



Date of Council Meeting: October 27, 2015

## TOWN OF LEESBURG TOWN COUNCIL MEETING

**Subject:** Applicant- initiated Town Plan Amendments

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

**Council Action Requested:** Adoption of a change in the administrative practice that currently allows concurrent submission and review of applicant-initiated Town Plan amendment and rezoning applications to allow concurrent submission but *sequential* action on each application. This would require Town Council action on Town Plan amendments before the rezonings could move forward in the public review process.

**Staff Recommendation:** Staff recommends approval of a change in administrative process to allow concurrent acceptance/sequential review of applicant-initiated Town Plan amendment and rezoning proposals.

**Commission Recommendation:** On September 17, 2015 a motion was approved (5-0-2) by the Planning Commission to recommend that the Town continue to allow concurrent submission of Town Plan Amendment and rezoning proposals, but to change the process to require sequential action on the two applications. This process would allow the Plan amendment to proceed through public hearings at Planning Commission and Town Council meetings with Council action prior to moving the associated rezoning application forward in the public hearing process.

**Fiscal Impact:** There is no fiscal impact associated with this procedural change.

**Work Plan Impact:** This procedural change will not have an impact on the staff work plan.

**Executive Summary:** On September 17, 2015, the Planning Commission voted to recommend to Council that the Town continue to allow concurrent submission of applicant-initiated Plan amendments and rezoning applications, but to process the two applications sequentially. Staff and Planning Commission recommend that the Council adopt this procedure through a Resolution to assure that the change is officially recognized.

**Background:** During numerous meetings throughout 2014-15, the Planning Commission discussed amending the land development application review process to allow the current practice of concurrent submission of applicant-initiated Town Plan amendments with rezoning proposals to continue, but to require that the Plan amendment proceed through the public hearing process before an associated rezoning proposal.

Council was briefed on this issue by staff and the Chair of the Planning Commission on July 13, 2015. At that meeting, Council indicated support for this proposed 'concurrent submission/sequential review' approach. At that meeting, Council suggested that the Planning Commission consider a timeline for this sequential review process.

On September 17, 2015 the Planning Commission considered the timeline which is outlined in Attachment 1. The timeline for concurrent/sequential approach could be done in the same amount of time, or perhaps more quickly, than the concurrent submission/concurrent review process.

### **Attachments**

1. September 17, 2015 Planning Commission memo
2. Resolution



*The Town of Leesburg*  
**Department of Planning and Zoning**

To: Planning Commission

From: Susan Berry Hill, Director

Date: September 17, 2015

Subject: Applicant-Initiated Town Plan Amendments - Process and Timeframe

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**A. Background**

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).

This recommendation and the referenced options were discussed by the Town Council at a work session on July 13, 2015. A majority of Council expressed a position that concurrent acceptance of applicant-initiated plan amendments and rezonings should continue to be allowed, but that sequential action of each application could occur. That is, review can proceed on both the rezoning and Plan amendment but *action* on the plan amendment application should track ahead of the rezoning application. Council asked to be informed about how this approach would be set up. Staff suggested that the Planning Commission could further discuss the details of this approach and recommend a specific process and timeline for the approach. Once details were worked out by the Planning Commission and staff, the Council would be informed of the detailed approach and the Town's administrative approach to accept applicant-initiated plan amendments and rezonings would be officially change to allowance of concurrent acceptance but sequential paths for review and approval.

On September 3, 2015 the Planning Commission and staff discussed the approach as outlined in Section B below. Staff was directed to develop a timeframe for this approach. Section C below offers a draft timeline based on sequential action on a Plan amendment and a rezoning.

**B. New Approach**

Staff's description of the proposed approach was summarized in the July 13 memo to Town Council as:

*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.*

Sample Process: As noted, there are multiple ways the Sequential Option could be implemented. Below is a sample process for the Planning Commission to consider for review of the applicant-initiated Town Plan Amendment. Note that this option is similar to the process staff and Planning Commission discussed last September/October, except there is no "Two-tiered" process. The Two-tiered option allowed the PC to opine on the Plan amendment idea first to assess whether the 'new/better idea' proposed by the applicant was worthy of further consideration. The Sequential Option is based on the Council's opinion that the applicant should have the option of submitting a plan amendment proposal concurrently with a rezoning proposal, but that these two proposals could be assessed by the Town separately.

**Step 1** – Staff reviews the rezoning and Plan amendment submittals. However, the Plan amendment will track ahead of the rezoning in the review and approval process with the Planning Commission and Council.

**Step 2** – Staff prepares report with recommendations on the Plan amendment and schedules a Public Hearing for the Planning Commission.

