September 3, 2025

Elizabeth Brutsch
Planning Board Chair
Town of New Lebanon
PO Box 328
New Lebanon, NY 12125

Re: Reply to TDE Review – Comment Letter #1 by Barton & Loguidice
Tilden Commons
538 US Route 20

Dear Chair Brutsch,

Barton & Loguidice reviewed seventeen documents and, in a memo dated August 13, 2025, recorded comments grouped by document. Please find our responses inline in blue.

Project Narrative

(1) It is noted that the Project site is located within the Town's Central Commercial Zoning District (CC) and that the uses proposed by Applicant include Multifamily Dwelling for the residential units and Retail Store for the grocery store. A Retail Store is a permitted use within the CC and a Multifamily Dwelling is use requiring a Special Use Permit (SUP).

Noted

(2) Under the "Project Overview" heading, it is stated that the Project will include a park with a playground open for public use. While a Public Park is a defined use within the Town Code (TC) and is a permitted use within the CC, Applicant does not specify this use in its application materials, though it is separate from the proposed Multifamily Dwelling and Retail Store uses. Applicant should revise application materials to include the Public Park use.

We believe the green space is best considered an accessory use.

(3) Under the "Design and Construction" heading, it is noted that the Project will conform to fifty (50) foot front setbacks from the center lines of Route 20 and Tilden Rd. Per TC § 205 Attachment 1, the CC requires a front setback of between fifty (50) and one hundred (100) feet from the center lines of adjacent roads. Applicant also states that the Project will conform to a twenty-five (25) foot rear yard setback from the easterly properties and a fifteen (15) foot side yard setback from the northerly property. Per TC § 205 Attachment 1, the CC requires a minimum rear yard setback of twenty-five (25) feet and a minimum side yard setback of fifteen (15) feet, or forty (40) feet when adjacent to an existing building, though it is unclear whether the buildings on the Project's adjoining lots

qualify as “adjacent” to the Project. The TPB should determine whether the Applicant must comply with a minimum fifteen (15) foot or forty (40) foot side yard setback.

The Town Code gives the applicant the choice of what is the site’s side and rear, when there are two fronts. We choose the easterly boundary of the parcel to be the rear with a twenty-five-foot setback. We choose the northerly boundary of the parcel to be the side. We believe the dense vegetation along the boundary suggests a fifteen-foot is appropriate, and we also comply with a potential forty-foot setback.

(4) Under the “Environmental and Safety Considerations” heading, it is noted that the results of the well testing to determine whether the Project’s anticipated water withdrawal during extreme conditions will affect any nearby property wells remain pending.

The hydrogeology report has been provided with this submission. The well has been evaluated for capacity, and the report has assured there is no significant impact on the surrounding wells. The report is a draft pending some water quality details that will be needed for a DOH submission.

(5) Under the “Electricity” heading, Applicant states that, “The project will likely need to install several new poles and transformers.” At this point in the design process, the need for new utility poles and transformers should have been determined and appropriate designs included with the Plans. Applicant should clarify what new electrical infrastructure will be required by the Project and the proposed locations for that infrastructure.

NYSEG has proposed to serve the building with a single 750 kV pad mount transformer. This has been added to the site plan for the proposed location. This will be fed from an existing utility pole near Tilden road. Any other system upgrades would be within NYSEG existing utilities.

Planning Board Application

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Special Use Permit and Site Plan Application

(6) It is noted that the proposed Public Park use is not referenced for purposes of reviewing the Special Use Permit application or the Site Plan application.

Yes, we believe green space provides an accessory use.

(7) It is noted that the Applicant is seeking an area variance for the minimum lot size per dwelling unit. This variance request is currently being considered by the Town’s Zoning Board of Appeals (ZBA).

Noted

Civil Engineering Plans

(8) On Sheet C110, a Zoning Table should be included noting existing and proposed conditions with respect to bulk area requirements including setbacks, maximum height, etc. as listed in TC § 205 Attachment 1. Setback measurements and their locations should be noted on the Plans.

Noted. The setbacks were previously shown on the general plan. We have added notations and added the zoning table to the General Plan.

