

4. **RTA FAMILY TRUST, ROYCE G. PULLIAM, TRUSTEE, ZONING MAP AMENDMENT & SCHROYER PROPERTY (RTA FAMILY TRUST) ZONING DEVELOPMENT PLAN**

- a. MAR 2013-19: RTA FAMILY TRUST, ROYCE G. PULLIAM, TRUSTEE (2/2/14)* - petition for a zone map amendment from a Planned Neighborhood Residential (R-3) zone to a Neighborhood Business (B-1) zone for 0.8108 net (1.0549 gross) acre; and from a Professional Office (P-1) zone to a Neighborhood Business (B-1) zone, for 0.7561 net (0.8127 gross) acre, for properties located at 1009 and 1017 Wellington Way.

LAND USE PLAN AND PROPOSED USE

The 2007 Comprehensive Plan (Sector 11) recommends Professional Services (PS) future land use for the subject property. The petitioner proposes a three-story building with retail uses and a coffee shop on the first floor, and professional offices on the second and third floors. Conditional zoning restrictions are proposed by the applicant to limit the use of the property, and a dimensional variance to the height of the building is also being requested with this zone change request.

The Zoning Committee Recommended: Approval, for the reasons provided by staff.

The Staff Recommends: Approval, for the following reason:

1. The requested Neighborhood Business (B-1) zone with conditional zoning restrictions is in substantial agreement with the 2007 Comprehensive Plan for the following reasons:
 - a. The Land Use Element recommends Professional Services (PS) land use for the subject property, and the applicant proposes over 16,000 square feet of office space within a single three-story building.
 - b. The proposed retail space and restaurant land uses are in addition to meeting the basic land use recommendation and will provide services to the office tenants and to the immediate neighborhood.
 - c. The subject property is walkable to and from the adjoining residential neighborhoods, as well as other commercial uses in the immediate vicinity. The property is easily accessible from major urban corridors, although transit is not readily available in the area.
 - d. The Goals and Objectives of the 2007 and 2013 Comprehensive Plans support and encourage the creation of a variety of jobs and business opportunities, and the site proposes new employment opportunities within the proposed 23,300 square-foot building.
2. This recommendation is made subject to approval and certification of ZDP 2013-101: Schroyer Property (RTA Family Trust) prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
3. Under the provisions of Article 6-7 of the Zoning Ordinance, the use of the subject property shall be restricted as follows:

PROHIBITED USES

- a. Automobile service stations.
- b. Repair of household appliances.
- c. Retail sale of plant, nursery or greenhouse products.
- d. Miniature golf or putting courses.
- e. Carnivals.
- f. Arcades, including pinball and electronic games.
- g. Banquet facilities.
- h. Rental of equipment whose retail sale is permitted in the B-1 zone.
- i. Outdoor live entertainment, cocktail lounges, brew-pubs or nightclubs.
- j. Upholstery shops.
- k. Circuses.
- l. Automobile and truck refueling stations.

OTHER USE RESTRICTIONS

- a. Retail sales and other uses first permitted in the B-1 zone shall be limited to the first floor of the structure.

These restrictions are appropriate and necessary in order to permit only less intense land uses adjacent to a proposed single-family residential area, and because the applicant has proposed such limitations.

b. **REQUESTED VARIANCE**

Increase the maximum height of a building in the B-1 zone from 25 feet to 60 feet.

The Staff Recommends: Approval of the requested height variance, for the following reasons:

- a. Granting the requested variance should not adversely affect the public health, safety or welfare, nor alter the character of the general vicinity. Tall office buildings are common in areas such as this, which have been recommended for Professional Services use by the Comprehensive Plan.
- b. Granting this request will not allow an unreasonable circumvention of the Zoning Ordinance, but rather will provide a

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means to allow the applicant to design an architecturally significant signature building for this commercial area. Again, tall office buildings exist in Professional Service areas.

- c. The special circumstances that apply to the subject properties that serve to justify the variance are architectural considerations and the proposed drive-through facilities that dictate the need for a height greater than 25' or 35'.
- d. Strict application of the requirements of the Zoning Ordinance would create an unnecessary hardship to the applicant, as considerable effort and forethought have gone into the design of the building.
- e. The need for the variance was recognized during the normal design process for the building. Thus, there is not any willful violation of the Zoning Ordinance associated with this request.

