

Minutes of the Meeting of
The Liberty Town Council
Held on October 24, 2022 5:30 pm

Present

Mayor : The Honorable Filmore York

Council: Terry Caviness, Don Herndon, Larry Coble, JR Beard and
Tyson Nixon

Town Manager: Scott Kidd

Town Clerk: Jessica Brown

Town Attorney: Bill Flowe

Staff: Finance/HR Director; Kathy Bond Public Service Director;
Joseph Walsh, Parks and Recreation Director; Logan
Maness, Police Chief; David Semrad, NC Fellow; Brice
Dalke, Code Enforcement Officer; Chris Curry, Safety
Director; Bret Pedigo, Fire Chief; Matt Talbott, Public
Works/Parks and Rec; Angela Talbott and Planning and
Zoning Consultant; Reynolds Neely

To Order

The Mayor welcomed everyone including Department Heads, Council Members and those watching on Facebook. and called the meeting to order at 5:35PM.

Pledge of Allegiance/Invocation

Mayor Filmore York led the Pledge of Allegiance and then the Mayor asked everyone to join in a Moment of Silence.

Adoption of Agenda

Council Member Don Herndon made a motion to adopt the agenda with the additions of 8.2 as a Closed Session per NCGS 143-318 (a) (3) Consideration of SUP22-1 Findings of Facts, Conclusion and order to consult with legal counsel and 8.3 Consideration of the SUP (Special Use Permit). . Council Member Terry Caviness seconded the motion which passed unanimously: Council Member Don Herndon voted yes, Council Member Tyson Nixon voted yes, Council Member Larry Coble voted yes, Council Member JR Beard voted yes and Council Member Terry Caviness voted yes. The agenda was approved with the additions.

Public Hearing Rezoning Request RZ-22-2 EHC Builders, LLC

This Hearing is continued from September 26, 2022. Mayor York reopened the Hearing at 5:38 PM. Planning and Zoning Consultant Reynolds Neely came forward to give the Staff Report. This is a request by EHC Builders, LLC to rezone intersection of North Asheboro Street and West Luther Avenue, Pin # 8726987574 from R12 Residential to

RMF Multi-Family Residential. He read the analysis and stated the staff recommendation was to deny the request. The Proposed rezoning is inconsistent with the town of Liberty Land Use Plan. The plan describes an overall goal for the town which provides economic development, while at the same time maintaining Liberty's small town character. Specifically, the request is in conflict with the Future Land Development Map. Council Member Larry Coble asked how many houses were in the historic district. Mr. Neely referenced the map on page seven but could not give the number.

The applicant Shorty Colbentz of EHC Builders came forward to speak. She said she is not planning to sell this. She said she has long term plans and that these apartments would be nice. They will be all brick and named after her grandson. She has been building in Liberty for the last couple of years. They are not government assisted and she will manage them herself. She will interview everyone who applies personally. If there is a problem she will fix it and not let it get run down. There is a need for apartments for the elderly and due to the Toyota plant. She has heard concerns about speeding and would address complaints. There is nothing in the laws that says she has to build back historic. The Town Manager clarified that was true. She said Liberty is a great place to live and people want to live here. This is her retirement and she is in it for the long haul. Council Member Terry Caviness asked how far off of Asheboro Street it would be. She said however far they want. She will meet setbacks and landscape. Council Member Tyson Nixon asked if she considered them luxury apartments. She said yes they will have granite countertops and the first floor will be handicap accessible. Ralph Evans, a local attorney came forward to speak. This Town needs new housing for growth. We need to have places for people to live. She builds quality homes and no doubt will build nice apartments. Young people cannot afford to buy a house because interest rates are so high. This is ideal for Liberty. He is not here as a paid attorney. It is right across from his office and he thinks it is an ideal spot.

Tom Meacham of 644 S Fayetteville Street said there are four apartments on Kime and Valley Street. Liberty Village is restricted to the elderly. All these apartments all these years have coexisted and have not hurt resale values of homes. He hopes they will consider it. There is a need for better apartments.

Tanner Whitesell of 6030 Old 421 Road Liberty came forward to speak. He thinks it is great to have apartments. He is 23 years old and said we don't want to miss this opportunity. They would be walking distance to a lot of things and she does quality work. He bought one of her homes and it exceeded expectations.

