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**public comment for Tilden Project**

1 message

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Rider [REDACTED] Thu, Jun 4, 2026 at 12:09 PM  
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May 31, 2025

New Lebanon Planning Board  
Town of New Lebanon  
New Lebanon, NY 12125

**Re: Public Comment, Tilden Commons Project (Site Plan / Special Use Permit Application)**

Dear Members of the Planning Board:

I am a resident and property owner in the Town of New Lebanon. I submit this letter as formal public comment in opposition to the Tilden Commons Project; a proposed three-story mixed-use building at [538 US Route 20](#) containing 41 apartment units and a grocery store. While I recognize the community's interest in affordable housing and a local grocery, this application is materially incomplete, has not satisfied its regulatory prerequisites, and presents unresolved risks to the Town's groundwater, neighboring properties, and the integrity of the SEQRA process. I respectfully but firmly urge this Board to withhold approval until each of the deficiencies described below has been fully resolved.

**I. The Water Supply Analysis Is Incomplete and Has Not Received Required Regulatory Approval**

The applicant proposes to serve 41 residential units and a full-service grocery store from a single onsite well. Several critical deficiencies in this analysis remain unresolved:

- The hydrogeological report submitted in support of this application is insufficient to demonstrate that Tilden's water system will not adversely affect neighboring private wells. The report tests only 5 out of 16 of the neighboring wells, leaving the remainder untested. This is significant because aquifer impacts are a function of the *entire* wellfield operating under real conditions, not a subset of it.
- When multiple wells draw from the same aquifer simultaneously, the cumulative drawdown and zone of influence can extend considerably farther than any single-well test would suggest. A report based on only 5 out of 16 wells cannot establish where the cone of depression ends, whether it reaches neighboring properties, or whether private wells in the area will experience reduced water levels or diminished yield during sustained operation.

- As a neighboring property owner relying on a private well drawing from the same aquifer, I am directly at risk if this question is left unanswered. I respectfully request that the reviewing authority require the applicant to conduct and submit pumping tests for all active neighboring production wells before any approval is granted. Without that data, the record before the agency is incomplete and the potential impact on neighboring water supplies cannot be adequately assessed.
- Furthermore, any waiver of the required separation distance between the facility's well site and septic system raises serious concerns about the protection of neighboring private water supplies. Minimum separation distances exist precisely to prevent the migration of contaminants from septic systems into the aquifer. When that buffer is reduced, the risk of contamination does not stay contained to the applicant's property. Groundwater does not respect property lines, and a compromised aquifer can affect any well drawing from the same formation, including my own. Granting a separation distance waiver without a thorough, complete hydrogeological study of the *entire* wellfield compounds the risk already created by the incomplete pumping test data. The two deficiencies together, undertested wells and a reduced septic setback, present a cumulative threat to neighboring water sources that the Tilden Project's current water and septic systems blueprints do not adequately address.
- The applicant has not provided a line-item breakdown of water demand demonstrating that the grocery store's full water use (including refrigeration condenser water, food preparation, produce, deli, meat, bakery, cleaning, and customer and staff restroom use) was included in the demand calculation. The reported figures of 8,710 gpd average and 13,065 gpd maximum demand are unsupported by any itemized analysis. Against a well with a demonstrated sustained yield of approximately 13 gallons per minute (18,720 gpd theoretical maximum), an understated demand calculation could push the system beyond the physical capacity of the well.
- No written approval from the New York State Department of Health or the Columbia County Department of Health has been submitted confirming that the proposed water system configuration, well capacity, and distribution design are acceptable. This written approval is a prerequisite, not a condition that can be attached after site plan approval.
- The well's proximity to the Wyomanock Creek and the area's documented four-foot seasonal water table raises the question of whether the well draws from Ground Water Under the Direct Influence of Surface Water (GWUDI). A formal GWUDI determination has not been made or submitted. If the well is classified as GWUDI, far more extensive filtration and treatment requirements would apply than the UV disinfection currently proposed.