**Step 3** – Planning Commission receives public input and reviews the proposal and the justification. The PC may request more information. If so, staff will work with the applicant to get the information and come back to a work session(s). If no additional information is necessary and the Planning Commission is ready to act, action may be taken to recommend approval, denial, or approval with conditions or modifications.

**Step 4** – A public hearing on the Plan amendment is scheduled with the TC. After consideration of the proposal, the Planning Commission and staff recommendations, the Town Council takes action on the Plan Amendment.

**Step 5** – Once action is taken on the Plan Amendment by Town Council, the rezoning application, if ready, may proceed to Planning Commission for a public hearing and review. Note that staff would likely be reviewing the rezoning application (except for Town Plan issues) during the time the Plan Amendment is being reviewed and is moving through the public hearing process at the Planning Commission and Town Council.

### **C. Draft Timeline for Concurrent Review/Sequential Action**

Below is a draft timeline for concurrent submission of an Applicant-Initiated Town Plan Amendment and a Rezoning application and sequential action on each application. In order to have a timely, predictable review process that an applicant can depend on, the Town must adhere to a timeline that is ultimately adopted for this sequential process and it must not take longer than a typical concurrent review process. The typical timeline for processing a rezoning is approximately 9 -12 months. However, experience has shown that concurrent plan amendment and rezoning applications, take longer

for reasons have been discussed. For example, the Lowes applications took three and half years from submittal to final action. Not all of this review time was due to discussion of the applications. For example, the Lowes corporation put the applications on hold pending restructuring steps at the corporate level. However, the complexity of the Plan amendment and rezoning proposals did have an effect on the overall processing time of the Lowes proposal.

The draft timeline below is based on the guiding principle – that a sequential review should take no longer than a concurrent review which is typically between 9-12 months.

**Timeline for Applicant-initiated Plan Amendments**

<i>Step</i>	<i>Days for Review per Each Step</i>	<i>Cumulative Days for Review</i>
<i>Step 1 – Staff Review</i>	45	45
<i>Step 2 – Applicant Response</i>	45	90
<i>Step 3 – Staff review of Applicant Response for PCPH</i>	14	104
<i>Step 4 – Planning Commission PH</i>	60	164
<i>Step 5 – Town Council PH</i>	30	194 (6.5 months)

A successful review process, that is through yet succinct, will depend on:

- The Town Plan Amendment application should thoroughly address the submission requirements and include a thorough justification for the proposed Plan change. This will assure that there is sufficient information provided on which staff can provide an evaluation. This draft timeline purposefully assumes one submission of the Plan amendment from the applicant in an effort to assure that the Town meets the stated objective of a sequential review that will take the same amount of time, or better, than a concurrent review. If sufficient information and justification is not submitted, the Staff recommendation will likely be negative and the proposal will move forward to the Planning Commission with that recommendation.
- If the Plan amendment involves a transportation network change, a TIA should be scoped with staff and VDOT prior to submission. The proposed timeline could take longer if additional transportation study is necessary.
- This example assumes the same public input process that is currently used by the Town for Plan amendments, i.e. the public hearing process at the Planning Commission and Town Council.

**Timeline for Rezoning**

<i>Step</i>	<i>Days for Review per each step</i>	<i>Cumulative Days for Review</i>
<i>Step 1 – Staff Review 1<sup>st</sup> Submission</i>	45	45
<i>Step 2 – Applicant Review and revision period</i>	45	90
<i>Step 3 – Staff Review of 2<sup>nd</sup> Submission</i>	45	135
<i>Step 4 – Applicant review and revision period</i>	45	180
<i>Step 5 – Staff review of applicant response for</i>	45	225

***PCPH including comprehensive planning comments***

<b><i>Step 6 – PCPH, review and recommendations</i></b>	60	285
<b><i>Step 7 – TCPH, review, and action</i></b>	30	315 (10.5 months)

Factors for the rezoning review:

- The PCPH on the rezoning will not be scheduled until such time as Council action is taken on the Plan amendment
- Staff will not provide comprehensive planning comments that relate to the Plan amendment on the first or second submissions of the rezoning and until Council action is taken on the Plan amendment. However, staff could provide comprehensive planning comments with the first and second submissions on Town Plan objectives that do not pertain to the Plan amendment. For example, if the Plan amendment pertained to a land use change, the first and second submission comments could include comments on Town Plan environmental objectives. The extent of comprehensive plan comments on first and second submissions would be decided on a case-by-case basis. This would likely be discussed with the applicant at the pre-application meeting.
- If the applicant needs more time than what is estimated for their work, that has not been a problem in the past nor would it be a problem in with this proposed process. The point is, the TOL will make every effort to adhere to a predictable schedule and use time efficiently and effectively, just as we do now.