Thomas Cofolla of 505 N Asheboro came forward to speak. He is a full time police officer in Greensboro and plans to retire here. He is in a contract with the city to live in a residential area. He pays his taxes and utilities. His property borders the property. He says it is simplified to say will just kick them out if there is a problem. He is an officer and serves eviction notices. They have thirty days to appeal. They can have who they want come over and you can't police that. It takes one bad apple to keep police cars there. I am Liberty and have been Liberty. The builder's address is Stokesdale. It is not up to us to solve the housing shortage. It is not a building problem it is a density of people problem, people coming in and out (transient).

Kelly Raymond of 513 N Asheboro Street came forward to speak. She wants to reiterate what Mr. Cofolla said. No one would complain about two homes. These apartments are five hundred square feet and not for families. Liberty is going to change but it needs to change on our terms.

Debby Young of 243 W. Vance Avenue came forward to speak. She has lived here all her life and just remodeled her parents' home. She can't imagine the foot traffic and cars with a complex. She is not against apartments but not here. All the apartments in Liberty were new once.

Mayor York asked if anyone else wanted to speak. There was no one. He then asked the Council to discuss. Council Member Caviness asked the Town Manager what he thought. He said there is a need for apartments and additional housing and each side is giving their best so it is unfair to ask him. He is not giving his personal opinion. Council Member Herndon said he has thought a lot tonight about what Liberty needs: community centers, restaurants, and better schools. He has concerns for neighborhoods. There is quite a lot of foot traffic at Asheboro and Smith. They bagged up thirty three bags of trash on Smith Street on the clean up day. Council Member Coble asked Mr. Neely what their charge is today. Mr. Neely said it had gotten off track and they need to consider if zoning complies with the LDP for Liberty. Base on LDP map and text and adopt or deny with a consistency statement. This is an evaluated request per adopted plan. Town Attorney Bill Flowe said that Mr. Neely said at the beginning of the hearing it is not a question about the quality of the proposed project. That is not your task. Council Member Nixon asked Mr. Neely read the consistency statement which he did. Council Member Caviness asked when the Plan was done and Mr. Neely said 1999 and will start meetings with the Public about their new plan in January. Mayor York closed the Hearing at 6:42 PM.

Council Member Tyson Nixon made a motion to accept the Planning Board's recommendation to deny this request. The proposed rezoning is inconsistent with the Town of Liberty Land Use Plan. The Plan describes an overall goal for the Town which provides economic development, while at the same time maintaining Liberty's small town character. Specifically, the request is in conflict with the Future Land Development Map. Council Member Don Herndon seconded the motion to deny request. Council Members Tyson Nixon, Don Herndon, and JR Beard voted to approve the staff recommendation to deny the zoning request. Council Members Larry Coble and Terry Caviness opposed the staff recommendation to deny. The motion was approved to deny the zoning request 3 - 2.

Mayor York called a ten minute recess.

Meeting was reconvened after a ten minute recess.

Code Enforcement Report

Code Enforcement Officer Chris Curry came forward to give his report. Twenty six cases have been abated. He has not had any luck getting the family that owns 303 S New Street to hearings and may need to do an ordinance. He tries to get homeowners to abate. He presented some photos of abated property 804 W Swannanoa. He told the property owner at 808 Dameron he needs to work outside of property first. Mr. Bruchon's property at N Smith has been in violation for over thirty days and he will be typing a NOV. (Notice of Violation) They are talking about having property at S New demolished. He put in a work order for Public Works to mow 713 W Swannanoa. He understands the Board makes hard decisions. He appreciates your position and loves it here. He holds each citizen accountable to the ordinances and does not show favoritism. Council Member Coble said he is a strong supporter of this program but there are lots that have not been touched in years and thinks the main charge may be getting numbers up instead of getting things done. Mr. Curry said he has not seen the contract.

Council Member Beard made a motion to demolish structures at 303 S New Street, 508 S Kirkman, and 309 S New Street. Council Member Coble seconded the motion. Council Members: Larry Coble, Terry Caviness, Tyson Nixon, JR Beard and Don Herndon voted yes and the motion passed.

Finance Report

Finance Director Kathy Bond came forward to give the Finance Report for September 2022. She said the second page shows Sales and Use Tax for the month. Council Member Nixon asked if that was a request from the auditor and she said no she made the change for better understanding and to add to reporting. She is researching the past to make comparisons for water/sewer consumption. Council Member Nixon asked if there was a way to see a loss. She said there is a definite loss on adjustments and she is going to look at revamping on the sewer side. There are a lot of changes that need to be made to the Enterprise fund to get where we need to be. She is working on a policy for temporary turn ons (cleaning). Our NCLM classes we took for our distressed unit classification went into detail about Enterprise funds and if we don't have savings to pull from we could be in a bad situation.

