

**THE BOARD OF COUNTY COMMISSIONERS  
DURHAM, NORTH CAROLINA**

Monday, November 28, 2022

7:00 P.M. Regular Session

**MINUTES**

Place: Commissioners' Chambers, Second Floor, Durham County Government Administrative Complex, 200 East Main Street, Durham, North Carolina

Present: Chair Brenda Howerton, Vice Chair Wendy Jacobs and Commissioners Nida Allam, Nimasheena Burns and Heidi Carter

Presider: Chair Brenda Howerton

**Closed Session – 5:30 PM**

The Board requested to adjourn to Closed Session for the following:

To consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee; pursuant to G.S.143-318.11(a)(6).

Commissioner Burns moved, seconded by Commissioner Allam to adjourn into Closed Session.

The motion carried unanimously.

**Reconvene to Open Session**

Vice Chair Jacobs moved, seconded by Commissioner Allam to authorize the completion of a contract with a start date of January 3, 2023 between Durham County and Attorney Alan A. Andrews to serve as the role of Durham County's Attorney.

The motion carried unanimously.

Mr. Andrews thanked the Board for the opportunity to serve as Durham County's Attorney and stated he looked forward to working with staff, County residents and the community.

## Regular Session – 7:00 PM

### Opening of Regular Session - Pledge of Allegiance

#### Agenda Adjustments

Chair Howerton announced that there were no agenda adjustments.

#### Announcements

Monica Wallace, Clerk to the Board read the following announcements:

1. **Dco Public Health COVID-19 Vaccination Clinic Hours** – The COVID-19 vaccination clinic at the Durham County Department of Public Health, 414 E. Main St., has the following walk-in hours to get your free vaccination: Monday, Wednesday, Thursday & Friday: 9 a.m. to 4 p.m.: and Tuesday: 9 a.m. to 5:45 p.m. All approved doses available. Please note, clinics are closed between 11:30 a.m.-1 p.m. daily and on Saturday and Sunday. Visit [www.dcopublichealth.org/COVIDVaccines](http://www.dcopublichealth.org/COVIDVaccines) or call 919-560-9217 for more information.
2. **Get Your Flu Shot at DCoDPH** – Flu shots are available by appointment at the Durham County Department of Public Health. Call 919-560-7608 to schedule yours today. Most private insurance fully covers the cost of flu shots. Shots are available for free to some eligible individuals. Visit [www.DCoPublicHealth.org/FluSeason](http://www.DCoPublicHealth.org/FluSeason) or call 919-560-7608 for more information.
3. **Property Tax Payment Deadlines Approaching** – Payment deadline for 2022 real property and tangible personal property tax bills is January 5, 2023. To avoid interest and fees payments should be made by that date. The law requires unpaid real estate taxes for the current year to be advertised. Visit [www.dconc.gov/tax](http://www.dconc.gov/tax) or contact the tax office at 919-560-0300.
4. **The Low-Income Energy Assistance Program** – LIEAP kicks off December 1st for applicants 60+, those with disabilities, and who receive Food and Nutrition Services. Residents can call 919-560-8192 to make a virtual appointment with the Department of Social Services’ LIEAP Specialists. On January 3, 2023 all Durham residents may apply online as well at: <https://epass.nc.gov>. The LIEAP Program ends March 31, 2023.
5. **NAIA Football Returns to Durham County** – The 67th Annual NAIA Football National Championship and Senior Football Classic games return to Durham County Memorial Stadium on Friday, Dec. 16 and Saturday, Dec. 17. The title game will feature the finalists after three rounds of playoffs in November and December. Tickets range from \$20-\$30. Get ticket and game information at [www.durhamncsports.com/blog/naia-durham-2022/#tickets](http://www.durhamncsports.com/blog/naia-durham-2022/#tickets)
6. **Navigating Grief During the Holidays** – Join author Karla J. Noland for a discussion of her 2022 book, “The Day My Heart Turned Blue: Healing After the Loss of My Mother” at the Durham County Main Library on Saturday, Dec. 3 from 3-4:30 p.m. Followed by a Q&A with a Grief & Mental Health panel on how to manage grief during the holiday season moderated by Antoinetta Mosley. Registration required at [www.durhamcountylibrary.libcal.com/event/9818348](http://www.durhamcountylibrary.libcal.com/event/9818348). More information, contact Natalie Killion, [nkillion@dconc.gov](mailto:nkillion@dconc.gov).
7. **Durham County Virtual World AIDS Day Event 2022** – Durham County Department of Public Health along with Fast Track Cities invite you to join in a virtual celebration on

