

*These minutes were approved at the June 8, 2011 meeting.*

**DURHAM PLANNING BOARD  
WEDNESDAY, APRIL 6, 2011  
DURHAM TOWN HALL - COUNCIL CHAMBERS  
7:00 P.M.  
MINUTES**

**MEMBERS PRESENT:** Chair Lorne Parnell; Vice Chair Peter Wolfe; Secretary Susan Fuller; Richard Kelley (arrived at 8:15 pm); Richard Ozenich; Bill McGowan (arrived at 7:24); alternate Town Council representative Julian Smith; alternate Andrew Corrow (arrived at 7:16 pm)

**MEMBERS ABSENT:** Town Council representative Jay Gooze; alternate Wayne Lewis;

**I. Call to Order**

Chair Parnell called the meeting to order at 7:02 pm. He noted that Councilor Smith would be sitting in for Councilor Gooze for this meeting.

**II. Approval of Agenda**

*Richard Ozenich MOVED to approve the Agenda. Susan Fuller SECONDED the motion, and it PASSED unanimously 5-0.*

**III. Continued Discussion on 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 to construct approximately 100 residential units 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, Lot 10-3, is located on Technology Drive, and is in the Office Research/Light Industry Zoning District.

**IV. Continued Discussion on 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 to construct approximately 100 residential units 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.

Chair Parnell asked if there was any new information for the Planning Board.

Bus Service

John Acken of Capstone said the company had received the Alteration of Terrain permit. He said an outstanding item was in regard to the bus issue. He said there had been

lengthy discussion at Capstone about what would be the best, most objective way to determine the adequacy of service. He noted that the Planning Board had suggested that the company would conduct surveys about bus service, those surveys would be reviewed by the Town, and the Town would then make a determination as to whether there was adequate bus service.

He said the fundamental problem was the subjectivity of “adequacy of service“. He said internal discussion at Capstone had noted a concern that in decoupling the cost with the person making the decision over those costs, there could be a problem of providing too much service or too little service.

Mr. Acken said there had been discussion at Capstone about the best way to measure adequacy. He said surveys were one aspect of this and said Capstone would be happy to talk with the Town about doing them. But he said there were other ways to judge adequacy of service. He noted that the clubhouse overlooked the bus stop, and that all three managers would have offices overlooking this area, so that if students were getting left behind, this would become apparent. He said complaints would be another way Capstone would know if there was inadequate service.

He said at the end of the day, Capstone would suffer the most if there was a lack of bus service, because this would impact leasing and the overall project. He also said they would incur the cost if there was too much service, and said they were therefore in the best position to judge the adequacy of service. But he said they were open to other suggestions.

Mr. Wolfe said the entity being regulated was asking to have the authority of the regulator to determine what adequacy was. He said if the Board agreed with this, it would not be living up to its responsibility. He noted recent coal mine disasters and the oil spill in the Gulf of Mexico. He said he couldn't approve anything if the regulation was turned over to Capstone.

He said the report said the people in Town would bear the brunt of things if there wasn't enough bus service, because the students would know how to get around the problem and would start driving, and this would result in parking spilling over to residential areas downtown and in other areas. He said several reports had indicated this, and said while Capstone would suffer a bit if this happened, it was the people who lived downtown who would really suffer. He said this was why he wasn't willing to abdicate his responsibility to determine adequacy.

Councilor Smith said he agreed.

Mr. Acken said the question was still how the adequacy would be judged.

Mr. Wolfe noted that Mr. Campbell had provided a proposal to meet yearly with Capstone to discuss this, and said there would need to be objective data. He said that data would come in part from a survey. He said UNH communications would also be helpful. He said the meeting with the Town Planner would then discuss whether the bus service met the needs of the community and the students. He said Capstone's needs were not one of his priorities, and said if it wasn't economically feasible, perhaps they shouldn't do the

project. He said the Board needed to guarantee that the residents didn't have people parking in their neighborhood, and also needed to make sure that students had adequate transportation.

Mr. Acken said as currently drafted, Capstone was willing to support this.

Mr. Wolfe said he wanted the surveys given to the Town Planner, and wanted him to then meet with Capstone to determine if the bus schedule was adequate.

Mr. Acken said they didn't have a problem with providing that information.

Chair Parnell asked what agreement there was with the University concerning bus service.

Mr. Acken said the University had provided costing data, and Capstone had come up with a plan and provided it to the University, and had asked if based on it, it looked viable. He noted that it provided three buses in the morning, when demand was the highest. He said the University said it looked like a viable plan, but they both agreed they didn't have enough data yet to sign an agreement. He said they thought there was a good path forward, and said what the University anticipated in terms of adequacy, based on today's data, matched what Capstone could provide in terms of the budget number.

Councilor Smith asked if there was any language in the conditions of approval having to do with the transportation elements, and Mr. Campbell noted #2, to be met subsequent in the for the Site Plan application.

Mr. Wolfe said he had some additional language to propose to the condition of approval: "The applicant shall include in its resident survey a question ascertaining whether residents find the Capstone bus schedule meets their respective needs, a copy of which shall be forwarded to the Town Planner." He said to approve the project, he would also need something from UNH saying the proposed schedule met their needs, and was adequate.

Mr. Acken said it should also say "based on the information today", and Mr. Wolfe said that could always be changed. He said part of his concern was that Capstone had been underestimating the amount of service needed, and that kept going up. He said UNH had a pretty good handle on this issue. He said the Gables was looked at by UNH as well as the person who did Capstone's traffic study, and said the number of buses they proposed was always more than what Capstone was proposing.

Mr. Acken explained that Capstone had originally discussed with UNH the idea of having two buses, but he said based on the Rivers Edge data, they had come up with the new plan, to provide three buses.

Mr. Wolfe said the new plan might need everyone's needs, but said he wanted the University, which had more expertise than he did, to say the plan met the needs of the students.

Councilor Smith asked Mr. Wolfe if he could craft some language, and come back to this

issue when more Planning Board members were present. He said they would have to agree on the language.

Mr. Corrow arrived at 7:16, and Chair Parnell said he would sit in for Mr. Kelley until he got there.

#### Rental Agreement/Lease

Councilor Smith said he had asked on March 9<sup>th</sup> for a copy of the rental agreement/lease tailored to Durham and the realities of the community. Concerning this document, he received confirmation from Mr. Acken that Capstone was willing to agree that the lease would say “cottage units”, and not apartment units, and “housemates” rather than “roommates”.