Council Member Tyson Nixon made a motion to approve the Finance Report. Council Member Don Herndon seconded the motion which passed unanimously with Council Members: Terry Caviness, Don Herndon, Larry Coble, JR Beard and Tyson Nixon voting yes.

Approval of Minutes

Council Member Larry Coble made a motion to approve the minutes from the Work Session September 19, 2022 and Council Meeting September 26, 2022 . Council Member JR Beard seconded the motion which passed unanimously : Council Member Don Herndon voted yes, Council Member Larry Coble voted yes, Council Member Tyson Nixon voted yes, Council Member JR Beard voted yes, and Council Member Terry Caviness voted yes. The minutes were approved.

Consent Agenda

The Consent Agenda includes the Universal Children's Day Proclamation and Resolution for Road Closure Request FFC Trunk or Treat Sunday October 30,2022. Council Member Tyson Nixon made a motion to approve the Consent Agenda. Council Member Don Herndon seconded the motion which passed unanimously with Council Members: Larry Coble, Terry Caviness, Don Herndon, JR Beard, and Tyson Nixon voting yes. The Consent Agenda was approved.

Old Business

Road Closure request Tree Lighting Christmas Parade Chamber

The Liberty Chamber of Commerce is requesting road closures for the annual Christmas Parade Saturday December 3, 2022. Maps are attached.

Council Member Don Herndon made a motion to approve and Tyson Nixon seconded the motion with Council Members Terry Caviness, Don Herndon, Larry Coble, JR Beard, and Tyson Nixon voting unanimously to approve Resolution for Road Closure .

Closed Session NCGS 143-318.11 (a) (3) - Consideration of SUP-22-1 Findings.

Conclusion and Order

Council Member JR Beard made a motion to go into Closed Session per NC General Statute 143-318.11 (a) (3). Council Member Tyson Nixon seconded the motion which passed unanimously with Council Members: Larry Coble, Terry Caviness, Don Herndon, JR Beard, and Tyson Nixon voting yes. The Liberty Town Council went into Closed Session at 7:40 PM.

Council Member Tyson Nixon made a motion to come out of Closed Session. Council Member Larry Coble seconded the motion which passed unanimously with Council

Members: Larry Coble, Terry Caviness, Don Herndon, JR Beard and Tyson Nixon voting yes. The Liberty Town Council came out of Closed Session at 8:40 PM and the Public came back into Council Chambers and the regular meeting reconvened.

SUP-22-1 Findings of Fact, Conclusion and Order

Planning and Zoning Consultant Reynolds Neely presented the Findings, Conclusion and Order which support denying the request.

Council Member Larry Coble made a motion to adopt the Finding of Facts, Conclusion and Order which support denying this request. Council Member Tyson Nixon seconded the motion which passed unanimously with Council Members: Larry Coble, Terry Caviness, Don Herndon, JR Beard and Tyson Nixon voting yes. The Findings of Facts Conclusion and Order for SUP-22-1 were adopted.

Administrative Reports

Manager's Report

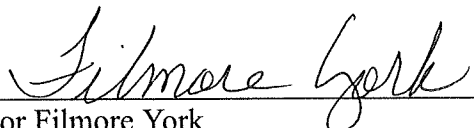
Town Manager Scott Kidd gave the report. Douglas Hardin is unable to attend the meeting tonight and give the ABC Report. He will come next month. He is looking at possibly making the Budget Retreat a two day event. The auditors plan to be here November 9th.

Mayor Comments

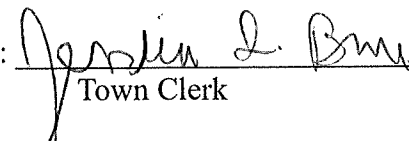
Mayor York encouraged Council members to take the classes for Distressed Units. They have some very good information.

Adjourn

There being no further business to discuss, Council Member Tyson Nixon made a motion to adjourn. Council Member JR Beard seconded the motion which passed unanimously with a vote: Council Member Don Herndon voted yes, Council Member Larry Coble voted yes, Council Member JR Beard voted yes. Council Member Tyson Nixon voted yes, and Council Member Terry Caviness voted yes. The meeting was adjourned.



