does not stand for the proposition stated.
Pg. 5 (25-9)	Reference to "Merriam-Webster" for quoted definition of data center.	Merriam-Webster's online dictionary does not currently include a definition for "data center."

The Board should disregard any legal arguments based on inaccurate or unverifiable authority. The Board should further require the Applicants to supply the foregoing referenced cases and authorities with the relevant or quoted language highlighted.

III. A data center is a new use and not permitted in the I/R District

As noted above, “[a]ny land use not specifically permitted” under the zoning ordinance “shall be disallowed.” Ordinance § 270-8. Schedule I of the Land Use Ordinance lists the permitted uses in an I/R District. There is no dispute that a data center (or some similar industry term for the same type of facility) is not listed among the permitted uses in Schedule I. The Code Enforcement Officer therefore correctly found that the Applicants’ proposed data center is not a permitted use in the I/R District.

On appeal, the Applicants attempt to package their proposed data center as various types of permitted uses in an I/R District, specifically “scientific research laboratory,” “general processing,” or “warehouse/storage of non-agricultural goods.” As described below, the Code Enforcement Officer correctly found that the Applicants’ proposed data center was not appropriately characterized as any of these traditional types of facilities. The Code Enforcement Officer’s determinations should be affirmed.

1. A data center is not a “scientific research laboratory.”

In the I/R District, a “scientific research laboratory” is a permitted use. In arguing that its data center falls within this permitted use, the Applicants rely heavily in their appeal on the word “laboratory,” which is defined in the zoning ordinance as “facilities for research, investigation, testing or experimentation...” But it is not just any “laboratory” that is permitted in an I/R District – the permitted use is specifically a “scientific research laboratory.”

The phrase “scientific research” is not defined in the Ordinance. “Scientific” is defined in Merriam-Webster’s dictionary as something that is “conducted in the manner of science or according to results of investigation by science: practicing or using thorough or systematic methods.”⁷ Research, in the scientific context, is appropriately defined as “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 review theories or laws.”⁸

A facility must therefore involve more than just “research, investigation, testing, or experimentation” to qualify as a “scientific research laboratory,” lest every commercial or private facility could qualify. The laboratory must be dedicated to the pursuit of scientific knowledge and experimentation. *See Petitioner v. Vill. Of Tarrytown Zoning Bd. of Appeals*, 2023 N.Y.Misc. LEXIS 38289, *7-8 (Feb. 16,

⁷ “scientific,” Merriam-Webster, *available at* <https://www.merriam-webster.com/dictionary/scientific> (last accessed Dec. 15, 2025).

⁸ “research,” Merriam-Webster, *available at* <https://www.merriam-webster.com/dictionary/research> (last accessed Dec. 15, 2025).

2023) (affirming ZBA's interpretation that petitioner's proposed use was not a "research laboratory" because, although it involved a "research component," the primary use of the facility was manufacturing and distribution, not research).

A data center is not a scientific research laboratory. As noted above, both the Code Enforcement Officer and Applicants generally agree that a data center is fairly described as a facility "*that houses servers, storage, and networking infrastructure to support digital applications and services.*"⁹ This is also consistent with how the Applicants have described their data center facilities outside the context of these appeals.¹⁰ Yet nothing in this description references scientific research, investigation, testing, or experimentation.

The purpose and function of data centers and scientific research laboratories are fundamentally different:

- Scientific research laboratories are facilities where hypotheses are tested, experiments are conducted, and materials or processes are directly manipulated by researchers to generate new knowledge.
- Data centers are facilities where data is stored, transmitted, and processed; servers and networking hardware are maintained; and the primary activities are ensuring uptime, redundancy and computing capacity. Data centers do not generate new scientific knowledge. They might enable computation and storage but they are not the locus of scientific research.

Government classification systems for industries also distinguish data centers from research laboratories. The North American Industry Classification System (NAICS) Code for data centers is 518210, which is for computing infrastructure providers, data processing, web hosting, and related services. A separate classification, 541715, applies to "Research and Development in the Physical, Engineering, and Life Sciences."

The Applicants nevertheless contend that their proposed data center is a "scientific research laboratory" because its "primary function is to provide the computational infrastructure necessary for research, modeling, and data-driven experimentation," such as model training, scientific simulation, and data-driven experimentation. But this argument confuses the fundamental difference between land use and internal business operations.