Councilor Smith noted that on page 3 of the lease document, it said “...Capstone is authorized to collect rent from an unauthorized guest...”. He said this was someone who stayed more than seven days, and said it should be indicated that this meant seven days over the course of the lease. Mr. Acken agreed that was a good distinction.

There was discussion on how it would be determined if someone was overstaying. Mr. Acken noted that there were sometimes complaints within from residents. He also said there would be quarterly inspections, and said the air filters in each unit would be inspected on a monthly basis. He said word of mouth was the biggest enforcement mechanism, and said management staff knew what was going on.

Councilor Smith said there would be a lot of units to pay attention to. He also said that regarding the issue of how to prevent more than one tenant in a bedroom, he wondered if there would be some kind of mechanism to allow married couples, who might bring stability. He asked if there would be a rent structure to accommodate that, and also asked if Capstone had entertained the idea of having a workforce housing component, as a tradeoff for something else it wanted.

He said he thought they should consider some language about allowing more than one person per bedroom under certain circumstances. He noted that he was only concerned about having more than 614 tenants if this didn’t result in an overall social advantage to the cottage community or to the Town in general.

Mr. Acken said a simple way this had been handled in the past was to have a limit of say, 614 beds, in order to limit the amount of room sharing. But he said with this approach, a married couple could rent a bedroom, and the price structure would reflect that. He said there would typically be a one bedroom apartment for a married couple, but said with this project, the smallest size would be a two bedroom apartment.

Chair Parnell said there was nothing in the way things were currently worded to prevent 650 people from staying there.

Mr. Acken said the condition could say 619 beds, and Chair Parnell said perhaps they should be saying 619 people. Mr. Acken said the problem with that was that it wouldn’t allow for married couples. Mr. Acken said either approach wasn’t a problem for Capstone. There was discussion that the beds were double beds, and the rooms were

designed for that size.

Mr. McGowan arrived at 7:24 pm.

Ms. Fuller said it would be 619 people plus one if there was a married couple in a one bedroom unit, in a duplex cottage.

Mr. Acken said that would be true with the scenario where the number of beds was limited to 619. He said with a scenario of 619 people, the married couple would have to rent two bedrooms in the cottage.

Chair Parnell said the only thing preventing unmarried couples from using the beds was Capstone's control, but said that control also meant that as long as they were paying rent for the other person, they could stay there.

Mr. Acken said they would have to share the same bed, and said that was the limiting mechanism to keep the number down to 619.

Mr. Wolfe asked how often Capstone saw situations where there were married couples, or people living together sharing the same room, and Mr. Acken said it was about 3 to 4 in a development of this size.

Mr. Campbell said that situation existed now in Durham, where more than three unrelated people were allowed, assuming there was enough square footage in the building to allow this.

Board members said they would address this issue under the conditions of approval.

Mr. Wolfe said Capstone was bringing a lot of good things to Durham. But he said it was his understanding that all three ADA units proposed would be located in the same building.

Mr. Acken said that wasn't the case. He explained some shuffling around of cottages and units had been done, and had resulted in 2 three bedroom cottages, with six beds, near the clubhouse that would be handicap accessible. He said they would be one story structures, for accessibility, and he showed the floor plan, noting that the features were the same, but the units were fully handicap accessible. He also said the grades to the nearby clubhouse would be handicap accessible.

Mr. Wolfe said he applauded the start Capstone had made on this, but said having three disabled people in one house was not the same as having them integrated throughout the entire complex.

Mr. Acken said they were thinking that it was important to keep the units near the clubhouse, close to the center of activity. But he said he understood the point Mr. Wolfe was making.

Mr. Wolfe spoke about the benefits of having disabled people integrated into the complex, rather than creating one area where they lived. He asked Capstone to think of

how the units could be spread out more.

Mr. Acken said one of the issues was making sure the grade from the clubhouse to the units worked, and said this was a limiting factor.

Councilor Smith suggested that there could be some 4 bedrooms cottages with two handicap units down, and two non-handicap units up. He said in this situation, Capstone might rent the lower units to non-handicap students, starting out, and said this could change later.

Mr. Acken said Capstone had looked at the idea of making some first floor bedrooms of the existing units that had been designed handicap accessible. But he said this ended up making the footprint of these buildings unworkable in the particular locations they were in.

He said in contrast, the four bedroom cottage design he had described had been used in another development, for handicap military veterans, and was ready to go. He provided details on this, and said every aspect of the cottage was handicap accessible. He said trying to take an existing cottage and make it handicap accessible would mean having to design a whole other building.

Councilor Smith said Exhibit B of the Rental and Lease agreement said that the tenant agreed to "...comply with the security procedures and response actions..." He said he would like the response actions to be spelled out.

Mr. Acken said the general consensus at Capstone was that this section referred to enforcement mechanisms, but he agreed that it wasn't clear what specific security provisions there were.

Councilor Smith asked what these were, and Mr. Acken said every unit had an alarm system, which was monitored if the resident wanted this. He said there were also motion detectors inside. He said the biggest thing was having the security officer patrolling three times per night, which was a real deterrent.

Councilor Smith asked what a tenant was agreeing to, concerning complying with security procedures and response actions.

Mr. Acken said this meant that if a party got too loud, there were more than 25 people in a cottage, etc., the security officer could say they were done, and if they said no, they could be fined. He said it meant residents had to adhere to the rules and regulations of the building.

Councilor Smith noted that the definition of party in the lease agreement was one apartment unit, or one cottage having 10 or more guests. He said he assumed that number was over and above those people living there. He said according to this definition, theoretically with 140 units there could be slightly less than 1400 guests and invitees, plus approximately 600 tenants.

He said he would like to see a cap of some kind on this. He also questioned how rigorous

the management would be in terms of residents applying for party permits. He said he wondered how a condition could be structured to make it less likely that the police would have to come out to help shut down parties.

Mr. Acken said if residents wanted to have ten or more people in a unit, at that point they would have to get permission from the management staff. He said even if they received this permission, it couldn't be opened up to the general public, there would have to be specific invites, and it would be capped at 25 people.

He said the biggest evidence he had that the rules worked was that they were in place at the Capstone developments that Durham's Police Chief had contacted. He also said there were 1200 beds at Creekside at Auburn, and said the night that the school won the national college football championship, there were no issues.

Councilor Smith noted the rule that said parties would end at 2 am, and said he would like to see 11 pm instead, which fit with the Town's noise ordinance. He said otherwise there could be three additional hours of drinking, and people driving and making noise at 2 am.