This recommendation of approval is made subject to the following conditions:

1. Provided the Urban County Council rezones the properties B-1; otherwise, any Commission action of approval of this variance is null and void.
2. Should the property be rezoned, it shall be developed in accordance with the approved Development Plan, as amended by a future Development Plan approved by the Commission, or as a Minor Amendment permitted under Article 21-7 of the Zoning Ordinance.
3. A note shall be placed on the Zoning Development Plan indicating the variance that the Planning Commission has approved for this property (under Article 6-4(c) of the Zoning Ordinance).
4. The building shall be limited to no more than 3 stories in height.
5. The maximum height of the top of the main roof's cornice shall be no more than 50' in height, with noted exceptions to allow a central feature on the front and rear facing walls that shall be no more than 60' in height.

- c. ZDP 2013-101: SCHROYER PROPERTY (RTA FAMILY TRUST) (2/2/14)* - located at 1009 and 1017 Wellington Way. **(Wheat & Ladenburger)**

Note: This plan requires the posting of a sign and an affidavit of such.

The Subdivision Committee Recommended: Approval, subject to the following conditions:

1. Provided the Urban County Council rezones the property B-1; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Building Inspection's approval of landscaping and landscape buffers.
5. Urban Forester's approval of tree inventory map.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Denote construction access location.
8. Denote that the 3rd floor of this building may not be used for residential purposes.
9. Discuss temporary access easement from adjoining property (DP 2010-82).
10. Discuss proposed dumpster location.

Zoning Presentation: Ms. Wade presented the staff report, briefly orienting the Commission to the location of the subject property on Wellington Way, off of Harrodsburg Road. She stated that 1009 Wellington Way is currently zoned R-3, and 1017 Wellington Way is zoned P-1. The property is bordered to the east and west by other Professional Office zoning; to the south, by Neighborhood Business zoning and the Palomar Shopping Centre, and to the north by the Dozier property, for which a rezoning request was considered by the Planning Commission earlier in this hearing.

Ms. Wade stated that the area surrounding the subject property is characterized primarily by business uses, but there are some residential uses further to the north and east. In the immediate vicinity are office condominiums; a Panera restaurant; the Palomar Shopping Centre; branch banks; a veterinary clinic; and several athletic facilities. The R-3 portion of the subject property is currently occupied by the La Petite Academy daycare center, but the rest of the property remains vacant. Ms. Wade displayed an aerial photograph of the subject property, noting the location of the shopping center and the large athletic facility across Wellington Way.

Ms. Wade said that both parcels of the subject property were originally rezoned to R-3 in 1988 to accommodate the childcare center. After the property was rezoned, the childcare center chose to occupy a smaller portion of the property than was originally proposed, which left a fraction of the property vacant. In 2002, that vacant parcel was rezoned to P-1; in both cases, the rezonings were in agreement with the Comprehensive Plans at that time. At the time of the 2002 rezoning, the property owner hoped to find a suitable user for the property, but that never occurred. The owners of the neighboring office condominium development are the petitioners in this rezoning request.

Ms. Wade stated that the petitioners are proposing to rezone the subject property in order to develop an office building with retail and coffee shop uses on the first floor, and office uses on the second and third floors. The building is proposed to be 23,300 square feet in size, with approximately 16,000 square feet being occupied by office uses. The 2007 Comprehensive Plan recommends Professional Office land use for the subject property. Since a portion of the property is already zoned P-1, and a childcare center is generally considered a service use, the existing land use is in agreement with the Comprehensive Plan. Since the petitioner is proposing to construct a building with mostly office uses, the staff

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would consider that to be in substantial agreement with the Comprehensive Plan recommendation. Ms. Wade explained that the proposed office building would be permitted in the P-1 zone; if it were to be 40,000 square feet or larger, it could have the proposed restaurant use in it. Since the building is to be smaller, however, the B-1 zone is necessary to accommodate the proposed uses. The petitioner is addressing the basic use recommendation of the Land Use element of the 2007 Comprehensive Plan, and they contend that their proposal will provide needed uses to the immediate neighborhood. The petitioner also contends that they are furthering Theme C of the 2013 Comprehensive Plan Goals & Objectives, which relates to creating jobs and prosperity.

Ms. Wade said that the staff and the Zoning Committee recommended approval of this request, for the reasons as listed in the staff report and on the agenda. The staff believes that conditional zoning restrictions are important for the subject property, and they are recommending approval of the restrictions proposed by the petitioner. Those restrictions include prohibiting a number of the more intense B-1 uses, such as live entertainment; cocktail lounges; nightclubs; carnivals; miniature golf; nurseries and greenhouses; and automobile service stations, as well as a few other uses. The staff is also recommending the prohibition of some other B-1 uses that are not also P-1 uses, above the first floor. Those prohibited uses include retail sales and restaurant uses.