Mayor Filmore York

ATTEST: 

Town Clerk

A Proclamation

Universal Children's Day

WHEREAS, The Town of Liberty joins the World Organization for Early Childhood Education (OMEP-USA), and other organizations as they celebrate Universal Children's Day; and

WHEREAS, Universal Children's Day was created by the United Nations General Assembly Resolution on December 14, 1954. It is observed as a day of worldwide fraternity and understanding between and among children, and is devoted to promoting the ideals and objective of the welfare of the children of the world; and

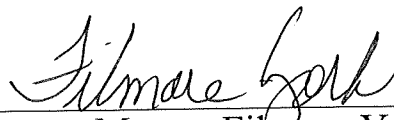
WHEREAS, These objectives are outlines in the Millennium Development Goals (MDGs), which was created in 2000 by world leaders. The MDGs include providing children everywhere, boys and girls alike with universal primary education; and

WHEREAS, We were all children once, and we should all share the desire for the well being of our children, which has always been and will continue to be the most universally cherished aspiration of humankind; and

WHEREAS, The Town of Liberty is proud to support Universal Children's Day and will continue its efforts to ensure that children of Randolph County and the children of the world are given the tools they need to succeed now, and have a better future for tomorrow.

NOW, THEREFORE, I, **Filmore York,** as Mayor of the Town of Liberty do hereby proclaim November 20, 2022 as "**Universal Children's Day**" in the Town of Liberty and urge all citizens to recognize and support the needs of young children in our community.

PROCLAIMED THIS 20th day of November 2022.



Mayor, Filmore York
Liberty, North Carolina

Town of Liberty
P. O. Box 1006
239 South Fayetteville Street
Liberty, North Carolina 27298
(336) 622-4276 phone (336) 622-2665 fax

RESOLUTION 2022-11

**RESOLUTION AUTHORIZING A TEMPORARY STREET CLOSING IN
ACCORDANCE WITH THE LIBERTY CODE OF ORDINANCES § 90.33**

WHEREAS, the Town of Liberty is willing to accommodate temporary street closures for civic events; and

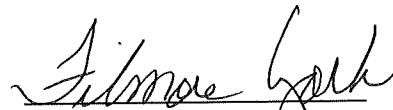
WHEREAS, the Town Manager will have appropriate traffic control devices installed to give notice of the temporary street closing; and

WHEREAS, the Town of Liberty has received a written request for a temporary street closing from Paul Bruchon with Freedom Family Church for a Trunk or Treat. and recommends said closing per the attached memorandum; and

WHEREAS, this event will benefit the community and not hamper other Town of Liberty activities on the date of request; and

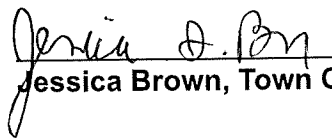
NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Liberty, North Carolina, meeting in regular session on the 24th day of October, 2022 allow the temporary street closing below:

From 4:30 PM to 8:00 PM on Sunday October 30, 2022 for the purpose of FFC Trunk or Treat/Games and rides the street closure of the entrance of Luther into Fogleman acres.



Filmore York, Mayor

ATTEST:



Jessica Brown, Town Clerk

Town of Liberty
P. O. Box 1006
239 South Fayetteville Street
Liberty, North Carolina 27298
(336) 622-4276 phone (336) 622-2665 fax

RESOLUTION 2022-12

**RESOLUTION AUTHORIZING A TEMPORARY STREET CLOSING IN
ACCORDANCE WITH THE LIBERTY CODE OF ORDINANCES § 90.33**

WHEREAS, the Town of Liberty is willing to accommodate temporary street closures for civic events; and

WHEREAS, the Town Manager will have appropriate traffic control devices installed to give notice of the temporary street closing; and

WHEREAS, the Town Manager has received a written request for a temporary street closing reviewed from Amanda Pabst of the Liberty Chamber of Commerce for the purpose of the annual Liberty Christmas Parade/Tree Lighting and recommends said closings per the attached map; and

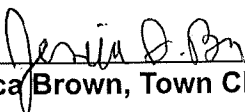
WHEREAS, this event will benefit the community and not hamper other Town of Liberty activities on the date of request; and

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Liberty, North Carolina, meeting in regular session on the 24th day of October 2022 allow the temporary street closing below:

From 11:00 AM to 7:00PM Saturday December 3, 2022 for the purpose of the Liberty Christmas Tree Lighting/Christmas Parade to occur and with closure of sections of Streets per attached map.