Mr. Acken said Capstone's thought was that a party could continue as long as it didn't make noise, and said it would be shut down if the security officer heard anything after 11 pm, based on the noise ordinance.

Councilor Smith said that was a good response.

Mr. Wolfe said they weren't going to get students to stop a party at 11 pm.

Councilor Smith asked how the robust management staff would prevent or discourage illegal parking along Technology Drive, etc, when gatherings started to get out of control.

Mr. Acken said Capstone would provide decals for every resident. He also said they typically contracted with the local towing company, which had an incentive to find illegally parked cars, and also said one of the jobs of the security officer who patrolled at night was to look for illegally parked cars. He said they had also designed the development so that there would be as few places as possible on the site where people could illegally park.

Councilor Smith said it was hard to get cars towed in Durham, unless one had a really good relationship with a towing company. He also noted that Smitty's, a local towing company, had very limited capacity for storing cars that had been towed.

#### Energy and Energy Conservation

Councilor Smith said he hadn't seen a mildew and mold agreement. He asked if the units would be air conditioned, and Mr. Acken said yes. Councilor Smith said with the various appliances in each unit, he got the sense that a lot of energy would be used. He asked if outdoor drying of laundry would be prohibited.

Mr. Acken said this was typically prohibited, for aesthetic reasons.

Mr. Wolfe said in this day and age, using electricity to dry clothes didn't make any sense.

Chair Parnell asked if there were any conservation efforts.

Mr. Campbell said the mold and mildew information was a part of the original lease they submitted.

Councilor Smith said his experience over 46 summers in Durham was that if one closed the windows during the day, air conditioning wasn't needed. He said the windows could then be opened at night and the attic fan could be turned on. He said he had never had air conditioning in NH.

Mr. Acken said they were confident they would achieve a REScheck score that exceeded the statutory minimum under NH code, for region 6 by 1.5, and even higher than that. He also said their appliances, lighting, windows, plumbing, and insulation would meet the code and the energy star standards.

He also noted that they had just gotten a verbal authorization that gas would come to the site at no additional cost to the site itself. He said by using gas heat in the cottages and the clubhouse, it was felt that this would increase their energy efficiency significantly.

Mr. Acken said they had also looked at having geothermal heat for the clubhouse, but said it had been found that it wouldn't be as cost effective with a gas system as it would have been if there was an electric system. He said that might be one of the tradeoffs of going with gas heat.

He noted that another area of concern had been the heated swimming pool, and said they had decided to shrink it down so it would cost less to heat it year round. He said it would be more of a hot tub size, but said it was an important feature in terms of marketing.

Mr. Wolfe asked if Capstone had looked at the idea of solar heating of the pool, which would make a lot of sense.

Mr. Acken said they had, but said an important issue was seeing if there were tax incentives for this.

Ms. Fuller asked if Capstone would consider putting in gas dryers, and Mr. Acken said they would certainly look at this idea, for all of the appliances, except stoves for safety reasons.

Chair Parnell asked if there would be generators on site, and Mr. Acken said there would be a generator for the clubhouse. Chair Parnell asked if there could be some kind of central generator for more than just the clubhouse, and Mr. Acken said they would have to look into that. He noted that the idea was that the clubhouse could be a central gathering area if there was a problem. He also said the availability of gas could play into this issue.

Councilor Smith noted that the gas systems would depend on electricity, which could go out for days or even weeks if there was an ice storm.



Mr. Ozenich said they had looked into getting a centralized generator for Fitts Farm, but it was found to be too expensive.

There was discussion as to whether the gas would go to Goss as well.

Chair Parnell asked if the units would be charged individually for heat.

Mr. Acken said students would pay individually for gas, electricity and water, and said each unit would be individually monitored. He said they would see the bill every month.

Chair Parnell said that reduced Capstone's incentive to make the units energy efficient to start with.

Mr. Acken said through word of mouth, students learned what utilities cost at different places, so this did affect rents, and therefore affected Capstone.

There was discussion about the fact that the windows in the cottages would open, but wouldn't have screens. Board members said there needed to be screens, with Chair Parnell noting that this would save money in terms of not needing air conditioning.

Councilor Smith said if there were no screens, then there would need to be a place for bats to live in each unit, in order to eat the bugs. Mr. Acken noted that they had researched NH law on having bats in the attic, and were told this wasn't allowed. Councilor Smith said there could be bat houses, on posts all around the property.

#### Road Maintenance/Use of Salt and Sand

There was discussion on the issue of winter road maintenance and use of salt and sand, particularly in regard to porous pavement. Chair Parnell noted that on other projects, the Board had required an annual third party inspection of the porous pavement. He asked what Capstone's policy was concerning sand and salt on the rest of the site.

Mr. Persechino said the Operations and Maintenance Plan contained information on snow storage and salt storage areas on the site, which was part of the stormwater management plan. He said all snow storage areas were shown on the site plan. He also said the salt storage area would be located so that no direct untreated discharges would reach receiving waters, and he also said all salt use on the property would be in accordance with NHDES' s Alteration of Terrain Stormwater Management Manual, Volume II.

Mr. Wolfe said several people at the public hearing had testified about not storing snow on the premises.

Mr. Persechino said there seemed to be ample locations on the site to store snow, noting that there were two large gravel wetlands, which were good locations to store snow. He explained that as it melted, the water was treated by the wetland. But he said if there was a lot of snow and for some reason there was no more room to store it, it would be trucked off the site.

### Fertilizers, Pesticides, Herbicides

Mr. Acken said the landscape maintenance plan would include only organic fertilizer, such as Milorganite, and the use of herbicides and pesticides would be limited to the use of an organic compound such as Neem oil.

Councilor Smith noted that Milorganite was a wastewater treatment sludge byproduct. He said it was a prohibited use in the Shoreland Protection Overlay district, and said there should be a specific prohibition of it in that district as well as in the Wetland Conservation Overlay district.

Mr. Acken said the company would only use organic fertilizers, but said if that one was prohibited, it would not be used.

Mr. Campbell noted the condition of approval concerning this, and said it would include both overlay districts.

Councilor Smith said another energy related issue he would like to discuss was the proposed 9 ft ceiling height of the units.

Mr. Acken said Capstone had looked at this issue from an energy efficiency standpoint, and had considered the cost to build and the cost to heat the units. He said it was found that from a purely energy efficiency standpoint, based on the models used for REScheck, there was no impact from using a 9 ft ceiling instead of an 8 ft ceiling. He also said it would cost \$0.50/1.00 more per month, but said Capstone believed there would be a true marketing advantage with a 9 ft ceiling, which would make the rooms feel larger.