## **II. The Applicant Has Not Addressed the Requirement for a Certified Water Systems Operator**

A system serving 41 residential units and a commercial grocery store will serve well in excess of 25 persons, triggering the mandatory certification requirements of 10 NYCRR §5-4.2. Under that regulation, the owner of a Community Water System (CWS) or Non-Transient Non-Community (NTNC) water system serving 25 or more persons must place the system under the responsible charge of a water treatment operator holding a valid certification equal to or greater than the classification of the treatment plant and distribution system. The application does not address this requirement at all. Specifically:

- No certified water systems operator has been identified for the proposed public water system.
- The system has not been classified under the applicable DOH classification schedule, which determines the certification level required of the operator in responsible charge.

- No DOH Form DOH-4204 (Designation of Operator in Responsible Charge) or equivalent documentation has been submitted.

This is not a minor technical gap; it is a fundamental regulatory obligation that applies before the system begins operating. The Board should require the applicant to identify the certified operator, confirm the system classification, and demonstrate how the DOH-4204 designation requirement will be met, before any site plan approval is considered.

### **III. Critical Wastewater Regulatory Approval Has Not Been Obtained**

The proposed wastewater treatment system (a conventional septic tank for solids removal, an Orenco Advantex system for secondary treatment, and UV disinfection) is not a standard onsite septic system. It is an engineered intermediate treatment system whose discharge requires coverage under a NYSDEC State Pollutant Discharge Elimination System (SPDES) General Permit. The Town Engineer's own sixth-round technical review acknowledged this requirement. That permit has not been obtained, and no documentation of a pending application has been submitted to this Board. As with the water supply, this is not a condition that can be attached to approval after the fact, it is a prerequisite.

### **IV. The Applicant's FEAF Narrative Contains Material Inaccuracies That Do Not Support Downgrading the Board's Impact Findings**

In its January 2026 FEAF Part 2 submission, the applicant argued to downgrade this Board's tentative "Moderate to large impact" findings on Items 4(c) and 17(e) of the Full Environmental Assessment Form (FEAF). That narrative rests on characterizations of the proposed water and wastewater systems that are materially inaccurate and legally insufficient:

- The applicant's narrative mischaracterizes the proposed water supply as a simple onsite well reuse, when in fact the project will constitute a public water system subject to NYS Department of Health Part 5 regulation (10 NYCRR Part 5). A system serving 41 residential units and a commercial grocery store meets the statutory definition of a public water supply under NYS Public Health Law §1100, triggering a Schedule of Compliance or written DOH approval before construction may begin. The narrative's framing, that the project merely "reuses" an existing well, obscures this regulatory classification entirely and does not constitute the completed technical and regulatory justification required to downgrade the Board's tentative finding on Item 4(c) to "No, or small impact."
- The applicant's narrative similarly mischaracterizes the proposed Orenco Advantex wastewater treatment system as equivalent to a conventional onsite septic tank and field, when in fact the proposed intermediate treatment system requires NYSDEC SPDES General Permit coverage as the Town's own engineer confirmed in the sixth-round technical review. Characterizing this engineered discharge system as a simple replacement septic understates both the complexity of the proposal and its outstanding regulatory prerequisites. Until the SPDES permit is obtained and the system's design is reviewed and accepted by NYSDEC, the applicant cannot credibly represent that wastewater infrastructure is resolved, and the Board's tentative "Moderate to large impact" finding on Item 17(e) should not be downgraded.
- The applicant acknowledges that this unit will be the third largest building in town. It will also be the highest building in the immediate neighborhood, standing at three stories as opposed to two, and the densest building in town, with 41 one-to-three-bedroom units with a residential capacity of approximately 83 to 164 people. The applicant's narrative mischaracterizes the project as being "fully supported by existing infrastructure." The Tilden

Project requires a widening of a public road, the installation of a public water system, and potentially the creation of a municipal sewage district if a variance permit cannot be obtained for separation distance between well and septic as detailed above. Therefore, the applicant cannot credibly claim the project will have “no to small impact” on item 17(e): “The proposed action may cause a change in the density of development that is not supported by existing infrastructure or is distant from existing infrastructure.” The SEQRA guidance states that Item 17(e) “explores whether the proposed project will result in a change in density that will require new or expanded infrastructure,” including “water, sewer, new or upgraded roads, sidewalks or paths, and solid waste facilities.” FEAF Workbook at 259. The Board should not downgrade its “moderate to large impact” assessment on item 17(e) until these issues are resolved.

