



ALBEMARLE COUNTY PLANNING
STAFF REPORT SUMMARY

Project Name: ZTA201900006 Rio29 Form-Based Code	Staff: Rachel Falkenstein, Principal Planner Michaela Accardi, Senior Planner
Planning Commission Work Session: November 12, 2019	Board of Supervisors Work Session: December 18, 2019
Owner: multiple	Applicant: N/A (County-initiated)
TMP: TMPs within the Rio29 SAP boundary Acreage: ~391 acres	Zoning Text Amendment/Zoning Map Amendment: County-initiated ZTA/ZMA for Rio29
Magisterial District: Rio	Future Land Use: Core, Edge and Flex in the Rio29 Small Area Plan
School Districts: Agnor-Hurt & Woodbrook – Elementary; Burley & Jouett – Middle; Albemarle – High	
DA (Development Area): Neighborhood 1 & 2 - Places29 Master Plan; Rio29 Small Area Plan	Topics for discussion: Recommended Rio29 form-based code framework
Proposal: Consider and discuss proposed amendments to zoning regulations in the Rio29 area. The proposed amendments aim to implement the Small Area Plan's vision of Rio29 as a connected, multimodal area with a vibrant, mixed use community enhanced through conservation and public amenities.	
Discussion/Recommendation: Staff recommends that the Commission review the attached draft framework, attached summaries and background information, and provide direction to staff on the questions below. Staff is also seeking general feedback on the draft framework.	
Q1 Do you support staff's revised building height recommendation? If not, what revisions do you recommend?	
Q2 Does the revised Regulating Plan and associated framework address the Commission's desire for additional and connected amenity space in Rio29?	
Q3 Does the framework and revised staff recommendation capture the Commission's desire for increased flexibility in architectural standards?	
Q4 Are the proposed incentives and corresponding bonus categories appropriate for Rio29?	
Q5 Should the Rio29 form-based code be an "optional overlay" zoning district or should it replace the current base zoning in Rio29?	

STAFF CONTACT:

Rachel Falkenstein, Principal Planner
Michaela Accardi, Senior Planner

PLANNING COMMISSION:

November 12, 2019 (Work Session)

PROJECT BACKGROUND AND PURPOSE OF THE WORK SESSION:

The Board of Supervisors adopted the Rio29 Small Area Plan on December 12, 2018. The Plan establishes a vision and recommendations for transforming Rio29 into a connected, multimodal area with a vibrant, mixed-use community enhanced through conservation and public amenities. The Implementation Chapter recommends “amending the County’s Zoning Ordinance and Map to include a form-based code tailored to the area.” One of the goals of adopting a form-based code is to allow for the community’s desired form of development through a “by-right” review process. Form-based codes primarily regulate the size and shape of development and how it interacts with and meets the street as envisioned in a long-range planning document for the area.

In March 2019, the Board directed staff to begin work on drafting a form-based code consistent with the Plan’s vision. The work plan calls for a draft form-based code “framework” and recommendations to be reviewed by the Board in December 2019, with possible adoption of an updated ordinance in 2020 (Attachment 1).

Drafting a form-based code for the Rio29 area is a complex process that requires extensive stakeholder engagement and research. Through summer and fall of 2019 staff conducted a series of Steering Committee meetings, public open houses, online engagement, and focus groups around topics related to the Rio29 form-based code. From August through October, staff conducted three work sessions with the Planning Commission to share research findings, engagement summaries, and broad recommendations around these topics to get Planning Commission feedback on key decision points relating to the future code.

The Draft Framework

This fourth work session is intended as an opportunity to review the draft framework with the Planning Commission. The framework is a compilation of topics reviewed during previous work sessions and outlines recommendations for Rio29 form-based code content. The framework contains high level recommendations for what should be included in the Rio29 code and recommends appropriate regulations to support the vision from the Rio29 Small Area Plan (Attachment 3).

The framework is comprised of three sections. Section 1 “Regulating Plan” contains a description of each Character Area (Core, Flex, Edge) and the allowable uses within each Character Area. The uses are organized in a table format with broad categories. Key definitions are provided on the subsequent pages that reflect definitions that are new or updated from the current zoning ordinance. Additional definitions will be added during 2020 as the code content is further refined. The use section also includes provisions for affordable housing. The Regulating Plan is currently a separate attachment and shows the proposed geographic boundaries of each Character Area (Attachment 4).