December 1<sup>st</sup> from 6-7pm via zoom. This year’s local theme for World AIDS Day is “That Was Then; This Is Now” and the global theme is “Putting Ourselves to the Test: Achieving Equity to End HIV”. The zoom details are as followings:

**Zoom Link**

<https://us02web.zoom.us/j/89056333257?pwd=bXNUOUVJT2dvNFYyaDRaMzd1ZUdSZz09#success>

**Meeting ID** – 890 5633 3257

**Passcode** – 860206

For additional questions, please contact Randy Rogers at [rcrogers@dconc.gov](mailto:rcrogers@dconc.gov)

8. **Final Sheriff Speaks of 2023** – Please join Sheriff Birkhead for his final “Sheriff Speaks” public community event of the year at the Durham County East Regional Branch located at 211 Lick Creek Lane on December 6, 2022 to discuss “Public Safety During the Holiday Season”. This event is FREE and open to the public.
9. **Language Access for Spanish-Speaking Residents Survey** – Durham County is seeking Spanish-speaking residents to participate in the Language Access for Spanish-Speaking Residents Survey. The survey gives participants the chance to name the County resources and services most important to them, identify language barriers in accessing these resources and services and, recommend ways for the County to improve access to resources and services for Spanish-speakers. Visit <https://www.surveymonkey.com/r/KZ6GMMJ> to take the by January 31, 2023.

For more details about the survey and to learn how to join the information collection effort, visit <https://bit.ly/3VkFDxs>.

10. **Farmers and Landowners Breakfast and Conversation** – The DCo Farmland Protection Advisory Board is hosting a breakfast and conversation on Thursday, December 15, 2022 from 8am – 10am at the Farm Bureau Building located at 1901 Hillandale Road. The presentation will be shared by the Durham Tax Department on the Present Use Value Tax Program. Please register by December 12<sup>th</sup> by call 919-560-0558.

**Public Health Holiday Focused Message:**

Respiratory syncytial virus (RSV) is a common respiratory virus that usually causes mild, cold-like symptoms. Most people will have a mild illness and recover in a week or two, although it can cause serious infection, especially for infants and older adults, and some people may need to be hospitalized. RSV is the most common cause of bronchiolitis (inflammation of the small airways in the lungs) and pneumonia (infection of the lungs) in children younger than 1 year of age in the United States.

Because many children were shielded from common infections during the COVID pandemic (including RSV), the virus is currently causing lots of infections, emergency department visits, and hospitalizations nationwide, particularly in young children who haven’t been exposed to RSV the previous couple years. The best ways to protect yourself and others from RSV and other respiratory viruses include:

- Covering your mouth and nose with your upper shirt sleeve or a tissue (not your hands) when you cough and sneeze
- Wash hands often with soap and water for at least 20 seconds
- Avoid touching your face, particularly the eyes, nose, and mouth
- Clean frequently-touched surfaces such as doorknobs and mobile devices

- Avoid close contact such as shaking hands and sharing cups and eating utensils

Commissioners shared the following additional announcements.