Mr. Wolfe asked about the societal cost involved.

Mr. Acken said Capstone's job was to build a place people wanted to live in and be a part of.

Mr. Wolfe asked if there were apartments with 9 ft ceilings in Town, and there was discussion.

Councilor Smith said Capstone should throw society a bone and put in 8 ft ceilings, and Mr. Wolfe said he would support that.

### Lighting Plan

Mr. Campbell said the lighting plan had changed somewhat, noting that according to the original plan, there had been some areas that needed to be lit that weren't being lit. He said as shown in the photometric plan, the spillover from the additional lighting would be minimal. But he noted that there would be a third party review of the lighting plan, and said if there were additional concerns, the plan would need to be adjusted to address them.

Mr. Acken said the lighting plan was being updated to include building lights and ground lights in the common area. He said Capstone would work with the third party consultant to make sure that the requirements were met.

Mr. Wolfe said something needed to be added to Site Plan condition #12 to be met prior that said how the deficiencies would be corrected if any were found.

Chair Parnell asked if a condition written that way was acceptable, and Mr. Acken said yes.

#### Management Plan Rules and Regulations, and Sample Lease

Chair Parnell asked if Board members had anything more on this that they'd like to discuss.

Councilor Smith said he had some questions and observations to make about the management plan.

Mr. Kelley arrived at 8:15 pm.

Mr. Wolfe asked if Capstone would accept clothes drying outside.

John Vawter, Executive Vice President in charge of Capstone's Cottage Division, said this was the company's first request to allow clothes to be dried outside, and said they would take this into consideration, and try to find an appropriate location. He asked if it was a common practice for students to hang clothes out, and Mr. Wolfe said it depended on where they lived.

Mr. Vawter said typically Capstone didn't allow this for aesthetic reasons, and said this went back to the marketability issue. He noted there were washers and dryers in units, which also related to marketability

Mr. Wolfe said they could market them but people didn't have to use them, and said they could save the BTU's.

Ms. Fuller said she wasn't sure she would want to see this as a condition of approval unless it was worded so that Capstone was allowed to make the ultimate decision. She said if this were any other development, she would say yes in order to promote energy efficiency, but said she wasn't sure about the idea of kids hanging out their clothes.

Councilor Smith said if the Board left this up to the applicant, it would be prohibited, and the tenants would be required to use dryers.

Ms. Fuller said she wouldn't mind wording in the conditions of approval that said Capstone could look into the idea. She said if it was any other kind of development, she would be against not allowing clothes to be hung out. But she said this was a different kind of housing development, and the students were being provided with every amenity to ensure a quiet, happy existence. She said she didn't think clothes lines were appropriate.

Mr. Ozenich said he agreed, and said when he was in the service prior to dryers, one never knew if he was going to be able to get his own underwear off the line.

Mr. Corrow said even if it was a prohibited use, he would do it anyway. He said his clothes would be dry before management spotted them. He said he could go either way in terms of providing a clothes line.

Ms. Fuller noted that her perspective had nothing to do with aesthetics, and had to do with what Mr. Ozenich had said.

Councilor Smith said the Management Plan made several references to Capstone having a robust staff. He said a condition of approval should be that the manager and assistant manager should reside on the site, and that one or the other would be on site, at least from 6 pm to 6 am. He also said there might have to be more than one assistant manager. He said he hoped the Board would require this.

Mr. Acken said Capstone had discussed this internally, and had no problem with a member of the staff being required to live on site, either the manager, assistant manager, leasing manager, maintenance staff or assistant maintenance staff. But he said requiring two staff members to live on the site was probably more than they could agree with.

Councilor Smith said he didn't see the point of requiring the leasing manager to be on the site, to tell students to keep the noise down, etc.

Mr. Acken said that was the function of the courtesy officer, who would make three patrols per night. He provided details on this.

Councilor Smith asked if the student workers would be tenants, and Mr. Acken said in some cases they would be.

Ms. Fuller asked what happened if there was an onsite manager working on the property, and that person occasionally went off the site.

Mr. Acken said for short time frames, there wouldn't be someone on the site. But he said there would also be the security officer living on the site. He provided details on the arrangement with the security officer, which was that in exchange for getting free housing on the property, the officer would do three patrols at night, and would submit a written report every morning.

Councilor Smith asked if there had been discussion with the police chiefs in Durham and other local towns about the idea of their police officers entering into this kind of arrangement, and then trying to stay awake when they worked during the day.

Mr. Acken said no concerns were raised in discussions he had had with staff.

Councilor Smith asked if the daily sweep of the property should be reflected in the Operation and Maintenance plan. Mr. Acken provided details on the daily sweep, and said it could be included in the plan

Mr. Kelley was updated on the snow storage plans.

Mr. Wolfe said the areas pointed out for snow storage looked pretty small, and asked if the amount of cubic yards of snow expected from the roadways had been estimated. There was detailed discussion on this with Mr. Persechino, and Mr. Wolfe questioned that there would be enough room in the snow storage areas.

Mr. Persechino provided details on other snow storage areas on the site in addition to the gravel wetlands he had described. He said in addition to specific areas called out in the plan for bulks storage, any other area on the site where there wasn't parking could also be used. He also noted that the Operation and Maintenance Plan stated that any additional storage area would have to be located such that melt water runoff was treated before it was discharged.

Mr. Kelley said this would work with the gravel wetlands, and the vegetated median island, but said the concern was those other undefined areas that Mr. Persechino had referred to.

Mr. Persechino said that was the reason for the language in the Operation and Maintenance Plan. He also noted that snow could be piled high on top of a gravel wetland, in addition to filling it.

Councilor Smith asked what happened when there was a snowstorm, in terms of moving cars around so the plowing could be done.

Mr. Acken said this wasn't the first development Capstone had done in the north, although it was the first cottage development it had done. He said maintenance staff would be able to address the snow plowing issues in the parking areas.

Chair Parnell asked if the Board needed to address anything concerning the issue of development of regional impact right now, and Mr. Campbell said he didn't believe so.

Chair Parnell asked if there were any further comments on the ADA compliance issue.

Mr. Kelley noted the email provided by Mr. Johnson on this issue, and Mr. Campbell explained that Mr. Johnson had met with James Fox, the lead attorney for the Disability Rights Center. He said Mr. Fox agreed with Mr. Johnson's determination that this development was not required to provide ADA accessibility. There was brief discussion on what Capstone had agreed to provide.

