



# STAFF REPORT COVER SHEET

November 14, 2022

# ATTACHMENT 01

<b>Addresses:</b>	127 – 133 Park St NE (Parcels 0382-52-0001, 0002, 0003, 0004,005,006, 0007, 0008, 0009, 0010, 0011, 0012)	<b>Case Number:</b>	PF-651311-CZ
<b>Public Meeting Date:</b>	11/14/2022	<b>Applicant:</b>	BFR Construction Company / Bukont Homes
<b>Board/Commission:</b>	Town Council	<b>Owners:</b>	Trustees of Vienna Presbyterian Church; Joseph T. Nocerino and Mary Ann Nocerino, Trustees; Ezra Partnership; Manufacturers Standardization Society of the Valve and Fittings Industry, Inc.
<b>Existing Zoning:</b>	T (Transitional)	<b>Existing Land Use:</b>	Office
<b>Brief Summary of Request:</b>	<p>Applicant requests:</p> <ol style="list-style-type: none"> <li>1. Change from Transitional zoning district to RM-2 Multifamily, Low Density</li> <li>2. Site plan modifications of requirements for lot coverage, front yard setback, rear yard setback, and minimum lot area.</li> </ol>		
<b>Site Improvements:</b>	Applicant proposes to consolidate the twelve existing condominium parcels into one lot, raze the four existing three-story office buildings, and construct 26 single-floor residences in 13 individual two-family buildings. <b>(Please note that the applicant has reduced these numbers from the prior proposal of 28 units in 14 buildings.)</b>		
<b>Size of Property:</b>	72,167 square feet (1.66 acres)		
<b>Public Notice Requirements:</b>	<ul style="list-style-type: none"> <li>• All public notice requirements were met for the Planning Commission public hearing and meeting that was held on September 28, 2022. Please see attached affidavit.</li> <li>• All public notice requirements have been met for the Town Council public hearing and meeting. Please see attached affidavit.</li> </ul>		

<b>Brief Analysis</b>	
<b>PROPERTY DESCRIPTION</b>	
<p>The subject site, 127 to 133 Park Street NE, includes four separate three-story office buildings on a 72,173-square-foot site. The existing buildings were built in 1973 with approximately 24,000 square feet of gross floor area of office space. The site also contains 80 surface parking spaces. The site is currently zoned T Transitional, which allows professional office uses.</p>	
<b>COMPATIBILITY WITH THE COMPREHENSIVE PLAN</b>	
<p>The 2015 <a href="#">Comprehensive Plan</a> shows the subject parcels as having the Future Land Use designation of Mixed-Use. The Mixed-Use category is used to “reflect the vision for the existing commercial areas to redevelop as mixed-use projects (versus just commercial projects).” With one exception, all properties in Vienna with this Mixed-Use designation are along the Maple Avenue corridor, including the commercial section of Church Street. The plan does not specify that each parcel must include a mix of uses or if the entire identified area is to be a mix of uses. The implementation strategies include a recommendation to “consider townhouse or multi-family housing options to provide a transition between commercial and industrial properties and single-family neighborhoods.” The proposed two-unit buildings would provide a transition between commercial properties along Maple Avenue E and the residential properties along Church Street NE.</p>	
<b>COMPATIBILITY WITH THE ZONING ORDINANCE</b>	
<p>The properties are permitted to be rezoned by Town Council per Article 24 of the Town Code, after receiving a recommendation from the Planning Commission. Per Sections 18-256 and 18-257, Town Council may approve modifications of the zoning ordinance after receiving a recommendation from the Planning Commission.</p>	
<b>Attachments:</b>	<ul style="list-style-type: none"> <li>01 – Staff Report - REVISED</li> <li>02 – Application and Rezoning Affidavit</li> <li>03 – Modification Request Letter - REVISED</li> <li>04 – Rezoning Plan - REVISED</li> <li>05 – Illustrative Site Plan - REVISED</li> <li>06 - Renderings</li> <li>07 – Fire Marshal Approval Plan</li> <li>08 – Fiscal Impact Analysis - REVISED</li> <li>09 – By-right and comparable development for reference</li> <li>10 – Existing Residential Multi-unit developments</li> <li>11 – Relevant Code Sections</li> <li>12 – Planning Commission Chair’s Memo</li> <li>13 – Public Notification Affidavit</li> <li>14 – Staff Presentation – REVISED</li> <li>15 – Regulatory Requirements for Vienna Courts Rezoning</li> <li>16 – Alternative Rezoning Concept Narrative - NEW</li> <li>17 – Proffer Statement – Redline Version - NEW</li> <li>18 – Proffer Statement - REVISED</li> </ul>
<b>Author:</b>	Kelly O’Brien, AICP, CZA, Deputy Director