(9) On Sheet C110, the total number of proposed parking spaces is listed as 118. As noted in the Project Narrative, 9,500 square feet (SF) of retail space is proposed within the grocery store. Per TC § 205-9(A)(12), the recommended amount of off-street parking for a Retail Store is one (1) spaces for each fifty (50) SF of floor space devoted to customer use. For the 9,500 SF of retail space within the grocery store, this equates to recommended parking of 190 spaces. TC § 205-9(A)(12) also recommends one (1) space for each dwelling unit which, in this case, equals forty-one (41) spaces. As noted above in Comment #2, the Public Park use proposed for the Project is not referenced in the application materials, though the parking recommended by TC § 205-9(A)(12) for all unlisted uses is, “Adequate spaces for customers/personnel.” Excluding the Public Park use, TC § 205-9(A)(12) recommends an off-street parking total of 231 spaces for the Project, while only 118 are proposed for all uses including the Public Park use. It is noted that the provisions of TC § 205-9(A)(12) are recommendations only and TC § 205-9(A)(3) grants the Town Planning Board (TPB) discretion in determining “reasonable and appropriate” off-street parking requirements based on the guidelines set forth in TC § 205-9(A)(12). Applicant should provide the anticipated parking demand for the Public Park use for consideration by the TPB and the TPB should consider carefully whether Applicant’s proposed ~49% reduction in the parking recommended for the Project by TC § 205-9(A)(12) represents a “reasonable and appropriate” off-street parking requirement.

On the commercial side, we believe 57 spots are sufficient for the grocery’s customers and workers. That rough number of spots suffices for Guido’s, which is bigger than what we propose and very highly popular. Also, the local Dollar General, which has the same retail square-footage, has fewer than 40 spots. On the residential side, we believe spots will suffice for residents and guests.

(10) It is unclear from the Plans where the public park and playground referenced in the Project Narrative are to be located.

It is to the northerly end of the property. See L-drawings for hardscape and planting arrangements.

(11) Any work within the US Route 20 right-of-way, including driveway construction, grading, utility connections, or drainage tie-ins, will require a NYSDOT Highway Work Permit. The applicant must coordinate with NYSDOT Region 8 to obtain the necessary approvals prior to construction.

Noted. We have sent the drawings to NYSDOT for preliminary plan review and comments prior to the submission of a PERM 33 application for a commercial driveway application.

(12) Driveway locations and widths must meet NYSDOT access management standards. Turning radii, throat length, and sight distances should be reviewed against the NYSDOT Policy and Standards for Entrances to State Highways. All sight distance calculations should be provided based on the posted speed limit along US Route 20. The existing entrance off of US Route 20 does not currently meet requirements for a NYDOT commercial curb cut.

Noted

(13) Internal vehicle circulation plans should demonstrate that both passenger vehicles and larger service/delivery vehicles can maneuver without encroaching into opposing travel lanes or pedestrian areas. Swept path analyses should be provided for design vehicles, including SU-30 delivery trucks and emergency vehicles. Dead-end parking aisles should be eliminated to avoid unnecessary reversing movements, and the proposed one-way loop circulation should be revised to a two-way configuration to improve traffic flow and reduce driver confusion.

The single dead-end parking aisle is very short, at just 8 spaces on either side, and we believe it will work well. We have revised the loop to have a two-way configuration.

(14) Pedestrian routes from parking areas to building entrances must be clearly delineated, ADA-compliant, and protected from vehicle conflicts. Crosswalks, curb ramps, and detectable warning surfaces should be shown on the plans. Plans should clearly show ADA compliance via spot elevations.

ADA ramps to handicap spaces have been added to the plans to show the proposed ADA access from parking to the building. Details on sidewalk construction and ADA compliant ramps will be provided for permitting. It should be noted that the project will need to meet HCR ADA requirements. Since the site overall is very flat, not exceeding 2% grade in most areas, meeting the ADA ramp restriction of 8% should not be an immediate concern. We intend to provide additional details with spot elevations for a construction set but feel this is not necessary for a planning review set.

(15) Parking stall dimensions, drive aisle widths, and turning radii must comply with Town standards. The proposed event/overflow parking area should have defined access and surfacing treatment to ensure safe use during peak events without impeding circulation.

We have added parking dimensions to the site plan to ensure we have provided spaces with 180 SF area, minimum 60’ width with 2-row parking, and no parking within 5’ of the property line. The parking spaces provided are 9’x20’ with a 20’ minimum aisle between. We would prefer not to have to develop the overflow parking area. We don’t think it’s necessary as the parking spaces provided have been previously discussed and developed as a result of previous planning board meeting discussions.

