

RE: PETITION FOR RECLASSIFICATION : BEFORE
from M.L.R. to R-A : COUNTY BOARD OF APPEALS
NW corner Belmont Avenue and Security Boulevard, 1st District : OF
Grace L. Zimmerman, : BALTIMORE COUNTY
Petitioner : No. 65-302-RA

ORDER OF DISMISSAL

Petition of Grace L. Zimmerman for reclassification from M.L.R. to R-A on property located on the northwest corner of Belmont Avenue and Security Boulevard, in the First Election District of Baltimore County.

WHEREAS, the Board of Appeals is in receipt of a letter from the attorney for the protestants-appellants, filed October 12, 1973, wherein he states: "... I am advised by my client that the case is actually moot since the introduction of the maps on March 24, 1971 and that apparently part of the tract has been the subject of subsequent zoning cases."

WHEREAS, the said attorney for the said protestants-appellants requests: "... that the Board issue an order that would not in effect affirm the zoning commissioner because of the change in the circumstances."

WHEREAS, based on an opinion, dated November 10, 1971, which the Board received from the Baltimore County Solicitor, wherein he stated that any zoning case pending before the Board on the date the new zoning maps were adopted are moot.

IT IS HEREBY ORDERED, this 23rd day of April, 1974, that said petition be and the same is declared moot and the petition dismissed.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Walter A. Miller, Jr., Chairman

W. Giles Parker

Robert L. Giland

April 23, 1974

C. Victor McFarland, Esquire
922 Frederick Avenue
Baltimore, Md. 21220

Re: Zoning File No. 65-302-RA
Grace L. Zimmerman, Petitioner

Dear Mr. McFarland:

Enclosed herewith is a copy of the Order of Dismissal passed today by the County Board of Appeals in the above entitled case.

Very truly yours,

Edith T. Elmhurst, Adm. Secretary

Encl.

cc: A. Owen Hennegan, Esquire
Harry S. Swartzwelder, Jr., Esquire
Frank J. Metz, Jr. and Mrs. Marilyn A. Metz
Richard N. Arnold
North Rolling Road Improvement Assn.
Mr. S. E. O'Hanrahan
Mr. W. D. Freeman
Mr. R. W. Werneth
Board of Education

LAW OFFICE
TREUTH AND MCFARLAND
822 FREDERICK AVENUE
CATONSVILLE, MARYLAND 21228
TELEPHONE 744-0831

October 15, 1968

William S. Baldwin, Chairman
County Board of Appeals
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

RE: ZONING FILE NO. 65 302 RA
GRACE L. ZIMMERMAN PETITIONER

Dear Mr. Baldwin:

Most of the zoning files on pending cases have been turned over to me by the widow of the late Thomas P. Neuberger, Esquire. I do not know who will ultimately represent the protestants in this case. Please forward any future notices to me and I will contact the interested parties on the Protestants' side.

Thank you for your fine cooperation.

Very truly yours,

C. VICTOR MCFARLAND

CVNCF:GA
CC: Marie Neuberger
1516 Woodcliff Ave.
Balto. Md. 21207

Rec'd 10/16/68
9:30 am

LAW OFFICE
TREUTH AND MCFARLAND
822 FREDERICK AVENUE
CATONSVILLE, MARYLAND 21228
TELEPHONE 744-0831

October 10, 1973

John Slowik, Chairman
County Board of Appeals
County Office Building
Towson, Maryland 21204

RE: Case No. 65 302 RA
GRACE L. ZIMMERMAN

Dear Mr. Slowik:

With regard to your letter of August 31st relative to the subject case, I am advised by my client that the case is actually moot since the introduction of the maps on March 24, 1971 and that apparently part of the tract has been the subject of subsequent zoning cases.

I, therefore, respectfully submit that the Board issue an order that would not in effect affirm the zoning commissioner because of the change in the circumstances.

Very truly yours,

C. VICTOR MCFARLAND

CVNCF:GA
CC: Harry S. Swartzwelder, Esq.
A. Owen Hennegan, Jr., Esquire
Alfred Dill
Donald Veale

Rec'd 10/12/73
10:15 AM

McC Farland counsel for protestants - appellants

SMITH, SOMERVILLE & CASE

ATTORNEYS AT LAW
17TH FLOOR
ONE CHARLES CENTER
BALTIMORE, MARYLAND 21201

August 21, 1970

Mr. John A. Slowik
Chairman
County Board of Appeals
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland

Re: Case No. 65-302-RA
Grace L. Zimmerman
Classification from M.L.R. to RA

Dear Mr. Chairman:

Your notice of a hearing dated for September 17, 1970 on the above captioned matter was forwarded to this office by counsel for the petitioners, Mr. Hennegan, since this office generally represents the present owners of the tract, although we are not counsel of record in the case itself.

