Albemarle County Planning Commission
July 8, 2008

The Albemarle County Planning Commission held a meeting and public hearing on Tuesday, July 8, 2008, at 6:00 p.m., at the County Office Building, Lane Auditorium, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

Members attending were Marcia Joseph, Eric Strucko, Thomas Loach, Jon Cannon, Vice Chairman; Bill Edgerton, Linda Porterfield and Calvin Morris, Chairman. Julia Monteith, AICP, non-voting representative for the University of Virginia was present.

Other officials present were Scott Clark, Principal Planner; Judy Wiegand, Senior Planner; Wayne Cilimberg, Director of Planning; Glenn Brooks, County Engineer and Greg Kamptner, Deputy County Attorney.

Call to Order and Establish Quorum:

Mr. Morris called the regular meeting to order at 6:00 p.m. and established a quorum.

Committee Reports:

Mr. Morris invited committee reports.

- Ms. Porterfield reported that the Historic Preservation Committee met several weeks ago and they are now up to a full compliment of numbers. There were four new members appointed.

- Mr. Strucko reported that the School's Long Range Planning Committee has reconvened and has had about three meetings for this cycle. The group is looking at the current elementary, middle and high schools current capacity, the way they calculate capacities and how the school system is planning their capital needs with an eye towards the projected new developments that are happening. They are looking at some pretty tight school populations within the existing facilities. He asked as they consider proffer policies and as they progress as a Planning Commission to look at rezoning and development proposals he would encourage them to keep an eye on looking at the current school situation.

- Mr. Loach reported that the Crozet Library Steering Committee met. The design team appears to be excellent with a lot of history and experience in developing and building libraries. The next meeting is on July 28. Also, he attended the CHART meeting. They are working on refining the UNJAM report.

- Mr. Morris reported that as far as the Eastern Connector Committee the timeframe for briefing the City Council and the Board of Supervisors has been pushed up probably at least a month. They will hear the consultant's briefing at the end of the month. The Board of Supervisors and the City Council will be briefed in August or early September. Also, the Pantops Master Plan Steering Committee met and decided to meet monthly. The committee decided to work on projects that can get done and start work on the pedestrian cross walks across 250.

- Ms. Joseph noted that PACTEC and MPO will meet within the next couple of weeks.

There being no further committee reports, the meeting moved to the next item.

Other Matters Not Listed on the Agenda from the Public:

Mr. Morris invited comment from the public on other matters not listed on the agenda. There being none, the meeting moved to the next item.

Review of Board of Supervisors Meeting – July 2, 2008

Mr. Cilimberg reviewed the actions taken by the Board of Supervisors on July 2, 2008.

Consent Agenda:

Approval of minutes
April 22, 2008

AFD-2008-00004 Free Union Renewal
Staff requests that the Commission forward this review to the Agricultural/Forestal Districts Advisory Committee for their consideration. (Scott Clark)

Mr. Morris asked if any Commissioner would like to pull an item from the consent agenda.

Motion: Mr. Strucko moved, Ms. Porterfield seconded for approval of the consent agenda.

The motion passed by a vote of 7:0.

Public Hearing Items:

AFD-2008-00005 Moorman's River Addition
Notice is hereby given that the Albemarle County Planning Commission will hold a hold a public hearing to receive public comments regarding the addition of Tax Map and Parcel Number 05700-00-00-06900 to the Moorman's River Agricultural and Forestal District (Albemarle County Code § 3-222) on July 8, 2008, at 6:00 p.m., in the Auditorium of the Albemarle County Office Building, 401 McIntire Road, Charlottesville, Virginia. The parcel proposed for addition is approximately 117 acres in size and located 1.1 miles north of the State Route 240/250 intersection on Brown's Gap Turnpike. The Albemarle County Agricultural and Forestal Advisory Committee have recommended approval of this addition. (Scott Clark)

Mr. Clark presented a power-point presentation and summarized the staff report.

- The owners of Tax Map 47, Parcel 69, a 116-acre property adjacent to the existing Moorman's River district, have applied to join that district.
- The Agricultural/Forestal District Advisory Committee recommends acceptance of the proposed addition to the Moorman's River district. The district will next be reviewed in December, 2014.

Ms. Joseph asked when the district was up for renewal.

Mr. Clark replied that it was renewed two years ago for a ten year period.

Mr. Morris opened the public hearing and invited the applicant to address the Planning Commission.

Lowry Abell, applicant, said that he was present to answer any questions.

Mr. Morris invited other public comment. There being none the public hearing was closed and the matter before the Planning Commission.

Motion: Mr. Strucko moved, Ms. Porterfield seconded to recommend approval of AFD-2008-00005, Moorman's River Addition as recommended by staff.

The motion passed by a vote of 7:0.

Mr. Morris said that AFD-2008-00005, Moorman's River Addition will go before the Board of Supervisors on August 6, 2008 with a recommendation for approval.

SP-2007-00053 St. Anne's Belfield

PROPOSED: to increase the number of students from 300 to 550 by adding new buildings and demolishing some existing buildings. No residential units are proposed.
ZONING CATEGORY/GENERAL USAGE: R-1 Residential (1 unit/acre).
SECTION: 13.2.2.5, which allows private schools by Special Use Permit.
COMPREHENSIVE PLAN LAND USE/DENSITY: Institutional - schools, universities and colleges and ancillary facilities and public facilities and utilities in Neighborhood 7.
ENTRANCE CORRIDOR: Yes X No____
LOCATION: 720 Faulconer Drive (Rt.855), Charlottesville, VA 22903, approximately 1620 feet from the intersection of Faulconer Drive and the Ivy Road/Rt.250 off ramp from the 250 Bypass.
TAX MAP/PARCEL: TM 60 Parcels 57, 57A, 57B, 57C.
MAGISTERIAL DISTRICT: Jack Jowett
(Judy Wiegand)

Ms. Wiegand presented a power-point presentation and summarized the staff report. She distributed copies of a letter sent by the applicant's attorney, Richard Carter. (**Attachment A** – Letter dated July 7, 2008 to Judy Wiegand from Richard E. Carter regarding SP-2007-53, St. Anne's-Belfield) (**Attachment B** – power-point presentation by Judy Wiegand) (See Staff Report)

At the 4/29/08 work session the Planning Commission provided guidance on two issues; the demolition or preservation of the Head Master's dwelling and possible off-site road improvements to off set the increased impacts the expansion would have on the transportation system. Staff questioned whether or not the school should conduct an evaluation before the Planning Commission and Board act on the special use permit to determine which of several options was preferable. The options included demolition or preservation or moving the structure. Staff has evaluated the Architectural Historian Report, which indicates that the house is not architecturally or historically distinguished and that the house is not eligible for listing in the National Register. The Design Planners comment after reviewing the Architectural Historian Report was "although it is disappointing that the applicant is not able to find a way to reuse the resource, under these circumstances staff does not oppose demolition of the house." Staff's recommendation does not involve trying to preserve the head master's house.

Regarding the Traffic Impact Analysis, the Commission indicated that if the finalized impact analysis showed that expansion of the school would increase traffic at intersections in the area, should the school be requested to make improvements to one or more of those intersections as recommended by the County Engineer and VDOT. The Commission directed staff to work with the applicant to determine a proportional share of the cost of improvements due to the expansion. The Traffic Impact Analysis identified five intersections where St Anne's Belfield's expansion has an impact on the amount of traffic going through those intersections. The five intersections were identified as (1) the intersection of Old Ivy Road and Rt. 250; (2) the intersection of Faulconer Drive where it meets Old Ivy Road; (3) where Faulconer Drive meets the off-ramp from the 250 Bypass; (4) the intersection of the bypass and Old Garth/Old Ivy Roads; and (5) the intersection after going under the bridge of Rt. 250 and Rt. 601. At two of these intersections the amount of traffic generated by the school's expansion triggers the need for a turn lane or a taper. At interaction at the 250 ramp it triggers the need for a right turn lane. Staff has recommended that the applicant bear the cost of these improvements because they triggered the need for them. Staff and VDOT felt the appropriate approach to a proportional share was to have the applicant cover all of those improvements rather than a proportional share of each of the other five OR a proportional share of just the two as suggested by the applicant.

Additional issues that needed to be resolved before the public hearing were:

1. A more legible plan that clarifies boundaries and streets.
   Status: Staff noted that this plan has been provided.
2. A conceptual stormwater management plan.
   Status: This is now a recommended condition of approval.
3. Clarification as to whether the erosion and sediment control plan can be implemented without a variance.
   Status: This is now a recommended condition of approval.
4. A parking study.
   Status: The parking study has been received and found to be adequate.