- Downgrading these FEAF findings on the basis of incomplete and misleading characterizations would undermine the integrity of the SEQRA process and expose the Board to legal challenge. The Board should decline to accept the applicant’s proposed FEAF Part 2 revisions on Items 4(c) and 17(e) until written DOH and NYSD in EC approvals are in hand.

## **V. Affordability Guarantees Are Unenforceable and Unverified**

The project has been presented to this community, in part, as a solution to the need for affordable housing. However, the application contains no legally binding mechanism to ensure that these units actually serve that purpose over time. The Board should require answers to the following before any approval:

- What legally enforceable instrument guarantees that the 41 units will remain affordable in perpetuity and will not convert to market-rate housing after any initial compliance period?
- What mechanism ensures that units are made available to current New Lebanon residents and local workers, rather than drawn from a regional or statewide pool?
- What restrictions prevent units from being used as short-term rentals (e.g., Airbnb), which would undermine affordability in the area and strain local infrastructure?
- What is the application and selection process? The project was originally described as targeting senior housing; it now appears to be general affordable housing. This change in scope requires a clear, public explanation that is consistent with the town’s plans. If it is simply a funding issue, the Town should ask the applicant to show evidence that all other funding avenues have been explored and exhausted.

Affordable housing that converts to market rate, that is inaccessible to local residents, or that feeds the short-term rental market is not a community benefit. It is a development subsidy. Without binding legal commitments on each of these points, the affordability claims in this application are aspirational, not enforceable.

## **VI. Stormwater, Traffic, and Other Environmental Review Remains Incomplete**

The Town Engineer’s sixth-round technical review identified several outstanding issues that have not been addressed:

- The Stormwater Pollution Prevention Plan (SWPPP) does not address winter conditions, including frozen ground, snow storage, snowmelt runoff, and the application of deicing materials, contrary to current NYSDEC guidance.

- The dumpster enclosure is located within 5 feet of the property line, in apparent violation of Town Code Section 205-7B(9)(c)[2](b), which requires a 10-foot minimum setback. (See Town of New Lebanon Zoning Code.)
- Setback dimensions on the Site Plan are not consistently measured perpendicular to the road centerline, making zoning compliance impossible to verify.
- The FEAF Part 2 analysis submitted by the applicant attempts to downgrade the Board's tentative "Moderate to large impact" findings on groundwater and density without providing the completed technical studies, regulatory approvals, or accurate characterizations of the proposed systems needed to justify those downgrades.

## VII. Conclusion

I am not categorically opposed to responsible development in New Lebanon. I recognize the community's need for affordable housing and a local grocery store. However, those needs do not justify approving an application that is demonstrably incomplete, that has not satisfied its regulatory prerequisites, and that leaves unanswered questions that could result in real and lasting harm to neighboring properties, the local aquifer, and the broader community.

I urge this Board to:

- Decline to approve the site plan or issue any special use permit until the area-of-influence analysis is completed and submitted;
- Require written DOH approval of the water supply system, including written confirmation of system classification and designation of a certified operator in responsible charge under 10 NYCRR §5-4.2, before taking any final action;
- Require NYSDEC SPDES permit coverage for the wastewater system before taking any final action;
- Formally refer the water supply question to the Columbia County Department of Health for a written determination;
- Decline to accept the applicant's proposed FEAF Part 2 downgrade on Items 4(c) and 17(e);
- Require the applicant to provide legally binding affordability covenants addressing perpetuity, resident preference, and short-term rental restrictions;
- Direct the applicant to resolve all outstanding Town Engineer comments, including the SWPPP winter conditions deficiency and the dumpster setback violation, before resubmission.

This Board has both the authority and the responsibility to hold this application to the standards the law requires and this community deserves. I respectfully but firmly urge you to do so.

Respectfully submitted,

Rider Alsop

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