- The 18<sup>th</sup> Annual American Tobacco Tower Lighting was November 30<sup>th</sup> at 7 p.m. and the CCB Plaza Holiday Tree Lighting was December 3<sup>rd</sup> at 6 p.m.
- The holidays were a difficult time of the year for residents with mental illness and encouraged residents to promote mental health awareness.

## Minutes

Commissioner Carter moved, seconded by Commissioner Allam to approve the November 14, 2022 Regular Session minutes.

The motion carried unanimously.

## Consent Agenda

Chair Howerton asked the Board if they requested to pull or comment on any items on the Consent Agenda. Hearing none, Chair Howerton entertained a motion for approval.

Commissioner Allam moved, seconded by Vice Chair Jacobs to approve the following items on the Consent Agenda.

The motion carried unanimously.

22-0673 Upgrade to IS&T standard Cisco switches for S2 Access Control

22-0691 Approval to Purchase Real Property - Parcel Identification #233427 Located at 1211 Shiloh Glenn Drive

22-0692 DeWhit Amendment for Janitorial Services at Cooperative Extension 721 Foster St. Durham NC, 27701

\*22-0693 Budget Ordinance Amendment No. 23BCC00042 Public Health to Recognize Funds in the Amount of \$10,000 from the GlaxoSmithKline Foundation 2022 Child Health Recognition Awards

22-0696 Extension of 2023 Property Tax Listing Period

22-0705 Interlocal Agreement between Durham County and ABC Board for Maintenance Services at ABC Store Locations

Consent Agenda Item #22-0693

**Durham County, North Carolina  
2022-2023 Budget Ordinance  
Amendment Number 23BCC00042**

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the 2022-2023 budget ordinance is hereby amended to reflect budget adjustments.

<u>Fund Name</u>	<u>Current Budget</u>	<u>Increase/Decrease</u>	<u>Revised Budget</u>
<b>GENERAL FUND</b>			
<u>Expenditure</u>			
Human Services	\$110,303,029.00	\$10,000.00	\$110,313,029.00
<u>Revenue</u>			
Intergovernmental	\$79,001,271.91	\$10,000.00	\$79,011,271.91

All ordinances and portions of ordinances in conflict herewith are hereby repealed.

Approved November 14, 2022

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**Other Business**

**22-0715 Certification of the 2022 General Obligation Bond Referendum**

Dr. Kimberly Sowell, County Manager thanked the residents of Durham County for voting to approve the bond referendum. She also thanked Durham County staff involved with the bond referendum, Durham Public Schools (DPS), Durham Technical Community College (DTCC), the Museum of Life and Science and the Bond Referendum Blue Ribbon Committee for providing support and information on the bonds.

Julius Monk, Deputy Superintendent of Operational Services at DPS thanked the Board for the bond referendum and DPS staff for their work with the bond referendum.

J.B. Buxton, President of DTCC thanked the Board for including DTCC with the bond referendum and DTCC staff for participating in the bond referendum process.

Kate Senner, Vice President for Advancement at the Museum of Life and Science thanked The Museum of Life and Science staff for being instrumental with the bond referendum and the Board for the bond referendum.

William “Bill” Bell, Bond Referendum Blue Ribbon Committee member thanked the Board for the bond referendum and the community for understanding the importance of approving the bond referendum.

The Board thanked everyone in the community who assisted with the bond referendum for helping to make Durham successful. They added the bond was the largest Durham County has ever approved and was an investment in the future of students and the community.

Commissioner Allam moved, seconded by Commissioner Carter to approve the resolutions accepting and certifying the results of the 2022 General Obligation Bond Referendum and authorize the publication of the Statement of Results.

The motion carried unanimously.

**22-0644 Learning from the White House Conference on Hunger, Nutrition, and Health**

Mary Oxendine, County Food Security Coordinator shared the *Learning from the White House Conference on Hunger, Nutrition, and Health* which highlighted the following: Land Acknowledgement, Agenda, Significance of the White House Conference, Conference Information, Personal Invitation, Impact of Relationships, Conference Highlights, National Strategy and Considerations for Durham County, Impacts of Food Insecurity and Diet Related Diseases: Individual

Cost and Societal Costs, National Strategy Pillars, Key Messages from the White House Conference, National Response to the Call to Action and Considerations to Durham County's Response.