5. Impact on public water and sewer.
   Status: Water and sewer information will be provided to the Albemarle County Service Authority at the time of site plan approval.

Staff has identified the following factors favorable to this application:
1. Providing a private school in the County enables parents to choose the type of educational facility they prefer for their children.
2. Expanding the number of grade levels at the Belfield campus will mean more siblings will be able to attend school on the same campus, thereby making transportation easier for families.
3. Because this campus is located at the edge of the Development Areas and is surrounded by low-density residential areas, vacant property, and the Rural Areas, the potential noise impact from a large number of children on the adjacent properties will be minimal.

Staff has identified the following factors unfavorable to this application:
1. Traffic in the general vicinity of the campus is congested at this time. While completion of the two road improvements recommended as a condition of this Special Use Permit will mitigate some of this congestion at two of the most affected intersections, congestion will remain at the other intersections in the area.

RECOMMENDED ACTION:
Based on the findings contained in this staff report, staff recommends approval of Special Use Permit 2007-053, St. Anne's-Belfield, with the conditions listed in the staff report. If the Commission agrees, she would like to go through each condition and describe why it is here, where staff developed it from and how it is likely to work. (Note: Ms. Wiegand's explanation is in italics).

1. The site shall be developed in substantial accord with the concept plan entitled "St. Anne's-Belfield Proposed Lower/Middle School Preliminary Site Plan," dated June 6, 2008, except that changes may be made provided the Zoning Administrator finds that all other special use conditions are met.
   Staff explained that with a tight site plan the applicant may need to wiggle things some and staff wanted to make sure that they had sufficient flexibility to do this.
2. The maximum enrollment shall be 550 students.
   The applicant requested 550 students and this is a standard condition.
3. Arrival and dismissal times for Lower and Middle school students shall be staggered at a minimum 20-minute interval so that all students do not arrive at/depart from the campus at the same time.
   This is something that the applicant offered to do and they indicated that 20 minutes is the minimal length of time that they need for one group to come in before the next group starts.
4. ~~4.~~ The Owner shall design and construct all improvements at the Belfield campus to meet the minimum standards for LEED certification under the LEED for Schools Rating System and shall obtain such at the minimum level or better within two (2) years from the date of the Certificate of Occupancy.
   She noted that the applicant is not comfortable with this condition. There have been three projects recently that have come forward with proffers related to LEED certification (Biscuit Run, Fifth Street Avon and a part of the Hollymead Town Center). Staff used the language from those three projects to develop this language and went on to the web to find what the appropriate date was. Each of the proffers state that the proffers will be constructed according to a particular standard and they give a date so that you know which one they are required to meet. She noted that the standards do change over time. She read the following standard "in addition to meeting all requirements of the Architectural Review Board, only buildings shall be designed and constructed to meet the minimum standards for a Silver Rating under the LEED for schools rating system. The first edition was updated on November, 2007. The reason that this condition is here is because the applicant indicated that they were going to try to do this when they came to the work session and the Commission asked if that could be a condition. At the time of the issuance of a building permit the owner would submit certification from a LEED certified architect stating that the plan meets the standards. At the time that the owner requests a Certificate of Occupancy for any building for which the architect had rendered such a certificate, the owner would then be asked to submit to the department a written statement from the architect that the building was

built to the plans on which the certificate was based. Staff is not asking the applicant to get complete certification before they can let the children in the building. Staff is asking the applicant to follow the same steps that were used on the other three proffers. Mainly, they get the certification from the architect that the buildings are drawn to the standards and that the building is built as shown in the plan. The comments about the ARB came up in a discussion with the Design Planner where another plan that came before the County ended up in a conflict where the applicant has designed the plans to the LEED standards and they did not meet the ARB standards. Staff basically feels that a project can meet both of the standards. The Design Planner recommended that the applicant meet both standards and the way to insure that is to have the ARB standards take precedence. The applicant is concerned about having this as a condition of approval because they would be at the mercy of contractors and others who might try to take advantage of the fact that they were required to meet these standards.

5. Stormwater management shall be provided in the form of biofilters for any new impervious surfaces. In addition to the requirements of the County's Water Protection Ordinance, the majority of roof runoff shall be captured in a rainwater collection and reuse system.
6. Erosion control shall be provided within the property by the use of sediment trapping measures and diversions. Except for the required transportation improvements listed in Condition 7, off-site easements or work, or variations from the standards, shall not be used.
   Both conditions #5 and #6 were provided by the County Engineer, which were added as follow up to discussions with the applicant's consultant who felt he could handle stormwater management and erosion control in the way referenced in the conditions. The applicant has not indicated any difficulty with these two conditions.
7. Prior to the issuance of a certificate of occupancy, the applicant shall complete construction of an extended southbound right turn lane from the US 29 ramp onto Faulconer Drive, and also complete construction of the westbound right turn taper on Old Ivy Road at the intersection of Faulconer Drive.
   County and VDOT staff are recommending this because these are the two intersections that are most affected by the traffic. Staff feels that in order to get anything done to mitigate the traffic, these improvements need to be made. There are a couple of other options. One was that the applicant has offered to provide a pro-rata share based on the percentages of the traffic for the improvements at these two intersections. But, this leaves no proportional share for the other three intersections. Staff has also considered asking for a pro-rata share of them. Staff chose the option where they felt if they were built the traffic impact at these two intersections would be mitigated.

   Mr. Strucko asked about VDOT's comments noting that he had read Mr. Denunzio's email, which indicates that he is asking for something more extensive.

   Ms. Wiegand replied that the applicant is suggesting that improvements be made at the two intersections.
8. A row of 2 ½" caliper shade trees spaced 40 feet on center shall be provided along the east side of the relocated portion of SR 855.
9. A minimum of 20-foot deep landscape buffers shall be provided, free of utilities, to screen the parking lot located southeast of the existing football field from the US 29/250 Bypass.
10. Landscaping may be required to be in excess of the minimum requirements of ARB guidelines or the Zoning Ordinance to compensate for the negative visual impact of the playing fields and parking on the Entrance Corridor.
    Conditions #8, #9 and #10 were added at the request of the Design Planner so that the project meets the guidelines of the ARB. This is standard language that has been used in other projects to let the applicant know that they need to tweak their landscape plan before going to the ARB. Applicant has stated no objections to these three conditions.

    In summary, the applicant is fine with all conditions except #4 and #7.

Ms. Joseph asked if it was standard procedure for the ARB to want the playing fields to be screened.

Ms. Wiegand replied that in this case the ARB wants the playing fields screened from the bypass.

Mr. Cannon asked if it was the fields themselves that are aesthetically displeasing or the people on them.

Ms. Wiegand replied that it is standard that screening be provided along the entrance corridor. She noted that the bypass is an entrance corridor.

Mr. Cannon stated that he was trying to get a better sense of the economics here. He noted that there are three options for contributions that have been put before the Commission. One is a pro rata share of the improvements required at all five intersections. Another alternative recommended by staff is that the applicant builds two of those and the applicant proposes a pro-rata share of two of the intersections. The applicant has provided a total showing the amount of the contribution that would be necessary for the option that they are recommending. He asked if there are totals for the other options.

Ms. Wiegand stated that they do have a total for one of the other options, but she does not have a total for the figure of the pro rata share for all five intersections. The applicant's recommendation, as noted in the letter from Mr. Carter, is $13,215 which is a pro-rata share of two intersections. However, if they build the same two in their entirety, the estimate is $110,000.

Mr. Carter noted that 110,000 dollars buys a turn lane extension off the 250 off ramp and a taper.

Mr. Loach ascertained that it was VDOT's opinion that these have to be built to handle the additional traffic that will be associated with this.

Mr. Morris asked Glenn Brooks if he would like to address this question.

Mr. Brooks asked the Commission to give the applicant a chance to explain this. He did note that there is already a right turn off the ramp onto Faulconer Drive.

Ms. Joseph questioned how the ARB would see the buildings if screening is provided.

Ms. Wiegand stated that the ARB would review the buildings and the screening.

Mr. Cilimberg stated that the ARB's review of the buildings will be based on visibility, noting that this will not be specifically known until they get into the site plan process. The screening may or may not be totally hiding the building. The buildings are set back on the site so they may or may not be visible..

Ms. Wiegand pointed out that the buildings are far from the road.

