



Date of Council Meeting: July 13, 2015

**TOWN OF LEESBURG
TOWN COUNCIL WORK SESSION**

Subject: Applicant- initiated Town Plan Amendments (AIPA)

Staff Contact: Susan Berry Hill, Director, Department of Planning and Zoning

Council Action Requested: Direction on whether to change staff's administrative practice that allows concurrent submission and review of applicant-initiated Town Plan amendments (AIPA) and rezoning proposals. Should Council decide not to make changes in this process, the current administrative practice of allowing concurrent review will continue.

Staff Recommendation: Staff agrees with the Planning Commission's recommendation to change the current practice of allowing concurrent review of applicant-initiated plan amendments and rezoning proposals. This change would separate the review of these two applications or dispense with applicant-initiated plan amendments entirely.

Commission Recommendation: On October 16, 2014, a motion was approved by the Planning Commission by a 4-1-2 vote to recommend discontinuing the administrative practice of accepting applicant-initiated plan amendments and rezoning proposals for concurrent review. Three alternative options were recommended for Council's consideration as follows:

- Option 1. No applicant-initiated plan amendments;
- Option 2. Concurrent acceptance, but sequential review of plan amendments and rezonings; and
- Option 3. Only Town Council- initiated plan amendments (on behalf of applicants).

Fiscal Impact: There is no fiscal impact with Option 1. While there would not be a collection of a fee (\$5,600), there also is no application review for a plan amendment. There is no fiscal impact of Option 2. Since there is no fee associated with Council-initiated plan amendments, there would be a fiscal impact for Option 3.

Work Plan Impact: Option 2 would require development of a processing outline to provide to applicants, staff, the Planning Commission, and Council. The outline would be a guide for how the new sequential approach would work. Outreach to the development community would be necessary to assure notification of the new protocol. Option 1 and 3 would require minimal staff work with the exception of outreach to the development community about the change in protocol.

Executive Summary: At the Planning Commission retreat in March, 2014, Commissioners and staff reflected on the difficulties encountered with a recently reviewed application that included concurrent review of an applicant-initiated plan

amendment and a rezoning. Commissioners and staff continued discussion about concurrent reviews of plan amendments and rezonings at three subsequent work sessions during 2014. On October 16, 2014 the Planning Commission approved a motion to recommend that concurrent review be discontinued and the Planning Commission also forwarded three alternative options for Council to consider.

1. No applicant-initiated plan amendments will be accepted.
2. Concurrent acceptance of an applicant-initiated plan amendment and rezoning but with sequential review of the applications. Plan amendments would precede the rezoning.
3. Only the Town Council could initiate Plan Amendments. Applicants would need to request that a Council member sponsor such initiation.

Background:

Goal of a plan amendment process: The goals of a plan amendment process are to:

- Consider:
 - general improvements to the Town Plan
 - new ideas not previously contemplated
 - updates that would render Town Plan policy direction more effective
 - updates that are necessary to reflect changing community preferences or priorities;
- Give property owners an opportunity to propose new ideas between comprehensive, 5-year reviews of the Town Plan;
- Engage the public to consider their thoughts, opinions, and ideas about proposed changes to the Town Plan; and
- Consider whether parcel-specific proposals are in the best interest of the Town.

Section 3.16.5 of the Zoning Ordinance contains the submittal requirements for all Town Plan Amendments, both those that are initiated by the Town as well as applicant-initiated amendments. A Statement of Justification is required with the application which must address the following criteria regarding how the amendment will:

- a) *better realize* a Plan goal or objective (e.g. to provide a more compatible land use pattern, better transitions between land uses, etc.)
- b) *rectify conflicting plan goals* or objectives
- c) *clarify* the intent of a Plan goal or objective
- d) provide *more specific* Plan guidance
- e) address a significant *change in circumstance* unforeseen by the Plan at the time of adoption.

Concurrent review: Listed below are rationale cited for allowing *concurrent* review:

- It is more time-efficient because the process looks at the amendment and rezoning together
- Because it is time-efficient, it is more business-friendly
- The applicant can provide a detailed explanation of the ‘new/better idea’ through the rezoning proposal

Problems with concurrent review: When the Planning Commission discussed problems with the case that was reviewed in 2013-14, the following problems were noted:

