

*These minutes were approved at the April 13, 2011 meeting.*

**DURHAM PLANNING BOARD  
WEDNESDAY, FEBRUARY 23, 2011  
TOWN COUNCIL CHAMBERS, DURHAM TOWN HALL  
7:00 P.M.**

**MEMBERS PRESENT:** Chair Lorne Parnell; Vice Chair Peter Wolfe; Secretary Susan Fuller; Richard Kelley; Richard Ozenich; Town Council representative Julian Smith; alternate Wayne Lewis; alternate Andrew Corrow

**MEMBERS ABSENT:** alternate Town Council representative Bill Cote; Bill McGowan

**I. Call to Order**

Chair Parnell called the meeting to order at 7:02 pm.

**II. Approval of Agenda**

*Peter Wolfe MOVED to approve the Agenda. Richard Ozenich SECONDED the motion.*

*Councilor Smith MOVED to amend the Agenda by moving Item VI immediately after the Report of the Planner. Richard Kelley SECONDED the motion, and it passed unanimously 6-0.*

(an alternate had not been appointed as a voting member yet)

**III. Report of the Planner**

Mr. Campbell reviewed materials provided to Planning Board members at the table that evening concerning the Capstone applications, including two memos from the Conservation Commission; memos from NHDES regarding the shoreland permit, alteration of terrain permit and a request from the Wetlands Bureau for more information; a letter and meeting minutes from the Strafford Regional Planning Commission regarding the issue of the potential regional impact of the Capstone application; and a memo from RSG, which had done the traffic model for the Capstone project.

Mr. Campbell said the draft report on the Visioning Forum had been received and was provided to Board members. He said if there was time that evening, he would like the Board to review it to see if anything needed to be changed before finalizing it.

He said the Master Plan Survey subcommittee was still working on the draft survey, and would meet again on Thursday.

Mr. Campbell said the Economic Development Committee would meet on Monday, and would discuss the preliminary results of the surveys that were given out during the business visitation program. He also said several EDC members were trying to finalize the report on the town-wide market analysis by the end of the month.

Mr. Campbell reviewed the Traffic Safety Committee meeting held on February 17<sup>th</sup>:

- There was discussion with the Energy Committee on possible ways to make the downtown more bike and pedestrian friendly, including in front of the Post Office.
- There was discussion on the Safe Routes to School program, and the fact that the Town had applied for a grant from this program this year.
- There was discussion on a request to possibly put a stop sign in the vicinity of the Post Office, so that people driving down Church Hill would need to stop before they got to Madbury Road.
- There was discussion on the fact that the Police Chief was looking to get financial assistance for DWI overtime patrols, selective traffic enforcement involving speed enforcement and pedestrian activity.
- There was discussion on the bill before the NH Senate to get rid of the existing \$30 charge for car registrations, and the 3 cent gas tax, which if passed would take a lot of money (\$12-25 million per year) out of the State's transportation budget.

Mr. Campbell said Durham had two projects in the State 10 Year Plan which if the bill passed, would most likely get pulled out of that plan. He said these projects were the proposed widening and bike path for Newmarket Road, and the planned interchange improvements at the interchange of Route 4 and Route 108. He noted that both projects had been in the works for a long time. He provided details on other Durham road related projects that might also be impacted, and said he would keep the Board up to date on this.

- There was discussion on UNH's South Drive project/ Mr. Campbell said this would be coming before the Planning Board, possibly on March 23<sup>rd</sup>.
- There was an update by DPW Director Mike Lynch on planned upgrades on Pettee Brook Road this summer. Mr. Campbell said the committee also discussed with Mr. Lynch the idea of more parking for Jenkins Court, and the issue of egress from the Library site.
- There was discussion on the final traffic model report from the consultant. Mr. Campbell said they would also be working on modeling for going from one way to two way traffic downtown, and said the results of this were expected in about two weeks

Mr. Campbell noted that on March 2<sup>nd</sup>, there would be a mini-charrette regarding possible designs for a Fire Station and parking garage at C lot. He encouraged people who were interested in this to get involved early in the design process.

Mr. Campbell noted that planning consultant Beth Della Valle had been quite ill, so the special Planning Board meeting planned for the following evening would most likely be postponed.

He said the Town had received two applications concerning RSA 75-E (the Community Revitalization Tax Relief Incentive Program), both of which were from developer Matt Crape, and were in regard to his new building at 8 Jenkins Court, as well as another property at 9-11 Madbury Road. Mr. Campbell said these applications would be coming before the Town Council in the near future.

He said that given the lengthy agenda for the March 9<sup>th</sup> Planning Board meeting, he recommended moving the Board's quarterly planning meeting to March 16<sup>th</sup>. He noted that the Energy Committee planned to be at that meeting.

Board members agreed with this scheduling.

- VI. Acceptance Consideration of an Application for Site Plan Review** submitted by John E. Randolph, Finally Home Properties NE, LLC, Stratham, New Hampshire on behalf of Bank of New England, Salem, New Hampshire to change the use of a property from a Bed & Breakfast (Hickory Pond Inn) to an Elderly Care Facility. The property involved is shown on Tax Map 18, Lot 12-1, is located on 1 Stagecoach Road, and is in the Rural Zoning District.

Mr. Kelley said he would recuse himself from this matter.

John Randolph spoke before the Board, and noted that he had met with Town staff and had answered any questions or concerns they might have. He said what was proposed was a change of use, but said there would be no significant change to the appearance of the property. He said the applicants had met some but not all of the neighbors, had asked if they had any concerns, and had tried to address these as much as possible. He also noted that he was working with an architect concerning installing a sprinkler system.

Chair Parnell noted the report received on the septic system evaluation, and asked if the system had been evaluated in regard to the proposed new use.

Mr. Randolph explained that it had been evaluated based on the same number of rooms that had been used as the inn had used, but with a more steady population in mind now. He said the applicants had been told that the leachfield was large and was in good shape. He said there were two 1500 gallon septic tanks, and noted that they intended to install some valves to cut down on water flow to the leachfield in order to make the system last longer.

Mr. Wolfe asked if the building would be handicap accessible.

Mr. Randolph said yes, stating that the building had to be up to code concerning this. Councilor Smith asked if the application was complete.

Mr. Campbell said it was, and recommended accepting it and setting the Public Hearing for March 9<sup>th</sup>.

***Councilor Smith MOVED to accept an Application for Site Plan Review submitted by John E. Randolph, Finally Home Properties NE, LLC, Stratham, New Hampshire on behalf of Bank***

*of New England, Salem, New Hampshire to change the use of a property from a Bed & Breakfast (Hickory Pond Inn) to an Elderly Care Facility, and to schedule a Public Hearing for March 9, 2011. The property involved is shown on Tax Map 18, Lot 12-1, is located on 1 Stagecoach Road, and is in the Rural Zoning District. Susan Fuller SECONDED the motion, and it PASSED unanimously 5-0.*

A site visit was scheduled for March 5<sup>th</sup> at 9 am.