Mr. Cilimberg stated that the ARB made a decision based on its guidelines that a design at the Montessori School on Rt. 250E for purposes of LEED did not meet the guidelines of the ARB and so they did not approve the design. The guidelines don't give the ARB any latitude. This request was appealed to the Board of Supervisors. The Board of Supervisors said that they want to incorporate LEED design and address the guidelines to the full extent possible, but they wanted to make sure that it was LEED design and ultimately certified. This condition is to make sure that no conflict occurs. He noted that the ARB is working within a certain set of guidelines that they do not have any latitude to move beyond. The idea is to head off at the pass the possibility of getting standards for construction that could be used for LEED if these buildings are visible. The belief is that you can design to LEED and meet the ARB guidelines. But, the way the design was done for the Montessori School, this was not possible. In terms of the contribution to intersection improvements one thing that weighed heavily for VDOT and staff is that if you get a prorate share of all five you may not have the money to do anything because that has to be matched by VDOT's monies, which are not very plentiful. The risk is that you have a contribution that will set. The idea that VDOT and staff shared was to address the two intersections most impacted and to get those improvements done and have something on the ground rather than having money sitting around.

Mr. Loach asked what the $13,000 noted in the letter would be used for.

Mr. Cilimberg explained that this was based on the two intersections, not all five intersections. He pointed out that with the $13,000, based on estimated prices for these two intersections they are still short approximately $90,000.

Mr. Strucko asked what other traffic uses Faulconer Drive from the off-ramp to the school. He asked if it was 100% St. Anne's Belfield traffic.

Ms. Wiegand pointed out that there are a couple of residences back there, therefore it is not solely St. Anne's.

Mr. Strucko ascertained that the turn lane is a safety feature for other traffic using the off-ramp to get to Ivy Road. He questioned the turn lane extension.

Ms. Wiegand noted that there is an existing turn lane, which would be made longer so that more cars could be stacked.

Mr. Cilimberg pointed out that the turn lane extension would allow more cars to pull off and turn to the right.

Mr. Strucko ascertained that this addition in students would create an additional queuing effect. VDOT is looking to extend the turn lane to accommodate this and not impede the other traffic.

Ms. Monteith stated that language in condition #4 of the staff report is confusing—"the owner shall submit a certification from the LEED certified architect." She stated that it does not work this way. The USGBC is the only authority that can really say whether a project is meeting the standards. If you are mandating LEED certification or silver, it is confusing to say that the ARB requirements will take precedent as this might make it impossible to get LEED certification. She felt these two were at odds with each other. Speaking from experience, she noted that it is not super easy to get LEED certification on projects.

Ms. Wiegand pointed out this condition does not require the applicant to get certification, but only that they design to the standards.

Mr. Cilimberg pointed out that this is a proffer that has been used in three other projects.

Mr. Edgerton stated that he is a LEED certified accredited professional. This language was developed by staff and the County Attorney after the Commission recommended these conditions. He has never seen this language before this application. This language is very confusing. It is not consistent with what happens with LEED certification. When you talk about coming up with something that works with ARB and with LEED, then you give ARB precedent who are limited by the guidelines. They are also limited by the Comprehensive Plan that specifies that they are trying to get LEED. The language, whether it's been used before or not, is not valid language. It needs to be adjusted to work with the system that the applicant is trying to do and with what really happens in the process. You can not have the ARB trumping it. If they are concerned about some of the conflicts, perhaps this application should be deferred until ARB input is received.

Mr. Cilimberg stated that the ARB would not be able to provide input until the applicant provides a design. He pointed out that the applicant would have to spend a lot more money. If this were deferred, the applicant would have to spend a lot of money to go through the ARB review and get conditions of approval prior to Planning Commission review. This may be too onerous. If the Commission feels that the ARB should not have that superseding authority, then the Commission needs to make a recommendation that they feel it should be LEED certified. The ARB will have to live with the conditions approved by the Board of Supervisors and the guidelines will not have precedence.

Ms. Wiegand pointed out that the intent was not to require the applicant to get LEED certification, but to design to the standards. This allows the applicant more flexibility and keeps the county from being in the unfortunate position where if the applicant could not get the certification at the end of the process, at least they would have designed to meet the standards, be able to occupy the building and have met the requirements of the condition.

Mr. Cilimberg pointed out that this proffer was developed for one application and then repeated for two others. If there are some wording problems in this proffer, staff would like to get some suggested

language that could work.

Mr. Kamptner asked staff to identify the three projects where this proffer has been used.

Ms. Wiegand stated that this was based on Biscuit Run, Fifth Street Avon and a part of the Hollymead Town Center Section A2 that had proffers for LEEDS.

Mr. Kamptner stated that he had a copy of the Biscuit Run proffer. This proffer varies from the Biscuit Run proffer because that provision provides at the pre-construction the owner shall provide to the County Director of Community Development the opinion of a licensed architect that such space, if constructed in accordance with the building plans, is designed to achieve the minimum certified rating provided in the proffer. The second part of it, the post construction statement from the architect is consistent with the Biscuit Run language. He looked at the Hollymead Town Center proffer before this meeting, but has not reviewed the Fifth Street Avon proffer.

Mr. Cilimberg stated that if there is an agreement with the intent, staff will work with whomever that can provide good input to get the right wording.

Ms. Monteith stated that if the Commission is trying to encourage people to try to achieve LEED certification and those requirements are in conflict with the ARB guidelines, then there might be a need to look at the ARB guidelines and try to resolve them.

Ms. Porterfield asked if the ARB was concerned about the visual impact of the buildings on the Rt. 250 bypass. She felt the chances of really seeing these buildings from the 250 bypass are slim especially if the applicant provides substantial trees. It seems it would be better to encourage the LEED certification and not worry about the ARB because the building probably won't be seen.

Mr. Morris stated that it was his understanding that the ARB is saddled with current requirements and Mr. Cilimberg's suggestion was very well taken. If there is a conflict, it needs to be resolved early on otherwise the applicant's hands are tied.

Ms. Porterfield stated that in this particular case it is not like these buildings are right on top of the road. There is adequate vegetation as well as a 55 mph speed limit. She would hate to make it tougher for the applicant to meet LEED certification, which might be better for the whole school project. It would be nice if they could meet LEED certification and ARB guidelines, but we have to be flexible.

Mr. Morris pointed out that at the joint meeting it was noted their responsibility clearly set out that the ARB would be concerned with things multiple hundreds of feet back as long as they were visible from the EC. He felt the Commission needs to work on this and not burden the applicant at this particular time**.**

Mr. Morris opened the meeting to public hearing and invited the applicant to speak.

David Laurie, head of St. Anne's Belfield School stated that he appreciates the Commission's consideration of their proposal. This is an exciting time for the school and they are eager to move ahead with this project. He introduced the team that was present at the meeting: Cal Bowie, Principal Architect; Rick Carter, from Zunka Milnor Carter & Inigo Ltd; Scott Dunn, Traffic Engineer; Kurt Walker, Civil Engineer; Michael Waylet, Associate Head of School and Chris Harrison, Project Manager. He noted that this project is a critical need for the school. It is the combination of many years of planning and discussion. In 2003, the school adopted a strategic plan that called for the construction of a new building on the lower campus. He pointed out that they were not increasing their enrollment. They have worked with staff and are in agreement with a majority of the recommendations.

Richard Carter stated that they accept and agree with the staff report except on two instances-- condition #4 LEED certification and #7 construction of the southbound right turn lane off of the ramp onto Faulconer Drive. There is already a right tune lane here. If they were to extend the right turn lane back he was unsure as to whether or not this would stay in VDOT's right-of-way. The University of Virginia owns land outside of the right-of-way and they would be in a position where the state would have to condemn the state's land. He did not know if this could be done and he was not sure that they could do this if they

wanted to. As to the construction of the west bound right turn taper on Old Ivy Road at the intersection of Faulconer Drive, again they do not know who owns this. He did not know if it was in the VDOT right-of-way. They felt it would be fairer to determine what impact the expansion would have on the intersections and pay Albemarle County the amount that it would cost to make the necessary improvements. They are trying to run a school and do not know how to build roads and the problems that come along with them. There are 1,962 cars in the morning and afternoon that go pass this ramp and Faulconer Drive. Of those 2,000 cars only 267 are St. Anne's cars. On the other intersection there are 1,860 cars per day. Of those 1,860 cars 169 or 9% of the vehicles are St. Anne's. If you have been at these intersections between 4:30 and 6:00 at night those intersections all fail. They felt the fair share and the fair thing to do is that they pay their fair share of the cost of what they are trying to do. He asked the Commission in considering this to know that they are not against being cooperative and they are not blind to traffic. They feel that what they are proposing is a small part of the traffic that goes on here. Their calculations on the total cost of $111,000, the applicant's share would be $13,218. They would pay this and the county could use this to build the right turn lane or convince VDOT to build it. At this point in time, he would like to ask the Commission to hold their questions on traffic and let Mr. Bowie speak on LEED certification.