Section 2 “General Standards,” includes recommended building standards, street standards, parking and loading standards, architecture standards, and amenity space standards by Character Area. Red text in this section indicates where additional work is needed to fill in necessary details. As discussed during the October 15 work session, architectural guidelines and criteria for a Rio29 County Wide Certificate of Appropriateness (CWCoA) will be collaboratively developed in the first half of 2020 by staff and the Architecture Review Board.

Section 3 “Incentives” includes staff’s proposal for a point-based incentive system. This proposal allows developers to qualify for a range of incentives if a project provides additional site or building design elements not required in the Rio29 form-based code. The incentives and points shown in the framework are illustrative, additional work is needed to refine point allocation with stakeholders and the development community to ensure it effectively incentivizes form and amenities consistent with the Rio29 Small Area Plan.

The recommendations within the draft framework were informed by the Planning Commission’s direction as well as public and stakeholder engagement efforts (Attachment 2). Questions contained in this report are related to topics where there was not a clear consensus among Commissioners, staff, and/or stakeholders.

Staff will present the draft framework and the Planning Commission recommendations to the Board of Supervisors for a work session on December 18. If the Board of Supervisors endorses the framework recommendations, staff will spend the first half of 2020 filling in necessary details, drafting legal code language, and providing associated visuals.

STAFF QUESTIONS FOR THE COMMISSION:

Building Height

At the August work session, staff brought recommendations for building height to the Planning Commission for review and feedback. Staff’s recommendation at the time was a by-right height in the Core of five (5) stories, with allowance of up to six (6) stories for provision of bonus factors such as affordable housing. Many Commissioners felt that a more appropriate height would be four (4) stories by-right, up to five (5) stories for bonus factors, and up to six (6) stories by special exception. Some Commissioners were less sure about what an appropriate height would be and asked for a better understanding from the development community of feasible building heights for this area. Commissioners mentioned topography and views as part of the height equation and suggested there might be areas that are appropriate for taller heights and other areas where we want to restrict height.

After the August work session, staff held a series of focus groups with the development community and Rio29 property owners. Staff asked participants if limiting the height for by-right development at four stories would impact the redevelopment potential of Rio29. Most participants felt that limiting height to four stories would have negative implications. Stakeholders cited the high cost of land, lower potential for return on investment, and the centralized location of Rio29 as rationale that heights greater than four (4) stories are appropriate in the area. Many participants felt that even five (5) stories was not enough height for Rio29, especially when envisioning this area as Albemarle County’s future downtown or central business district.

Staff posed a similar question to the Rio29 Steering Committee at an October meeting. Steering Committee members shared that a natural building height for a stick-built construction is five (5) stories. This construction allows for four (4) stories of stick-built construction above a one story concrete platform to support ground-floor commercial retail uses and the required forms for transparency and ceiling heights.

Finally, staff shared with Steering Committee members that the current commercial zoning districts allows for up to 65-foot building heights. Steering Committee members expressed concern that regulations in a form-based code that reduces the development potential of Rio29 would be a disincentive to redevelopment and were therefore opposed to a four story height limit.

Q1 Do you support staff's revised building height recommendation? If not, what revisions do you recommend?

Revised Staff Recommendation – Height

Based on feedback from stakeholders, staff recommends a by-right height of five-stories with allowances of up to seven-stories for bonus factors and by special exception in the Core area. Though the Planning Commission initially suggested a lower height threshold, staff recommends taller building heights be permitted to effectively incentivize redevelopment, given the current by-right building height of 65-feet and the vision of Rio29 as a mixed-use center in Albemarle.

Staff recommends further viewshed analysis be completed 2020 to identify any areas where shorter heights would be more appropriate to frame or preserve views and to help identify criteria for a height special exception approval process.

Amenity Space

At the September work session, staff brought recommendations for amenity space standards to the Planning Commission for review and feedback. At the time, staff recommended that the Rio29 Small Area Plan Future Conservation Network be used to establish required public amenity spaces through the form-based code. Staff also recommended that a percentage of amenity space be provided within each development, dictated by the property's character area.