Development Plan Presentation: Mr. Jarman presented the corollary preliminary development plan, explaining that the petitioner is proposing to construct a three-story building on the subject property, utilizing most of the existing vacant lot for the required parking. He stated that the Subdivision Committee recommended approval of this plan, subject to the 10 conditions as listed on the agenda. Since that meeting, the staff found a note on a previous plat, wherein the access easement to which condition #9 refers, expired in 2005, with the opening of Wellington Way. Therefore, condition #9 can now be deleted. With regard to condition #10, Mr. Jarman stated that the language should be changed to read: "Denote: The dumpster location will be finalized at the time of the Final Development Plan." He said that the staff is concerned about the path to the dumpster location on the property, as well as its location so near to the adjacent (proposed) residential area.

Commission Questions: Mr. Owens asked if the dumpster would need to be moved. Mr. Jarman answered that there was some discussion at the Technical Committee and Subdivision Committee meetings about the need to relocate the dumpster.

Variance Report: Mr. Emmons presented the staff's report on the requested variance, explaining that the petitioner is requesting to vary the height of the building to allow a structure that is taller than what is permitted under the existing zoning. Referring to a rendering of the proposed building, Mr. Emmons said that the petitioner had put a great deal of forethought into the design of the structure, which has several special features. The petitioner is proposing to construct a drive-through facility that will go under the building to serve a first-floor coffee shop. That design feature necessitated additional height on the first floor of the structure, in order to allow vehicles to pass under the building. The petitioner is also proposing the additional height to provide a central architectural feature on the structure.

Mr. Emmons stated that, until very recently, a commercial-only building in the B-1 zone was allowed to be 25 feet in height. If a mixture of commercial and residential uses was provided, the building could be as tall as 35 feet. The Urban County Council recently approved a text amendment to the B-1 zone, and all buildings in the zone are now allowed to be 35 feet in height.

Mr. Emmons said that the staff initially questioned the petitioner's request to allow a height variance up to 60 feet for the proposed structure, since it would be only three stories tall. In response, the petitioner provided cross-sections of the central section of the building. Upon reviewing those cross-sections, the staff determined that the building itself is proposed to be 45 feet in height to the top of the main parapet, with a central architectural feature proposed to be 53 feet, eight inches at the pinnacle. The parapet is proposed to be constructed around the top of the roof in order to conceal the mechanical equipment that will be located there.

Mr. Emmons stated that, once the staff determined that the actual height of the building is proposed to be 45 feet, and that a building height of 35 feet is permitted in the B-1 zone, concerns about the requested variance were somewhat mitigated. In order to ensure that the building does not exceed three stories, the staff is recommending a condition that the structure be limited to three stories, with a maximum height of 50 feet for the primary roof, and 60 feet for the central architectural feature. Those heights are approximately five feet taller than what is being requested by the petitioner; but the staff believes that those heights, with the additional restrictions proposed by staff, will provide the petitioner the design flexibility to construct a "signature" building without changing the basic character of the B-1 zone. Mr. Emmons said that the staff is recommending approval of this requested variance, for the reasons as listed in the staff report and on the agenda.

Commission Questions: Mr. Wilson asked if the elevation of the property has anything to do with the height of the building. Mr. Emmons answered that the height of the building is measured from the point where the front of the structure touches the ground, to the highest point of the roof.

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Mr. Owens asked why the staff is suggesting heights of 50 and 60 feet, when the petitioner is proposing heights of 45 and 53 feet. Mr. Emmons responded that the staff believes that limiting the building to three stories in height will ensure that the building stays within the character of the B-1 zone. Providing five feet of "wobble room" will allow the petitioner some extra flexibility in case the drive-through area needs to be taller to accommodate vehicles. Mr. Owens stated that the petitioner should have thought through those issues prior to filing their rezoning and variance requests. Mr. Emmons said that the petitioner's architect informed the staff that they are just beginning to design the building at this point, having presented the "concept phase" for this variance request.

Petitioner Representation: Christine Westover, attorney, was present representing the petitioner. She stated that the petitioner is in agreement with the staff's recommendations, and appreciated the staff's willingness to work on the necessary details of the proposed structure.

Ms. Westover stated that the petitioner is proposing to construct a "signature building," rather than a typical suburban office building. More than 2/3 of the building is proposed to be used for traditional Professional Office uses, with the first floor dedicated to a coffee shop or some other type of retail use. Ms. Westover noted that, if this building were to be constructed in the existing P-1 zone, it could be as high as the petitioner is proposing, without the need for a variance.