Culvert Bowie, Architect, stated that he has been asked to speak about condition #4 related to LEED certification. In his practice they have been actively encouraging their clients to pursue substantial design for the last twenty years. St. Anne's Belfield has gladly and actively embraced this philosophy and tasked them to design a new school building that showcases their commitment. They have agreed to seek, in good faith, a LEED certification and expect to achieve at least a silver level. The last school project that they undertook and sought a silver certification ultimately received a gold certification. The LEED standards continue to change. The reason that the standards change and evolve is that some of the principals that have been embedded in them don't make sense and some of them need to be tuned up and others need to be added. That process requires up to a year after the building is occupied because commissioning is an important part of the overall evaluation process. He understands that the certification that was asked for in the language as it stands is not that it is certified, but that they are certifying that it is built and designed consistent with it. Ultimately, the GBC will certify or not at whatever level they find. Their experience has been that it is evolving and somewhat arbitrary and can be difficult as a process. He believed that no architect should certify, whether LEED trained or not, that a building is built to the full standards of the plan. That is language that is very onerous to them and their insurer who would ultimately deem it to uninsurable. They do not build the structure, they supervise at an intermittent level and they can not certify. In fact, the language that was spoken to earlier about a letter of opinion is a very different criterion. Those things as they are written are very onerous in terms of their certifying that the standards will be met and that the building has been built. He felt it puts a burden on the architect that they should not realistically accept.

Mr. Morris asked Mr. Bowie if the language he heard make sense to him.

Mr. Bowie stated that giving an opinion is one thing, but certifying is another. Their insurance company would do a back flip over. There are probably architects that have signed this in the pass. In good faith they would seek to modify the language.

Mr. Kamptner pointed out that the pre-construction statement from the architect is an opinion and the post construction statement would be a written statement from the architect that the building was built to plans on which the opinion was based.

Mr. Bowie stated that the pre-construction statement from the architect would not be a problem and he felt this was consistent with the practice. He did not feel they should do the post construction statement. Again, they only supervise at an intermittent level.

Mr. Cilimberg stated that he felt it is worth distinguishing the second part (post construction). It does not say that the architect certifies, but should submit a written statement that it was built to the plans on which the opinion was based.

Mr. Bowie stated that this is very onerous language. He realized that the Commission is grappling with this as a new issue and trying to develop some consistent language. However, he felt that it was very onerous language as currently drafted. For a charitable organization this takes away a lot of the flexibility

that they need in their projects in order to successfully achieve their goal, which are not really to build sustainable buildings, but to educate children.

Mr. Morris stated that he felt the language needs to be fine tuned.

Mr. Cannon stated that it seems to him that the purpose of this language is to capture the condition or the intent to build to a LEED standard and still give the applicant room so that if they make a good faith effort to do this and don't receive final certification they are not prohibited from occupying the building. In a way it is designed to give the applicant incentives to meet their commitments to LEED and also give them some room. There should be a way to draft language to meet this purpose.

Mr. Bowie stated that he did not thing that his client would have a problem with this as an intent. He felt the condition should state that the applicant would seek, in good faith, a LEED certification.

Mr. Cannon stated that this was designed to give more teeth to the good faith effort.

Mr. Kamptner stated that the county has been actively seeking proffers. The proffer language is developed cooperatively and up until now they have relied on the applicants' representatives to define the standard that will be used in the proffers.

Mr. Bowie pointed out that one other thing that is happening with this building is that they are designing with a geothermal system, which puts you way down the road in seeking a higher level of certification. Those decisions have enormous economic consequences and implications especially to charitable institutions. He felt flexibility should be there, that they should not be required to meet any specific standard, but just to seek certification. He encouraged the Commission to leave the applicant with the flexibility to make this decision.

Rick Carter stated that he joined the team late and did not work on the proffers. Actually the staff report had already been written with conditions. In his letter he provided some good faith language. He is willing to work with Mr. Kamptner to prepare language that would be satisfactory to staff and to the Board of Supervisors.

Ms. Joseph asked Mr. Bowie to come back to the podium. One of the reasons that she was not concerned with removing and demolishing some of the buildings is because they had talked about LEED certification and the fact that the applicant is very conscious of where the materials go when the buildings are demolished. Is there something that can be added to the conditions concerning the demolishing of those that he would feel comfortable certifying. She understood that Mr. Bowie would not be out there watching all the time. Who is? Who can certify this? Who can the Commission ask for this certification?

Mr. Bowie noted that the client's obligation is a heavy burden. He felt almost any certification standard, even the lowest, requires them to deal with demolished materials in a sustainable way. Can he guarantee that the guy that carries it off the site actually disposes of it in a sustainable way. No. The specifications for the job should require the general contractor to dispose of materials in a sustainable way.

Mr. Strucko asked if there will be commentary regarding the traffic.

Scott Dunn, Traffic Engineer with Timmons Group, stated that he did the traffic calculations regarding the pro-rata share of the contributions for the improvements. Several of those intersections will fail in 2010 without this site. The intersections they looked at were Faulconer Drive and the ramp at Old Ivy Road and Faulconer; which are the two most impacted by their site traffic. Regarding Old Ivy and Faulconer he could not verify that there is enough room to fit a taper in between this intersection and the overpass. Field visits show some drainage features that they have not surveyed. On Faulconer Drive at the ramp, right now there is about 75 cars coming down the ramp and making the right turn. There is 100 foot storage and about a 125 foot taper with a concrete knee in the middle to provide direct access to the site. Cars on this ramp have a free flowing movement directly in the site. Based on the numbers they looked at their site would be adding about 15 additional cars in the morning and afternoon. He pointed out that he morning peak hour traffic is approximately 150 and the evening peak hour is 115. He also pointed out

that the traffic flow at the school is not drawn out over a long period. This will happen within a 15 minute window and is not an all day event.

Ms. Joseph pointed out that one of the things that Mr. Edgerton brought up is whether or not VDOT will close the exit ramp.

Mr. Dunn stated that there was discussion at the last Planning Commission meeting regarding access off of Old Garth Road. It is his understanding that UVA owns all the property between their site and Old Garth Road. He is unsure where discussions are at this point.

Mr. Edgerton stated that this ramp coming off of the bypass that crosses Faulconer Drive has been there for a long time. There have been five commercial buildings built after the school was on the site. He has driven this many times and both of his children attended this school. The reality is that this ramp is redundant and does not make any sense. If you are heading south on Rt. 29 if someone goes under the underpass there is a far safer access to Rt. 250. The same argument could be made with the ramp off of Old Ivy that goes north on Rt. 29. He asked if the school had pursued this. He felt this would solve all of the five intersection problems.

Mr. Dunn stated that he is unaware of whether this has been looked at or not. He felt this would be something the County and VDOT should pursue rather than a private land owner.

Mr. Brooks, County Engineer, stated that this has been brought up with VDOT, but they are not interested. He believed if the ramp were closed there would be uproar as most people prefer to take this ramp.

Mr. Edgerton asked who owns the right-of-way and if the school can make these two improvements. He asked if anyone evaluated whether what is being required can be done.

Mr. Brooks stated that the school could make these improvements noting that they are not even full lanes. They are very minimal improvements. The widening is not 12', but 4' or 5', which can be done within their right-of-way.

Mr. Edgerton asked how the school could make these improvements on someone else's property.

Mr. Brooks stated that they would have to survey it. He pointed out that VDOT tells staff that they think the improvements are possible.

Mr. Kamptner asked if the school expansion requires any permit from VDOT.

Mr. Brooks stated that a permit from VDOT is required only if they do the right-of-way improvements suggested by staff.

Mr. Kamptner noted that VDOT is asking the Commission to impose these conditions; they are not requiring them themselves.

Mr. Cilimberg pointed out that the improvements are off-site.

Mr. Kamptner pointed out that there are legal constraints because these are off-site improvements. They can be required as a condition of approval if they can find that the need for these improvements is substantially generated by this project. He can not give the Commission any good guidance as to what substantially generated is, because the one case that has dealt with was in the context of a special use permit. In that case the nursery was going to add approximately 25 vehicle trips per day where the road that they were asking to improve was handling thousands per day. The two numbers in Mr. Carter's letter were a 9% increase and a 13.5% increase.

Mr. Brooks stated that those figures are based on peak counted volume and not a daily volume.