The Planning Commission was supportive of staff's recommendation but felt that there were not enough amenity spaces shown on the Rio29 Future Conservation Network and wanted to more clearly see where amenity spaces would be required. The Commission also suggested that design standards be incorporated into the code so that unprogrammed lawn space would not be the predominant form of amenity space in Rio29.

Q2 Does the revised Regulating Plan and associated framework address the Commission's desire for additional and connected amenity space in Rio29?

Revised Staff Recommendation – Amenity Space

Based on Planning Commission feedback, staff added additional amenity space in the southeast and northwest quadrants of Rio29 to achieve a more distributed network of greenspace. The amenity space locations are shown on the Regulating Plan (Attachment 4). Staff also plans to incorporate amenity space design standards into a future code draft. Standards for shading, landscaping/hardscaping, and required facilities will be developed in early 2020 to ensure that amenity spaces will be attractive, well-designed and usable.

Architecture

At the October 15 work session, the Planning Commission discussed possibilities for architectural standards within the Rio29 form-based code. Staff recommended a collaborative process with the Architectural Review Board (ARB) to collaboratively develop criteria for a Rio29 Certificate of Appropriateness (CWCoA) that would allow staff to review and approve the architectural elements of development within the Rio29 Entrance Corridor Overlay District. This approach would eliminate the need for ARB review of individual development proposals within Rio29. Staff also recommended a future goal of codifying architectural standards in the Rio29 form-based code and eliminating the requirement for a CWCoA in the Rio29 area.

The Planning Commission expressed concern about overly prescriptive architectural regulations that could stifle creativity and result in uniform and inauthentic architectural styles in Rio29. Commissioners also warned against the loss of valuable expertise that would occur if we eliminated ARB review of all projects

in the area. There was a desire from the Commission for the use of general guidance about architectural standards rather than rigid regulations.

Staff engaged the Steering Committee on this question and the Committee agreed that it is difficult regulate good architecture through zoning and felt that more flexible approach should be used. However, they felt there were some standards that could be incorporated into a code such as requirements for transparency and façade articulation. The Steering Committee agreed that general guidance about architectural elements is preferable, but they also warned that our current ARB review process is too subjective, uncertain, and lengthy. Some Steering Committee members thought that guidance specific to Rio29 should be developed along with a process to allow a staff architect to review projects instead of requiring ARB review for Rio29 Entrance Corridor Projects.

Q3 Does the framework and revised staff recommendation capture the Commission's desire for increased flexibility in architectural standards?

Revised Staff Recommendation – Architecture

Staff recommends a new category of CWC_oA be developed collaboratively between the ARB and staff for Rio29. The Rio29 CWC_oA would provide architectural guidelines on topics of transparency, materials/color, façade articulation, lighting, parking structures, and equipment/service areas. These are the topics currently included in the Entrance Corridor Guidelines and more specificity could provide more certainty for applicants interested in developing in Rio29 Entrance Corridor sites.

Staff recommends that parcels with frontage on Rio Road be given one round of ARB review under the revised CWC_oA criteria, with final approval by staff. Staff recommends other interior parcels be reviewed and approved by staff.

Incentives

A common theme staff has heard across engagement efforts for the Rio29 form-based code is the importance of incentives and public investment. It has widely been acknowledged by stakeholders, members of the public, staff, and the Planning Commission that form-based code is only one tool to support the vision and that other policies and programs are needed to catalyze redevelopment. County capital investment, tax incentives, process improvements, and County partnerships have all been suggested as additional incentives the County could pursue to help support the vision.

The Economic Development Office (EDO) recently developed a Capital Investment Grant Program as an additional tool that could support redevelopment in Rio29. The grant program allows the County to provide additional funding for qualifying projects that help support stated goals of the County. In the case of Rio29, developers who agree to contribute to Transformative Projects identified in the Plan could be eligible for County support through this program. EDO continues to work on programs to support their Economic Development Strategic Plan, Project Enable, and have been key partners on the Rio29 form-based code project.

In addition to the broader policy work through the Economic Development Office, certain incentives can be built into the code to further support development consistent with the Rio29 vision. Section 3 of the framework contains recommendations for bonus features and incentives. Staff proposes a point-based system to allow developers to gain height bonuses or relief from identified code standards for providing additional building or site features that further support the Rio29 vision. As stated previously, additional work is needed to refine the proposed point system to properly allocate points for each category. Staff would like Planning Commission feedback on the appropriateness of the proposed incentive system conceptually prior to advancing this work.