The Board asked if a supplemental program would replace the Los Primos Supermarket in East Durham. Ms. Oxendine replied no program was implemented to replace the Los Primos Supermarket, adding the supermarket was searching to find another location in Durham. The Board stated Los Primos could possibly lease space from County owned property at 500 East Main Street in order continue to serve East Durham. The Board inquired about adding the Universal Schools Meals Program throughout the School District. Ms. Oxendine replied free breakfast was being offered in public schools and the School District was researching the Universal Schools Meals Program.

The Board asked Ms. Oxendine if she was working with the Durham County Veterans Service Department concerning food nutrition for Veterans. Ms. Oxendine replied she connected with the department to seek Veterans interested in volunteering with food programs and farming and gardening spaces. The Board asked for Ms. Oxendine to provide recommendations for Durham County at a Budget Work Session.

The Board thanked Ms. Oxendine for representing Durham County at the White House Conference on Hunger, Nutrition, and Health and for providing the Board with a report.

**Directive: The Board asked for Mary Oxendine to provide recommendations for Durham County at a Budget Work Session.**

### **Public Hearings**

#### **22-0694 Consolidated Item – Mason Farms Major Special Use Permit Quasi-Judicial Hearing and Major Site Plan**

Chair Howerton stated the public hearing was continued and left open from the November 14<sup>th</sup> Regular Session meeting. She introduced La Deidre Matthews, Associate Attorney at Fox Rothschild LLP. Ms. Matthews stated the Board was requested to conduct a quasi-judicial hearing and approve a Major Special Use Permit (MSUP) for a Community Wastewater System for the Mason Farms conservation subdivision pursuant to Unified Development Ordinance (UDO) 12.7.1C, and to approve the Major Site Plan for Mason Farms pursuant to UDO 3.7.3B. She added a quasi-judicial hearing was a formalized means of gathering evidence relevant to the issuance of the special use permit and was not an opportunity for citizens to freely speak their mind on whether the property should be developed according to the site plan. Ms. Matthews stated the Board was to act as a judicial body to decide on accepting evidence and applying the evidence presented to the predetermined standard outlined in the UDO in order to determine if the special use permit should be issued. She added the Board Chair's duties included the authority to maintain decorum, secure efficient presentation of relevant information and use of the Boards' time.

Ms. Matthews stated the burden of proof was required by the applicant to produce competent material and substantial evidence to establish compliance with each ordinance requirement for the issuance of the special use permit. She added opinions offered by witnesses who were not experts, personal preferences, generalized fears and concerns were not competent materials or substantial evidence. Ms. Matthews stated the Board was allowed to consider evidence relevant to proving or disproving the applicant's UDO standard for a community wastewater system in a conservation subdivision and not the site plan. She added the Board Chair was allowed to limit or exclude testimony considered irrelevant, cumulative or immaterial. Ms. Matthews stated the Board could choose to receive public comments, although only parties with standing were entitled to legal rights to present evidence, call their own witnesses, cross-

examine witnesses and inspect evidence offered to the Board. She added pursuant to State Law, the Board was required to govern itself according to the requirement during the hearing.

Chair Howerton stated steps were taken to ensure each party's due process rights were protected, and the public hearing was advertised in the newspaper and on the County website, along with mailed notices to provide the public with information to access and participate at the hearing. She added the hearing was judicial in nature and would be conducted in ordinance with special safeguards as described by Attorney Matthews. Chair Howerton stated witnesses must be sworn in, were subject to cross-examination and written evidence would be incorporated into the record. Chair Howerton stated testimony from non-party witnesses would be limited to three minutes and asked Monica Wallace, Clerk to the Board to swear in all witnesses for the public hearing.