- Inefficiency – Intuitively, it would seem that a concurrent review of two applications at once would be faster than a sequential review of each. However, in the referenced set of applications, and other sets of applications as well, this has proven not to be the case. This is because the rezoning is predicated on the new/better idea which is proposed through the plan amendment. But without knowing whether there is community and Council support for the new/better idea the review of the rezoning is inherently awkward. It leaves the Staff and Planning Commission trying to ‘read the tea leaves’. The time-inefficiencies result because at the Staff and Planning Commission review levels, more time is taken to assess whether the new/better idea is truly preferred to the current Town Plan policy and further, if/how the rezoning proposal is the best way to implement the new/better idea.
- Lack of justification for broader public perspective – Applicants typically provide justification for the plan amendment based on their property only and do not address how the change will be better for the Leesburg community as a whole. A plan amendment process should strive to consider not just the particular property in question but how this change will positively affect community goals. For example, an applicant-initiated plan amendment may propose certain road network changes that benefit the development proposal. However, this road network change may not consider the impacts on the broader road network.
- Public input late in process – A good public review process in the development or revision of comprehensive plan policy will solicit public input at the beginning of the process and at points throughout the process. The concurrent review scenario only allows for public input during the Planning Commission and Town Council public hearings which occur within the last third of the application review.
- Investment by the applicant - The applicant invests a significant amount of time and expense with the development of a rezoning proposal. A rezoning proposal is based on the plan amendment which has not been considered. This is a much more risky proposition from the applicant’s perspective than it would be to submit a rezoning proposal that is consistent with fundamental land use and transportation policy in the current Town Plan. While an applicant proceeds with a concurrent plan amendment and rezoning review at their own risk, this fact can

affect how willing they will be to make key changes to the proposal during the review process, particularly late in the review process when concerns or ideas are raised during the public hearing, by Commissioners, or by Council.

Considerations: There are some key guiding considerations that we must be mindful of if/when entertaining a change to adopt a new administrative practice:

- The review time for Option 2 or 3 cannot extend beyond the typical time taken for concurrent reviews. We must assure that whatever process is adopted, it will be time-efficient.
- A change cannot deleteriously affect the land development review “Process Improvements” that have been implemented over the past 7-8 years. As such, members of the development community are one of the key stakeholders. They will be very interested in any changes the Town considers.

Options:

Option 1 – No AIPA. This option dispenses with applicant-initiated plan amendments. Informal discussions staff has had with members of the development community indicate that developers clearly like to have the ability to present applicant-initiated plan amendments to the Town. This gives property owners/developers the ability to present alternative ideas. Staff agrees that there should be opportunities for property owners to provide their ideas for changes to the Town Plan and that these opportunities should be available more than every five years (or more) when the Town Plan is reviewed per State Code requirements. Members of the Planning Commission are split on this point, but again, the point that all Planning Commissioners wished to stress was that the current practice of allowing concurrent review of plan amendments and rezonings is not a good practice and there are alternatives to that practice that should be considered.

Option 2 – Sequential Review. There are multiple ways this option could be developed. One example discussed by the Planning Commission allowed applicants to submit plan amendments, once or twice a year. They would be discussed independently from rezoning requests. Another option was concurrent submission of a plan amendment and rezoning proposal but with sequential processing so that the plan amendment would proceed more quickly for public hearings at the Planning Commission and Town Council. After a decision is rendered on the plan amendment by the Town Council the rezoning would proceed forward for review with benefit of having input from the public and Council on the ‘new/better idea’. A key goal with this option would be to assure that the sequential review does not take longer than concurrent review.

Option 3 – Council sponsored plan amendments. Applicants would request plan amendments of the Council. If agreed, the Council would initiative the plan

amendment on behalf of the applicant. This option differs from an applicant-initiated plan amendment because, as a Council-sponsored plan amendment, the amendment could be broadened to look at the proposed change from a broader perspective. The amendment would essentially 'belong' to Council, not the applicant. It could be initiated to be broader than a parcel-specific amendment.

The Staff and Planning Commission are of the opinion that the proposed options described above are preferable to the concurrent review process the Town currently uses. There may be other options that could be considered too. Staff and the Planning Commission are open to considering other ideas. The point that Staff and Planning Commission wish to stress for Council is that a change should be made to this administrative process. If the Council wants to consider other options or broaden discussion to include the public/development community, Staff suggests the following idea:

- Schedule a third party- facilitated roundtable discussion on this topic.
- The Planning Commission would host the roundtable and it would be open to the public. Members of the development community would be invited to share their thoughts and ideas on this topic.
- It would be an open forum discussion with staff, PC, TC, public, and developers all able to provide their thoughts and input.
- The facilitator will verbally sum up the input received at the conclusion of roundtable and provide a written summation as a follow up task. This written summation would be provided to all in attendance and to Planning Commissioners and Council members not in attendance.
- A Town Council work session will be scheduled to consider the input and make a decision on this issue.