- IV. Continued Public Hearing** on an Application for Site Plan Review submitted by Capstone Development Corporation, c/o Appledore Engineering Inc., Portsmouth, New Hampshire on behalf of William & Edna Woodward Rev Trust, Durham, New Hampshire, New Hampshire to construct approximately 100 residential structures consisting of single-family and duplex residences with a total of 619 beds and 650 parking spaces. The property involved is shown on Tax Map 9, Lot 10-3, is located on Technology Drive, and is in the Office Research/Light Industry Zoning District.
- V. Continued Public Hearing** on an Application for Conditional Use Permit submitted by Capstone Development Corporation, c/o Appledore Engineering Inc., Portsmouth, New Hampshire on behalf of William & Edna Woodward Rev Trust, Durham, New Hampshire, New Hampshire to construct approximately 100 residential structures consisting of single-family and duplex residences with a total of 619 beds and 650 parking spaces. The property involved is shown on Tax Map 9, Lot 10-3, is located on Technology Drive, and is in the Office Research/Light Industry Zoning District.

Mr. Kelley returned to the table at 7:24 pm.

Chair Parnell appointed Mr. Corrow to serve as a regular member in place of Mr. McGowan.

*Richard Kelley MOVED to re-open the Public Hearing. Richard Ozenich SECONDED the motion, and it PASSED unanimously 7-0.*

Chair Parnell asked if there were any members of the public who wished to speak in favor of the application.

Dave Garvey said he represented the Shays, who were abutters to the Capstone site. He said at this point they were reserving opinion on the project, but were in discussions with Capstone about implementing some of the conservation goals suggested last week.

Chair Parnell asked if there were any members of the public who wished to speak against the proposal, or who had concerns about it.

**Nell Neal, 11 Riverview Road**, noted that she was a member of the Integrated Waste Management Advisory Committee. She said a development of the size that Capstone proposed would generate a lot of garbage, and said the IWMAC recommended that the applicants should be required to put a clause in their lease that residents needed to do single stream recycling, in order to reduce waste and costs for the Town. She noted another landlord in Town who had done this, and had been quite successful with recycling efforts.

She also said that as a resident, she would like the Board to consider the possible environmental impacts to the Oyster River from chemicals used for landscaping and lawn care. She spoke in some detail on this, and as part of this, noted that Fred Short of the Jackson Estuarine Lab had provided her with several resources on the importance of eel grass habitat and dissolved oxygen to the health of Great Bay, and on the impacts from increasing nitrogen loads there.

Ms. Neal said it was possible to grow a healthy lawn without contributing to the nitrogen problem. She asked that the Planning Board consider placing appropriate conditions of approval on the application concerning landscaping and lawn care practices. She said she hoped the Capstone development would not add to the nitrogen problems.

Ms. Neal said a third concern she had was regarding the amount of energy this development would use, and said she wondered about the source of this energy. She noted a recent Friday Update that said that in accordance with Town Council goals, the Town was positioning itself to be a leader within the State in utilizing affordable and meaningful energy solutions in order to achieve sustainability over the long term.

She noted that the recent Friday Update said the Durham Energy Committee and Administrator Selig were interested in exploring high and low-tech solutions in order to make buildings and municipal infrastructure, new and old, more efficient, and to potentially include a variety of technologies/sources that might be applicable. Ms. Neal requested that the Planning Board give thought to working with Capstone to bring them on board with these Council goals.

She also asked the Planning Board to give careful thought to the absolute contradiction between these goals and tanning beds, an outdoor heated pool, individually dried towels after showering, and air conditioning to combat mold. She also said a dishwasher, clothes washer and drier in every dwelling in a development of this size, along with heat and air conditioning, would result in a huge amount of energy used. She said this made it all the more important to provide energy in a renewable, sustainable way.

Ms. Neal said Durham had a golden opportunity to put into practice what it was preaching. She noted that Administrator Selig had been speaking with Revolution Energy, whose mission was to provide clean, renewal energy to the Seacoast. She said this company could be an excellent resource for Capstone. Ms. Neal noted the last words on the Friday Update: *Everyone can tackle climate change. How can you reduce your carbon footprint ?* She said if Durham really meant this, now was the time to act.

Mr. Wolfe asked for details on single stream recycling, and Ms. Neal said it was a form of recycling where many types of wastes could be put into one bin, and the wastes were sorted later at the recycling facility. She noted that she had toured the Casella facility in Massachusetts that did this type of recycling.

Ms. Neal said if Capstone were to do this, it would need to provide residents with guidelines on how to participate. She said single stream recycling would allow recycling of more types of materials than was recycled now, although not everything. She said residents could be required

to follow the guidelines, and said there could be containers for the single stream recycling, and trash containers for those wastes that didn't go in the other container.

She noted that Oyster River High School now did single stream recycling, and said this had made a huge difference in terms of the amount of trash generated, and had saved a great deal of money for the School District. She said all of the plastics 1-7 could be recycled this way, along with things like aseptic juice and milk containers, which couldn't otherwise be recycled right now.

Ms. Neal said she believed there had been an email from Doug Bullen that said the Capstone development would be large enough to do single stream recycling through Waste Management, even if the Town didn't do this kind of recycling yet.

Councilor Smith noted that Mr. Bullen would be driving interested people to the Casella recycling facility in Charlestown, MA, and said members of the public were invited to go along.

Mr. Campbell explained that Capstone would have to contract these recycling services privately.

Ms. Neal said Mr. Bullen thought it would be viable for Capstone to take this approach. She noted that it was a goal of the IWMAC to get the Town to move to single stream recycling, and said they considered the Town's move to recycle plastics 1-7 as a step in this direction.

Mr. Kelley asked why just this intermediate step was being done in Durham.

Ms. Neal said she believed it had to do with the fact that the Town had its own waste pickup trucks, and didn't have enough temporary storage space for single stream recycling wastes.

Mr. Campbell said there were financial issues involved.

**John Carroll , 54 Canney Road,** noted that he was as professor of environmental conservation and natural resources at UNH, and said his statement was spurred by the recognition that the Capstone project was located directly upstream of the Town and University drinking water supply. He said Capstone had made it clear that it would apply landscaping and lawn chemicals to the development, and he said this would have an impact on the wetlands and the river, as well as on the drinking water supplies.

He said the Planning Board had the power to prohibit the application of chemicals on the property, and he suggested that the Board put a condition on the project that there would be no application of these chemicals on the property until such time as the Town and UNH ceased drawing drinking water from the Oyster River.

**Maggie Bogle, Crogan Lane,** said she agreed with what other members of the public had said, and said she didn't think lawn chemicals should be used on the development at all.