Ms. Westover said that the development community has been tasked with providing appropriate infill within the Urban Service Area, in order to reduce the pressure to expand urban uses into rural areas. The petitioner contends that the proposed structure will be "the perfect use in the perfect location," because it will provide needed goods and services for the area residents, as well as the users in the nearby office condominium development. The project will be walkable, and it will comply with many of the identified Themes of the new Comprehensive Plan.

Planning Commission Question: Mr. Owens asked if the petitioner needed five feet of "wobble room" in constructing the proposed building. Steve Graves, architect, answered that the pass-through on the first floor of the building might need additional height in order to provide a drive-through for the coffee shop and bring style and a sense of scale to the building. He said that each of the three floors is proposed to be 14 feet in height, with a four-foot parapet on the roof to conceal the mechanical equipment.

Mr. Owens said that he understood the need for a parapet wall, but he did not understand why the height of a drive-through could change. Ms. Westover stated that there were some concerns at the Zoning Committee about the depth of the foundation of the proposed building, and at what point the height would be measured. Mr. Graves stated that the finished floor elevation would be as low as possible.

Citizen Opposition: Michael Walsh, 2153 Palomar Trace Drive, submitted a petition, signed by 23 of the residents on his street, in opposition to this rezoning request. He read the following statement into the record, from the petition:

"I oppose this development plan. The height of the proposed sixty-foot, three-story building is inconsistent with that of adjacent commercial buildings in this professional services area. It is being constructed on the highest elevation on the street, and it will adjoin residential lots with single family homes. Nowhere within the area between New Circle Road, Harrodsburg Road, Man O' War Boulevard, and Parkers Mill Road does a three-story commercial building adjoin residential lots with single family homes. Within this same area, there are only two commercial properties that adjoin residential lots with single family homes. That is Wellington Way Office Condominiums, at 1055 Wellington Way, and Kerr Brothers Funeral Home, at 3421 Harrodsburg Road. The buildings on these two properties are less than three stories; they're built to a residential scale; and they have rooflines that are below the height of the deciduous treeline buffer between them and the adjoining single family homes. They also start at a lower elevation, at or below their respective street levels. The proposed 60-foot, three-story building is also inconsistent with the four other commercial buildings that adjoin or are adjacent to it. They are Wellington Way Office Condominiums at 1031 Wellington Way; Tiger Kim's Tae Kwon Do, at 3061 Palomar Center Drive; the Animal Care Clinic, at 3600 Palomar Center Drive; and Chase Bank, at 3645 Harrodsburg Road. All of these buildings possess the same desirable design characteristics as the two commercial properties in the area that adjoin residential lots with single family homes: they're less than three stories; they're built to residential scale; and they have rooflines below the height of the deciduous treeline surrounding them. This proposed building lacks all of these desirable design characteristics; yet, it will adjoin residential lots with single family homes. The starting elevation of this proposed sixty-foot, three-story building is the highest point on this section of Wellington Way. As a result, the tallest, non-residential scale, and only three-story commercial building on the street is proposed for the highest elevation on that street. Currently, from any point on Palomar Trace Drive, the view of the rooflines of these commercial buildings on Wellington Way is below the height of the deciduous treeline buffer. That view will be drastically altered if this proposed sixty-foot, three-story building is approved and constructed. As previously stated, there are no three-story commercial buildings that adjoin residential lots with single family homes in the area described earlier. The only place within that area where three-story commercial buildings are located is within and around the Beaumont Circle, and between the Beaumont Circle and New Circle Road. Clearly, this is an inten-

tional design feature to separate tall commercial-scale buildings from single family residential homes. Whether intentional or not, the desirable design characteristics of the Wellington Way Office Condominiums and Kerr Brothers Funeral Home properties have maintained and established positive development precedent in regards to commercial and professional office buildings that adjoin residential lots with single family homes in this professional services area. I ask the Planning Commission to maintain this well-established, positive development precedent that has been in place since commercial and professional activity began in this area over 25 years ago. I ask the Commission to reject this proposed plan and approve one for this professional services area that includes a building that is consistent with those around it and complements the area. I ask the Commission to approve a building that is less than three stories; built to residential scale; and has a roofline below the height of the deciduous treeline between it and the adjoining single family homes."