(16) The proposed loading zone off Tilden Street remains problematic. Even though the design allows trucks to back into the building, the current configuration requires larger delivery vehicles to use portions of Tilden Street to maneuver into position. This encroachment into the public roadway poses safety and operational concerns and should be eliminated by redesigning the loading access to keep all truck movements on-site. In addition, the current dumpster location would require a garbage truck to stage and maneuver within the roadway to service it. The dumpster pad and approach should be revised so refuse collection vehicles can load and unload entirely on-site without occupying travel lanes.

Almost all delivery trucks coming and going will be 30ft box trucks or smaller. We expect 53’ trucks to arrive and depart not more than twice per day and never on weekends. Thus we expect minimal safety and operational issues. Similarly, a garbage truck would come only once a week. The location of this loading dock area is a result of previous discussions and site reiterations with the Planning Board in an attempt to keep the truck traffic away from the residential properties on West Street. The result was putting the commercial truck traffic on the low-use, local-traffic-only Tilden Road to minimize traffic disruption and keep truck traffic away from existing abutting residential properties.

(17) Infiltration Basins 1 and 2 are located within 100 feet of an on-site potable water well. This conflicts with NYSDEC and NYSDOH separation requirements for subsurface infiltration practices.

We have revised our stormwater design to address these concerns.

(18) NYS Design Manual requires infiltration basins to be located a minimum of 25 feet from building foundations. Basin 2 is only 2.5 feet from the building, which does not meet the minimum separation standard.

We have revised our stormwater design to address these concerns.

(19) Bioretention practices must be at least 25 feet from building foundations without foundation waterproofing, or 10 feet with waterproofing. The proposed bioretention area is only 4 feet from the building, which is noncompliant.

We have revised our stormwater design to address these concerns.

(20) The emergency spillway for Bioretention Area 3 is designed to discharge toward NYS Route 20. Discharge should be redirected away from public roadways to prevent flooding or icing hazards.

We believe B&L may have missed the drainage swale in the site grading. It would direct all overflow stormwater from this Bioretention basin to the existing catch basin located on the site along US Route 20.

(21) Infiltration Basins 1 and 2 lack appropriately designed pretreatment measures. Pretreatment devices must be provided and sized in accordance with NYS Design Manual requirements for contributing drainage areas.

Additional pre-treatment provided for infiltration basin 1. Infiltration basin 2 has been removed.

(22) Filter strips serving bioretention areas must be properly sized. Typical vegetated filter strips are ≥10 feet in width; sizing must be confirmed against contributing flow and WQv requirements.

No filter strips are proposed. Infiltration bioretention basins 1 & 2, which received parking lot runoff, have been removed.

(23) Pretreatment for bioretention practices must be designed to capture the required percentage of the WQv per NYS Design Manual standards. This is not currently demonstrated in the submittal.

The remaining infiltration bioretention basin will receive pre-treatment from French drains and a deep-sump catch basin with a snout outlet hood.

(24) Plans should include a detailed proposed drainage area map showing all catchment boundaries, time of concentration (Tc) flow paths, and design points clearly labeled. This mapping must correspond directly to the HydroCAD model inputs and drainage area tables to allow for accurate verification of contributing areas and routing.

Watershed schematics are provided in the SWPPP report, Appendix 4.5.

Landscape Plans

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Lighting Plans

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Architectural Plans

(25) It is noted that a maximum height of 47 feet, 7 inches and a maximum three (3) stories are proposed for the Project. These figures comply with the bulk area requirements established for the CC in TC § 205 Attachment 1.

For the purposes of TC and site plan review, the cupola is exempt from the height calculation. Excluding the cupola, the building is 43 feet tall.

Phase I ESA

(26) It is noted that no recognized environmental conditions (RECs) were identified at the time of Project site reconnaissance, though information regarding potential chemical use, storage and/or disposal during the site's former status as a pharmaceutical manufacturing facility (1824-1963) was not identified during the ESA. The ESA identified this as a significant data gap (SDG).

Noted

(27) A second SDG identified in the ESA involves the potential presence of fuel oil storage tanks within the Project site and other hazardous materials resulting from previous building demolitions.

Noted

(28) It is noted that no RECs were identified within the properties adjoining the Project site which include residential uses, commercial uses, and undeveloped land.

Noted

Traffic Study Letter Report

(29) It is stated that, based on an average of 2021 and 2022 data, an Annual Average Daily Traffic Volume of approximately 7,300 vehicles exists along the US Route 20 corridor and that current traffic on Tilden Rd. is likely 20-30 trips per day.