Ms. Wallace swore in the witnesses for the public hearing.

Chair Howerton asked if any of the Commissioners needed to withdraw from consideration of the case due to a conflict that would prevent rendering a fair and in-partial decision. Hearing none, Chair Howerton asked if any Commissioners received information about the hearing besides previously presented information or information in the staff report. Hearing none, Chair Howerton stated parties, or their attorney may cross-examine a witness upon acknowledgement by the Chair after the witness finished testifying. She added any party to the hearing may raise an objection to the admission of evidence on the basis of relevance, here say or any other evidence ground. Chair Howerton stated questions concerning admissibility would be handled by the Chair, County Attorney or Council obtained by the Board.

Cole Renigar, Planner, City-County Planning Department asked for the agenda materials submitted for the public hearing to be included in the public record with necessary corrections as noted. He stated a request for MSUP M220001 and Major Site Plan D2100325 was received from Thomas Purdue, Project Manager at MacConnell and Associates for a proposed use of a community water and wastewater system, 142 lot subdivision with 141 single family homes. Mr. Renigar stated the subdivision was permitted by right, but the use of the community wastewater system required a MSUP. He added the 287.723 acre site was zoned Rural Residential, within the Rural Development Tier and vacant besides a non-operational wastewater system. Mr. Renigar stated an associated major site plan D2100325 was pending approval by the Board if the MSUP request was approved. He added the site plan did not require a public hearing but did require a separate vote for approval. Mr. Renigar stated staff analyzed the application and determined the application was ordinance compliant based on the submitted site plan. He added the Planning staff would provide a recommendation prior to the Board voting on the public hearing.

Commissioner Burns left the meeting at 8:30 p.m.

Chair Howerton asked to hear from the witnesses.

### **Witnesses**

#### **Patrick Byker**

Mr. Byker, Partner at Morningstar Law Group stated he was representing III Capital Management to present evidence in support of the application for a MSUP for the Mason Farms community wastewater system and major site plan. He stated Mason Farms was a 288-acre conservation subdivision with 141 home lots located on the West side of Highway 501 and the South side of Preston Andrews Road in the Rural Residential Zoning District of Northern Durham County. Mr. Byker stated the Board previously

approved the Wetrock Farm subdivision on August 10, 2015, at the same location. He added the Wetrock Farms farming concept failed and his client acquired the property in foreclosure and proposed the Mason Farms subdivision. Mr. Byker stated Mason Farms was an environmentally sensitive green development and would reuse wastewater on site. He added the site could not exceed six percent impervious surface or 94 percent of the site would remain pervious surface. Mr. Byker stated the expert witnesses would demonstrate compliance with the UDO and introduced resumes, traffic reports and the site plan PowerPoint presentation into the record as exhibits.

Robin Barefoot, Attorney and witness introduced herself to Chair Howerton and asked to cross-examine the expert witnesses, provide evidence and substantial concerns. Chair Howerton asked Ms. Barefoot if she was signed up to speak. Ms. Barefoot responded yes. Chair Howerton stated she would allow Ms. Barefoot to cross-examine the expert witnesses after their testimony.

Mr. Byker reminded the Board of the legal standard that governed quasi-judicial hearings. He added the competent materials and substantial evidence submitted would establish the applicant complied with the requirement and would be entitled to the MSUP. Mr. Byker thanked the Planning staff for the prepared staff report. He added testimony by non-expert witnesses under North Carolina General Statue would not be considered competent evidence and he would object.

### **Gary MacConnell**

Mr. MacConnell, President of MacConnell and Associates stated he was the engineer for the Mason Farms community wastewater system, and he would describe the design of the system, the system operation, and the basis of knowledge about the system. He added public utilities were not available on the site and an onsite system was required. Mr. MacConnell stated water would be provided by a community well system and wastewater would be treated by an innovative low profile, basin covered, ultraviolet light and green system. He added the system met the UDO, State and National Science Foundation requirements and would be operated by a private utility. Mr. MacConnell stated the system would use generators to provide backup during power outages. He added the applicant did not want to use a package treatment plant due to the open basins, variations in water flow and the system was difficult to operate.