She also noted that at the Capstone public hearing two weeks ago, a Councilor had suggested that this development could help students living there to appreciate nature more. But she

expressed concern about building a development so close to the river, and said she hoped the Planning Board would pay close attention to the concerns of those who had studied the Oyster River over time.

Ms. Bogle noted that some members of the Oyster River Watershed Association had offered to work with Capstone and perhaps the Planning Board to reduce adverse impacts. She said they all needed to be good stewards of the Oyster River, and noted that Great Bay already had nitrogen problems, which were reaching a tipping point.

**Attorney Scott Hogan, representing nine property owners,** first noted that the letter from Mark West had raised some issues, one of which was concerns about the high ranking wildlife habitat on the site, and his concern that when the wetlands on the site had been analyzed regarding their various functions, the wildlife habitat attributes of the property hadn't been adequately represented.

Attorney Hogan said he had followed up on this by asking certified wildlife biologist Ellen Snyder to review the Capstone application materials. He said she had done this, and said her report on this had noted that State and regional entities had identified the Capstone site as having high wildlife habitat, especially the areas associated with the Oyster River.

He said Ms. Snyder had pointed out that the site had been identified as being within a larger unfragmented block of high value habitat. He noted that there had been descriptions from others about a bottleneck in the area of the Oyster River, and that concern had been expressed about cutting the Capstone parcel off from other blocks of habitat in the area. He said Ms. Snyder had noted that there was a network of conserved lands, which indicated that this was an area of high value habitat. He also said Ms. Snyder had pointed out that the Town's shoreland and wetland buffer provisions had identified wildlife habitat as one of the values the Town was trying to protect.

Attorney Hogan noted that Mr. West had expressed concern about the applicant's wetland assessment, which he thought underplayed the wetland functions. He said Ms. Snyder's letter spoke to all of these functions, and said if one looked at the property from a wildlife function perspective, it appeared that the applicant had made some choices about how to separate the different wetland complexes from each other.

Attorney Hogan said Ms. Snyder had said that when she assessed the various wetland habitats that had been described by the applicant on the site, she couldn't tell why they were distinguished the way they were. He said she had said it was realized the applicant had done this because of the proposed design and the environmental constraints, but said she would have characterized the wetlands as being one habitat, and would have looked at them as a whole, and saw no relevant criteria that would have made one distinguish them in the way the applicant had done.

Attorney Hogan said Ms. Snyder also thought there was some information missing, in terms of the Board being able to make an assessment. He said Ms. Snyder couldn't tell from the record if a systematic survey of turtles had been done for the site. He said she had said that the reports

prepared by the applicant's consultants did not provide enough scientific data to determine if only one wetland on the site functioned as a vernal pool. He said Ms. Snyder had suggested that the only way to do this assessment was in the spring.

He said Ms. Snyder had also said that the wildlife connectivity of these wetlands to the Oyster River had not been discussed, and that there appeared to be the potential for such connectivity between the wetlands identified as Complex A and the perennial and intermittent streams to the north.

Attorney Hogan said Ms. Snyder's letter said the high density-large footprint development design proposed by Capstone for the site could be modified to avoid impacts to the wetland and shoreland buffers, except perhaps in the area near the proposed entrance. He noted that he had raised this issue before, particularly in regard to the conditional use criteria, as to whether there were alternatives that were feasible. He said there were clearly other design options, to make some buildings taller, smaller, make fewer of them, shrink the footprint of the recreation amenities, etc.

He said Ms. Snyder's report paralleled Mr. West's report in saying that it was unclear how the applicants could state that the proposed development would result in an improvement in the function of water quality and wildlife habitat for both the upland buffer and wetlands, and that the proposed mitigation would fully compensate for any loss of wetland and upland buffer function.

Attorney Hogan said Ms. Snyder's letter stated that in regard to wildlife and wildlife habitat, this statement was not substantiated by the information that had been presented, and that it seemed to be based on an assumption that there was currently little wildlife value on the site, which she said was not clearly substantiated by the data provided. Attorney Hogan said that was the reason he had asked Ms. Snyder to look at the application, noting that she had experience as a wildlife biologist in the Durham area, and on the Seacoast.

Attorney Hogan reviewed Ms. Snyder's recommendations:

- Need more detailed information on a vernal pool study for the site in order to better evaluate whether other wetlands there function as vernal pools. A survey of spotted and wood turtles would also be useful, since both species occur in the Oyster River drainage. These could be done, so the timing is appropriate.
- Project design could be modified to create a smaller footprint that avoids permanent intrusion into the buffers, except perhaps near the road entrance at Technology Drive. The design should also maintain connectivity between the wetlands imbedded in the uplands and the riparian areas associated with the Oyster River and the perennial and intermittent streams. This could include culverts with passage for salamanders, frogs and turtles, and wider buffers where the road as currently proposed severed those connections. This seems particularly pertinent between wetland complex A and the fingers of wetland that extend down from the perennial and intermittent streams along the property's northerly boundary.
- The conservation easement as proposed is inadequate and difficult to monitor, and a larger



easement on abutting or nearby lands of interest, along with willing landowners as part of mitigation, would be more functional, and better at protecting the resource values. A smaller design footprint could also result in a more connected conservation easement for this site.

- A long term stewardship plan for wetlands and buffers is needed, including considerations for dealing with invasive species, which are likely to become established in the wetlands and buffers that are disturbed. The potential impacts of trails and recreational uses, such as erosion and compaction, within the buffers needs to be addressed.

Attorney Hogan next spoke about the fiscal impact analysis that the applicant had provided, which he said was primary to the entire project. He said it contained a lot of assumptions and adjustments, and noted as an example that page 15 of the report indicated that 79% of the property in Durham was residential. He said each time there was such an assumption like that, or an adjustment made, it needed to be objectively vetted in order to determine if it was appropriate.

He said the applicant had assumed there wouldn't be any school age children in the development because student housing there would be rented on a per bed basis. He asked the Board to think about this representation, and said he didn't understand what this would mean to a parent with a child coming to live there. He also said the analysis assumed there would be three children in the schools as a result of the development, who would be the children of Capstone employees who lived on the site.

He said the report also said it was recognized that this development might create vacancies in existing student rental housing, and suggested a way that the owners of this housing could ameliorate the property tax impact was to either renovate them or turn them into single family homes.

He said the financial analysis said there wouldn't be an impact on property taxes from the Capstone development, but he noted that student housing property owners were already requesting tax abatements. He also said if properties were turned into single family home properties, the addition of school age children and impacts from this on property taxes hadn't been factored into the analysis.

Concerning the issue of the impact on adjacent properties, Attorney Hogan said the only property referred to was the Goss property, but he noted that one of his clients owned the Rivers Edge apartments, and that they were abutters in the statutory sense. He provided details on this. He said as an abutter, they had all of the impact issues to face, and also noted that since they were in the same business as Capstone, there would be possible impacts on their property values. He said this possibility had not been analyzed in any detail.