Consideration of requested change to the zoning map for twelve parcels, located at 127-133 Park Street NE (Parcel #s 0382-52-0001, 0002, 0003, 0004, 005, 006, 0007, 0008, 0009, 0010, 0011, and 0012) in the T Transitional zoning district. Requested zoning is RM-2 Multifamily, Low Density.

and

Consideration of requested site plan modifications of requirements, related to the rezoning request, for lot coverage, front yard setback, rear yard setback, and minimum lot area requirements.

*Introductory Comments & Background:*

This is an updated version of the staff report from October 24, 2022. Changes from the original report are underlined.



Figure 1 – Aerial image of site dated February 2022

The subject site, 127 to 133 Park Street NE, includes four separate three-story office buildings on a 72,173-square-foot site. The existing buildings were built in 1973 with approximately 24,000 square feet of gross floor area of office space. According to the original site plan, the site also contains 80 surface parking spaces. The site is currently zoned Transitional, which allows professional office uses. The site is surrounded by commercial properties facing Maple Avenue East and single-family residential properties along Church Street NE. The Vienna Presbyterian Church is located across Park Street NE from the subject parcel to the south. The property slopes downward from the parking lot in the rear towards Park Street NE.



Table 1 – Existing Use, Zoning and Future Land Use of subject site and surrounding properties

Location	Existing Land Use	Zoning	Future Land Use
Subject Site	Commercial office	T Transitional	Mixed Use
North & Northeast of site	Residential	RS-10 & RS-12.5 Single Family Detached Residential	Low Density Residential
South of site	Vienna Presbyterian Church	RS-12.5 Single Family Detached Residential; C-1A Special Commercial	Institutional
East of site	Residential and Commercial	RS-12.5 Single Family Detached Residential	Mixed Use
West of site	Commercial	C-1A Special Commercial	Mixed Use

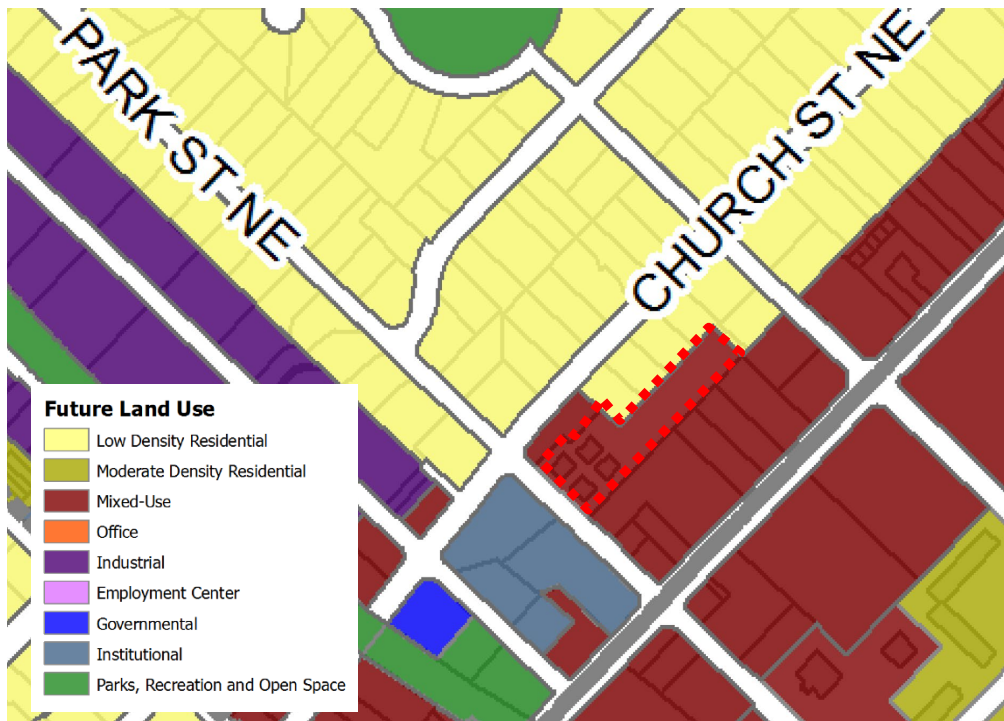


Figure 2 - Future land use plan (page 38 of the Town Comprehensive Plan) with subject parcels shown in blue dashed outline.

