



## **ALBEMARLE COUNTY PLANNING**

### **STAFF REPORT SUMMARY**

<b>Project Name:</b> ZTA201900006 Rio29 Form-Based Code	<b>Staff:</b> Rachel Falkenstein, Principal Planner Michaela Accardi, Senior Planner
<b>Planning Commission Work Session:</b> October 15, 2019	<b>Board of Supervisors Work Session:</b> N/A
<b>Owner:</b> multiple	<b>Applicant:</b> N/A (County-initiated)
<b>TMP:</b> TMPs within the Rio29 SAP boundary <b>Acreage:</b> ~391 acres	<b>Zoning Text Amendment/Zoning Map Amendment:</b> County-initiated ZTA/ZMA for Rio29
<b>Magisterial District:</b> Rio	<b>Future Land Use:</b> Core, Edge and Flex in the Rio29 Small Area Plan
<b>School Districts:</b> Agnor-Hurt & Woodbrook – Elementary; Burley & Jouett – Middle; Albemarle – High	
<b>DA (Development Area):</b> Neighborhood 1 & 2 - Places29 Master Plan; Rio29 Small Area Plan	<b>Topics for discussion:</b> Possible zoning regulations related to architecture, housing, and placemaking
<b>Proposal:</b> Discussion and consideration of proposed amendments to zoning regulations in the Rio29 Small Area Plan to implement the Plan’s vision for transforming Rio29 into a connected, multimodal area with a vibrant, mixed use community enhanced through conservation and public amenities.	
<p><b>Discussion/Recommendation:</b> Staff recommends that the Commission review and discuss the following questions and analysis, attached summaries and recommendations, and provide direction to staff on the questions below:</p> <p><u>Architecture</u></p> <p><b>Q1</b> Should we include criteria specific to the architectural design into the form-based code and subsequently eliminate ARB review within the Rio29 area?</p> <p><u>Housing</u></p> <p><b>Q2</b> Should we regulate density through the Rio29 form-based code; i.e. setting maximum or minimum density limits measured in dwelling units per acre?</p> <p><b>Q3</b> Should we require a minimum percentage of affordable housing through zoning, assuming the code is structured as an “optional overlay” and therefore considered incentive zoning?</p> <p><u>Arts</u></p> <p><b>Q4</b> What types of bonuses are appropriate for public art provision?</p>	

**STAFF CONTACT:**

Rachel Falkenstein, Principal Planner  
Michaela Accardi, Senior Planner

**PLANNING COMMISSION:**

October 15, 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,” 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 amended work plan, discussed at the Joint Board and Planning Commission work session on July 9<sup>th</sup>, anticipates that a draft form-based code “framework” and recommendations will be reviewed by the Board in December 2019, with possible adoption of an updated ordinance in 2020 (Attachment 1).

A diverse cross-section of County staff from CDD (Zoning, Planning and Engineering), Economic Development and Communications & Public Engagement (CAPE) are collaborating on “technical working groups” to conduct research and engage with the Rio29 Steering Committee and the public on key form-based code-related topics (Attachment 1).

Drafting a form-based code for the Rio29 area is a complex process that requires extensive stakeholder engagement and research. Staff anticipates a continued high investment in public engagement throughout the process. This work session is focused on the topics of: **Architecture, Housing and Arts/Placemaking.**

One additional work session is scheduled with the Planning Commission this year to review a draft framework, which will include draft recommendations for code content and an implementation strategy based on input from this and the two previous work sessions. Planning Commission feedback and recommendations on these topics will be shared with the Board of Supervisors during a December work session.

Staff will share research findings, engagement summaries, and broad recommendations around these topics. We are looking for general feedback from the Planning Commission as well as direction on specific questions/decision points, where the Rio29 Steering Committee, public and stakeholder responses have been inconsistent or have helped identify complexities within these topics needing additional scrutiny (see following pages, “Staff Questions for the Commission”).

## **STAFF QUESTIONS FOR THE COMMISSION:**

### **Architecture**

The Small Area Plan envisions the transformation of Rio29 into a vibrant and diverse mixed-use community with interesting character and a human scale built environment. The Plan includes recommendations to create pedestrian-oriented development that brings buildings closer to the street and incorporates architectural standards to create a visually interesting environment. During previous work sessions, staff has shared recommendations relating to building location (build-to-line), height, stepbacks, pedestrian passages, ground story use, transparency, and ceiling height that also contribute to creating human scale pedestrian environments.

