Staff Report: Process for Citizen Requests for CPAs

Attachment A

## Background:

An action item in the updated Comprehensive Plan, AC44, calls for staff to consider establishing an application process for public-initiated amendments to the Comprehensive Plan (CPA). The following Action was included in the Implementation Chapter of the Comp (P. I-16) :

> *COMPREHENSIVE PLAN AMENDMENTS: In addition to a County-initiated review of the Comprehensive Plan, including the five-year review called for by the Code of Virginia, Comprehensive Plan Amendments are currently initiated by County staff or the Board of Supervisors. To offer options to property owners, the County may look at revising the process to include property owner-initiated amendments to AC44. Property owner-initiated amendments to AC44 may not include additions to the Development Areas.*

The consideration of a public-initiated application process was based on the following factors:

- Interest from property owners, developers, and their representatives in having a clear, efficient, and predictable method for presenting proposed Comprehensive Plan changes to the County and the Board of Supervisors.
- The need to address unique circumstances or warranted modifications in a timelier manner, rather than waiting for the next scheduled comprehensive ("five-year") update.
- A desire to improve transparency regarding how Comprehensive Plan Amendment studies are initiated.

The Code of Virginia does not require a locality to have an application process for public-initiated CPA requests. Further, the Code of Virginia authorizes only the Board of Supervisors to initiate amendments to the Comprehensive Plan. Citizens cannot directly initiate such amendments; any public application would therefore serve solely as a request for the Board to consider initiating a CPA study. Any CPA initiated by the Board must undergo review and a public hearing before both the Planning Commission and the Board of Supervisors prior to any final action.

## History and Current Process:

The County previously had an application process for public-initiated CPAs. This CPA application process, along with a similar application to amend the Zoning Ordinance (ZTA), was eliminated in 2018 with the Board of Supervisors' approval. The Executive Summary provided to the Board in 2018 noted the following:

> *Between 2005 and 2010*, the County processed 11 applicant-initiated CPAs and another 12 from either the Planning Commission or Board of Albemarle County Supervisors. Of the 11 CPAs initiated by applicants, only one (Willow Glen) was approved. Four were recommended for study in conjunction with the Comprehensive Plan update, and ultimately, none were approved. All 12 County-initiated CPAs were approved.*
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> *[*Note: the CPA application process was suspended between late 2011 and the end of 2015 during the comprehensive review and update of the 2015 Comp Plan.]*

To more effectively align staff resources with the Board's priorities, the Board approved discontinuing the CPA application process in 2018 and adopted a policy requiring that all CPA proposals originate with either the Planning Commission or the Board of Supervisors. When a proposal is initiated by the Commission, the Board determines whether to undertake a CPA study and establishes its timing and priority relative to other Community Development Department work program items.

Under this policy, individuals may present requests during public meetings of either body or by contacting a Board member or Commissioner, who may then bring the request forward for consideration. If the request is accepted for analysis, staff prepare a summary of the issues, a recommended review process, an anticipated timeline, and resources. Following review of this analysis, the Board may direct staff to initiate a CPA study, setting its priority and schedule in the context of other departmental commitments.

## Discussion:

Following further evaluation, staff do not recommend re-establishing a separate application process for public-initiated CPAs. Staff conclude that such requests should instead proceed through one of two existing pathways:

- Continued use of the current "direct contact" process, established by the Board of Supervisors in 2018, whereby individuals bring requests directly to the Planning Commission or the Board of Supervisors.
- If a formal application is preferred, use of the existing Zoning Map Amendment (ZMA) or Special Use Permit (SP) application process, with the proposed CPA included as part of the submitted materials. The ZMA/SP application route would be specifically for requests related to amending the Future Land Use Map recommendations (land use designations and related development/design guidelines).