### ***Proposal History***

The applicant presented an earlier concept at a conference session with Town Council on September 27, 2021 and at a work session with the Planning Commission on October 13, 2021. The concept at that time included 30 single-floor residences in 15 individual buildings. The issues discussed during both sessions are outlined in the staff report for the October 24, 2022 hearing.

The applicant presented an update on the concept plan to the Planning Commission on August 24, 2022; and a public hearing was held by the Planning Commission on September 28, 2022, as part of their formal review. Their recommendation and vote with respect to both the requested zoning change and the site plan modifications are summarized on the next page and in the Planning Commission Chair's memo that is included as Attachment 12.

The applicant presented a concept plan to Town Council at a public hearing on October 24, 2022. At the hearing the concept included 14 buildings with a total of 28 units on the site. Council expressed concern about the amount of lot coverage, setbacks, and time to properly review the proffers that were submitted prior to the hearing. Council voted to continue the public hearing and to delay the decision on the requested modifications until the November 14, 2022 meeting.

The applicant has since revised the concept plan to address the comments heard from the Town Council and Planning Commissioners regarding lot coverage and green space, by reducing the proposal by one building and two units.

### ***Current Proposal:***

The applicant is requesting a change of the zoning designation for each of the twelve parcels, from T Transitional to RM-2 Multifamily, Low Density. The developer, if the change in zoning districts is approved, plans to construct 13 two-family dwellings (for a total of 26 single floor units), private alleys, parking, and walkways. The proposed maximum height of all buildings is 28 feet, below the maximum allowed of 35 feet.

The proposed development is accessed from a single ingress/egress point on Park Street NE leading to a private alley that runs along the east side of the property towards the rear property line and connects to a private alley, perpendicular to the main alley, behind the buildings facing Park Street NE. The applicant proposes a total of 71 parking spaces, which includes side-by-side and tandem garage parking and surface spaces. A revised concept plan and elevations have been included with this staff report as Attachment 04.

The applicant has also provided a proffer statement that provides conditions that, if the rezoning is approved, the project will be constructed in substantial conformance with the submitted concept plan, illustrated site plan, and renderings. The proffer also includes additional development commitments related to undergrounding utility lines, installing street lights to match the Church Street corridor, and providing brick banding for the sidewalk along Park Street.

The applicant is also requesting several site plan modifications of requirements, per Sections 18-256 and 18-257. These requests include permission for:

- Lot coverage to exceed the maximum 25% ([Section 18-58.I](#)),
- Encroachment into the 35-foot front yard setback ([Section 18-58.D](#)),
- Encroachment into the 35-foot rear yard setback ([Section 18-58.F](#)), and
- Deviation from certain lot requirements of the RS-10 zone, which the code establishes as also applying to the RM-2 zone, and the 8,000 square feet of lot area per two-family dwelling requirement ([Section 18-58.A.2](#)).

### ***Planning Commission Review and Recommendation***

#### Rezoning

For such applications, the Planning Commission is required to hold a public hearing and make a recommendation to the Town Council on the requested change to the zoning map. That recommendation should include a finding on whether the zoning change would be consistent with the Town of Vienna Comprehensive Plan.

The Planning Commission held a public hearing on the rezoning request on September 28, 2022. After hearing from staff, the applicant, and members of the public that spoke at the hearing, the Planning Commission voted to close the public hearing. The Planning Commission discussed the matter and voted 6-0 on a motion to recommend approval of the rezoning request.

#### Site Plan Modifications

For such applications, the Planning Commission is required to make a recommendation to the Town Council on any requested site plan modifications of requirements.

The Planning Commission reviewed and provided recommendations regarding the requested modifications of requirements on September 28, 2022. The Commission decided to split the motions on the requested modifications. The first motion recommended approval of the requested modifications for the front and rear yard setbacks and for the lot area. This motion was approved by a vote of 6-0. The second motion recommended approval of a modification that would permit the applicant to develop with a lot coverage of 68%, rather than the 70% requested by the applicant. This second motion was approved by a vote of 4-3.

### ***Staff Analysis:***

#### **Rezoning**

[Section 18-249](#) of the Town Code describes how Town Council shall give consideration to zoning map changes. It states that Town Council should give consideration to the entire comprehensive plan and that spot zoning should be avoided. Spot zoning is generally understood to be applying a zoning category that is different than the properties nearby or than properties that are similarly situated within the jurisdiction.