The Rio29 area is bisected by two County Entrance Corridors: Route 29 and Rio Road. As shown on the attached map (page 4 of Attachment 4), most development within the Rio29 Small Area Plan boundary is currently within the Entrance Corridor (EC) Overlay District, although only development visible from Entrance Corridor streets are subject to Architectural Review Board (ARB) review. Through recent engagement efforts, property owners, businesses, and the development community shared with staff a desire to eliminate ARB review as part of the future process for development in Rio29. Stakeholders felt that incorporating the EC architectural guidelines as regulations within a form-based code would provide increased certainty and reduce review times during the development process (Attachment 7).

### **Overall Staff Recommendation – Architecture**

*Consistent with the Rio29 Small Area Plan, staff recommends regulating architectural elements that will help contribute to a human-scale environment in Rio29, with a focus on development adjacent to streets and public amenity spaces. Staff recommends that higher architectural standards be applied to development within the Core character area, with more flexibility allowed within the Flex and Edge areas. Staff also recommends incorporating EC guidelines into the form-based code as architectural regulations to eliminate the need for ARB review in the Rio29 area, as described in more detail below.*

### **Q1 Should we include criteria specific to architectural design into the form-based code and subsequently eliminate ARB review within the Rio29 area?**

*Staff Recommendation: Staff recommends incorporating Entrance Corridor guidelines as regulations within the form-based code to eliminate the need for ARB review of individual development projects within Rio29. Doing so can help incentivize redevelopment by creating a more efficient process and increasing certainty for developers and property owners.*

*This approach will require more specific and comprehensive standards for architectural design in Rio29 than those currently included in the Entrance Corridor guidelines. Drafting new architectural regulations in the allotted timeline for this project (framework complete by December 2019 and final adoption in 2020) will not be possible due to the complexity of this work and current staffing limitations. Staff recommends a comprehensive set of architectural regulations be developed as a second phase for this project, after the initial code adoption in 2020.*

*As an interim measure, staff recommends adopting a new category of staff approved County-wide Certificate of Appropriateness (CWCoA) for Rio29. The proposed Rio29 CWCoA would include criteria specific to Rio29 collaboratively developed by County staff and the ARB. The Rio29 CWCoA would allow staff to review and approve architectural standards and eliminate the need for ARB review for relevant projects in Rio29.*

*Staff recommends the Rio29 CWCoA focus specifically on topics of transparency, materials/color, façade manipulation, and lighting. These are the topics currently included in the Entrance Corridor guidelines and would appropriately streamline the process in this initial phase of work.*

The Architectural Review Board (ARB) supported the above staff recommendations at a work session on Monday, October 7, 2019.

## **Housing**

The Rio29 Small Area Plan (SAP) recommends encouraging and incentivizing a range of housing types and affordability in Rio29. The Plan recommends, where feasible, requiring affordable and workforce housing. Where it's not feasible to require affordable housing through zoning, due to state enabling legislation, the SAP recommends incentivizing the development of a range of housing options through incentives such as height or density bonuses and reductions in parking standards for the inclusion of workforce and affordable housing.

On the topic of housing density, the SAP does not make specific recommendations for ranges of numbers of dwellings per acre. Instead, the Plan recommends flexibility in use to allow redevelopment of the area to respond to market demands. The Plan relies on form recommendations to help support the vision of creating a vibrant and diverse mixed-use community with interesting character and a human scale built environment.

Putting a cap on the number of units permissible per acre incentivizes developers to build larger more expensive units, since with density calculations, one large single-family home counts as one unit, the same as one small efficiency apartment does. Form characteristics such as height, stepback, block sizes, build-to-lines, parking, and amenity space will all contribute to ensuring development in Rio29 is the appropriate scale. Focusing on form rather than units per acre removes the pressure for developers to maximize unit size and cost.

## **Overall Staff Recommendation – Housing**

*Staff recommends affordable housing be required and incentivized through the form-based code wherever possible. As described below, the tools for affordable housing, whether mandatory or optional, will depend on the code type. Staff also recommends that additional tools and programs for affordable housing be considered in the future, after the completion of the affordable housing policy update, which is currently underway. As redevelopment occurs, it is important to find and utilize tools that preserve existing affordable units.*

### **Q2 Should we regulate density through the form-based code; i.e. set maximum or minimum density limits measured in dwelling units per acre?**

***Staff Recommendation:** Based on the above description, staff does not recommend requiring a density maximum or minimum in the Rio29 form-based code. Alternatively, staff recommends form requirements drive development of the area. The form-based code will ensure the scale and character of development is consistent with the Rio29 vision. Allowing flexibility on density enables greater flexibility in use for property owners, permits a variety of housing options and supports a market-driven redevelopment approach.*

*At the first work session, staff previously recommended that single family residential uses not be permitted in the Core and Flex areas of Rio29 to eliminate forms of development that are inconsistent with the Small Area Plan's vision. Including density requirements could stifle redevelopment of the area, limit construction of "missing middle" housing types and unnecessarily drive up the cost of housing.*

### **Q3 Should we require a minimum percentage of affordable housing as incentive zoning, assuming the code is structured as an "optional overlay"?**

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.