The Board inquired about the installation of systems in the surrounding areas. Mr. MacConnell replied his company installed single-family to large water systems and converted failed septic systems in Durham and surrounding areas.

Ms. Barefoot asked if the wastewater system approved for Wetrock Farm was different or the same for Mason Farms. Mr. MacConnell responded the system was the same besides location and pump tanks. Ms. Barefoot asked who would pay for the utility of the system. Mr. MacConnell replied each of the homeowners would pay. Ms Barefoot asked would 141 homes on one system be superior to an individual home well and water system. Mr. MacConnell responded pollutants were released when an individual home sewer system failed, and the community wastewater system would not release any pollutants. Ms. Barefoot asked how many wells would be in the subdivision and questioned mass grading on the site. Mr. MacConnell replied four wells and no mass grading was planned.

### **Thomas Perdue**

Mr. Perdue, Project Manager at MacConnell and Associates stated he supervised and worked on the proposed site plan and the site plan met the UDO requirements. He added the UDO listed 12 purposes for establishing a conservation subdivision and Mason Farms met six of those purposes.



Chair Howerton asked Ms. Barefoot about special damage to her property from the Mason Farms subdivision. Ms. Barefoot responded there would be a reduction or damage to drinking water and contamination of soil due to the wastewater system. Chair Howerton asked Ms. Barefoot if she was representing herself or neighbors. Ms. Barefoot replied that she represented herself and requested the cross-examination of expert witnesses. She added at the previous public hearing, the traffic engineer did not provide an accurate traffic report. Mr. Byker stated he objected due to the state law that only a traffic engineer may testify about traffic. Ms. Barefoot stated she recommended a Durham County Judge provide a judgement in court on the statue construction of the UDO and the interpretation. Mr. Byker stated he objected. Larissa Williamson, Senior Assistant County Attorney stated Ms. Barefoot was allowed to cross-examine the expert witness on behalf of her property and not the neighbors.

Mr. Byker asked Ms. Matthews to explain the requirements for special damages necessary by state law. Ms. Matthews responded the Board would need to be satisfied with the special damage allegations presented by the party about the wastewater system. She added Mr. Byker was able to cross-examine Ms. Barefoot. Ms. Barefoot asked why the hearing was bifurcated with the wastewater system and the site plan as separate approvals. Sara Young, Planning Director replied the quasi-judicial hearing was for the MSUP and the Major Site plan was not included in the hearing. She added the Major Site Plan was included as an administrative approval by the Board.

Ms. Barefoot asked Mr. Perdue how many conservation subdivision standards were met by Mason Farms. Mr. Purdue responded six standards. Ms. Barefoot asked how many standards Wetrock Farm met. Mr. Byker objected. Ms. Barefoot asked would Mason Farms have a farm or vineyard. Mr. Byker objected. Ms. Matthews stated the Board was able to exclude or limit evidence not related to the MSUP.

Commissioner Allam asked Ms. Young to explain the administrative approval of the site plan. Ms. Young replied by law administrative approval were required to be issued when all technical standards were met, and staff confirmed those standards were met – adding residents were allowed to appeal administrative approvals. Ms. Barefoot asked if residents were notified of administrative appeals. Ms. Young responded the Planning Department did not provide notices of site plan approvals. Vice Chair Jacobs asked if the site plan met all requirements of a conservation subdivision for the adopted UDO. Ms. Young responded yes, adding staff verified compliance with all the requirements. Ms. Barefoot asked how many homes could be built if the site was not a conservation subdivision. Mr. Perdue responded less than 100. Ms. Barefoot asked why the subdivision was named Mason Farms. Mr. Byker objected.