Mr. Strucko asked if the commentary from a VDOT staff engineer meet the standards.

Mr. Kamptner stated that he talked with Ms. Wiegand and Joel DeNunzio who uses the term "trigger". He asked if a "trigger" could be one vehicle trip per day. One may be at a particular threshold that 5,000 vehicle trips per day may require that these improvements are needed. If this project is going from 4,999 trips per day to 5,000 trips per day, VDOT may find that this project is triggering the need for improvements. He felt this need to be studied further. This standard is different from "substantially generated."

Mr. Cannon asked if there was a similar concern about requiring a pro-rata contribution to improvements at these two intersections.

Mr. Kamptner explained that the pro-rata contribution is not requiring off-site improvements. Instead they are asking the applicant to address the impacts generated by this particular project. It is reduced to a pro-rata cash contribution

Mr. Cannon asked if there would be any objection to requesting a pro-rata contribution for all five intersections that reflect the applicant's impact on those intersections.

Mr. Kamptner stated that there would be no objection in the context of addressing traffic impacts. Cash contributions associated with special use permits are fairly new creatures. If traffic impacts have been identified and the traffic impacts need to be addressed, he was not aware of any impediment.

Mr. Strucko stated that the Commission could deny the special use permit on the grounds that they felt, for instance, $13, 000 does not adequately address the off-site impacts of this development.

Mr. Kamptner stated that if the Commission finds themselves in a position where the impacts can not be adequately addressed, it is within the Commission's ultimate legislative discretion to deny the request provided there is some existing reasonable use of the property.

Mr. Cannon noted that the Commission could condition the approval based on the appropriate contribution. The question is whether it is appropriate for the Commission to seek a contribution for all of these intersections or only two.

Mr. Cannon asked if there was any consideration given in the traffic analysis for the fact that by relocating the middle school to the lower school campus there would be a reduction of the school's impact.

Mr. Dunn stated that it was addressed, but it was limited to the Route 250 corridor approaching from the western area that now goes over the Route 250 bypass interchange. He felt there will be some shifts in traffic patterns.

Ms. Porterfield noted that the arrival and dismissal times will be staggered. She asked what will be done with the families on various shifts. What will be done with those people?

Mr. Dunn stated that there will be supervision for those students doing this time period.

With no public comment, the public hearing was closed and the matter was before the Commission for discussion.

Ms. Porterfield suggested the following wording for condition #4: The Owner shall design and construct all improvements at the Belfield campus to meet the minimum standards for LEED certification under the LEED for Schools Rating System and shall obtain such at the minimum level or better within two (2) years from the date of the Certificate of Occupancy. In addition to meeting all requirements of the Architectural Review Board, all new buildings shall be designed and constructed in as much as possible to allow St. Anne's Belfield to seek LEED certification.

Mr. Edgerton stated that this language was not strong enough. As an architect you can not certify the LEED standards. He noted that there are a number of other green building standards that are trying to compete with LEED. The reason LEED is such a strong certification program is because of this third party

certification. The architect that designs it does not have the right to certify it. He has the right to sign off on certain conditions and the engineers working on the projects also have the right to sign off on certain conditions. Ultimately, the building council reserves the right for the certification. He would be comfortable in saying that the special use permit is conditional on LEED silver. The special use permit would not be valid if they did not achieve this.

Ms. Porterfield asked what happens if there is a problem with the ARB.

Mr. Edgerton stated that he was caught in the middle of a problem with the ARB. The Montessori School refused to adjust as requested by the ARB. They appealed the ARB's decision to the Board of Supervisors. The Board of Supervisors wanted to do both. This cost the school LEED points. It was a compromise that the board came up with. The school had to give up the meadow that they had proposed as the landscaping directly across from the drug store. They lost points on the LEED program because of this. The ARB wanted more traditional shrubs that were more consistent with what had been required for the drug store. That is a perfect example where the ARB following their established guidelines that actually working against LEED. Aesthetics are important; but, they are subjective to a certain degree. As he said in his email to the Commission, he will not support this condition with the last sentence. He did not feel it was fair to put one division of the county over another and that is exactly what this says when it gives the ARB precedence.

Mr. Cannon stated that if the Commission adopts the strong form of the LEED certification condition there is no out for the applicant. Even if this is pursued in good faith and is not achieved, they are still held subject to it. If the sentence relating to a conflict between the ARB and the LEED certification remains, then it is still ambiguous as to how that conflict is resolved. This is not fair to the applicant. If the Commission is going to pursue the strong form of LEED certification requirements, then they have to articulate that condition so that either LEED trumps the ARB or there is an out for the applicant.

Mr. Morris pointed out that this request goes before the Board of Supervisors on August 6th.

Ms. Wiegand noted that the staff report indicates that this has not been scheduled for review by the Board of Supervisors.

Mr. Cilimberg stated that there are two things in this condition that staff needs direction from the Commission on. This probably will not be resolved tonight, but at least staff will know where the Commission wants to go with it. First, is the standing of the ARB's review and the second is the degree to which the Commission wants LEED conditioned. Here is the dilemma as he sees it. He does not know a lot about LEED, but his understanding is that the certification comes post construction and at occupancy. From a zoning enforcement standpoint there is the risk of there being a special use permit in operation and the violation of a special use permit. Technically this means a lot of different things from an enforcement standpoint. At a minimum it means it is coming back for an amendment to the special use permit so they can continue operating. He does not thing zoning feels very comfortable with conditions that can create that kind of circumstance.

Mr. Edgerton asked if the problem could be solved by adding a reasonable deadline, such as a certain number of years.

Mr. Cilimberg stated that this always puts the risk out there that they won't be able to achieve it at whatever point in time. This is why they try to make a condition more geared to meeting a standard. As noted tonight they can't predict what LEED silver will mean by the time this building is built. Staff is trying to find a way to get some type of professional sign off. They do not want to put anyone in the position of risking their professional license. If the Commission feels that this is enough, then staff can work out a condition sufficient to address it. If the Commission feels they need to get LEED certification within in "X" amount of time, it is a risky proposition. It is the degree of predictability. That condition does not have predictability for the enforcement. They don't know under a changing environment if they can get LEED silver. He felt that they will get it.

Mr. Edgerton stated that it would be a good motivator if the applicant were faced with losing their special use permit if they did not get LEED silver.

Mr. Cilimberg stated that he does not know legally whether a condition like that imposed creates a risk or not.

Mr. Kamptner stated that it was the same concern zoning has with things that have to be accomplished prior to certificate of occupancy. If there is a building that is ready to be occupied, and in this case it may be at the stage of post occupation where the other shoe drops, zoning is put in the position of shutting down the school.

Ms. Joseph pointed out that it is not zoning, it is the County.

Mr. Edgerton stated that zoning would be in the position of shutting the school down or requiring the school to take additional steps to meet the commitment they made.

Mr. Kamptner stated that in one regard it is similar to any other conditions such as putting the cap on the number of students. He felt that the LEED certification process is not as black and white as the number of students or completing a particular improvement, etc. This is where the problem with post occupancy events becomes more problematic.

Ms. Monteith stated that the Commission does not know much about the phasing. It seems that one idea would be to ask for this to be part of the condition, but possibly require LEED certification rather than silver. Because the Commission does not know much about the phasing of the project the time conditions become challenging.

Mr. Morris stated that he agrees with Ms. Monteith's suggestion. He also understood Mr. Edgerton's desire to require LEED silver. He felt that the applicant needs room and he hates to see them painted into a corner. The same thing would apply with ARB trumping LEED certification. He has a real problem with this.

Ms. Joseph stated that one thing she would like to hear from this Commission is how committed they are to LEED. She asked if the Commission thinks it is important to require it as a condition of the special use permit approval.

Mr. Edgerton pointed out that the Commission approved a resolution regarding this and it is now part of the Comprehensive Plan.

Mr. Cilimberg pointed out that it was a good faith effort to meet this standard.

Ms. Joseph asked how the Commission could deal with the ARB on this. This is putting the applicant in an awkward position.

Mr. Cilimberg stated that if the Commission wants to avoid the risk of the ARB trumping LEED certification, then there should be nothing that refers to the ARB taking precedent. This essentially means that the Board of Supervisors also supports this and the condition is passed along to the ARB. This has been explained at the joint meetings. There will be some points in time where a condition or a proffer accepted by the Board, maybe recommended by the Planning Commission, will tie the hands of the ARB in terms of its review in accordance with guidelines.

Mr. Strucko stated that as he understands it getting a silver level certification is subject to change.