#### Site Plan Application - Findings of Fact and Conditions of Approval

Chair Parnell said the Board would start going through the Findings of Fact and Conditions of Approval for the Site Plan Application.

There was discussion on additional documents recently received, which should be noted. Mr. Campbell said one of them, the Alteration of Terrain Permit, had seven conditions in it.

Mr. Kelley said the Planning Board had seen several revisions of the site plan, and said the last revised set he had seen was February 4<sup>th</sup>. He was told it was still valid, and he

suggested that the different revisions should be documented.

Mr. Kelley asked approximately how much impervious area there was from the roadways and parking.

Mr. Persechino said the total area of impervious pavement was 190,652 sq ft. He said the amount of pervious pavement was about 49,000 sq ft, and said these two figures should be added together. He noted that the Town's stormwater regulations required a calculation of effective impervious surface, which was the areas of impervious surfaces that didn't drain to stormwater BMP's like gravel wetlands, etc, and said this was less than half an acre.

Chair Parnell noted that the only waiver the applicants were requesting was in regard to the school impact fees

Councilor Smith asked if there was language that would allow the collection of this fee if there were children in the development.

Mr. Campbell said no, and Chair Parnell suggested that it could be put it in, as a condition to be met subsequent.

Councilor Smith noted that the Fiscal Impact statement said there would be no children generated by the project, but said it was quite possible some would be. He also said young families might find the cottages attractive.

Chair Parnell said if this happened, the fee would be applied, including in a situation where employees living on the site had children. He asked Mr. Campbell to put some language in.

#### Conditions of Approval to be met prior to signature of the Site Plan

Chair Parnell noted condition #4, and asked if the plans indicated where the gas line would go. Mr. Persechino said no.

Mr. Campbell suggested that condition #4 should be revised to read: "The applicant is planning on bringing gas to the development, and the potential future gas line shall be shown on the site plan so the applicant will not have to return to the Planning Board for approval. We are requiring a certified plot plan and as-built plans that shall show any changes."

Mr. Acken said Capstone would provide this.

Chair Parnell noted that the applicant had agreed to use organic materials in landscaping, which was stronger than the current language in condition #5.

Mr. Campbell said it would be changed to read "shall be used." He also said the wording concerning not using sewage sludge material could be added to post signature condition #17, for both the SPO and the WCO districts.

Councilor Smith suggested that there should be a prohibition on washing cars on the property, and changing oil, based on his own experience with having tenants.

Mr. Vawter said Capstone didn't allow oil changing on the property.

Chair Parnell said not allowing car washing would be introducing a new prohibition that the Board hadn't applied in other cases, including the Rivers Edge development.

Councilor Smith said given that there were garbage disposals and dishwashers in every unit, and given his experience with student tenants, he would like to know what Capstone would do to keep a large amount of food and grease out of the sewer system. He asked if this would be treated before it entered the line to the sewage treatment plant. He said given the great number of kitchens, this would be a good opportunity to keep out a lot of stuff that should not go into the waste stream. He suggested that the pre-treatment should be a condition of approval for either the Site Plan application or the CUP

Mr. Kelley said he would like to know what Councilor Smith proposed.

Councilor Smith said there were pre-treatment options that could be added to the waste stream so that by the time it got to the sewage treatment plant, the solid material had been broken down or dissolved.

Mr. Kelley asked if these systems were leachfields, or septic tanks, etc, and Councilor Smith said the waste management or sewage treatment plant manager might advise Mr. Campbell on this.

Councilor Smith asked if there would be a water conservation plan. He noted the issue of how much water the Town would be able to take out of the Lamprey River. He said this development would put 600 plus water users into the water system, and said he thought Capstone management should have a water conservation plan over and above individual metering.

Mr. Kelley asked Councilor Smith what he was proposing in terms of conditions of approval.

Councilor Smith asked if there could be some language that Capstone, in consultation with the DPW or wastewater treatment plant manager, would make some provision for keeping excess amounts of grease and food scraps out of the waste stream.

Mr. Kelley asked Councilor Smith where he was getting his information that this was an issue, and Councilor Smith said he had spoken to the manager of the wastewater treatment plant. He suggested that those designing the sewer system out at Capstone should consult on this matter and get some good advice on how to keep stuff out of the waste stream.

Mr. McGowan said if the food wastes were already going into the garbage disposal, and dishwasher, it was already going to be broken down, so he wasn't sure what additional breaking down could be done unless there was some kind of septic tank or storage tank. He said what Councilor Smith had suggested was above and beyond what the Board had

required of other developers

Councilor Smith said the fact that this had not been required before for smaller projects didn't mean it shouldn't be done now.

There was further discussion about the extent to which students at Capstone would use their kitchens. Mr. Wolfe asked what problems Capstone had had with its other developments regarding usage of kitchens, and Mr. Acken said he didn't know of any problems.

Councilor Smith said he hoped the Board would require the applicant to consult with the wastewater treatment plant staff and the Town Engineer on water use best practices.

Mr. Kelley said he might be willing to entertain Councilor Smith's idea, if Capstone's sewer hookup fee could go to offset some of the capital cost of pre-treatment. He noted that the Board hadn't asked for this in the past.

Chair Parnell asked if the issue of pretreatment had come up with the DPW.

Mr. Wolfe said if there was something that could reduce the solids, perhaps it was worth pursuing. He said he would probably go along with the idea of a discussion between Capstone and wastewater treatment plant staff prior to hookup, to see if there were some innovative approaches out there.

Mr. Kelley agreed that there could be language that said to explore the possibilities of feasible, innovative pre-treatment. Mr. Wolfe said he could go with that.

Mr. Kelley asked if the cost for pre-treatment could be offset with a reduction in the sewer fee.

Mr. Campbell provided details on what the sewage fee was based on. He suggested that there could be wording that said that as part of the water and sewer permitting process, the applicant shall consult with the water/wastewater committee to explore pretreatment options. He said he didn't know how that would work, or if the committee would suggest a pretreatment option.

Mr. Kelley said if Councilor Smith was getting information from the wastewater treatment operators that there were concerns about 600 beds coming on line, this issue should have been raised by the DPW. He said they hadn't provided any comments to the Board on the issue.

Chair Parnell said he was fine with putting in the kind of statement Mr. Campbell had suggested, but said it was not committing anyone to anything.

Councilor Smith said the wording would allow a follow-up to see if these things had been considered.