Noted

(30) It is noted that the report concludes that the Project will have no impact on the existing traffic conditions on US Route 20 and only a minor impact on the intersection traffic of Tilden Rd. to US Route 20.

Noted

(31) The Project Narrative states that the Project will contain 21 one-bedroom and 20 two-bedroom apartments while the Traffic Study Letter Report's trip generation estimates are based on unit counts of 13 one-bedroom, 15 two-bedroom, and 13 three-bedroom apartments. Applicant should recalculate the trip generation estimates using the revised unit counts.

Revised

(32) The Report estimates approximately 73 new vehicle trips during the AM peak hour and 128 new vehicle trips during the PM peak hour. It concludes that the Project will have no impact on the existing traffic conditions on US Route 20 and only a minor impact on the intersection traffic of Tilden Rd. to US Route 20.

Noted

(33) The Report anticipates that the Level of Service (LOS) for the Tilden Rd. portion of the intersection will be reduced from A to C and result in a delay of 19 seconds per vehicle for traffic exiting Tilden Rd. to US Route 20 with a maximum anticipated traffic queue on Tilden Rd. of 2-3 vehicles.

Noted

(34) In its Lead Agency Response Letter, NYSDOT stated that the traffic study and trip generation analysis to be provided by Applicant should include peak hour morning and evening traffic volumes for both weekdays and weekends. The Traffic Study Letter Report does not include a trip generation analysis for the weekend.

Weekend data added to the report. Worst case reviewed.

(35) A full traffic impact analysis should be submitted to NYSDOT and the Town, evaluating weekday peak, weekend peak, and potential delivery vehicle movements. The analysis should address the additional projected daily trips, turning movements at both access points, and impacts to US Route 20 traffic flow.

This report will be submitted to NYSDOT for review and comments with the request to review the reconstruction of the existing eastern driveway access for an ingress-only commercial driveway entrance to the site.

(36) It is noted that the Geotechnical Report recommends test pits and soil borings be conducted, that all uncontrolled fill be removed from the building footprint, and that the uncontrolled fill be replaced with controlled fill.

Soil borings were completed at this site the last week of August 2025, and the subcontractor will soon provide the final logs.

Water and Sanitary System Engineer's Report

(37) It is noted that since the Project involves the construction of 41 residential units, the water system for the building will be considered a community water system regulated by the New York State Department of Health (NYSDOH) and will be required to comply with NYSDOH Part 5 regulations.

Noted

(38) It is noted that a 30,000 gallon water storage tank is proposed to be provided below to serve as the storage supply for the Project's sprinkler system that will be capable of providing fifty (50) gallons per minute (GPM) for sixty (60) minutes through the use of a fire pump to be designed with the sprinkler system

Noted

(39) The proposed wastewater treatment system consists of the following:

- Primary Treatment: Standard septic tank settling – per NYSDEC standards
- Secondary Treatment: Orenco AX MAX treatment system with pre-anoxic tank
- UV Treatment System
- Surface Water Discharge

Correct. Note that the revised submission includes the treatment system as described above. It will meet the anticipated NYSDEC requirements for surface water discharge. But we are proposing a method of subsurface discharge complying with stormwater design regulations for infiltration in order to address the Town's concerns with generating additional stormwater flows leaving the site. This will allow wastewater flows to percolate into site soils and not impact existing site drainage.

(40) It is noted that a total of five (5) septic tanks are proposed, four (4) 3,000 gallon tanks and one (1) 3,500 gallon tank. The four (4) 3,000 gallon tanks will be connected via effluent lines.

Correct

Draft Aquatic Resource Delineation Report

(41) It is noted that the field investigations completed on May 30, 2025, identified no aquatic resources or wetlands within the Project site.

Noted

(42) It is noted that the Project's wetland permitting must comply with updated 2025 NYSDEC regulations which require the submission of a Parcel Jurisdictional Determination to NYSDEC.

Noted. The project has been submitted to NYSDEC for a JD, along with the site delineation report that was completed.

SWPPP

(43) Bioretention areas are modeled incorrectly in HydroCAD, showing storage volumes below finished grade. The engineered media layer is a filter, not a storage reservoir, and should be assigned a permeability rate of 1.0 ft/day (≈0.042 in/hr) unless site-specific media testing is provided. Storage credit below the underdrain invert is inappropriate.