Attorney Hogan said the applicants' report had provided no data on actual market conditions right now. He said each of the assumptions and adjustments in it needed to be analyzed, given the potential scope and impact of the Capstone development. He noted the estimated \$199,000 in net positive tax benefit from the development, but said each of the assumptions that had been made had the potential to impact that number dramatically.

Mr. Kelley noted the letters from Mr. West and Ms. Snyder that focused on wildlife habitat, and asked if they had walked the site.

Attorney Hogan said he and Mr. West had attended the site walk, but said Ms. Snyder had not.

Mr. Kelley said a graphic in Mr. West's letter showed habitat of concern, but didn't say where this information had come from.

Attorney Hogan said it was from a NH Fish and Game assessment.

Mr. Kelley said looking at that information, it looked like some of the best habitat was on the roof of the Goss building. There was discussion.

Mr. Kelley said Attorney Hogan had raised some good concerns. But he said before the Planning Board approached the applicants and asked them how to address these concerns, and there were then dueling consultants, he would like to know whether, at the end of the day, Attorney Hogan's clients' concerns were based upon what these two environmental experts were saying.

Attorney Hogan said within the design that was in front of the Planning Board, there wasn't a lot of flexibility. But he said there were other designs that would get the development out of the wetland and shoreland. He said there were ways to achieve the number of units the applicants wanted, but said he couldn't see how the wildlife consultants' concerns were met.

Mr. Kelley said the Board could spend a lot of time on addressing the concerns raised, but asked again if at the end of the day, this would address his clients' concerns.

Attorney Hogan said the applicant had the burden to provide proof. He said if the recommendations of the wildlife people were to be met, he couldn't see how that wouldn't require a fundamental change in design.

Councilor Smith asked whether, if all of the wetland and wildlife issues were resolved satisfactorily and to the satisfaction of the Planning Board, Attorney Hogan's clients would be happy.

Attorney Hogan said if the regulations were met, he would say they would be happy, because that was the only expectation they could have. But he also said issues had been raised regarding impacts on adjacent properties, and said part of the concern was that if 600 beds were put in, amenities in that area would be required. He said the applicant had to be able to show that this wouldn't unreasonably interfere with the orderly development of the rest of the properties in that area.

He said there were some ways, technically, to change the design that would address the environmental issues that had been raised. He also said there were some unresolved issues concerning the actual impact the development would have on municipal services, and the cost to the Town of these services. But he said if each of those things and the recommendations were addressed, and it could be demonstrated that the regulations were met, this would satisfy his

clients.

**Realtor David Choate, Grub and Ellis said he represented the Woodward's, who wished to speak in favor of the applications.** He said the Woodward's had hired his firm in order to find a buyer for the property, and explained that Mrs. Woodward, who was elderly wanted the property to be sold so the proceeds would go to her children. He said if people thought this land would sit as it was if these applications were denied, they were mistaken. He said the land would be sold and developed.

He said there was really only one group that was against this project, and said he didn't think there was anything short of this project going away that would satisfy the landlords. He said some thoughtful comments had been made by the Conservation Commission and others, but said he hadn't heard anyone say they were against the project. He said he thought the Planning Board had seen through Attorney Hogan's presentation to be able to see what the mission was, which was not to have more competition.

Attorney said this was an important project, which would provide a totally different kind of student housing in Durham. He provided details on this. He said Capstone did have competitors, and said some would bring in student housing that people wouldn't like, and that would look like mini Stoke halls. He said there was a huge demand for student housing in Durham, and said Capstone had done extensive market studies before proceeding with the project. He noted that the Woodward's had been concerned about that issue.

Realtor Choate said this land would be sold for some use, and that use might or might not be better than what Capstone was proposing. He said this project was the best one that the Town and the Woodward's could hope for.

Mr. Kelley noted that as part of his comments, Realtor Choate had made an insinuation about the lengthiness of the review process.

Realtor Choate said given the size of this project, it had been moving along fairly quickly.

Mr. Kelley noted that the applications had only been before the Planning Board since January 12<sup>th</sup>.

**Robin Mower, Faculty Road,** first said she was disappointed that there wasn't a copy of the site plan on the wall for the public to see. She said she had 3 documents, and said one was a letter from the Strafford Rivers Conservancy. She said over the last few days, she had been in touch with two nonprofit land conservation organizations to become better educated about the process whereby a conservation easement is considered as a potential project for the organization. My interest arose directly from a concern whether the easement proposed for the Capstone proposal would easily find an interested third-party easement holder.

Ms. Mower said she would like to read a letter from the Strafford Rivers Conservancy. She said members of the community might recognize the name through its work in Durham with the former Land Protection Working Group to protect the Roselawn Farm. She noted that she had been assured that the approach taken by other land trusts would

likely be similar to that of Strafford Rivers Conservancy.

The letter, written by Executive Director Anna Boudreau, said that as a land trust, the SRC regularly received inquiries from landowners or neighbors asking for assistance to conserve properties. It said even if these inquiries were all for donations, which they were not, this could easily outstrip the organization's limited resources as a regional land trust. He said the SRC thus needed to be strategic about where and how it did its work, so could maximize the conservation benefit from the dollars raised from generous members and donors.

The letter said that when evaluating a potential project, the SRC basically weighed the conservation benefits versus the costs, and looked at:

- the conservation values that the property has and how it contributes to larger ecological systems,
- the property's connectivity to other conservation lands,
- the landowner's intent and desire for the property and how it matches with our conservation goals,
- the cost of the project,
- the funding and likelihood of receiving this funding to pay for the project costs, and
- the long-term stewardship implications/costs of the project.

The letter said that as a general rule, as a project got more complicated and costly, the higher the conservation benefits needed to be in order for the Strafford Rivers Conservancy to be interested. It said that when working on a conservation easement project, it was not unusual to have to design and layout the location for the conservation easement in such a way to address existing or potential development.

It said this was typically done hand in hand with the landowner so that current and future stewardship costs could be minimized, and conservation goals could be maintained while at the same time meeting the goals of the landowner. The letter said the SRC was occasionally approached by developers or planning boards to hold conservation easements on the "open space" lands that were part of a development.

The letter said that unfortunately, in most cases the land trust was brought in very late in the process, and the open space design and engineering has been completed with little to no input from the land trust. It said these designs very often had convoluted boundaries, did not encompass the important resources on the property, lacked appropriate buffers to important resources, and were designed in such a way that the stewardship of the conservation easement would be too difficult and costly, with a higher likelihood for easement violations than a conservation area that was designed with the input of a conservation organization.