### **Rynal Stephenson**

Mr. Stephenson, Private Traffic Director at Ramey Kemp Associates stated the proposed subdivision would create around 1,400 daily vehicle trips and the Department of Transportation required at least 3,000 daily vehicle trips for traffic impact analysis. He added 102 trips in the morning peak period and 107 trips in the evening peak period and both were below the 150 required trips for traffic impact analysis. Mr. Stephenson stated the access locations of the subdivisions were located to provide the minimum impact on the daily traffic in the area and accommodate traffic including emergency vehicles.

The Board asked if traffic would be created due to the wastewater treatment center. Mr. Stephenson responded there would be no traffic created besides a service vehicle. The Board asked if peak hours were based on commuter times and updated standards. Mr. Stephenson responded peak hours were based on the heaviest time of the day and updated standards.

Ms. Barefoot asked for the date the trip generation assessment was completed. Mr. Stephenson

responded September 2022. Ms. Barefoot asked why the site plan did not offer direct access to Route 501. Mr. Barefoot responded the North Carolina Department of Transportation and the Transportation Planning staff determined it was best access management to direct traffic onto a side street. Ms. Barefoot asked how 76 cars exiting the subdivision with surrounding neighborhood traffic would not impact Preston Andrews Road. Mr. Stephenson responded about one car per minute would be exiting the subdivision and that was considered a low traffic generator. Ms. Barefoot stated adding 1400 trips to the existing 200 trips would make 1600 daily trips on Preston Andrews Road. Mr. Stephenson replied, Preston Andrew Road was not a neighborhood street and could handle the traffic increase. Ms. Barefoot stated Preston Andrew Road was being used by cut through traffic. Mr. Stevenson responded the subdivision would not cause issues with cut through traffic.

### **Jarvis Martin**

Mr. Martin, Stewart, Principal Appraiser at Stewart, Martin and McCoy stated the proposed subdivision would not have adverse impacts on adjoining or surrounding properties and met the UDO requirements. He added the subdivision was in harmony with rural Northern Durham.

The Board asked if the MSUP met the UDO requirements. Mr. Martin replied yes, the MSUP met the UDO requirements and would not impact surrounding property values.

Ms. Barefoot stated the size of the subdivision would have a negative impact on surrounding home values. Mr. Martin responded there was a shortage of homes in Northern Durham and the subdivision would generate a demand in the area.

Mr. Byker stated the Board heard substantial competent material evidence on findings required in the UDO. He added the applicant met the burden and was entitled to the issuance of the MSUP under the state law. He added two stream crossings were eliminated with the removal of access to Route 501.

### **Citizen Comments**

#### **Robin Barefoot**

Ms. Barefoot a citizen and attorney stated she would like to enter into the record an email received from Mr. Purdue explaining six of the 12 standards for a conservation subdivision was met by Mason Farm and 24 photographs of the streets around the area of the proposed subdivision.

#### **Cheryl Dietz**

Ms. Dietz, a citizen stated her property was family owned and her driveway was located at the front of the main entrance and exit to the proposed subdivision. She added due to the water level declining, her well was deepened and she was concerned about the proposed subdivision causing water levels to decline.

#### **Scott Cooley**

Mr. Cooley, a citizen stated he was concerned about the groundwater levels outside of the proposed subdivision. He asked about impact measures for water decline or loss, safety of pedestrians with the increased traffic and if the subdivision would cause a strain on Fire and Emergency Services.

#### **Gerry O'Neill**

Mr. O'Neill, a citizen stated he was concerned about the cut through traffic and increased neighborhood traffic with the proposed subdivision. He added the traffic and two-lane streets would be unsafe for Fire and Emergency Services.

**Harold Koenig**

Mr. Koenig, a citizen stated he was concerned about wastewater filtering down into the three acre lake utilized for fishing and swimming on his property and the low water level of his well.