Mr. Campbell said if this was a concern of the DPW sewer division, perhaps a change to the sewer ordinance would be in order, and Councilor Smith said that might come out of this discussion. Mr. Campbell noted that the DPW had addressed grease traps in



commercial businesses, but said he didn't think they had done anything concerning residential uses and garbage disposals.

Chair Parnell said he was reluctant to put this language in because he wasn't sure it would accomplish anything.

Concerning the issue of water conservation, Chair Parnell said Capstone had said there would be low water usage appliances. He said he wasn't sure what else the Board could do.

Ms. Fuller noted that the students would be paying their utility bills.

Mr. Kelley said perhaps there should be tiered pricing, based on water usage.

Mr. Acken noted that regarding the energy efficiency issue, Finding of Fact #26 said the applicant was building to the latest version of the Energy Star standards. He spoke in detail on this, and said he couldn't say that Capstone would be able to hit the specific energy efficiency rating for every single building in the development.

Chair Parnell suggested that the wording in the Finding of Fact would say the applicant was attempting to build to the latest version of the Energy Star standards.

There was discussion on Finding of Fact #27. Mr. Kelley asked that dates be included.

Mr. Campbell spoke about the third party review of the erosion and sedimentation control measures. There was discussion that the consultant would be there during installation, and during storm events, and that this needed to be spelled out in the contract. Mr. Kelley suggested that the contract should also say the consultant would not be there less than once a week.

Mr. Kelley received clarification from Mr. Campbell that the UNH Stormwater Center was just coming on board, and would be involved with reviewing the stormwater management plan and the operation and maintenance plan, and would also be on site during construction and installation.

Mr. Campbell told Mr. Kelley they were still looking for someone to do the third party review of the lighting plan. It was also noted that condition #12 to be met prior to signature now said that any deficiencies in the lighting plan would be corrected. It was noted that this would be done for conditions #12 and #14.

Mr. Campbell said there needed to be a condition to be met subsequent concerning bus service. He said a condition could be that "...a letter from Dirk Timmons, UNH Transportation Services shall be provided to the Planning and Community Development Department stating that at this time, the bus service is adequate for the proposed development."

Chair Parnell asked if the Board could commit UNH to doing something. There was discussion.

Mr. Wolfe said he liked stronger language, “..that the University shall indicate to the Town Planner that the proposed bus schedule meets University standards for bus service.”

Ms. Fuller said she didn’t think they could commit the University to providing that. There was discussion.

Mr. Wolfe said the University hadn’t liked what had been proposed so far, and said he wasn’t willing to let this rest unless something concrete was in place. He said he was willing to listen to proposals about what would be done if the University didn’t comply. He said all he was asking for was an opinion from the University about whether the bus schedule proposed by Capstone would meet their standards, and said he couldn’t go forward unless he got that.

Councilor Smith said he thought Dirk Timmons would be interested in being asked that question. He said the University was committed to getting students to use the transit system, and to keeping their cars out of Town and off of the campus.

Mr. Wolfe suggested that condition #2 should say “The applicant shall include in its residents survey a question ascertaining whether the residents find the Capstone bus schedule meets their respective needs, a copy of which shall be forwarded to the Town Planner.” he said that addressed the issue of adequacy. He said he would then add “The applicant shall obtain from the University a letter indicating that the proposed bus schedule meets its standards for student transportation.”

Ms. Fuller said this presumed the University had a standard, and Mr. Wolfe said they did.

Mr. Wolfe said he would also like the last sentence in the condition, concerning an annual meeting between Capstone and the Director of Planning and Community Development, to remain. There was further discussion on wording for condition #2.

Mr. Acken said there had been discussion with the University about bus service, and said he couldn’t imagine why a letter from Mr. Timmons wouldn’t be provided. But he said if the University for some reason changed its mind, his question was what the time frame and mechanism was.

Mr. Vawter asked what happened if Capstone found it couldn’t afford the University’s bus service, but could afford to provide its own bus service.

Mr. Wolfe said the applicant could have proposed this at the beginning, but didn’t. He said the Board was stuck with what was proposed, and said he found it inadequate.

Mr. Acken asked if it was too late to propose something. He said they could talk through those issues as well.

Mr. Wolfe explained his concerns again, and said Capstone could meet them any way they could.

Mr. Acken said Capstone had done developments where they had provided private bus

service. He asked whether, if this was done, there would still be a condition that the adequacy of bus service would be determined by the University.

There was a point of order that this was new information.

There was further discussion.

Mr. Wolfe said he didn't have enough information from the University, so his only option now was requiring that Capstone get this before getting approval.

Mr. Acken suggested that Capstone could provide information, and the University could provide information, and Capstone would let the Planning Director make the determination.

Mr. Wolfe said this was a Planning Board issue. Mr. Kelley noted that there was also a Traffic and Safety Committee.

Chair Parnell said it was a bit too open ended to leave it to the University, and Mr. Wolfe agreed, but he said the Board didn't have the expertise on this issue as to what was adequate while the University did. Chair Parnell said the existing language was good, to put the onus on the applicant that there was proper service. He said there also should be a sentence that said information had to come from the University, and suggested that Mr. Campbell should be a third party in between them.

Mr. Wolfe said he also wanted to keep the language about the survey, and others agreed. There was detailed discussion on how the sentence about getting information from the University about adequacy of service should be worded. Mr. Wolfe said he thought they had the concept in the wording proposed, and asked if the Board could come back to it.

There was discussion on condition #3 to be met subsequent, concerning the conservation easement plan. Mr. Kelley noted that this plan should be distinguished from the first conservation easement plan the Board had received.

Attorney Loughlin said the amended aerial photo and the proposed wording were sent to the Strafford Rivers Conservancy and the Southeast Land Trust for their initial review. He noted that the 2700 linear ft of frontage on the Oyster River would be attractive to them.

Councilor Smith asked if there would be monitoring by the easement holder.

Attorney Loughlin said both of the organizations required a one time payment to ensure monitoring, and said they needed to be satisfied with the amount.

Mr. Campbell said condition #3 should include the March 19, 2011 date of the conservation easement plan. He noted that this plan did show the additional land.

Board members said they were ok with this condition.

Concerning condition #4 to be met subsequent to signature on signs, Mr. Campbell noted

that there had been discussion about whether or not to allow residents to use any of the conservation land, and said he didn't think the Board made a decision on this. He said the language in condition #4 suggested that there should be signage along the gravel path that said something to make residents of the development aware that the area beyond the path was conservation land and should be treated accordingly.