The letter encouraged the Planning Board to have development applicants meet early in their design process with a land trust or individuals that were familiar with land trusts/conservation ownership. It said in this way, any open space that was part of their project would be designed in such a way that it achieved conservation objectives and the landowner's desires, and in the end there would then be a project where there was a

willing conservation entity to hold the conservation easement or own the land.

Ms. Mower asked the Planning Board to take this into consideration when evaluating the proposal to put about 19 acres of the site into a conservation easement.

She noted that the Planning Board had heard that the proposed stormwater management plan for this project, as shown to the Durham Conservation Commission on December 10, 2010, was exemplary. But she said the UNH Stormwater Center itself noted that stormwater management offered only secondary protection for water quality. She said the Center's 2007 Report noted that:

*Clean water supplies are essential to life, yet many factors threaten our water resources. In particular, the increase in impervious surfaces and dwindling of natural land from development pressure often impair water quality and disrupt the connection between surface waters and groundwater....*

*Effective water resource management requires that local governments, businesses, community organizations, and residents not only work together, but also that they adopt an integrated approach. Stormwater management is just one of a range of strategies at their disposal. Foremost are policies, programs, and regulations designed to restore watershed function, **to manage developed areas, and to protect natural resources.***

*Land use regulations are the second essential component in a two-pronged approach to protecting water resources in a developing landscape. When paired with land conservation practices, **the regulation of the location, density, and design of development** can help reduce the negative impacts on water resources.*

Ms. Mower said that of course, the best way to protect the Oyster River and the adjacent sensitive wildlife habitat was to permanently protect it from development. But she said the Conservation Commission recognized that this parcel was likely to be developed, whether by right or by conditional use, and by this applicant or another. She said the role of the Commission was to advise the Board how to realistically protect the best interests of the Town.

She noted that the Commission had provided summary comments, dated December 14, 2010, to the Planning Board following informal, conceptual, preliminary consultations with the applicant. She said the margins of the site plan available to the Commission at its December 10, 2010 meeting noted that it was plotted on December 8, 2010. But she said the Conditional Use Permit application was not accepted by the Board until January 12, 2011.

Ms. Mower said that as a matter of due process, the Board should provide the Commission the opportunity to review this accepted application. She said Durham's legally binding Zoning Ordinance clearly stated that the Conservation Commission shall play a formal role in the approval of a Conditional Use Permit (CUP) when an application falls under the Wetland Conservation Overlay District. She quoted from Section 175-61 (B) of the Ordinance concerning this:

*"The Planning Board shall approve a Conditional Use Permit for a use in the WCO District **only if it finds, with the advice of the Conservation Commission, that all of***

*the following standards have been met in addition to the general standards for conditional uses and any performance standards for the particular use”*

Ms. Mower noted the set of four criteria that needed to be followed. She said an excerpt from the Commission’s summary was particularly relevant to the Board’s consideration of the Conditional Use Permit application: “The Commission membership discussed the potential difficulty that the December proposal would meet in determining the Conditional Use Permit (CUP) requirement of no “alternative location on the parcel that is outside of the WCO District that is feasible for the proposed use”.

Ms. Mower urged the Board to postpone deliberation until such time that the Conservation Commission could review the accepted Conditional Use application, and provide its advice to the Board.

Mr. Kelley received clarification that Ms. Mower was speaking on her own, and also wanted to note that if the Board had contemplated the Conservation Commission reviewing the accepted Conditional Use application, it might have asked them to have a second meeting. She pointed out that the Conservation Commission would meet next on March 10<sup>th</sup>, the day after the next Planning Board meeting.

Ms. Mower said the Conservation Commission didn’t get a formal request to review the applications. She noted that the Conservation Commission had met with the applicant prior to the application being submitted, but did not go through the formal process of reviewing the four Conditional Use criteria regarding the wetlands, because this was not their charge at the time..

Mr. Kelley reviewed the process that had been followed, and asked Ms. Mower if she would like the application to go back to the Conservation Commission.

Ms. Mower said yes, in its accepted form, so that the Commission could review the application in regard to the conditional use criteria.

Councilor Smith noted the formal memo to the Planning Board and Planner on the Capstone project from the Conservation Commission, dated February 16, 2011, and read it out loud. The letter, among other things, said the Commission would like the opportunity to review the accepted Conditional Use Permit application, and to provide comments to the Planning Board pursuant to Articles XIII and XIV of the Zoning Ordinance. It also asked for a list of the changes made to the application since December 10, 2010, and said the Commission would also like to see copies of materials provided to the Board by the Strafford Regional Planning Commission, and/or the regional impact committee, relating to environmental features of the proposal.

There was discussion on what materials the Conservation Commission had received concerning the Capstone project and applications. Mr. Campbell said he had not put a list of those changes together, and said he believed that would be the applicant’s responsibility.

Councilor Smith said the Planning Board’s determination on the applications should be made with the advice of the Conservation Commission.

Mr. Kelley said the letter and Ms. Mower's comments indicated that the proper process wasn't followed. He said he agreed that a complete package of the latest plans should go to the Conservation Commission, but not the list of changes to the plans since December 10<sup>th</sup>.

Councilor Smith noted that a memo from Dori Wiggins of NHDES, dated January 20, 2011, referenced the Conservation Commission's comments, and said a question was if this had been addressed.

**Jim Lawson, Deer Meadow Road**, noted that he was a member of the Economic Development Committee, but said he was there on his own behalf. He said he had had a chance to look at the financial impact analysis that had been done, and said it was a pretty thorough review. He said he had concluded that it was very conservative, and in fact tended to overstate Capstone's costs, and underestimate the benefits from a tax standpoint.

He said the key to this analysis was what percentage of services was variable, and said he believed it overstated the costs. As an example, he said the fact that UNH paid some of the cost for the Fire Department was not factored in. He also said that regarding school system costs, the applicants had factored in increased assessments, but he said there were no assumptions made about possible increased assessments in Lee and Madbury. He reiterated that he thought this was a very conservative report that overstated costs, and understated the tax benefit to the community.

**Russ Thibeault, of Applied Economics Research**, noted that he had done the fiscal impact analysis. He said that regarding the issue of student enrollment, he had asked Capstone to look at its comparable developments and how many students in local schools had resulted. He said for 4900 beds, there were 6 students, which he said indicated that for the 600 bed development proposed in Durham, there would be less than one student. He noted that he had allowed for three students for the development in Durham. He said student housing like this development, Rivers Edge and others in the community didn't generate a lot of students in the School District.

Mr. Thibeault said that regarding the issue of road costs and the proper allocation of these costs, he had factored into the analysis the cost of maintaining every inch of road in Durham, including all local streets. He also noted that unlike existing student housing in Town, this development would have an interior road network that would be privately maintained.