The focus of zoning is on the use of the land, not the internal business operations conducted there. As New York courts have held, zoning conditions

⁹ Code Enforcement Officer Decision (Nov. 10, 2025) (quoting American Planning Association).

¹⁰ See Ex. B (Terawulf 10-K) at 13 ("[W]e aim to continuously enter into agreements with customers pursuant to which we provide data center space, power, environmental controls, physical security and connectivity products to our HPC hosting and colocation customers").

must “relate directly to the use of the land in question” and may not “regulate the details of the operation of an enterprise.” *St. Onge v. Donovan*, 71 N.Y.2d 507, 516 (1988); *Summit School v. Neugent*, 82 A.D.2d 463, 467 (2d Dept. 1981) (authority of ZBA extends exclusively to “the zoning use of the land and not to the details of the operation of the business to be thereon conducted”) (emphases removed). Zoning turns on the physical use of the property, and not the intellectual activity occurring on or through computers located within it. Just as a business office does not become a bank merely because an office tenant conducts virtual financial transactions,¹¹ a data center does not become a research laboratory because tenants use computers for research.

Thus, regardless of how tenants use a data center’s computing resources, the land use remains that of a data center. The primary activities on-site are the maintenance and operation of computing infrastructure as opposed to the conduct of scientific research. The purpose of the data center is still data storage, cooling, and power distribution. The physical layout of the building and structure remains predominantly server halls, batteries, and cooling equipment. The staffing within the building are still IT operations personnel, and not researchers or scientists. In short, the primary activities on-site are maintenance and operation of computing infrastructure, not the conduct of scientific experiments.

The Code Enforcement Officer’s determination that the proposed data center is not a scientific research laboratory was correct and should be upheld.

2. A data center is not a “general processing” facility.

Schedule I identifies as a permitted use in an I/R District “[g]eneral processing, light manufacturing and assembly.” The Applicants contend that the proposed data center is a “general processing” facility because data stored there will be subjected to continuous operational computation. This argument misinterprets the phrase “general processing,” which must be read in the context in which it is consistently used throughout the Ordinance.

A zoning ordinance must be “construed as a whole, reading all of its parts together, all of which should be harmonized to ascertain legislative intent.” *Biggs v. Zoning Bd. of Appeals of the Town of Pierrepont*, N.Y., 52 Misc. 3d 694, 697 (Supr. Ct., Lawrence Cnty., Apr. 27, 2016) (internal quotation marks omitted).

The term “general processing” in the Ordinance refers to the physical processing of tangible goods, such as food, plastics, or manufactured products. This is consistent with its dictionary definition (“continuous operation or treatment especially in manufacture”¹²) and the context in which the term is used throughout

¹¹ Schedule I identifies professional business office and bank as separate uses.

¹² “process,” Merriam-Webster, available at <https://www.merriam-webster.com/dictionary/processing> (last accessed Dec. 15, 2025).

the Ordinance where it is paired with “light manufacturing and assembly” in Schedule I. The Ordinance further defines a “Manufacturing Establishment” as where “the principal use of which is manufacturing, fabricating, processing, assembly, repairing, storing, cleaning, servicing or testing of materials, goods or products.” Ordinance § 270-3 (emphasis added). Earlier versions of the Ordinance included the phrase “general processing” as a type of commercial assembly.¹³ The Ordinance has consistently reflected an intent to regulate physical, not virtual, processing activities.

The Applicants have acknowledged that their data center will include “no manufacturing or commercial production component.”¹⁴ The data center will therefore not engage in any activities resembling “general processing” as the term is used throughout the Ordinance.

The Applicants’ attempt to redefine “processing” to include virtual data operations is unsupported by the Ordinance and would render the term meaningless, as nearly any activity can be described as “processing” something. Such an interpretation would disrupt the zoning scheme and is contrary to legislative intent. The Code Enforcement Officer’s determination that the data center is not a “general processing” facility is correct and should be affirmed.