Filmore York, Mayor

ATTEST:


Jessica Brown, Town Clerk

**IN THE MATTER OF THE APPLICATION BY LIBERTY PROPERTY
HOLDINGS, LLC FOR A SPECIAL USE PERMIT AUTHORIZING
WATERSHED SNIA**

**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER DENYING
THE REQUESTED SPECIAL USE PERMIT**

THIS LAND USE CASE came before the Town Council of the Town of Liberty (the "Council") for a properly advertised quasi-judicial hearing on the question of whether to approve an application for a special use permit. The hearing was conducted on July 25, 2022 and continued to the September 26, 2022 meeting. Having considered all competent evidence and argument presented during the hearing, the Council, on the basis of competent, material, and substantial evidence, does hereby enter the following:

FINDINGS OF FACT

1. Liberty Property Holdings, LLC, acting by and through its authorized representatives, (the "Applicant") properly submitted an application for a special use permit authorizing WATERSHED SNIA.
2. In compliance with the Ordinance, the Applicant included with its application a site plan showing the proposed land uses on an approximately 17.3 acre parcel of land owned by Mary Franklin Whitt Johnson. The parcels of land for which a special use permit is sought (the "Zoning Lot") is identified by Randolph County Parcel Identification Numbers 8735293325 and 8735291096.
3. Legal notices of the requested land use approvals were mailed to adjoining property owners and a notice was posted on the Zoning Lot.

4. The Zoning Lot is located on Kinro Road. The property shown as PIN # 8735293325 is addressed as 6988 Kinro Road, PIN # 8735291096 currently has no address assigned.

5. The Zoning Lot is outside the town limits.

6. The surrounding land uses are as follows:

North Industrial **East** Residential

South Residential **West** Industrial

7. Kinro Road is a state-maintained road serving commercial, industrial and residential properties.

8. Kinro Road provides access to and from the Zoning Lot. In order to proceed with the proposed land uses, the Applicant will have to obtain a driveway permit from N.C. DOT and will have to ensure that the driveway is built in accordance with policies.

9. The entirety of the Zoning Lot is in a I Industrial District (i.e. I zoning district).

10. The Zoning Lot is not currently served by town services. Water and sewerage service are nearby however, town policy requires a request for voluntary annexation prior to service provision. A petition for voluntary contiguous annexation has been filed.

11. The Zoning Lot is located within the Balance of the Rocky River Watershed (WS-III).

12. There is no identified Flood Hazard Area on the Zoning Lot.

13. The Zoning Lot is currently vacant with a dilapidated dwelling present.

14. The applicant proposes to build an asphalt manufacturing plant.

15. The asphalt manufacturing plant is a permitted use in the I (Industrial) zoning district.

16. Proposed development will exceed the 24% impervious surface limit established by Watershed regulations. These regulations allow up to 70%

impervious surface upon approval of a Special Non-Residential Intensity Allocation (SNIA) Special Use Permit

17. The application indicates an impervious area of 40% or 7.58 acres.

18. Section 154.191 of the Zoning Ordinance establishes the following standards for the issuance by the Council of a special use permit:

(A) The Town Council shall find that the following general standards shall be met by all applicants for approval of special uses:

(1) That the use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved;

(2) That the use meets all required conditions and specifications;

(3) That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and

(4) That the location and character of the use if developed according to the plan as submitted and approved will be in harmony with the area in which it is to be located and in general conformity with the plan of development of Liberty and its environs.

(B) The Town Council shall make these general findings based upon substantial evidence contained in its proceedings.

(C) It shall be the responsibility of the applicant to present evidence in the form of testimony, exhibits, documents, models, plans and the like to support the application for approval of a special use.

19. Section 154.203 of the Zoning Ordinance states:

In addition to the general standards contained in Section 154.191, the following specific standards for individual special uses shall be used in deciding upon applications for special uses.

20. Section 154.239 of the Zoning Ordinance establishes the following standards to be met when considering a Special Use Permit for a watershed SNIA.

(A) Projects must minimize build upon surface area.

(B) Projects must direct storm water away from surface waters.

(C) Projects must incorporate best management practices to minimize quality impacts.

(D) Projects must be connected to Town of Liberty water and sewer.

(E) Projects must provide a positive economic benefit to the community.