He said that regarding the cost of inspection of properties, this was fully factored into the analysis, and said it would be a one time cost to the Town. He noted that the applicant would pay a land use change penalty that was likely to be over \$100,000. He also said the applicant would pay significant water and sewer fees, and a sizable building permit fee, whose purpose was to assist with covering inspection costs.

Mr. Thibeault said that regarding the impact on existing properties in the area, there was a natural tendency to protect what people had. Regarding the impact on existing rental properties in Durham, he said those vacancies would not be great enough or permanent enough to cause a significant long term decrease in the Town's assessed value. He said some students would be relocating from dorms, and nearby communities. He said to the extent that vacancies arose,

owners could adapt to market conditions by upgrading their units to make them more competitive, or by converting them back to single family homes, for which there was a strong market in Durham.

Mr. Thibeault also said some believed that student housing in conventional neighborhoods had a detrimental impact on neighborhood quality, and the value of nearby properties. He said the Capstone property would have the highest assessed value of any student housing in Town, and said if it didn't generate a surplus, none of them did.

He said Mr. Lawson was correct that the fiscal impact analysis was conservative. He noted that he had done over 4 dozen studies like this, and said when he did one, his primary concern was his credibility, so he purposely overstated costs and underestimated revenues. Mr. Thibeault said he firmly believed this development would have a net benefit for the Town.

Councilor Smith noted page 14 of the fiscal impact analysis said "To the extent vacancies arise....." He said Mr. Thibeault had said there would be no school age children resulting from this project, but said if families rather than children lived in the single family homes currently occupied by students, those families would tend to generate children for the school system.

Mr. Thibeault agreed, but said the families would also upgrade their properties, which would result in greater tax revenues.

Councilor Smith said he didn't anticipate a decline in property values, for undeveloped properties near the Capstone site. He noted the recent Zoning change to make single family residences and duplexes a conditional use in the ORLI district, which meant that the adjacent properties would become more value for single family residences for actual families. But he said with a student housing complex across Technology Drive, this might make the area less valuable for single family home development, and more valuable for student housing, in competition with Capstone.

Mr. Thibeault said this was possibly right, but said there would not necessarily be a negative impact on the value of surrounding properties. He noted that there was a narrow prerogative that the Planning Board had regarding this. He said the Capstone development could influence development patterns, but said he didn't feel that in this neighborhood, there would be a negative impact. He said it would bring more attention to the area, and said this could have a positive impact on adjacent properties.

Mr. Kelley noted the statement on page 15 regarding residential uses accounting for 79% of the Town's tax base, and asked Mr. Thibeault to expand on the statement on that page about the proportion of the Town's expenses attributable to residential uses.

Mr. Thibeault explained that if there was \$100 million in assessed value, without factoring in the University, and \$79 million in residential value, therefore the percentage would be 79%. He said if the University, which demanded some services without compensating the Town for, had \$50 million in assessed value, taking the \$79 million of residential value and dividing it by \$150



million would arrive at a lower percentage. He also noted again that he had done the calculations as if the money provided by the University to the Town for fire services didn't exist. He said he could have skinned down the expenses considerably.

Wetland scientist Adelle Fiorello said she would address the comments made by Ms. Snyder. She first noted for residents with water quality concerns that the State Shoreland Protection Act imposed a 250 ft setback, which restricted the use of fertilizers within the shoreland, specifically to address water quality. She said she agreed that herbicides and pesticides should be used minimally, but said there were regulations in place concerning them already.

Ms. Fiorello said she had worked with NH Fish and Game as part of working on this project, and said they had agreed that the a good stormwater plan had been developed, and that it would protect the Oyster River.

Regarding the comments made by Mr. West and Ms. Snyder, Ms. Fiorello said both were relying heavily on the idea of highest ranked wildlife habitat in NH. She said this information was a result of the State overlaying, with GIS, information on soils, forest cover, landscape attributes, etc, and then teasing out areas that met certain criteria. She said this information and analysis was not site specific, but rather was a high level bird's eye view. She said the Board should be making a decision based on site specific information.

She said Oak Appalachian habitat with sandy soils didn't exist on the site, and said instead there was white pine and hemlock habitat with silty soils. She said she realized that Ms. Snyder hadn't been on the site, and said the habitat that was indicated on the maps was not there on the ground. Ms. Fiorello said her analysis was based on site specific data, and noted that she had spent a lot of time on the site, across all four seasons.

She said a vernal pool survey had already been done, and said wood frog breeding habitat had been observed in the vernal pool. She said they did not observe turtles, and said the habitat was not conducive to spotted turtles. She said wood turtles could potentially exist along the river, but she noted that the slopes from the river up to the project site were very challenging, so it wasn't likely that wood turtles would come up the slope and into the site. She also noted that the development plan stayed a considerable distance away from the river.

Ms. Fiorello said she stood by her wildlife habitat assessments, and noted that Mr. West agreed that the wildlife habitat quality on the property was low.

She said the land conservation focus areas that had been mapped out were based on GIS features. She said the narrowest portion was near the cemetery, and was not on the project site. She also noted how the applicants proposed to lay out the easement/deed restriction area, and said this would maintain a good width within that area. She said to say that they would be cutting off that narrow area was an unfair representation.

Mr. Kelley asked Ms. Fiorello to respond to Ms. Snyder's recommendations.

Ms. Fiorello noted again the vernal pool found as part of the vernal pool survey, where the wood

frog eggs had been observed. She said it was not likely that this area functioned as a vernal pool every year, noting that it was extremely wet when they were out there.

At Ms. Fuller's request, Ms. Fiorello briefly explained how turtles were surveyed in the field. She explained that it was a habitat characteristics study. She said the closest record of a spotted turtle was a good distance away from the site.

She said that concerning the recommendation that the project design could be modified, she said the applicant had looked at other alternatives, and had revised the plans in order to minimize wetland and buffer impacts.

Ms. Fiorello said that concerning the idea of designing some connectivity between the wetlands, with a culvert and passageway for small wildlife, there was a culvert under the secondary access road, which was between the vernal pool and the wetland complex to the Goss side of the road, which could facilitate species movement if they were present there. She said it was placed appropriately for this.

Ms. Fiorello said that concerning the conservation easement issue, a fairly large easement was proposed already. She said that in terms of monitoring the easement, the Strafford Rivers Conservancy did take into consideration larger pieces of land. She said that in the applicant's attempt to insure that the vernal pool was protected to the extent possible, including a no cut buffer as suggested by NH Fish and Game. She also said it was very appropriate to put the easement along the river, and said people would be very disappointed if that easement went away because it was an important component of the project for further protection of the Oyster River, water quality and the vernal pool.

Ms. Fiorello said if a secondary easement holder couldn't be found, there could be a deed restriction. She said it was realized that this would not have the same strength as a conservation easement, but said it would still protect the land. She noted that Capstone was working with the owner of an abutting property concerning expanding the easement area, and said this too would provide better protection for the river.