Q4 Are the proposed incentives and corresponding bonus categories appropriate for Rio29?

Staff Recommendation - Incentives

As shown on pages 19-21 of the draft framework, staff recommends bonuses be provided for the following categories of features: affordable housing units, public and cultural amenities, underground parking facilities, bicycle storage, low-impact development/green infrastructure features, additional amenity spaces/trails, pedestrian alley improvements, or green building design.

For these provisions, recommended incentives include an additional story of building height, reduced stepback requirements, reduced parking requirements, or reduced application fees. Further work is needed to refine this section including determining an appropriate point system and corresponding standards for each bonus feature.

Zoning Type

If the Board of Supervisors decides to move forward with the recommendations outlined in the draft framework, Supervisors will be faced with the decision of how to implement the Rio29 form-based code. Several options are available for implementation including the possibility of an optional overlay or to create new base zoning for the Rio29 area.

The optional overlay zoning district option would implement the code through a parallel zoning district floating above the existing underlying zoning districts. Property owners within the designated geography wishing to develop their property would have the option of developing under the existing underlying zoning (in many cases, this is commercial or planned development zoning) or could choose to develop under a Rio29 form-based code overlay district. With an optional overlay, property owners opting into the form-based code would be required to fully comply with the all the regulations within the form-based code and could not pick and choose regulations from the underlying zoning and the form-based code.

Another option is to change the base zoning in Rio29 to the new form-based code as a replacement of the current zoning. Property owners wishing to develop their property under this scenario would be required to comply with the Rio29 form-based code or could seek to rezone their property to a different zoning district. Current development within Rio29 would become “non-conforming” and minor upgrades or changes to properties within a specified threshold would be permissible under the County’s current non-conforming regulations. Major property changes such as new construction or full replacement of buildings and structures would need to comply with the regulations of the form-based code.

Q5 Should the Rio29 form-based code be an “optional overlay” zoning district or should it replace the current base zoning in Rio29?

Staff Recommendation – Zoning Type

Staff recommends the Rio29 form-based code be implemented as an optional overlay zoning district. Doing so would give property owners the option to choose which zoning district under which to develop their properties in the future. The form-based code will provide property owners additional uses and development rights not allowed within the current zoning districts as well as the ability to construct mixed-use development(s) through a by-right review process.

These factors may incentivize those wishing to redevelop to choose the form-based code over the underlying zoning. Much of the property in Rio29 is currently zoned commercial. These districts do not allow residential uses by-right. Some properties, such as the shopping centers, are zoned planned development districts and are restricted to their approved plan of development, which prohibits much future expansion or significant redevelopment of these properties without a change in zoning.

An additional advantage to the optional overlay approach is the allowance of an affordable housing requirement in the code. Virginia state code permits localities to use bonuses in the form of increased project density or other benefits to a developer in return for the developer providing certain features or amenities desired by the locality, including affordable housing creation and preservation. This tool is called incentive zoning. If the County structured the form-based code as an optional overlay, it would allow a developer/property owner to choose whether to opt into the requirements of the form-based code. Thus, the code would qualify as incentive zoning.

This overlay district approach would also allow a property owner or developer to comply with the existing zoning regulations. Therefore, this could enable future development that is inconsistent with the vision for Rio29. However, based on case study research and consultation with staff in other Virginia localities, staff is of the opinion that the additional development rights, flexibility and incentives proposed for the form-based code would strongly incentivize property owners interested in large-scale redevelopment to opt into the form-based code.

The Columbia Pike Commercial form-based code is an example of this type of optional overlay. Since adoption, Columbia Pike has had 18 projects developed under the optional form-based code, with only one property choosing to develop with a different zoning district.

STAFF RECOMMENDATIONS

Staff recommends that the Planning Commission review and discuss the above analysis, attached summaries and recommendations, and provide direction to staff on the questions above. Staff will be working to further refine the framework in the coming weeks and welcomes additional suggestions from the Planning Commission. The draft framework and Planning Commission recommendations will be shared with the Board on December 18, 2019.

Attachments:

Attachment 1 – Updated Project Work and Community Engagement Plan

Attachment 2 – Framework Background Overview

Attachment 3 – Draft Framework

Attachment 4 – Draft Regulating Plan