As it relates to the [Comprehensive Plan](#), the Future Land Use Plan (page 38 of the Comprehensive Plan), designates the subject parcels as "Mixed Use." The Comprehensive Plan includes language that supports the proposed multi-unit development as a transition from commercial development

to single-family detached residential. However, the plan also states that the overall balance of residential, commercial and industrial areas should be maintained (page 39).

Regarding whether making this change would constitute spot zoning, staff does not assess that the proposed change to the zoning map (to RM-2) would be spot zoning because the RM-2 zoning provides a transition from the commercial districts to the single-family detached residential districts, a land use option supported by the Comprehensive Plan. This function for RM-2 also exists on comparable properties on the opposite side of Maple Avenue, near or facing Locust Street, where the RM-2 properties are between the commercial development of Maple Avenue and single-family areas.

### **Comprehensive Plan**

Staff's assessment is that the proposed change from commercial use to two-family dwellings is supported by the comprehensive plan, as shown in the selections highlighted below.

#### *Chapter 3: Land Use (Page 22)*

"There are several alternatives that could provide housing for households with a variety of income levels. They include focusing on multi-family housing in the Maple Avenue Commercial (MAC) zoning district, using transitional areas for townhouses, multi-family housing, and village housing, and incentivizing and encouraging the renovation of existing, older houses. Benefits of a more diverse housing stock include the following:

- Increased neighborhood stability and increased housing market stability
- Ability to age in place
- Ability to attract a more diverse population"

#### *Chapter 3: Land Use (Page 23)*

"Transitional areas in the Town, in between commercial and single-family detached residential zones, provide opportunities to provide house, such as townhouses, moderate-density multi-family buildings, and village housing.

Townhouses and multi-family housing have historically been used in Town to buffer the commercial and single-family detached residential zones. The Town should continue this practice, when appropriate."

*Chapter 3: Land Use (Page 39), Objective 1 – Maintain the overall balance among residential, commercial, and industrial areas.*

#### **Implementation Strategies**

"Where appropriate and necessary, and where established single-family residential neighborhoods will not be destabilized, consider townhouse or multi-family housing options to provide a transition between commercial and industrial properties and single-family neighborhoods."

*Indicators (Page 43)*

“Increase in number of affordable units, including increases in the number of condominiums and townhouses.”

*Chapter 4: Economic Development (Page 52), Objective 2 – Incorporate diversified housing strategies.*

Implementation Strategies

“Include a wide array of housing types and focused density to be balanced with surrounding neighborhoods.”

**Modifications of Site Plan Requirements**

The applicant is requesting four modifications of site plan requirements. The modifications, which are listed in a letter to the Director of Public Works, include requests related to lot coverage, front yard setback, rear yard setback, and lot area.

As the Town Council may be aware, the RM-2 zoning regulations have not been significantly altered or amended since 1956. Staff has analyzed residential RM-2 development projects in Town and has found that none of the development projects meet all of the existing RM-2 zoning requirements. The code’s setback requirements and lot coverage requirement are generally too restrictive for multi-family developments. A comparison of the other RM-2 properties has been included as “Attachment 10 – Existing Residential Multi-Unit developments analysis” with this staff report.

*Lot Coverage*

Per Section 18-58.I, the maximum lot coverage for a development in the RM-2 zoning district is 25%, the same as required in the single-family detached zoning districts. Lot coverage includes the areas of the buildings and parking spaces and drive aisles.

The applicant is requesting a lot coverage of 66.8%, which is a reduction from the previously proposed 70%. The proposed style of the development does not lend itself to the stated 25% maximum due to the number of units and required parking area. As shown in Attachment 10, none of the multi-unit developments within Town have been able to meet the 25% lot coverage requirement.

*Front Yard Setback*

Per Section 18-58.D, the front yard setback for multi-unit developments is required to match the setback established for RS-16 single-unit houses, which is 35 feet per Section 18-15.C. The proposed development has three buildings facing Park Street NE. The porches of these buildings are 25 feet from the property line and the building faces are 30 feet from the property line. As shown in Attachment 10, similar reductions of front yard setback requirement have been approved in other projects.



*Rear Yard Setback*

Per Section 18-58.F, the rear yard setback is required to be a minimum of 35 feet. Building #11 at the farthest point of the rear of the property is shown with a 20-foot setback, less than the required 35 feet. However, the property to the rear has a 20-foot-wide vacant strip of land that also provides a buffer between the proposed development and the next single-unit detached residential home to the rear.