Model revised as noted.

(44) Elevations in the HydroCAD report do not match the grading plans:

- Infiltration Basin 1: Report storage elevations are 703'–705', but plans show only up to 704' before overflow into the roadway. The model takes credit for an additional foot of storage not physically available.
- Infiltration Basin 2: Report shows 706.5', but plans show 706'. Peak stages above actual grading would cause uncontrolled discharge to Tilden Rd.

These discrepancies must be corrected, as they overstate available storage and understate potential overflow impacts.

Infiltration Basin 1 grading revised for clarity. Infiltration basin 2 removed.

(45) Percolation ("perc") tests alone are not an acceptable method for determining infiltration rates under the NYSDEC Stormwater Management Design Manual. In-situ infiltration testing must be performed in accordance with Appendix D (e.g., constant-head or falling-head double-ring infiltrometer or other DEC-approved method). Testing must be conducted at the proposed bottom elevation of each infiltration and bioretention practice, within undisturbed native soils, and at multiple representative locations. Measured infiltration rates must be reduced by the appropriate safety factor before use in design. All testing results should be documented and clearly correlated to each practice in the Plans and HydroCAD model to confirm correct application.

Infiltration tests will be conducted at a future date to confirm the initial site soil assumptions. The conducted perc tests and deep test pits are an appropriate proof-of-concept method for determining suitability of infiltration practices.

(46) Per the NYSDEC Stormwater Management Design Manual, infiltration practices must provide a minimum of 1.0 foot of freeboard from the water quality volume (WQv) design water surface to the top of the embankment or berm. Larger basins receiving overflows

from larger storm events (e.g., 10-year or 100-year storms) may require 1.0–2.0 feet of freeboard above the peak water surface elevation of those events, depending on hazard classification. Emergency spillways must be set below the berm crest to safely convey larger storm flows without erosion. Current plans and HydroCAD models must be reviewed to confirm that each infiltration basin meets these freeboard requirements.

Infiltration Basin 1 revised to provide 1' freeboard from the WQv WSEL to top of bank. An additional freeboard is believed to be unnecessary for this project.

Proposed SEQRA Materials

(47) As lead agency, the Planning Board will discuss its responses to the various questions posed in FEAF Part 2. It will not utilize Applicant's assessment of the Project's impacts and their significance.

Noted

(48) The FEAF Part 3 Proposed Narrative provided by Applicant may be considered by the TPB, but any final document will reflect design changes Applicant proposes to incorporate and additional studies Applicant is required to complete in order to address B&L's comments and those of the TPB.

Noted

FEAF Part 1

(49) Applicant states in its response to Question C.2(a) that the site is not included in any municipally-adopted comprehensive land use plans. The Project site is included in the Town's 2021 Comprehensive Plan update, and the New Lebanon Downtown Design Guide was recently adopted which provides detailed design guidelines for the Project site and the rest of the CC.

Our review of the 2021 comprehensive plan finds no mention of the Project site. The only instance in which "Tilden" comes up is in reference to the "Tilden monument," which is on another parcel.

(50) Applicant states in its response to Question D.1(h) that the Project will not result in the impoundment of any water. The Project's proposed stormwater retention basins will impound water and Applicant should revise its response accordingly.

We maintain that the answer to this SEQR question should be no. The intent of this SEQR question is to determine whether the project will result in the impoundment of water of a significant amount that might result in regulations regarding NYSDEC Dam Safety. By definition, "impoundment" is related to dams. The stormwater structures proposed are only a temporary

retention of stormwater. None of these structures would meet the NYSDEC definition of a dam. The Planning Board is completing the SEQR review based on the EAF we have provided, so it is their discretion to revise as needed, but we believe this would be an incorrect interpretation of impoundment. (We have, however, answered 'yes' to this question based on the water storage tank.)

NYSDOT Lead Agency Response Letter

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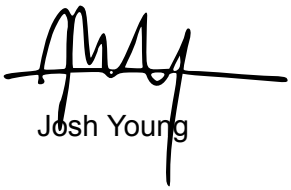
NYSHCR Lead Agency Response Letter

(51) It is noted that, prior to any future funding award(s) by NYSHCR to Applicant for the Project, multiple submittals will be required, including a site suitability analysis (SSA) analyzing the likelihood that the Project will be impacted by existing or future industrial uses.

Noted

We look forward to discussing these and other topics on September 17, 2025.

Very best,



Josh Young