**Kathryn Ross**

Ms. Ross, a citizen stated the approval could not happen because the site plan for Mason Farm did not meet the UDO conservation subdivision standards and submitted a written objection into the record.

**Charlie Gibbs**

Mr. Gibbs, a citizen stated the community wastewater treatment system discharge would kill tree roots if discharged in the woods and he was concerned with the water levels of wells in the surrounding areas. Mr. Byker objected to Mr. Gibbs's testimony.

Mr. Byker asked Ms. Ross if her address was 8135 Lowell Valley Drive and stated her property was over 2.5 miles from the proposed subdivision. Ms. Ross responded yes, adding she did not have standing to testify as factual evidence. Mr. Byker asked Ms. Ross if she purchased her home on September 17, 2020. Ms. Ross replied yes. Mr. Byker stated he would like to strike Ms. Ross's testimony due to the lack of standing and enter the document of her residency into the record.

Vice Chair Jacobs moved, seconded by Commissioner Allam to extend the meeting until 11:30 p.m.

The motion carried unanimously.

The Board inquired about the concerns of the public comments around the water capacity of wells and wastewater runoff. Mr. MacConnell responded the proposed subdivision would have four wells as opposed to 141 wells and the wells would be located on the southside of the property while most residents would live on the northside. He added the wastewater runoff meet state requirements and did not release any pollutants. The Board asked if conservation subdivisions were required to meet the 12 standards. Ms. Young responded it would be challenging for a single site to meet all of the proposed statements. The Board asked about the required standards for conservation subdivisions. Ms. Young replied at least 80 percent of required open space in a conservation subdivision shall consist of primary conservation area and at least 20 percent of required open space shall consist of secondary conservation area.

The Board asked if a resident could appeal the administrative approval. Ms. Young responded the UDO provided anyone aggrieved by an administrative approval or determination with the right to seek an appeal. She added there was no statute requirement to provide notice of administrative approvals and residents could appeal within 30 days of its approval.

The Board asked Ms. Matthews to state the decision before the Board. Ms. Matthews stated the Board should weigh the evidence heard and decide if the evidence was substantial, material and competent, then apply the evidence to the factors of the MSUP. She added the Board would need to decide if the applicant met the burden of proof and if so, the applicant would be entitled to the issuance of the MSUP. The Board asked for the Planning staff recommendation. Mr. Renigar stated the recommendation was to approve the MSUP for case M2200001 provided the improvement shall be substantially consistent with the plans and information submitted to the Board as part of the application.

**First Motion:**

Vice Chair Jacobs moved, seconded by Commissioner Allam to approve the Major Special Use Permit for case M2200001, Mason Farms Community Wastewater System.

The motion carried unanimously.

**Second Motion:**

Commissioner Allam moved, seconded by Commissioner Carter to approve the Major Site Plan for case D2100325, Mason Farms.

The motion carried unanimously.

**Board and Commission Appointments**

Larissa Williamson, Senior Assistant County Attorney announced the voting results.

The Board made the following appointments (incumbents are identified with an (i). Individuals who are recommended by a Board are underlined.) Individuals listed in bold print were appointed.

Durham Community Safety and Wellness Task Force

**Mike Sistrom** (Allam, Burns, Carter, Howerton, Jacobs)

Homeless Services Advisory Committee

**Angela Holmes** (Allam, Burns, Carter, Howerton, Jacobs)

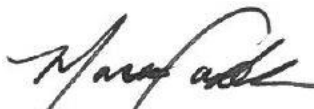
Commissioner Carter thanked Monica Wallace, Clerk to the Board for hosting accessible hybrid meetings.

**Adjournment**

Commissioner Carter moved, seconded by Commissioner Allam to adjourn the Regular Session meeting at 11:08 p.m.

The motion carried unanimously.

Respectfully Submitted,



Macio Carlton  
Deputy Clerk to the Board