Mr. Edgerton stated that there are certain things that are required in the certification process. Then there is another shopping list of additional things that you can get points for. There is a lot of flexibility in the system after you get past the pre-requisites. This is a membership drive organization that is based on consensus. It is very frustrating because there are adjustments that come and go. This is constantly going on. Every year there are committees and groups put together to try to figure out if it needs to be adjusted or not. This is why it has credibility in the construction industry because it brings in all players and not just architects or engineers. Everybody has to come to some consensus as to what a sustainable building is. That is why LEED was created.

Mr. Strucko agreed with Mr. Cannon that this has to be captured in a condition to build to a LEED standard. Is Ms. Monteith's suggestion that it meet LEED standard workable.

Ms. Monteith stated that her suggestion was for LEED certification not LEED standard.

Mr. Loach asked if they would know how many points were available with the current plan available. The Commission could hold them to a standard at any one point in time.

Mr. Morris stated that they could be held to a standard that is in place at the time they are working toward certification, not now.

Mr. Edgerton stated that to be fair with staff, there is probably a good reason to put a date and which standard they are going by.

Mr. Kamptner asked if the green building council would recognize these prior standards where it is in conjunction with a land use approval.

Mr. Morris stated that if the green building council is like ISO, then the answer is no. He suggested that the Commission go along with staff's recommendation to meet LEED standard within a certain period of time.

Mr. Strucko pointed out that this is in the Comprehensive Plan.

Ms. Monteith stated that the document will be dated if they say current LEED certification.

Mr. Cannon suggested removing the last sentence of this condition, which would have the effect of having this condition meeting LEED certification and trumps any inconsistent guideline imposed by the ARB.

Mr. Cilimberg stated that the hopeful reality is that it is of such insignificant visibility that it won't become an issue. It is not only about the building, but about the environment of the buildings and the plantings and so forth.

Mr. Cannon pointed out that the Montessori School is an Audubon site. They have made a commitment long before their proposed addition to their school to a certain landscaping ethic that was taken away from them, which would have helped them with their LEED certification. They lost that because of the ARB.

Mr. Cilimberg stated that the Montessori school is a special use permit that never had any condition regarding LEED in it. Therefore, it never set up this discussion to place it in a position of being able to make it through the ARB review without losing this. He pointed out that if the condition is that the applicant gets LEED certification at whatever level at a certain point in time, then staff will be looking for them to produce that certification at that point in time. It sounds like the Commission is willing to establish the certification at the base level. It will not be based on the standards today. It will be based on the standards that are put through at that point. They are really deferring to a later certification within a period of time that they seek rather than basing it on a 2007 standard.

Mr. Carter suggested a timeframe within two years of the issuance of the certificate of occupancy.

Mr. Strucko stated that his main concern was the off-ramp off 29 to Faulconer Drive and the extension of the existing turn lane. He has a hard time accepting that St. Anne's should be held to a pro-rata share of this. He felt they are the primary user of the off-ramp. Increasing the students by as much as 40% could cause an issue here. He could accept the argument that St. Anne's should not be held accountable for some of the failed intersections in other areas. But, this particular off-ramp is for their sole use.

Mr. Loach stated that VDOT had said that these changes need to be made. So they have two alternatives—take the pro-rata share but don't issue the special use permit until the money is available to make the changes or the applicant is responsible for the changes in order to get the special use permit.

Mr. Strucko stated that he felt the turn lane extension would cost approximately $70,000. This would adequately mitigate the off-site impacts of this particular special use permit.

Mr. Cilimberg stated that the condition reads "by the issuance of this certificate the applicant shall complete construction of the southbound right turn lane off of the US 29 ramp onto Faulconer Drive."

Mr. Brooks stated that the applicant could offer money for the right-of-way. He noted that there is plenty of right-of way next to the fence which fences off the playfields at St. Anne's.

Mr. Loach asked if there was adequate time to provide the improvements. He felt the question of whether or not there is adequate right-of-way should have been addressed earlier.

Mr. Brooks stated that from the applicant's perspective they do not intend to build them. They would like to make cash contribution. It is a matter of perspective.

Mr. Cilimberg stated that the conditions of approval were provided to the applicant prior to setting the date for the public hearing.

Mr. Brooks pointed out that neither VDOT nor the County came up with these improvements. All of these improvements were suggested in the applicant's data to staff. He would not recommend extending that turn lane up the ramp for fear that it may be confused as a double exit lane ramp.

Mr. Dunn pointed out that the intersection improvement on the southbound lane was never suggested. That suggestion is no where in their study.

Mr. Brooks pointed out that it is in the letter. There was a supplemental report to the study provided to staff.

Mr. Dunn stated that they have gone back and forth with Juandiego Wade trying to figure what improvements are actually being cited. The southbound right turn lane on the ramp was never brought up in the study. There were concerns regarding improvements on Faulconer Drive from the site. Beyond that he questioned if there is availability for improvements. He questioned whether this limits access.

Ms. Wiegand stated that in reference to this study, it was not in the study document. She has a memo sent to Juandiego Wade on June 10th which talks about a proposed improvement at Faulconer Drive and US 29N, the southbound right turn lane and the taper.

Mr. Cilimberg stated that staff will make sure with VDOT that whatever the Commission recommends is doable. The Commission will suggest the extent to which the condition needs to cover the need. If the primary need is to provide the turn lane from the 29 ramp onto Faulconer Drive that is the extent of it. Once staff understands the intent of the condition they will talk with VDOD and get the right guidance as to the do ability of that.

Mr. Morris stated that he agreed with Mr. Strucko, however, in listening to Mr. Brooks, if it is needed and if it is feasible he did not know. He did not know what guidance to give staff as one member of the Commission. What he is confused about is if this is really needed.

Mr. Strucko stated that in Joel DeNunzio's letter he says the study identified six locations where some type of turn lane and taper, when the combined traffic is analyzed, will be warranted.

Mr. Brooks stated that he is a bit confused himself. He followed the study and memo that were written summarizing the six improvements, but now he is hearing from the traffic study at the public hearing that he is wrong on one of them. He did not understand.

Mr. Loach noted that it is either needed and gets done or it is not needed.

Mr. Cilimberg stated that the need for it and the ability to do it by a private individual are two different

things. That is what needs to be made clear by VDOT. The question is what it takes to get that done.

Mr. Strucko asked if it was a fair statement to say that this particular special use permit proposal generates the need to improve the road. If the road cannot be improved, then the Commission cannot consider the special use permit. The infrastructure is there and can only handle so much. This is a change in the existing use that will exacerbate. Can it handle it? Hopefully it can with these improvements. If they can't get the use improvements, then the use can't change.

Ms. Porterfield pointed out that there is a difference between need and warranted. There is no warranted language in the staff report so it is hard to know what pushes an improvement to be made. She also is concerned about the difference in measurement of level of service at peak hours versus the discussion of numbered trips per day. She felt that there is some discrepancy in the measure merits.

Mr. Strucko stated that from what he is hearing the current intersections have failed under existing use. The applicant made that assertion in their public comments. The proposal before the Commission is a change in existing use. Perhaps the right answer is don't grant the change and let the existing use go. Or, the applicant can seek the change, but they would have to mitigate the impact of the change. He could support the special use request if condition #7, at the very least the first part, was present. If it is not there, then he can not vote in favor of the special use permit.

Ms. Joseph stated that she was totally confused. What she is hearing from Mr. Brooks is that all the information that the Commission has was provided by the applicant. The Commission is taking the information and trying to make conditions. But, then she also heard Mr. Brooks say that he did not think a right turn lane is a good idea because it confuses the issue and people think that maybe there are two lanes.

Mr. Brooks stated that it depends on how close it gets to the 29 Corridor.

Ms. Joseph pointed out that an email from VDOT states that according to information received these improvements are warranted as a result of this request.

Mr. Brooks stated he was not sure VDOT is using the "warranted phase" correctly. He felt staff is talking about an actual analysis which looks at various levels, not just volumes, to see if an improvement is required for safety purposes.