Mr. Walsh displayed several photographs of other structures that are sixty feet tall, including: the heads on Mount Rushmore; the chicken at the Big Chicken Restaurant, in Marietta, Georgia, noting how far it rises above the surrounding treeline; and the control tower at Bluegrass Airport, noting the height of the tower compared to the airport building. He displayed photographs of the Kerr Brothers Funeral Home and Wellington Way Office Condominium buildings, noting that, although they are taller buildings, they have the same scale as the nearby residential homes, and they complement and fit in with the residences.

Mr. Walsh stated that he believes that a building 45 feet in height should be more than adequate for the uses proposed on the subject property, since it will be more than twice the size of the existing Tae Kwon Do building, which will directly adjoin it. He reiterated that he believes that the proposed structure will overwhelm, rather than complement, the immediate area.

Dr. Butch Schroyer, 3581 Harrodsburg Road, stated that his veterinary clinic has been located at that address since 1988. He said that he welcomes change and growth, and expects infill, but he is concerned about the possible traffic impact of the proposed office building on the surrounding area.

Dr. Schroyer stated that, as part of his own rezoning application, he provided a traffic study in order to assuage his fears that additional development would not overwhelm the area with traffic. He said that the Chase Bank and veterinary clinic produce a significant amount of traffic, particularly at the afternoon peak hour. The petitioner is also proposing a short traffic stacking area for the coffee shop, which would result in backups of drivers attempting to reach the bank, Tae Kwon Do studio, and veterinary clinic.

Dr. Schroyer said that, when he applied for the original rezoning on the subject property, it was originally designed to spread the parking throughout the property. The petitioner is now proposing to place the office building on the property where the daycare currently exists, and use the vacant property for parking. That configuration would provide Dr. Schroyer's customers with a "clean" exit to Wellington Way, rather than exiting directly into a short stacking area.

Dr. Schroyer suggested that the Planning Commission require the submission of a traffic study with this request, in order to analyze the impact of the proposed development on the immediate area. He added that he does not believe the area needs another coffee shop, since the Panera Bread restaurant is located directly across the street, and he does not believe that the proposed drive-through under the building is necessary.

Vicky Bransom, 2157 Palomar Trace Drive, stated that she, too, is concerned about the traffic impact in the area, since it is "horrendous" at the intersection of Palomar Centre Drive and Wellington Way. She said that there have been many accidents at that location, one of which involved her daughter.

Ms. Bransom opined that the rendering of the proposed building is attractive, but it is inappropriate for the subject property, because it overwhelms the lot. She said that she loves living in Lexington, and is not opposed to development and progress; however, progress needs to be approached thoughtfully. Ms. Bransom concluded by saying that the size and scale of the proposed building are not compatible with the nearby residences.

Petitioner Rebuttal: Ms. Westover stated that the Planning Commission, the Urban County Council, and the community have agreed to focus developments more intensively within the Urban Services Area, and "grow up instead of out." The petitioner contends that the proposed development is trying to do exactly that.

Ms. Westover said that the fact that there are no other three-story commercial buildings in the vicinity is not dictated by regulations; the height of a Professional Office building is dictated by the size of the building and its relationship to the lot. She added that, if the subject property was developed with an office building under the existing P-1 zone, it could be at least as tall as the proposed building, and perhaps taller. In addition, the recent B-1 text amendment increased the allowable height of buildings in the B-1 zone to 35 feet, as well as provided some new form-based criteria. For the first time, the Planning Commission has the ability to amend the height and setbacks of a building based on its form. Ms. Westover opined that the approval of that text amendment indicates that the Planning Commission is willing to consider

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good design in relation to the property, and not set "arbitrary" limits. She said that good and creative design should be encouraged, rather than requiring everything to look the same.

Ms. Westover stated, with regard to the concerns about traffic in the vicinity, that the petitioner had worked extensively with the staff, who indicated that no traffic study was required because the impact of the proposed development was not estimated to generate the need for a study. She said that the existing daycare center had 100 – 200 children enrolled, with 6:30 a.m. to 6:00 p.m. operating hours, some vans, and many individual drop-offs each day. Since the daycare center is relocating, all of that traffic will be removed from the area, which provided the staff with some reassurance that no traffic study would be needed. Ms. Westover said that the subject property is located in a heavily traveled urban area, and a portion of it is vacant; she believes that it is a better location for the proposed building than vacant land in the Rural Service Area.