The recommendation against establishing a public CPA application process is based on the following considerations:

1) The previous CPA application process resulted in most public-initiated CPAs not warranting further study, with all either denied or not advanced. This required staff to expend time on proposals that ultimately lacked Board support, diverting resources from other higher-priority work.
2) Requiring individuals to seek direct Board support helps prevent frivolous or non-viable proposals and ensures there is demonstrated Board interest before significant staff resources are committed.
3) ZMA and SP applications are already evaluated for consistency with the Comprehensive Plan, among other criteria.
4) Utilizing the ZMA or SP processes offers several advantages over creating a new public-initiated CPA application process:

a) No new application process or separate fee is required; only minor adjustments to existing internal procedures for legislative review would be needed.

b) Most CPA requests involve proposed changes to the Future Land Use Map associated with development proposals that would also require ZMA or SP approval. Coordinating the reviews can, in some cases, reduce overall review time.

c) The information typically included in ZMA and SP applications provides more comprehensive detail regarding potential impacts than would be available through an initial CPA review.

d) Applications involving more complex CPA or Comprehensive Plan consistency issues can be scheduled for early Planning Commission work sessions to obtain preliminary feedback — an approach already used for complex cases.

5) Because most CPA requests involve/relate to future development proposals that require adjustments to the Future Land Use Map (FLUM), requiring applicants to submit a ZMA or SP application and fee helps ensure that only substantive proposals are advanced. The current ZMA and SP fees are adequate to cover the cost of the CPA component of the review.

### Impacts on the ZMA/SP Review Process:

Incorporating a CPA component into a ZMA or SP application would not result in significant changes to the existing review process. The following considerations and impacts would apply:

1) Applicants must include a narrative, supporting information, and justification for the CPA component as part of their ZMA or SP submission.

2) Some additional staff time may be required to review the CPA component; however, this effort is comparable to, or more likely less than, the time that would have been spent reviewing a separate CPA application.

3) Staff would typically provide initial feedback on the CPA component during the first round of comments on the ZMA or SP application. When appropriate, a Planning Commission work session could be scheduled during this same stage to obtain early input. This practice is already used to get early feedback and direction from the Planning Commission complex ZMA and SP applications.

4) Early staff comments on the CPA component would generally result in one of three recommendations:

   a) The CPA component is acceptable, and the ZMA/SP application should proceed to the Planning Commission and Board of Supervisors for consideration. For example, a request for a modest increase in density above the FLUM recommendation may be acceptable when it delivers significant community benefits and is consistent with other Comp Plan or County Strategic Plan goals, objectives, strategies, such as providing needed housing, parkland, or alternative energy features.

b) The CPA component presents issues that warrant additional study or coordination before final action on the ZMA/SP application. In such cases, the applicant may be advised to defer the ZMA or SP while a separate CPA analysis is conducted with Board concurrence. For example, a proposal that would substantially impact the supply of high quality or strategic industrial land may require more in-depth evaluation. With legislative applications, the applicant, not the County, controls the timing/status of a ZMA or SP application and must agree to any deferral or withdrawal so the applicant would have to agree to a recommended deferral of the ZMA or SP to allow timing for the more detailed CPA review.

c) The CPA component is unacceptable, and denial is recommended, with no further CPA analysis advised unless the proposal is modified to address Comprehensive Plan concerns. The ZMA could still proceed to the Planning Commission and Board for action unless withdrawn by the applicant. An example includes a proposal that conflicts with multiple or fundamental Comprehensive Plan goals, or proposals whose impacts are more extensive and should be reviewed as part of a Comprehensive Plan update or a Master Plan/Small Area Plan.

## Summary:

Staff concludes that utilizing either the existing “Board direct-contact” approach or the established Zoning Map Amendment (ZMA) or Special Use Permit (SP) application process provides the most effective means for evaluating public requests for Comprehensive Plan Amendments. This two-option framework addresses the key reasons previously identified for reconsidering a CPA application process—providing an approach that is efficient, familiar, timely, and transparent. It relies on well-understood procedures, enhances public transparency, and offers a clear pathway for considering Comprehensive Plan modifications when appropriate.

## Recommendation:

Because no new application process or procedural changes are proposed, no formal action by the Board is required.