Mr. Edgerton stated that he wished Mr. Denunzio's was here so they could get clarification on some of these issues. The last statement in the first paragraph states, "I recommend the contribution should include a pro rata share for all the needed improvements or the applicant should be responsible for the entire cost of constructing the improvements that are triggered by the site traffic." The applicant has suggested that they think it would be more equitable for them to just pay a pro-rata share of those two that can be tied directly to them. If you go back to the Planning Commission's minutes on page 11 regarding traffic impacts, the Commission asked staff to work with VDOT and the applicant to determine the school's impact on the intersection and determine what the applicant's pro-rata contribution should be to address the impact of this project on the road network. If the Commission is going to be consistent with their previous work session, then the Commission should ask the applicant to make a cash contribution that is equal to the pro-rata share of all five intersections that will be impacted by this decision. The applicant has the choice to say yes or no to this. Mr. Denunzio's suggestion was to get the applicant to build these intersections. He is sympathetic with the applicant's concern about whether they can get access to the property to build these improvements. He pointed out that the applicant does not own the property and the improvements are off-site. He questioned what percentage is the 13%, 9% or 51% and what does the legal term for "substantially generated" mean.

Mr. Kamptner stated that in two cases the percentage of traffic generated by the project at issue was substantially less than 1%.

Mr. Edgerton ascertained that staff, at this time, does not have a pro-rata share figure for all five improvements. He pointed out that it is hard for the Commission to make a decision without the information.

Ms. Wiegand said that she did not want to guess that number because it is a fair share argument. If the Commission feels that is what it should be, then the Commission can trust staff to calculate the figure.

Mr. Cilimberg noted that it was something staff has asked Mr. DeNunzio for and he could not provide it before this meeting.

Ms. Wiegand noted that Mr. DeNunzio had two other hearings to attend tonight, which was why he was not able to attend.

Mr. Strucko said that his notion of fair share is what this project directly impacts. He believed that it was that turn lane off of the off-ramp.

Mr. Cannon agreed with Mr. Edgerton conceptually in that is the right way to approach this. They are talking about an incremental impact, which is a contribution either to problems that already exist or creating intersections that don't function because of this project. He felt that the pro-rata is the right way to access that incremental impact. He would be comfortable with Mr. Edgerton's suggestion if it is in the form of a monetary contribution. It seems that would avoid some of the problems related to the right-of-way and so forth that may crop up. The money could be used by the county and state to address the most urgent problem whatever that might be.

Mr. Strucko asked how condition 7 should read.

Mr. Cannon suggested that condition 7 should read that the applicant shall contribute an amount determined as its pro-rata share of the improvements at the five identified intersections where traffic from the school is assessed as having a measureable impact and that contribution shall be made at some specific point in time.

Mr. Loach noted that from a practical perspective this gets them nothing.

Mr. Cannon said that it may get them a lot. He just did not know how much money it is and did not know how it will be used. That determines the practical impact of it.

Mr. Strucko said that his answer of what is a practical impact goes back to the original idea to have the applicant complete construction of that southbound turn lane.

Mr. Morris suggested that a motion be made including that language in it.

Mr. Strucko moved for approval of SP-2007-053 with the language in condition 4 as suggested by Mr. Cilimberg, as amended by Mr. Edgerton, and also that condition 7 read, Prior to the issuance of a certificate of occupancy the applicant shall complete construction of the southbound right turn lane off of the US 29 ramp onto Faulconer Drive.

Mr. Cilimberg stated that it was his understanding that the condition would be that the school's improvements allowed under the special use permit get LEED certification in two years of the certificate of occupancy.

Ms. Joseph suggested an amendment to the screening or the landscape buffers for the playing fields. She felt that the landscape buffers were needed for the parking lots, but not necessarily for the playing fields**.**

Mr. Cilimberg ascertained that Ms. Joseph is suggesting the removal of "screen the proposed playing fields and" from the condition. It read to screen the parking lot located southeast of the existing field only.

Mr. Strucko amended the motion to accommodate Ms. Joseph addition as edited by Mr. Cilimberg**.**

Mr. Morris asked for an additional amendment. In the motion condition 4 was as amended by Mr. Edgerton, which he thought he heard at the Silver level.

Mr. Strucko noted that it was at the Silver level or better.

Mr. Morris removed his suggested amendment.

Ms. Porterfield asked if that merits minimal LEED certification or better.

Mr. Cilimberg suggested that it state that at a minimum meets LEED certification.

Mr. Strucko said that was fine.

Ms. Porterfield said she was concerned with condition 7 as written. If for some reason there is a problem with the property constructing the off ramp, the Planning Commission might have painted them into a corner. She would like it to say that the Commission wants them to construct it or commit to giving a cash proffer to the county to cover construction, and then let the county go ahead and try to get the property.

Mr. Loach said that as he understood it the only thing that would get them is that if there is any kind of right-of-way problem it becomes the county's responsibility to do the condemnation of the property, but the price tag for it is still the responsibility of the applicant**.**

Mr. Edgerton understood that would allow the applicant if they ran into a conflict to write a check for whatever the amount would be and give it to the county. Then the county would determine how to spend it.

Mr. Kamptner noted that if this is UVA property and if a right-of-way is needed the applicant would be at the mercy of the state to agree to it.

Ms. Monteith noted that the property belongs to the UVA Foundation, which is private property.

Mr. Kamptner noted that is a different situation.

Mr. Morris invited Mr. Brooks to speak.

Mr. Brooks said that if he heard correctly the applicant said they did not think their report had this turn lane in it. Therefore, he was not comfortable that it should be a requirement at this time.

Mr. Morris said that is what they are talking about.

Mr. Cilimberg said that they have something from the applicant and it is dated.

Mr. Morris said this was what the Commission has been talking about and they have been briefed by staff.

Mr. Kamptner said regarding the "substantially generated" issue that in the context of this proposed condition 7 and in looking at Mr. DeNunzio's letter he was having a hard time understanding what traffic impacts this project generates with respect to the turn lane. He recognized that everybody that is going to be making a right hand turn will use that turn lane and is likely going to the school. But, is the need for that turn lane being generated by that use or the fact that other traffic is stacking up on the off ramp. That is something staff can look at between now and the Board meeting. They don't have the answer right now.

Mr. Brooks felt that Mr. Strucko was correct that it is the majority of traffic from St. Anne's. He has some other slides to show generally what that is. Intersection 5 is the entrance to the school. When the study was submitted it gave the assumed routes that the traffic takes. He explained the different routes taken to the school. Coming from the north they assumed that everything used the ramps. That is what Mr. Edgerton referred to when he said that they could by pass the ramp and use the clover leaf. This study assumed that 100 percent used the ramp and takes that right turn at intersection 5. That is specifically what they are talking about now.

Mr. Kamptner said that he understands that everyone who is coming from the north will be using that turn lane. He asked if the traffic problem was the volume of cars.

Mr. Brooks said that if the queue exceeds the storage capacity of the turn lane it comes out into the travel way and blocks traffic. The cause of the problem is the queue.

Mr. Kamptner said that it is the vehicles making that right turn that is creating the problem.

Mr. Brooks said that if the travel lane is ever blocked they will have more than just St. Anne's traffic in that jam. It will be generated by them substantially in that turn.

Mr. Morris said what he heard was that they are safe with the motion as on the table.

Mr. Strucko asked Mr. Loach how he felt about Ms. Porterfield's suggestion.

Mr. Loach replied that he did not know. He felt that it should have been figured out before this point in time. He asked if the applicant could give the county a check and then go operate under the existing conditions until all the condemnation is done to get it built.

Mr. Strucko noted his concern was with cash in lieu they run the risk of it not getting done. Therefore, he would not amend the motion to accommodate Ms. Porterfield's suggestion.

Mr. Cilimberg noted that the one thing that Mr. Brooks noted was that the property line runs up about where the trees were in the aerial that Mr. Brooks was using. The ramp appears to be a fairly wide area of right-of-way as shown on the screen. He heard Mr. Brooks mention that it there is a fair amount of land in that area.

Ms. Porterfield asked if Mr. Brooks felt that the off ramp could be constructed by the applicant so that the Commission was not painting the applicant into a corner. If they can not construct it, then the Commission has denied the applicant the special use permit.

Mr. Brooks said that he thought they were okay. If they think differently he thought that there is time between now and the Board meeting to check that out.

Mr. Edgerton asked if the motion requires them to do the work or are they requiring that they do the work or offer money.

Mr. Strucko said that the language was that the applicant shall complete construction of the southbound right turn lane.

Motion: Mr. Strucko moved, Mr. Loach seconded to recommend approval of SP-2007-053, St. Anne's Belfield with the conditions recommended by staff, amended as follows:

1. The site shall be developed in substantial accord with the concept plan entitled "St. Anne's-Belfield Proposed Lower/Middle School Preliminary Site Plan," dated June 6, 2008, except that changes may be made provided the Zoning Administrator finds that all other special use conditions are met.
2. The maximum enrollment shall be 550 students.
3. Arrival and dismissal times for Lower and Middle school students shall be staggered at a minimum 20-minute interval so that all students do not arrive at/depart from the campus at the same time.
4. The Owner shall design and construct all improvements at the Belfield campus to meet the minimum standards for LEED certification under the LEED for Schools Rating System and shall obtain such at the minimum level or better within two (2) years from the date of the Certificate of Occupancy.