The Rio29 form-based code will allow property owners to develop an increased number of residential units than that which is allowed under the current zoning. For most sites in Rio29, the number of residential units permitted is currently zero units under the County's commercial zoning districts. Even those few properties zoned residentially are limited to density caps in the current residential and planned development zoning districts, such as 15 units per acre with R-15 zoning. If the County does not limit density as discussed above, then the form-based code would offer increased development opportunities for every site within the zoning overlay. Further, the form-based code will provide a wider range and flexibility of uses than what is permitted with the current zoning, beyond just residential.

***Staff Recommendation:** Staff recommends requiring a percentage of affordable housing within each new residential development in Rio29 (assuming the code is structured as an optional overlay). Staff recommends the percentages be applied on a sliding scale to incentivize the development of a range of housing affordability levels. Staff recommends that if the developer opts into the form-based code, then one of the following apply:*

- 15% of units are affordable at 80% AMI
- 10% of units are affordable at 60% AMI
- 5% of units are affordable at 50% AMI

*As described above, requiring these percentages assumes the code will be structured as an optional overlay. A decision on how the code will be structured has not yet been made, and it is one staff will be engaging the Planning Commission on at our next work session. If decision makers decide the form-based code should be mandatory rather than an optional overlay, staff would recommend the above scales be adjusted to offer bonus factors for developers who choose to provide affordable housing at the percentages listed above.*

*In addition to the "required" affordable units recommended above, staff recommends additional bonus factors such as height bonuses, reduced parking requirements, modification and reduction of setbacks/setbacks, ground story use requirements and architectural standards for the provision of additional affordable units above the percentages listed above.*

### **Placemaking and Public Artwork**

The Rio29 SAP Character chapter focuses on how the built environment can help to create an identity for the area. The Plan includes a recommendation to use public art, wayfinding, and other public realm design choices to help achieve the vision.

To some extent, form-based code can help contribute to a places' character and identity through building and scale regulations; however, encouraging creativity through zoning regulations can be challenging. Finding ways to allow and encourage public artwork and creative uses is one way a form-based code can help bring character and identity to an area. Form-based code provisions can include incentives to provide public goods and the flexibility necessary to allow for creative uses and placemaking solutions.

Localities have used height or density bonuses as incentives to encourage public art in site design. Localities have also found ways to encourage "creative uses" in certain districts. Often spaces in high-vacancy, lower rent areas of a community can provide spaces for artists, artisans, and other small-scale makers. Providing flexibility in uses through zoning can allow these uses to concentrate in the area and help revitalize and bring new and vibrant uses to the Rio29.

### Overall Staff Recommendation – Placemaking & Public Art

*Staff recommends that alongside form-based code regulations, a comprehensive cultural planning effort be completed, coordinated with wayfinding, to support development of a cohesive identity for Rio29. The planning process should include the appropriate structure for accepting public art bonuses and administering a public art fund. Staff also recommends arts and placemaking-related users be encouraged by providing flexible use and permitting requirements within the form-based code.*

#### **Q4 What types of bonuses are appropriate for public art provision?**

Staff Recommendation: *Staff recommends providing bonuses and/or reduction in certain site design requirements for the inclusion public art with new development projects, either on-site or as a contribution to a public art fund. A percentage of the construction valuation should be used as a required budget to qualify for the bonus. The artwork should be accessible to the public, by being visible from the public right-of-way, public amenity space, or on a publicly viewable façade.*

### **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 develop recommendations on these topics in the coming weeks and welcomes additional suggestions from the Planning Commission. A finalized and complete list of recommendations will be drafted based on Planning Commission feedback and additional future engagement opportunities. A complete draft “framework” will be shared with the Planning Commission in November 2019.

#### **Attachments:**

- Attachment 1 – [Updated Project Work and Community Engagement Plan](#)
- Attachment 2 – [September 17<sup>th</sup> Planning Commission Work Session Summary](#)
- Attachment 3 – [Architecture, Housing and the Arts | Public Engagement Summary](#)
- Attachment 4 – [Architecture | Research and Overview](#)
- Attachment 5 – [Housing | Research and Overview](#)
- Attachment 6 – [Arts/Placemaking | Research and Overview](#)
- Attachment 7 – [Economic Development Focus Groups | Feedback Summary](#)