Mr. Persechino said the applicants had proposed those signs as part of their plan. He noted that they didn't prohibit walking in the area.

Mr. Campbell said he didn't propose that, and said he didn't think the Board had made a determination on this.

Councilor Smith said if there was abuse of the conservation land, the easement holder might post it, or could work out an arrangement with management to sensitize the residents about the area.

There was discussion on what the wording should be for condition #8 to be met subsequent, regarding tree removal. Mr. Kelley noted that he had asked that there be a demarcation of the limits of clearing on the plan, and also asked how that would be established in the field.

Mr. Persechino said the clearing limits were shown on the plan, but Mr. Kelley asked how this information would be transferred to the field to make sure that land was not cleared beyond the limits. Mr. Persechino said an additional note would be added to the plan stating that a licensed land survey would mark the limits of clearing prior to any land clearing on the site.

There was discussion, and Mr. Kelley suggested the language: "Limits of clearing shall be established in the field by a licensed surveyor with orange fencing." He asked if there were any trees the applicants were trying to salvage.

Mr. Persechino said no trees within the limits would remain, but said there were some trees along the border with the cemetery that the Cemetery Committee had asked Capstone to remove.

There was discussion that this issue was already in condition #15 to be met prior to signature. Mr. Kelley said there should be some kind of exclusionary clause in condition #8, for those trees to be removed at the request of the Cemetery Committee. Mr. Campbell developed wording for this.

Mr. Kelley suggested additional language that if the tree clearing went outside the limits of clearing, the area would be re-established with native species at the applicant's expense. He said the exclusionary language should then come after that.

Mr. Campbell said condition #9 regarding preservation of natural features and amenities was taken right from the site plan regulations. Councilor Smith questioned the language there "No cut trees, stumps.....shall be buried in any land..." He asked if this meant the site itself, and Mr. Campbell said it also meant land beyond the site. There was discussion.

Mr. Persechino said he didn't want to overly limit stump grinding on the site, noting that this material was often used for erosion control.

Councilor Smith said the language in the condition needed some cleaning up.

Mr. Campbell said if they diverged from it, they would have to grant the applicants a waiver.

Chair Parnell said they should leave the language as it was.

Councilor Smith said this was another example of things they hadn't paid attention to with the Ordinance.

Regarding condition #10, Mr. Kelley noted that it didn't request an electronic copy of the plot plan. Wording was developed to require an electronic copy that would be in a format that was suitable for the DPW. Ms. Fuller noted that condition #20 made reference to an electronic copy of plans.

There was discussion on condition #16 to be met subsequent, concerning water quality monitoring. Mr. Wolfe said it should include wording that reports shall be submitted semi-annually or on some kind of regular basis to the Durham Conservation Commission, which he noted was the organization that had requested this information.

Mr. Campbell said hadn't been sure what the time period should be for the monitoring.

Mr. Wolfe asked if more than just storm sampling would be taken. He said he thought there should be more than that.

There was discussion that the Oyster River Watershed Association would assist with the monitoring. Mr. Ozenich said the Planning Board was not in a position to say how often the water quality would be monitored, and said he thought this should be determined by the ORWA, which already did ongoing monitoring.

There was further discussion on what kind of monitoring should be done. It was noted that the recommendations from the Conservation Commission only asked for storm event sampling. It was agreed that there should be up stream and down stream sampling, before, during and after construction for five years, and that the Conservation Commission and the Planner should get copies of the sampling results.

Regarding condition #19 to be met subsequent, Mr. Kelley asked if there should be anything regarding the maintenance of the porous pavement. It was noted that this was addressed in the Operation and Maintenance Plan, which was submitted to the UNH Stormwater Center.

Attorney Loughlin said that regarding condition #3 to be met subsequent, concerning the Conservation Easement Plan, the wording was fine. He said the process of getting a lot line change would start after these applications were approved, in both the Town of Durham and Lee, But he said they wouldn't change the footprint of the development now

as part of these two applications before the Board. He said there would be a separate set of abutters for the lot line adjustment.

The Board went back to discussion on condition #2 to be met subsequent, concerning bus service. Mr. Wolfe suggested revised wording. He then said he was reluctant to vote that evening, because he hadn't seen the final draft of the language for this and other conditions the Board had discussed.

Councilor Smith suggested possibly continuing the deliberations to another meeting, perhaps the following week.

Mr. Kelley said he shared Mr. Wolfe's concern. He said if they went through the Conditional Use Permit conditions that evening, perhaps they could get through both sets, and Mr. Campbell could then get the revisions out to the Board before the next meeting.

Mr. McGowan and Chair Parnell said they would not be available for a meeting the following week.

#### Conditional Use Permit - Findings of Fact and Conditions of Approval

There was discussion on condition #3, regarding the Property and Security Management Plan. Ms. Fuller noted that this was the standard language the Board required.

Mr. Wolfe referred to the previous discussion on the issue of specifying a number of people, or a number of beds, and how to address married or non-married people cohabitating a unit.

Mr. Campbell said he thought this came down to the existing Ordinance, which allowed a certain amount of residents based on the square footage, in that district.

Councilor Smith said in other words, the number of tenants allowed there would be based on the amount of living space. He said there was also the issue of social occupancy (condition #6 to be met prior to signature), and said because of the clubhouse and the great number of cottages, there could occasionally be huge parties on the property.

Mr. Kelley said perhaps they could specify no more than 619 occupants.

Ms. Fuller asked how married couples would then be addressed.

Chair Parnell said he had been concerned about this issue, but said he could leave things at 619 beds.

There was further discussion on condition #6 concerning social occupancy. Ms. Fuller said she thought they could take this out. She said the applicants had rules about parties, and said they had to assume people would go by the rules. She said it would not be in Capstone's interest to have large numbers of kids going there to have parties.

Mr. Kelley referred to these rules, and there was further discussion.

There was discussion on condition #5, concerning at least one property manager living on-site at all times. Councilor Smith said they should keep that language.

Mr. Acken received confirmation that the condition would say that at least one full time staff member would be/live on-site at all times.

Mr. Kelley said he would like to have the deed for the conservation easement in hand before signing off, but said perhaps it could be a condition to be met subsequent.

Councilor Smith suggested that prior to signature, it would be prudent for the Board to commission an independent fiscal analysis, which would take into account what might happen if this project failed or if the Capstone Corporation failed, and would also consider what other use this development might be put to. He said there were questions on what kind of impact the failure of this project might have on the Town.