Ms. Fiorello noted that a long term stewardship plan was typically done for wetlands and buffers by any easement holder, along with a dollar amount to maintain stewardship of the easement. She noted that she had worked with the Strafford Rivers Conservancy concerning this in the past.

Mr. Wolfe noted that the Strafford Regional Planning Commission report recommended denying access to the river, and he asked Ms. Fiorello for her thoughts on this.

Ms. Fiorello said she had a different perspective, and had expressed it at the ZBA hearing. She said she believed that the more that members of society were allowed to experience the landscape, the more they would respect it. She said public access was appropriate, and said a hands off approach made people feel more removed from nature. She said how this was handled would be up to the easement holder, and noted that rarely did she see easement holders who refused to allow public access.

Ms. Fuller said when the stewardship plan was in place, it could be required that some sort of

regular monitoring and maintenance of the area would take place, among other things to check for disturbed areas.

Ms. Fiorello said a stewardship plan would also typically specify cutting of trees, etc, how trails were maintained and if they could be used for non-motorized or motorized use. She said most easement holders preferred non-motorized use.

Mr. Kelley asked Ms. Fiorello to address the concerns raised by Ms. Snyder on page 3 of her letter.

Ms. Fiorello said a systematic survey for turtles wasn't done, but said a survey of the property was done to look for habitat that was conducive to turtles. She said the wetlands on the site were not conducive for turtles except along the river, and also said the area along the river was more conducive to wood turtles than spotted turtles.

She said that regarding the need for scientific data in order to determine if only one wetland functioned as a vernal pool, there was such data. She said a vernal pool survey was done in the spring, the data was collected, and said one vernal pool was found.

Mr. Kelley asked if as part of this, the water depth and vegetative structure would have been noted.

Ms. Fiorello said water depth wasn't documented, but said it was noted based on multiple site visits how long the water remained in the vernal pool, as a potential for breeding. She said about two months of standing water was needed at 6 inches to a foot in depth, in order for breeding of turtles to occur. She said a lot of the topography didn't have that capacity, so the water dried up sooner.

Concerning the issue of connectivity with wetland complex A, Ms. Fiorello said that was why it was kept as complex A, because the connectivity was recognized. She said she had been looking at a number of wetland functions, and broke the land area into complexes based on all of those functions, and not just from a bird's eye view of wildlife habitat. She said the wetlands in complex A were fairly large, so there was more connectivity within the landscape, as compared to the situation with the other wetland areas.

Attorney Loughlin noted that Attorney Hogan has spoken about the large development footprint of the proposed development. He said it would cover 27.4% of the site, while the Ordinance allowed it to cover 50% of the site, so relative to what was permitted, what was proposed was a small footprint.

Concerning impacts on the buffers, he said that of 14 acres of buffers, the applicant proposed 53,000 sf of impervious surface, which was a small impact. He said there would be an impact with the gravel wetlands, which would be re-graded.

Attorney Loughlin said Technology Drive was built as a result of UDAG funds, and had essentially always been a public road. He said as was the case with this road, when a roadway

was shown on a subdivision plan, it was being dedicated for public use. He said whether the Town agreed to accept it or not was up to the Town, but said the Town had maintained it for 15 years.

He said the issues of water and sewer capacity were addressed in the January 27<sup>th</sup> letter from Mr. Cedarholm. He said Mr. Thibeault had addressed the issue of school children and code issues. He said that regarding the idea of the project being a financial drain on the Town because it would have to make sure that no more than 619 students would actually be living there, he said Capstone had a vested interest in making sure that only people who were paying rent were living there. He said he didn't see the need for concern about a burden on code enforcement because of the development.

Concerning the issue of impacts on abutting properties, Attorney Loughlin said it was Capstone's obligation to make sure that the property was not developed in a bad way. He noted that the Zoning Ordinance did not permit the uses that Attorney Hogan had talked about. He also said student housing out there could result in significant numbers of people coming into Town to shop.

Mr. Wolfe noted that he wasn't at the public hearing in January and said he hadn't seen that any units would be handicap accessible.

Mr. Acken said because of the types of units they were, this was not required, But he said that as with other Capstone developments, they would make accommodations for handicapped individuals on a case by case basis.

Mr. Wolfe said not making some units handicap accessible up front that didn't send a good message to a handicap person.

There was further discussion on this, Mr. Wolfe said the code was the minimum requirement, and said society was trying to go beyond that.

Mr. Acken said Capstone would make any accommodations that would be necessary.

Mr. Campbell explained that Technology Drive had been maintained by the Town since 1984. He said it was never formally accepted by the Town, and provided details on this. He said that in discussion with DPW Director Mike Lynch, he had learned that he was in the process of getting the paperwork for this together, and said this would brought to the Council for formal acceptance.

Tom Johnson, Director of Zoning, Building Codes & Health said he had spoken to a disability rights attorney that day, and said the development was exempt from having to have handicap accessible units. He said if they were multi-unit buildings with 4 units or more, they would have to provide a percentage of handicap accessible housing, but said unless the applicant chose to do so, the Capstone units didn't have to be adaptable.

Mr. Kelley noted that Mr. Acken had said that if someone who was disabled was interested in

leasing an apartment, Capstone could do some adaptations. He asked if this would include dimensional changes, or just things like railings, etc.

Mr. Johnson said there was many requirements, and listed some of them. He noted how fairly easily an apartment on the first floor could perhaps be converted, but said he wouldn't know that until he saw the construction plans. He said as part of the plan review during construction, he typically asked a developer about the idea of making some changes so there could be some handicap accessible units.

Mr. Johnson noted that he had just checked with Doug Bullen, and learned that Capstone had been approved for single stream recycling.

Chair Parnell said it should actually be easier for a renter to do single stream recycling than the other kind of recycling. He then asked Mr. Johnson about the possible strain of having to do all of the building inspections.

Mr. Johnson thanked the Planning Board for its concern about this, but noted that he hadn't heard those concerns when they approved some 4 story buildings in Town. He noted that the Capstone units would be 1 and 2 story structures, and said he anticipated that 8-10 inspections would be done per day. He said if the first 10 failed the inspection, it could get a little tricky, but said it would then be up to Capstone to adjust their schedule. He also said it was estimated that the Town would get over \$100,000 from permit fees, so some part time people would probably be hired for the peak months. He provided details on this.

Ms. Fuller received clarification that some building inspectors would be brought in at a cost to the Town. She also received clarification that the applicant was exempt from having to accommodate people with disabilities. He said if someone asked to live there who was handicapped, Capstone could say no, but said the person could then contact the Dept. of Justice and file an accessibility claim, which was enforceable by the Federal government.

**Bill Hall, Durham,** said he couldn't see why Capstone wouldn't make a dozen or so handicap accessible apartments, stating that it would be difficult to tell the difference between them and the regular units.