Factors that would help the sequential action process

- Staff notification to Planning Commission and Council that a concurrent Plan amendment /rezoning proposal has been submitted. This notification would also include the review schedule for the Plan amendment by setting the public hearing dates at the Commission and Council. This puts everyone – staff, applicant, Planning Commission, and Council – on notice that this schedule is set.
- Use of the town staff’s pre-application meeting process to assist applicants with their pre-submission questions. This is not different than how things are done today, but rather, emphasizes that applicants should take advantage of this service to the fullest extent in an effort to assess what is required for a complete submittal package and to highlight particular information that will be helpful to a review of the proposal.
- The complexity of a proposal always affects the timeframe for review. Staff can discuss this with the applicant at the pre-application meeting and discuss whether the Town-adopted timeframe is appropriate given the level of complexity of the proposal. If staff and applicant alike feel that this sequential timeframe is not appropriate – either not sufficient for complex proposals or too long for simple proposals – we can discuss adjustments to the schedule. Again, Planning Commission and Council would be notified of the application and the adjusted timeframe.

**Staff Recommendation**

One of the concerns expressed by the Planning Commission at the September 3 meeting was that the Plan amendment review process should allow time for public input. The suggested process and timeline in this memo allows for public input at public hearings before the Planning Commission and Council, just as is done with the current process. If the Planning Commission wishes to add public input opportunities, we should discuss this with the Town Attorney to assure that any enhancements to the public input process are permitted by State Code.

Staff recommends that the Planning Commission consider the draft timeline provided in this memo and be prepared to discuss it at the September 17 meeting. Once the Planning Commission has agreed on a draft timeline and process, staff will draft it and provide it to the Planning Commission and Council. Finally, notice will be provided to the development community to inform them of this change to continue to allow concurrent acceptance of Plan amendment and rezoning applications but that action must be taken on the Plan amendment before a rezoning can move forward in the public hearing process.

PRESENTED October 27, 2015

RESOLUTION NO. \_\_\_\_\_

ADOPTED \_\_\_\_\_

A RESOLUTION: TO UPDATE THE PROCESSING PROCEDURES FOR CONCURRENT SUBMITTAL OF APPLICANT-INITIATED TOWN PLAN AMENDMENTS AND REZONING APPLICATIONS.

WHEREAS, the Town of Leesburg Planning Commission has discussed the current land development review procedure of allowing concurrent submission of Town Plan amendments and rezonings; and

WHEREAS, the Planning Commission identified a number of concerns with the current procedure including, but not limited, to concerns about the inefficiency of this practice; the need to consider the public interest – not just a parcel-specific interest – for a Plan amendment; the need to have public input sooner in the review process than what is currently afforded; and a need to obtain a Council decision on a Plan amendment sooner to provide a more efficient rezoning review; and

WHEREAS, the Planning Commission and Town staff presented a different processing option to Town Council on July 13, 2015 for their consideration that allowed for concurrent submission of Plan amendment and rezoning applications, but updating the process to require that the Plan amendment move through the public review process prior to an associated rezoning application; and

WHEREAS, the Town Council indicated general support for this approach, but suggested that a timeline be drafted for how to conduct a sequential public review of each application; and

WHEREAS, on September 17, 2015, the Planning Commission recommended a typical processing timeline for the sequential review of Plan amendments and rezonings that would ensure that the sequential process would not take longer than the concurrent process and recommended approval of such process; and

WHEREAS, this update to processing land development applications is recommended to promote best planning practices taking into consideration the public interest and applicant's interest.

A RESOLUTION: TO UPDATE THE PROCESSING PROCEDURES FOR CONCURRENT SUBMITTAL OF APPLICANT-INITIATED TOWN PLAN AMENDMENTS AND REZONING APPLICATIONS.

THEREFORE, RESOLVED by the Council of the Town of Leesburg in Virginia as follows:

1. The Town will continue to accept and process applicant-initiated Town Plan amendment applications concurrently with rezoning proposals, but the public review process will be sequential, with Town Council action on the Plan Amendment occurring before the rezoning application is advertised for a Planning Commission public hearing.
2. The timeline for this sequential review process will not exceed the timeframe that would normally be expected for a concurrent submission and concurrent review of such applications. This is in recognition that the applicant may grant a timeline extension if more time for the staff and/or public review is deemed beneficial and in accord with provisions for such in the Town of Leesburg Zoning Ordinance.

PASSED this 27th day of October, 2015.

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Kristen C. Umstattd, Mayor  
Town of Leesburg

ATTEST:

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Clerk of Council