*Lot Area*

Per Section 18-58.A.2, all two-family dwellings are considered as occupying one lot and each lot area “need not exceed 8,000 square feet”. The proposed development is not subdividing the overall lot into separate lots for each duplex unit and the overall lot area is 72,167 square feet, so the development exceeds the 8,000-square-foot lot area maximum. Since there are no individual lots proposed that would be maintained by each homeowner, the applicant has stated that a Home Owners Association (HOA) will be put in place for property maintenance among other roles.

The proposed modifications are generally consistent with deviations requested for other multi-family residential properties in the RM-2 district shown in the attached analysis. Besides the requested modifications of requirements, the proposed development meets all other zoning requirements.

**Table 2 – Comparison of proposal to zoning requirements**

	<b>Required</b>	<b>Proposed</b>
Minimum Lot Area per unit (sf)	8,000 sf	72,167 sf Individual lots are not proposed for this development
Maximum Lot Coverage (%)	25%	<u>66.8%</u>
Minimum Front Yard Setback (ft)	35'	25'
Minimum Side Yard Setback (ft)	15'	15'
Minimum Rear Yard Setback (ft)	35'	<u>20'</u>
Maximum Building Height (ft)	35'	28'
Parking	62 spaces (2 spaces per unit plus 1 visitor space per 5 units)	<u>71</u> spaces ( <u>52 garage spaces plus 19 surface spaces</u> )

The RM-2 zoning district allows up to three-story multi-family buildings, which may include townhouses, two-family dwellings (which require minimum of 8,000 square foot lots), or traditional multi-family buildings. The maximum number of units allowed under the RM-2 zoning ordinance is 36 units (based on a minimum of 2,000 square feet of lot area per unit). The applicant is proposing 28 units. Therefore, this proposal’s lot area per unit is  $72,167 / 26 = 2,775$  square feet per unit.

Table 3 shows a comparison of some elements of the proposed development with other approved multi-unit developments since 2008. The requested lot coverage is higher than all of

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the multi-unit developments approved in the last 14 years. (The modifications that had been proposed in the October 24<sup>th</sup> presentation are shown in parentheses in Table 3.)

**Table 3 – Comparison of proposal to approved multi-unit developments**

Project	Year Built	Number of Units	Units per Acre	Front Yard Setback	Rear Yard Setback	Lot Coverage	Building Coverage
<b>Vienna Courts</b> <i>127-133 Park St NE</i>	-	<b>26</b> (28)	<b>15.7</b> (16.9)	<b>25 ft</b>	<b>20 ft</b> (15 ft)	<b>66.8%</b> (70%)	<b>35.3%</b> (36.2%)
<b>Village Housing on Courthouse</b> <i>117-121 Courthouse Rd SW</i>	2022* Under construction	12	8.7	20 ft	25 ft	60%	24.7%
<b>Cadence on Park</b> <i>201 Park St SE</i>	2021	5	12.2	20 ft	35 ft	60%	26.5%
<b>Cadence on Center</b> <i>135 Center St S</i>	2018	17	16.4	20 ft	15 ft	60%	37.2%
<b>Locust Street Condos</b> <i>225-233 Locust St SE</i>	2008	5	15.1	35 ft	35 ft	65.9%	31.6%

During discussions with the Planning Commission, the question was asked about removing another building to make room for more open space. If Building 14 were removed from the proposed development, approximately 1,265 square feet of lot coverage could be converted to shared green space. This would change the requested rear setback from 15 feet to the 20 feet required for Building 11. While converting this building to open space would serve to provide more shared open area for the residents, it would only reduce the lot coverage by 2%, compared to the proposal. The applicant has revised the concept plan to match the suggestion by some Planning Commissioners.



**Figure 3 - Illustrative plan showing suggested change by Planning Commission to remove building 14 to provide more open space shown in green and possibly rotate buildings 12 & 13 shown in red.**

The revised landscape plan, stormwater management plan and fire marshal review plan have not been thoroughly reviewed by staff for compliance at this time; however, they will be required to meet code requirements at the time of site plan submission. No modification has been requested for tree canopy coverage. The Fire Marshal's approval will also be a requirement of site plan and building permit approvals.

### **Fiscal Impact**

The Town's Director of Finance prepared the Fiscal Impact Analysis that is included as Attachment 08 with this staff report.

During the conference session with Town Council, a tax impact assessment was requested based on an alternative realistic transitional condition. The applicant has provided a possible by-right development scenario and comparable development in another jurisdiction for reference. Those examples are included with this report as Attachment 09. The applicant will be prepared to discuss the attachment at the meeting.