**Deputy Fire Chief Steve McCusker** said he had had several meetings with Capstone, regarding sprinkler and fire alarm requirements as per the code. He said they were all set with this, and said the Fire Department would work with them concerning the street names and numbering of units, in order to allow quick access by the Fire Department when necessary.

Councilor Smith said he had read over the Capstone sample lease documents from other communities, and asked Mr. McCusker if he had talked with Capstone about tenants possibly having hot plates in their bedrooms. He said he suspected that with each bedroom having a private bathroom as well, with a hot plate and a refrigerator, these could function much like a small efficiency apartment.

Mr. McCusker said this would be a topic of discussion. He said this situation was unlike a

dormitory, where the Fire Department could prohibit those types of appliances. But he said it would be worthwhile to address this for fire prevention reasons.

Councilor Smith said this was something that the Planning Board could also discuss.

Mr. Kelley noted that there was a Conditional Use application involved, so the Planning Board could set conditions. He noted that the Board liked to get feedback from all of the Town departments, and said they were still waiting for some written comments from the Fire Department about any additional concerns, including about what Councilor Smith had brought up.

Mr. Campbell, determined from Mr. McCusker that agreement had been reached with the applicant concerning the sprinkler system

Ms. Mower suggested that it could be useful to find out what portion of UNH students might be interested in ADA accessible units. She said someone shouldn't have to ask for an apartment to be made into a handicap accessible apartment, and said having some of these units should be a good selling point, and might provide opportunities that weren't available in the rest of the community.

Mr. Kelley suggested that Capstone could ask University planner Doug Bencks what the need for this had been, with incoming classes.

**Esther Wolfe, Riverview Road**, provided details on who to contact at the University to get the answer to this question. She noted that the percentage of UNH students with disabilities was increasing.

Chair Parnell read into the public record a letter from Annemarie Harris.

I continue to be concerned by some of the problems caused by students living off campus in Durham. I urge the Planning Board to look very carefully at the leases for the Capstone project and consider carefully Conditions of Approval including the following (all to run with the property, whether Capstone or another owner):

- 1) The owner should provide contact information with names and phone numbers for property management staff to Durham's Fire, Police, and Health/Code Enforcement Departments.
- 2) Tenant leases should state minimum standards established by the state (NH RSA 48-A:14). Notification of complaints should be sent to the development's property manager, with copies to the Durham Health Officer.
- 3) Tenant leases should include notice that Health and Safety inspections will be done on 5% of units annually. Inspections should be randomly selected by the Durham Health Officer and should be scheduled with minimum notice. Health inspections shall be paid by the Owner as established in the Town of Durham Master Fee Schedule.
- 4) The clubhouse, pool/spa, and other common amenities should be inspected at least once a year by the Durham Health Officer.

Thank you for your consideration.

Mr. McCusker noted regarding the issue of fiscal impacts that fees would be collected by the Town for the installation of sprinklers and alarms in the buildings.

***Richard Kelley MOVED to close the Public Hearing. Peter Wolfe SECONDED the motion, and it PASSED unanimously 7-0.***

Break from 9:36 to 9:49 pm

Chair Parnell suggested that at the next meeting, the Board could use the format Mr. Campbell had provided to go through the various issues involved with the applications. Other Board members agreed.

It was noted that Mr. Campbell's February 18<sup>th</sup> memo to the Board had suggested that a traffic capacity analysis should be done.

Mr. Kelley said he would like to see this as well, in time for the next meeting.

Mr. Wolfe asked for clarification on the issue of information going back to the Conservation Commission for review.

Chair Parnell said the Conservation Commission would be provided with the information it hadn't yet received on the application, and said the Board would have to wait to get something back from them.

There was discussion on how the timing of the Commission's review would fit with the Planning Board's schedule.

Chair Parnell said the Board would begin deliberations, and said if it felt it needed more input from the Conservation Commission, so be it. He suggested that someone should let the Commission know that the Board would appreciate getting information back from them as soon as possible.

Mr. Kelley suggested that the Commission should be asked to schedule a meeting in advance of the Planning Board meeting, and Councilor Smith said he would do that.

**VII. Acceptance Consideration of an Application for Site Plan Review** submitted by DCoastal LLC, Epping, New Hampshire on behalf of Ionian Properties LLC, Dover, New Hampshire, to place a fully commercial concession trailer on a piece of property to be operated as a carry-out restaurant. The property involved is shown on Tax Map 2, Lot 12-11, is located on 10 Pettee Brook Lane, and is in the Central Business Zoning District.

**VIII. Acceptance Consideration of an Application for Conditional Use Permit** submitted by DCoastal LLC, Epping, New Hampshire on behalf of Ionian Properties LLC, Dover, New Hampshire, to place a fully commercial concession trailer on a piece of property to be operated as a carry-out restaurant. The property involved is shown on Tax Map 2, Lot 12-11, is located on 10 Pettee Brook Lane, and is in the Central Business Zoning District.

Mr. Campbell said these applications would be continued to the next meeting. He explained that there was a restriction put on this property, which was land the Town had sold to the Kostis. He said the restriction was that no building put on the property could go more than 20 ft from the common property boundary. He said this resulted in the propane tanks having to be located closer to the building than would otherwise be the case, and said this needed to be cleared with the Fire Department. He provided further details on this.

***Richard Kelley MOVED to continue Items VII and VIII to the next Planning Board meeting. Richard Ozenich SECONDED the motion, and it PASSED unanimously 7-0.***

**IX. Other Business**

Councilor Smith told Planning Board members that the Council had accepted the Board's recommendation concerning the aquifer boundary recommendation, and had proclaimed that there was no longer a stratified drift aquifer on the Capstone property. He noted that the piece of land across the road that was still mapped as being stratified drift aquifer, and said at some point, someone would have to prove that it was not stratified drift aquifer either.



A. Old Business:

B. New Business:

Mr. Kelley asked whether committees were forming yet to address Master Plan chapters.

Mr. Campbell said that was not the path that would be taken. He said the report from the Visioning session and the survey results would be handed to the consultant who would be helping the Planning Board right the Master Plan chapters. He said there would be public workshops and meetings on them, but said the chapters themselves would not be written by different committees, because this would otherwise take years. He said following this process would also allow the different chapters to mesh better with each other, since they wouldn't be written by several different committees.

Mr. Ozenich noted a bill before the Legislature that proposed to relax the standards concerning wetland soils. There was brief discussion.

C. Next meeting of the Board: March 9, 2011

**X. Approval of Minutes**

**XI. Adjournment**

***Richard Ozenich MOVED to adjourn the meeting. Peter Wolfe SECONDED the motion, and it PASSED unanimously 7-0.***

Adjournment at 10:02 pm

Victoria Parmele, Minutes taker

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Susan Fuller, Secretary