Ms. Westover stated that there is a heavy, evergreen treeline along the rear of the subject property, and a 30-foot tree protection area planned on the adjacent tract. She said that would provide a heavy screen between the proposed office building and the residences on Palomar Trace Drive. Mark Yates, petitioner's representative, presented several photographs of the subject property, with renderings to indicate the height and location of the proposed building. He noted that the Urban Active fitness facility is only two stories, but is 41 feet in height. The petitioner contends that the subject property is well-suited for the proposed office building, since it is walkable and has several nearby restaurants. Mr. Yates noted that the renderings indicate that the residents on Palomar Trace Drive will likely be able to see only a small portion of the top of the proposed building from their residences, due to the grade changes and heavy evergreen screening on the adjoining property.

Ms. Westover said that there is a three-story apartment complex located just across Harrodsburg Road from the subject property. She stated that the fabric of the community requires various types and heights of buildings. The petitioner contends that they are striving to create a better development, with a unique and original design. Ms. Westover requested approval of the zone change, variance, and development plan, as recommended by the staff.

Opposition Rebuttal: Mr. Walsh stated that the three-story apartments to which Ms. Westover referred are built lower than Harrodsburg Road, so that only the top two stories of the buildings are visible. He added that some of the evergreen trees on the adjoining property (which was also discussed at this hearing) will be removed when the single family homes are constructed along Palomar Trace Drive.

Dr. Schroyer reiterated that he is concerned about the short vehicular stacking area for the parking lot. He added that he is also concerned about the 10-foot drop-off at the proposed location for the connection between the adjoining parking area and the subject property.

Ms. Westover stated that the parking will have to be graded lower in order to make that connection, which will eliminate the hill rise and will result in the building being lower than the neighbors expect.

Staff Rebuttal: Mr. Sallee stated, with regard to the comments about the need for a traffic study, that such studies are required for developments that will generate 100 or more additional new peak-direction trips. The proposed development would have met that threshold, were it not for the fact that the existing childcare center is being removed. With the subtraction of the traffic that that use generates, Mr. Sallee said, it does not surpass the 100-trip threshold of the Zoning Ordinance.

Commission Question: Ms. Beatty asked if the Division of Traffic Engineering reviewed the proposed traffic circulation on the subject property. Ms. Kaucher replied that the Division of Traffic Engineering had reviewed the development plan and worked with the petitioner to resolve the internal and external accesses. She said that Harrodsburg Road is a state roadway over which LFUCG has no jurisdiction, but the Division of Traffic Engineering did review the proposed access to the subject property as they relate to the Palomar Trace Drive/Wellington Way intersection. The development plan will require additional work, but Ms. Kaucher noted that the Division of Traffic Engineering is comfortable with the parking and access configuration at this stage in the rezoning process.

Ms. Blanton stated that the Planning Commission had just approved a three-story building in the P-1 zone near the subject property, which will be nearly the same height as the proposed building and located near single family homes. She said that the proposed office building does not directly adjoin any residential structures, and indicated that she was prepared to make a motion for approval.

Mr. Penn stated that he was in support of the zone change and development plan, but he was not willing to approve the height variance of 60 feet. He said he believed that the petitioner could reduce the height and still provide a signature feature on the proposed building.

Mr. Owens agreed with Mr. Penn, and reiterated that he did not understand the petitioner's need for "wiggle room" of five additional feet.

Ms. Mundy asked how far down the lot will be graded. Ms. Westover stated that the property will likely be graded down five feet, and that the petitioner would be agreeable to a slight reduction in their height variance. She said that the petitioner would be willing to reduce the amount of the variance by five feet.

Mr. Owens asked Ms. Westover to clarify the petitioner's offer to reduce the amount of the height variance. Ms. Westover confirmed that the petitioner would be willing to reduce the requested variance from 60 feet to 55 feet. Mr. Owens suggested a height of 45 feet for the parapet, and 55 feet for the central feature, to which Ms. Westover agreed.

Zoning Action: A motion was made by Ms. Blanton, seconded by Ms. Mundy, and carried 8-1 (Brewer and Drake absent; Plumlee opposed) to approve MARV 2013-19, for the reasons provided by staff, subject to the conditional zoning restrictions as recommended by the staff.

Variance Action: A motion was made by Ms. Blanton, seconded by Mr. Penn, and carried 9-0 (Brewer and Drake absent) to approve a height variance of 45 feet for the overall roofline, and 55 feet for the signature feature, for the reasons provided by the staff.

Development Plan Action: A motion was made by Ms. Blanton, seconded by Ms. Mundy, and carried 9-0 (Brewer and Drake absent), to approve ZDP 2013-101: Schroyer Property (RTA Family Trust) subject to the nine revised conditions as provided by the staff.