Barton & Loguidice

August 18, 2026

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

Re: Tilden Commons – Columbia County Department of Health Review of Water and Wastewater Systems Tilden Commons
538 US Route 20
File: 1229.010.001

Dear Chairperson Brutsch,

Barton & Loguidice, D.P.C. (B&L) has reviewed the August 4, 2026 correspondence issued by the Columbia County Department of Health (CCDOH) regarding the proposed community water and wastewater systems for the Tilden Commons project at 538 U.S. Route 20.

The CCDOH correspondence documents its review of the proposed community water system in coordination with the New York State Department of Health (NYSDOH). In B&L's opinion, the matters identified by CCDOH should not be characterized as minor or administrative comments. Several of the comments concern fundamental requirements affecting the adequacy, configuration, capacity, and regulatory acceptability of the proposed community water supply system.

Of particular significance, CCDOH identified the following:

1. A second groundwater source is required. CCDOH states that the proposed community water system must be capable of meeting maximum daily demand with the largest producing well out of service.

2. The capacity of the existing well remains a concern. CCDOH determined that, when the proposed reverse osmosis system's recovery rate is considered, approximately 17,420 gallons per day, or approximately 12 gallons per minute, would need to be produced by the well. This is very close to the reported well yield of approximately 13 gallons per minute, resulting in the well operating for a substantial portion of the day.

3. Additional water treatment considerations remain unresolved. Elevated iron and manganese concentrations have been identified, and CCDOH indicated that additional

treatment may be necessary. Any additional treatment and associated backwash flows may further affect the overall water system design and demand calculations.

4. Additional evaluation of the groundwater source is required. Based upon the hydrogeologic conditions identified in the Applicant's report, CCDOH has requested a Microscopic Particulate Analysis to evaluate whether the groundwater source may be under the direct influence of surface water.

5. Required separation distances are not presently demonstrated. CCDOH states that 10 NYCRR Appendix 5-D, Table 2 requires a public water supply well to be located at least 200 feet from a wastewater absorption field and at least 200 feet from a surface wastewater recharge absorption system receiving stormwater from parking lots, roadways, or driveways. CCDOH indicates that both the proposed wastewater absorption field and stormwater retention basin appear to be located within the required 200-foot separation distance from the well.

6. Required ownership and control areas surrounding the well are not met. CCDOH states that 10 NYCRR Appendix 5-D.2 requires 100 feet of ownership and 200 feet of control surrounding the public water supply well. CCDOH expressly states that neither requirement is presently met and that no additional measures have been proposed to mitigate the reduced separation distance.

CCDOH also requested additional information regarding the water treatment process, equipment specifications, fire protection system, potable water storage, and other components necessary to complete its review.

Importantly, the August 4, 2026 correspondence does not indicate that the proposed community water system has been approved by CCDOH or NYSDOH. The correspondence also does not identify an approved variance, waiver, or other agency determination accepting the presently proposed well location or reduced separation and control distances. Accordingly, B&L does not recommend that the Planning Board presume that these requirements can or will be modified by the reviewing agencies.

Relationship to Town Zoning Requirements
These outstanding issues are directly relevant to the standards the Planning Board is required to consider in its review of the pending applications.

Section 205-13 of the Town of New Lebanon Zoning Code, governing Special Use Permits, requires that the adequacy of available sewage disposal and water supply services supporting a proposed activity or use be sufficient to meet the needs of that activity or use.

Section 205-14, governing Site Plan Review, similarly requires consideration of the adequacy of water supply and sewage disposal facilities, including review with respect to the Columbia County Health Department.

Accordingly, the adequacy of the proposed water supply and wastewater disposal systems is not solely a matter of subsequent State or County permitting. It is also an express consideration under the Town's own standards for the Planning Board's review of this application.

The August 4, 2026 CCDOH correspondence presently identifies unresolved issues concerning source redundancy, available water supply capacity, water quality and treatment, required separation distances, well ownership and control areas, and the overall configuration of the proposed community water system. Until these matters have been resolved to the satisfaction of CCDOH and NYSDOH, B&L does not believe there is presently sufficient technical documentation for the Planning Board to conclude that the proposed water supply is adequate to meet the needs of the proposed development as contemplated by the Town Zoning Code.

With respect to wastewater disposal, CCDOH further states that, pursuant to its Memorandum of Understanding with the New York State Department of Environmental Conservation (NYSDEC), the proposed wastewater system must be reviewed and approved by NYSDEC, with CCDOH reviewing separation distances as they relate to the proposed water system. Therefore, final regulatory acceptance of the proposed wastewater disposal system also remains outstanding.

Recommendation

Based upon the August 4, 2026 CCDOH correspondence, the unresolved technical and regulatory issues identified therein, and the applicable standards of the Town of New Lebanon Zoning Code, B&L recommends that the Planning Board not grant conditional or final Site Plan Approval or Special Use Permit approval at this time.

As discussed above, the Town Zoning Code requires the Planning Board to consider the adequacy of the proposed water supply and sewage disposal systems as part of its review of the pending applications. The information presently before the Planning Board does not, in B&L's opinion, provide a sufficient technical basis to conclude that the proposed water supply and wastewater disposal systems are adequate to serve the proposed development.

The outstanding CCDOH comments are substantive and may require modifications to fundamental components of the proposed project. Among other matters, CCDOH has

determined that a second groundwater source is required and has identified deficiencies concerning available water supply capacity, required well separation distances, and the required ownership and control areas surrounding the public water supply well. The August 4, 2026 correspondence does not indicate that a variance, waiver, or other agency determination has been granted or is presently under consideration that would allow the proposed system to proceed without satisfying these requirements.

Accordingly, B&L does not recommend that these matters be deferred as conditions of a Site Plan or Special Use Permit approval. Doing so would condition approval upon the future resolution of issues that may require modifications to the proposed water supply, wastewater disposal, stormwater management, utility layout, or other components of the Site Plan presently before the Planning Board.

The Applicant should first satisfactorily address the comments identified by CCDOH and NYSDOH and obtain written agency determinations demonstrating that the proposed community water system is acceptable and can be permitted. The Applicant should similarly obtain the required NYSDEC approval for the proposed wastewater treatment and disposal system.

All Applicant responses, revised engineering reports and plans, agency correspondence, determinations, approvals, permits, and other documentation relating to the water and wastewater systems should be provided to the Planning Board and B&L for review.

Following resolution of these matters and receipt of the required agency determinations, B&L can evaluate whether the resulting water and wastewater systems remain consistent with the Site Plan presently before the Planning Board and whether additional modifications to the Site Plan are necessary.

Until that review is completed, B&L recommends that the Planning Board defer action on both conditional and final Site Plan and Special Use Permit approval.

If you have any questions, please feel free to contact our office.

Sincerely,
BARTON & LOGUIDICE, D.P.C.

Christian Bertram, P.E.
Senior Managing Engineer