He also said a more independent analysis was needed on the impact of the taxes paid by the landlords who had properties closer to Town. He said Mr. Thibeault didn't think there would be any major impact in terms of lost revenues, but said that might bear another look.

Mr. Kelley said he thought the Board had discussed this. But he said he would be happy to reconsider the issue.

Mr. Campbell said the Board had discussed this, and at that time said a third party review wasn't needed.

Mr. Kelley said he was fine with the testimony as well as the report provided by the applicants, and said he didn't think anything else was needed.

Other Board members agreed. Mr. Wolfe said he thought it was too late to ask for this analysis, so he was ready to move on.

Mr. Kelley said the deed for the conservation land was a cornerstone of his being able to approve the applications, which involved an incursion into the buffers. He said the applicant had gone to great measures to create and preserve a corridor along the river, and said he wanted to be clear that this was why he was supporting the incursion occurring into the wetland and shoreland buffers.

Chair Parnell asked Mr. Kelley what he would like to see in the conditions of approval, to reflect that view.

Mr. Kelley said he wasn't expecting the lot line revision to occur before the signing. He also said the deed could be a condition of approval to be met subsequent, and said the condition could say the certificate of occupancy wouldn't be granted unless the deed was received.

Attorney Loughlin said the contract was to buy the Shea land at a specified price. He said it was realized that Mr. Kelley and others had said from the beginning how important the conservation easement was. He explained that Capstone didn't want to get the deed now,

before they knew the applications had been approved, before the appeal process had taken place, and before Capstone had taken title to the Woodward property.

Mr. Kelley said he was fine with pushing this down the road, and said it could be prior to receiving the certificate of occupancy.

Mr. Wolfe said he didn't see anything on single stream recycling in the conditions of approval.

Mr. Kelley said condition #4 to be met subsequent could include wording on this. He suggested language for the first sentence: "The applicant shall provide the opportunity for tenants to utilize single stream recycling."

Chair Parnell noted that condition #5 regarding prohibition of fertilizers, pesticides and herbicides should also refer to the Wetlands Conservation Overlay district.

There was discussion about conditions of approval #7 and #8 to be met subsequent regarding health inspections of residential units and the clubhouse facilities. Mr. Campbell said he had checked with the Town Attorney, after Mr. Johnson had sent an email to the Board on these items. He said he had gotten a phone call on this that day, and was told that unless there was something in the Health Ordinance that allowed this, the Board couldn't require applicants to do this. He said the applicants could agree to do it and said that could then be made a condition of approval.

Mr. Kelley said he didn't think the Ordinance talked about property and security management plans either, but the Board had incorporated that. He said he thought these conditions as well were under the broad power of health, welfare and safety. He asked if it would make the Town Attorney happy if the Board asked the applicants if they would agree to this, and Mr. Campbell said yes.

Mr. Kelley asked the applicants if they would agree to meet conditions #7 and #8, and Mr. Vawter said they would agree to condition #8, but not #7.

Mr. Kelley said he was trying to understand why Mr. Johnson had recommended #7, and Mr. Campbell described Mr. Johnson's experience in Town with trying to inspect rental units.

The Board agreed to keep condition #8.

A new condition, (#8 or #9), was developed by Mr. Kelley that said "Prior to the issue of the first certificate of occupancy, the applicant shall receive Planning Board approval, and record the appropriate documents for the lot line adjustment pertaining to the conservation easement/deeded open space."

Councilor Smith said he was glad the applicants had said they would require parking permits for tenants. He and other Board members created a condition that said the applicants would require parking permits for tenants and employees, and also said the sale or provision of parking permits to individuals who didn't live at the cottages was prohibited. Councilor Smith said the idea was that the applicant would not allow non-



tenants to park there on a regular basis, as opposed to visitors.

Councilor Smith asked if there was any enthusiasm on the Board to require that at least 15% of the parking would be set aside for compact parking.

There was discussion. Chair Parnell said he didn't think it was enforceable.

Councilor Smith noted that the Board hadn't put a limit on social occupancy. He said he thought there should be a condition of approval that put a limitation on the number of occupants (visitors) and methods and times of operation. He noted the wording in the conditional use permit provisions of the Zoning Ordinance on this.

Mr. Kelley suggested that the social occupancy clause would conform to the party rules Capstone had submitted. He said management would know ahead of time about the parties. There was discussion with Councilor Smith on this issue.

Mr. Kelley asked if perhaps there could be wording that said social occupancy would be in accordance with Exhibit B. of Capstone's Property Rules and Regulations.

Councilor Smith said these rules left open the possibility of a lot of non parties, a number of actual parties at 25, and some parties with more than 25 people. He asked at what point cars started stacking up on Technology Drive, the Goss parking area, the landscaped areas, etc.

Mr. Kelley said he thought there were enough mechanisms to address this. He also described a possible scenario where if they weren't working, Chief Kurz could say the security and management plan wasn't working, and there were problems. He said he didn't want to control what the kids did socially within the boundaries of their own cottages.

Ms. Fuller said it wouldn't be in Capstone's best interest to allow the kids to behave this way, and said she believed they would take steps to prevent this kind of thing from happening.

Councilor Smith said during the conceptual consultation, he had asked Mr. Acken if he would consider a workforce housing component. He asked if the Board would like to encourage, but not require Capstone to have a modest workforce housing possibility, other than for their own workforce.

Ms. Fuller said in order to afford that opportunity, she thought the Board would have had to offer Capstone some incentives from the beginning. She said it would be lovely to have a workforce housing neighborhood like that, but said it wasn't proposed. She said it could have been appropriate to offer this, if the land use was more densely populated with buildings, and if they had offered incentives.

Mr. Kelley said the incentives weren't in the Ordinance right now. He also said Durham was doing more than its share to provide workforce housing, but said it was just that it was taken up by students.

Ms. Fuller said the Town needed to find a way to do this, and said she didn't think Durham was doing its fair share. But she said she didn't think the cottages that were proposed were the place for workforce housing.

Chair Parnell asked Mr. Campbell to provide a clean copy of the FOF and COA for the Board and the applicants as soon as possible. He said he presumed the Board would have Capstone's comments as well for the meeting the following week.

Attorney Loughlin said Capstone would send a request to extend the application period.

**V. Other Business**

A. Next meeting of the Board: April 13, 2011

**VI. Adjournment (Approximately 10 PM)**

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

Adjournment at 11:00 pm

Victoria Parmele, minutes taker

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Susan Fuller, Secretary