21. Tom Terrell, as an agent for the Applicant, confirmed the Applicant's consent to the attachment of the following conditions to the requested special use permit:

a. The approval is a SNIA up to 70%.

b. The Site Plan shall have the two remaining clarifications (as indicated by the Site Plan Review dated 7/25/2022) corrected prior to the issuance of a Zoning Compliance Permit.

c. No open burning shall be utilized in the development of the site.

d. All truck traffic shall be routed directly to and from U.S. Highway 421 only.

22. With the acceptance and attachment of the above-stated conditions, the site plan presented to the Council conforms to the regulations prescribed by the Ordinance.

23. Tom Terrell, as an agent for the Applicant presented each Council member and others with notebooks which includes the findings of experts. The notebooks were accepted as evidence supporting the expert testimony presented by the applicants representatives.

24. Tom Terrell presented Uncontroverted testimony that the use will not materially endanger the public health or safety. He also presented testimony concerning the economic impacts of the project.

25. Paul Campbell, engineer for Alley Williams testified that he has 31 years experience and is a graduate of N.C. State. He offered uncontroverted testimony that in his professional opinion, the site plan and application are in compliance with watershed, SNIA, storm water regulations and hat the use meets all required conditions and specifications. He also presented testimony concerning the economic impacts of the project.

26. Molly Chisolm, a N.C. appraiser and a member of the National Appraiser Standard Board offered uncontroverted testimony that in her professional opinion, the operation of an asphalt manufacturing plant as presented in the application is shown not to substantially injure value of properties. the testimony

27. Guy Corman, a planner testified that he has 34 years experience. He offered uncontroverted testimony that in his professional opinion, the site plan and application are in harmony with the area in which it is to be located and in general conformity with the plan of development of Liberty and its environs.

28. H.R. Gallimore spoke about the current I zoning, the LDP, the issue with Liberty's watershed coverage, the safety of the proposed plan, truck use of interstates, daylight hours of operation and the other industries that could use this property.

29. Todd Ferguson of 306 Butler Avenue ask questions of Molly Chisolm concerning her report. Stated he worked for an asphalt company and stated (the Council) should ask questions about the noise, traffic and smell. At the continued hearing he stated that he was concerned about all things related to the watershed and what is done to make the community safe.

30. Jesse Bowman of 6835 Kinro Road stated that the Town has a problem with (sewerage) overflow when there is a large rain. It comes out of the manholes, and you cannot get through there in the mornings. No one wants this. He also said for people to please do their research on asphalt plants.

Based on the foregoing findings of fact, the Council hereby enters the following:

CONCLUSIONS OF LAW

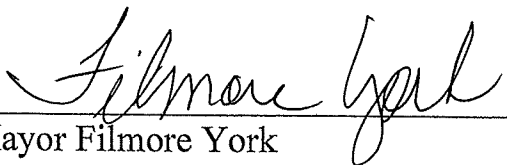
1. When an applicant has produced competent, material, and substantial evidence tending to establish the existence of the facts and conditions that the Ordinance requires for the issuance of a special use permit, prima facie the applicant is entitled to the permit.
2. In this case, the Applicant is seeking authorization for a WATERSHED SNIA on a Zoning Lot that is located in an I zoning district.
3. Section 154.239 of the Zoning Ordinance establishes the following standards to be met when considering a Special Use Permit for a watershed SNIA.
 - (A) Projects must minimize build upon surface area.
 - (B) Projects must direct storm water away from surface waters.
 - (C) Projects must incorporate best management practices to minimize quality impacts.
 - (D) Projects must be connected to Town of Liberty water and sewer.
 - (E) Projects must provide a positive economic benefit to the community.
4. In this case, the Applicant must present competent, material, and substantial evidence that will enable the Council to find that the proposed watershed SNIA meets the above standards.
5. The Applicant in this case did not present competent, material, and substantial evidence to satisfy the standard articulated in subsection (E) of the preceding paragraph.

Based on the above-recited findings of fact and conclusions of law, the Council hereby enters the following:

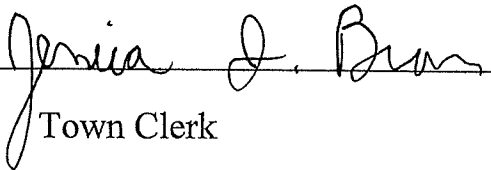
ORDER

The Applicant's request for a special use permit authorizing a WATERSHED SNIA on the Zoning Lot is hereby denied.

The foregoing final decision document was adopted by the Liberty Town Council in open session during a regular meeting held on the 24th day of October, 2022.



Mayor Filmore York

ATTEST: 

Town Clerk