3. A data center is not a “warehouse/storage” facility for “goods.”

Schedule I identifies “warehouse/storage of non-agricultural goods” in an I/R District as a permitted use. The definition is limited to storage and warehousing of “non-agricultural goods” and therefore does not contemplate that a facility storing just anything qualifies as a permitted use. The storage of energy in large- or small-scale batteries and the storage of junkyard items are addressed elsewhere in the Ordinance, for example. *See Schedule I.*

The term “goods” in the context of “warehouse/storage of non-agricultural goods” refers to tangible items of value, as confirmed by legal and economic definitions:

*good: an item of tangible movable personal property having value but usu. excluding money, securities, and negotiable instruments*¹⁵

*goods: economics commodities that are tangible, usually movable, and generally not consumed at the same time as they are produced*¹⁶

¹³ *See* Ex. C (Schedule I to Ordinances dated Jan. 2001 and July 1998).

¹⁴ *See* Email from Fred DelFavero, Project Manager dated Oct. 18, 2025, quoted in Code Enforcement Officer’s Decision (Nov. 10, 2025).

¹⁵ “Good,” *Merriam-Webster’s Dictionary of Law* (2nd ed.), attached as Exhibit D.

¹⁶ “Goods,” Dictionary.com, available at <https://www.dictionary.com/browse/goods> (last accessed Dec. 15, 2025).

The Ordinance's treatment of battery and energy storage as separate uses further demonstrates that intangible commodities are not considered "goods."

A data center does not store goods. It stores intangible digital information, not tangible physical inventory. Digital information is not a "good" under any commonly accepted definition in law or economics, and the Applicants do not point to any authority for an alternative definition in their appeals.

The physical layout of warehousing facilities is designed for the storage and movement of physical inventory, requiring infrastructure such as loading docks, forklifts, and racking systems. Data centers, in contrast, have no standard warehousing equipment, do not distribute physical inventory, and involve little or no truck traffic.

The Code Enforcement Officer correctly determined that the Applicants' data center is not a warehouse/storage facility for non-agricultural goods.

IV. Conclusion

The Applicants' proposal for a data center is not the first time that a novel type of land use has come under consideration in Lansing. In the case of large-scale solar energy and wind farms and battery storage systems, the Town Board needed to amend Schedule I to designate where these new uses were permitted and under what criteria and conditions.

In these appeals, there is no dispute that data centers are not listed among the permitted uses in an I/R District. They are a new use. Indeed, compared to when the Ordinance was adopted in 2003, data centers (as we know them today) are unrecognizable in size and complexity from what existed then. The Code Enforcement Officer appropriately rejected the Applicants' attempt to cast their data center as the "modern equivalent" of long-existent categories of permitted uses for scientific research laboratory, general processing, and warehouse/storage of non-agricultural goods. When these traditional uses were first identified in the Ordinance decades ago, the Town Board had no intention that they would cover large-scale computing technology infrastructure like a modern data center. *See People v. Litto*, 8 N.Y.3d 692, 697 (2007) ("The plain meaning of the language of a statute must be interpreted in the light of conditions existing at the time of its passage and construed as the courts would have construed it soon after its passage.") (internal quotation marks omitted).

At bottom, the ZBA "does not have legislative powers. It may not amend the local ordinance," even if present conditions might "justify a change." *Schroeder v. Kreuter*, 206 Misc. 198, 201 (Supr. Ct., Westchester Cnty., May 7, 1954). It must be left to the Town Board to decide whether or where data centers should be

permitted within the Town's zoning districts through amendment to the Ordinance. It is not the role of the ZBA to do so under the guise of interpretation.

Respectfully submitted,



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Exhibits:

Exhibit A - Excerpt from "Independent Assessment of the Proposed Cayuga Data Center Campus," Nov. 3, 2025

Exhibit B - Excerpt from Terawulf, Inc. Form 10-K (Fiscal Year Ended Dec. 31, 2024)

Exhibit C - Schedule I to Land Use Ordinance dated Jan. 17, 2001 and Schedule I to the Land Use Ordinance Amended July 1, 1998

Exhibit D – Definition of "Good," *Merriam-Webster's Dictionary of Law* (2nd ed)

Exhibit E – Excerpt from Terawulf Presentation dated Oct. 7, 2025

Exhibit F – Schedule I to Land Use Ordinance dated May 2023 (current version)