5. Stormwater management shall be provided in the form of biofilters for any new impervious surfaces. In addition to the requirements of the County's Water Protection Ordinance, the majority of roof runoff shall be captured in a rainwater collection and reuse system.
6. Erosion control shall be provided within the property by the use of sediment trapping measures and diversions. Except for the required transportation improvements listed in Condition 7, off-site easements or work, or variations from the standards, shall not be used.
7. Prior to the issuance of a certificate of occupancy, the applicant shall complete construction of an extended southbound right turn lane from the US 29 ramp onto Faulconer Drive.
8. A row of 2 ½" caliper shade trees spaced 40 feet on center shall be provided along the east side of the relocated portion of SR 855.
9. A minimum of 20-foot deep landscape buffers shall be provided, free of utilities, to screen the parking lot located southeast of the existing football field from the US 29/250 Bypass.
10. Landscaping may be required to be in excess of the minimum requirements of ARB guidelines or the Zoning Ordinance to compensate for the negative visual impact of the playing fields and parking on the Entrance Corridor.

The motion passed by a vote of 5:2. (Mr. Cannon and Mr. Edgerton voted nay.)

Mr. Morris said that SP-2007-053, St. Anne's Belfield will go before the Board of Supervisors at a date to be determined with a recommendation for approval.

Mr. Cilimberg noted that in reporting to the Board he could note that the two votes against were based on the turn lane construction requirement rather than a pro-rata share for five intersections.

Mr. Cannon and Mr. Edgerton agreed.

Old Business:

Village of Rivanna

Ms. Porterfield stated that the Commission needs to make a decision on the verbiage in the action memo. She suggested that the Commission approve the verbiage provided in an email from Ms. Echols which is more indicative of what happened. If someone is looking for a quick synopsis, it would be good for them to understand that there was a lot of resident input from various areas who looked at the plans and felt there were some items omitted or incorrect by the consultant.

Mr. Cilimberg stated that he wanted to make sure that the Commission understands that what goes to the Board of Supervisors are the minutes and not the action memo. The action memo is only part of any application that is going before the Board. The minutes will be long done before this gets to the Board. He would like to avoid getting the action memos into what are essentially a form of the minutes because that requires staff to spend more time to get things to the Commission for them to respond to in order for staff to do action letters to applicants. What staff receives from the Board of Supervisors in an action memo reflects none of their discussion. It is either they voted "yes" they voted "no" or they gave this direction. That is what he had tried to keep our action memos to. What he sees the expanded version being is more information that really going to be used by staff anyway. It does not matter one way or the other.

Ms. Joseph explained why the action memo is being reviewed by the Commission. The Commission started doing the action memo after the Faulconer proposal. She noted that this was a very complicated and very long meeting. It was as site plan meeting and there was an action taken by the Planning Commission. When the action letter went out there were a couple of members on the Commission who said they don't remember that being the action that was taken. The Commission asked staff from that point on if the Commission could review their interpretation on whatever action that the Planning Commission took on items before the action letter went out to the applicant in between the time that the Planning Commission sees it and review by the Board of Supervisors. She asked the Recording Secretary to put less in the action letter, pointing out that some of the discussions in Old Business and New Business is added to the action letter. This was not the intent of this action letter. It was the Planning Commission heard this and here is what they decided and nothing further. Sometimes the action

memo gets complicated and confusing. The only reason for the action memo is so that everyone agrees on it. She pointed out that Ms. Porterfield when she first came on board did not want to see the minutes so complex. The reason the Commission wanted complex minutes is because they wanted everyone's voice to be heard by the Board of Supervisors. She did not want to put anymore burden on staff for additional verbiage.

Mr. Morris stated the action memo should be in a form that can be put in the hands of the Commissioners as soon as possible after the event and should not be cluttered with anything other than the pure facts. He agrees "less" rather than "more".

Ms. Porterfield stated that she was the one who said the minutes were way too verbose. This was a work session on plans that were submitted that really were not indicative of the input that had been given from the community that is involved. The questions that were asked were not yes or no questions. That is why she felt it is only right to at least put in the basic things that were said. It is important because this will be part of the action memo that goes to the Board of Supervisors because there are other items in it.

Mr. Cilimberg stated that action memos do not go to the Board of Supervisors. The Board is interested in the Planning Commission minutes.

Mr. Edgerton stated that he felt to say that the minutes, which are verbatim, will be more complete than a summary of the minutes in an expanded action memo. If the Board sees the minutes they will get the entire conversation.

Ms. Porterfield stated she felt the pieces that were included were not indicative of the actual final replies to some of the questions. The expanded version is a little bit better at doing this. It is a work session on the only village in this entire county and it is a work session on a development area that was agreed to be developed 25 years ago. This affects people in the county and they deserve to be heard.

Mr. Loach stated that he has no problem in accepting the amended action memo because this is the exception and not the rule. It does reflect more to the point what happened than what was in the first draft. He does not see this as change in the policy rather than a simple addendum.

Mr. Edgerton noted that staff is saying they really are anxious about the Planning Commission re-crafting what an action memo does.

Mr. Loach disagreed with Mr. Edgerton. In fact, he did not believe what Ms. Porterfield did made the action memo more appropriate by a significant enough degree to do it. He felt the changes are legitimate. Again, this is an exception and not the rule to what is happening.

Mr. Strucko agreed with Mr. Loach.

Mr. Cannon stated that he did not think this should be an exception. He did not know why it is different from any other controversies. He did not know why the Commission would change the approach that they normally take. The minutes are the full discussion and are available to the Board of Supervisors. He is not inclined to change the action memo.

Mr. Morris noted that four members are in favor of keeping the action memo the way it is and three members wanting to change it.

Mr. Cilimberg stated that the reality is that staff put together an expanded version. The staff is doing this work and they know what they need to work from. Nothing is lost here in terms of the message. He felt it was very clear and the minutes will reflect that. Secondly, he felt a good point was made that for the future action memo staff should focus on just putting the actual actions in the memo and not worry about putting in information on discussions that were not leading to actions or directions from the Commission. This will lessen Ms. Taylors' work and will get to the Commission quicker.

Mr. Morris stated that he appreciated Ms. Porterfield being patient. In reflecting back on the intent of the action memo he did not want to move from that track.

Mr. Strucko stated that his concern was that care be taken in preparing the actions.

Mr. Cilimberg thanked Ms. Porterfield noting that her input and their additional input to that gave staff a good recap of what occurred that should be used in their staff work for the project.

- It was the consensus of the Planning Commission to finalize the first version of the action memo for the 6-17-08 meeting regarding the Village of Rivanna. Four of the commissioners (Joseph, Cannon, Morris and Edgerton) were in favor of using the first version. Three commissioners (Porterfield, Loach and Strucko) were in favor of using the expanded version of the action memo regarding the discussion on the Village of Rivanna Master Plan because they felt that the inclusion of the additional information in this circumstance was warranted. It was noted that the minutes will contain the details included in the expanded version.

- Mr. Cilimberg pointed out that the Board will hold a work session on Use Value Taxation. This will be to discuss the option to drop the use value program and would specifically make it only available through properties in conservation easement and/or properties in agricultural/forestal districts or have agreements with the County.

  Also, the revalidation process the County will go through will be discussed tomorrow night in work session. He noted that the report is on line at the agenda site of the Board.

- On Thursday those commissioners attending the event at Beaver Creek Reservoir will not discuss Planning Commission business.

There being no further old business, the meeting moved to the next item.

New Business:

Mr. Morris invited new business.

THERE WILL BE NO PLANNING COMMISSION MEETING ON TUESDAY, JULY 15, 2008. THE NEXT PLANNING COMMISSION MEETING WILL BE TUESDAY, JULY 22, 2008.

ALSO, THERE WILL BE NO PLANNING COMMISSION MEETING ON AUGUST 5 OR SEPTEMBER 2.

Adjournment

With no further items, the meeting adjourned at 8:45 p.m. to the Tuesday, July 22, 2008 Planning Commission Meeting at 6:00 p.m. at the County Office Building, Second Floor, Auditorium, 401 McIntire Road, Charlottesville, Virginia.

_____

V. Wayne Cilimberg, Secretary

(Recorded and Transcribed by Sharon Claytor Taylor, Clerk to Planning Commission and Planning Boards)