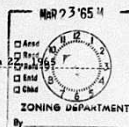
Mr. Hennegan indicated that immediately after sending this notice to us he would be away from the office until after September 1 and that some action toward postponing or other resolution of the case should be taken before his return. The purpose of this letter is to request that the hearing date be extended indefinitely. After the original granting of the rezoning by the Commissioner in 1965, Mrs. Zimmerman sold the property to our client. Since 1965, as you may be aware, extensive changes in the area of Belmont Road and Security Boulevard have been proposed, for example, Security Boulevard is now being extended from its present terminus at Belmont Road to Rolling Road; that portion of Belmont Road between Security Boulevard and Rolling Road has been closed by a County Ordinance, which closing will be effective upon the completion of Security Boulevard to Rolling Road; a major shopping center on the bulk of the property south of Security Boulevard, as extended, has been granted preliminary approval by the County authorities.

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Mr. John Rose
Zoning Commissioner
FROM: Mr. H. R. Stubb
Zoning Advisory Committee
SUBJECT: Agenda - March 2, 1965
Item #4

Date: March 2, 1965



The subject property is part of a large industrial area which is oriented directly to the interchange of Security Boulevard and the Baltimore County Beltway.

As stated in the "Report of the Master Plan for the Western Planning Area" the Western Planning Area includes 11.6% of the population of the county, while only 3.2% of the industrial land, including the subject site, is in this area.

With the Meadows Industrial Park rapidly being occupied it is expected that industrial development in this area will intensify rapidly in the near future.

This land, located in a prestige area and exposed to the Baltimore County Beltway, is a prime industrial site and should remain zoned industrially as it was when the Master Plan for the Western Planning Area was adopted on November 15, 1962.

H. B. STAAD, Director
Industrial Development
Commission

HBS:GCH:clm

SMITH, SOMERVILLE & CASE

Mr. John A. Slowik
August 21, 1970
Page Two

Because of these changes, it may well be that the proper zoning for this tract should be something other than RA. Additional study of the entire situation by the Baltimore County Office of Planning and Zoning may be necessary and desirable.

Accordingly, request is hereby made that the hearing in the matter be postponed indefinitely in order to explore the feasibility of having some other type of zoning.

Our files indicate that the last postponement granted in this case was granted at the request of counsel for one of the protestants.

Very truly yours,

Joseph M. Paulsen

JMR:dlh

Rec'd 9/21/70
4:15 PM

HENNEGAN AND CHIPMAN

ATTORNEYS AT LAW
406 JEFFERSON BUILDING
30 WEST JEFFERSON AVENUE
TOWSON, MARYLAND 21204

March 29, 1965

John G. Rose, Zoning Commissioner
Baltimore County Office Building
Towson, Maryland - 21204

Re: 15 A. W/S Beltway at Security
Boulevard & Belmont Avenue;
Grace L. Zimmerman, Owner;
Charles W. Williams, Contract
Purchaser; Reclassification from
M.L.R. to RA & Variances

Mr. Commissioner:

Please enter my appearance on behalf of the Petitioners, Grace L. Zimmerman, Owner, and Charles W. Williams, Contract Purchaser, in the above entitled matter.

Very truly yours,

A. Owen Hennegan, Jr.

AOHJ:rimf

65-302 RA

TELEPHONE

AREA CODE 410

IN 878-0000

IN 3-7475

2-B

WESTERN

AREA

RA

NW-2-G

4/2/65

KENNETH C. PROCTOR
GABRIEL W. FORTSON
H. ANTHONY MUELLER
LEE THOMAS
ELMER J. KIRBY, JR.
R. TUDOR MALKIN
RICHARD A. REED
E. HARRISON STONE

PROCTOR, ROYSTON & MUELLER
ATTORNEYS AT LAW
COURTNEY BUILDING
TOWSON, MARYLAND 21204



March 16, 1965

Mr. John G. Rose
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Re: Application of Grace L. Zimmerman
Northwest corner of Belmont Avenue

Dear Mr. Rose:

Will you please note on your records that
we no longer represent the Applicant in this case?

Sincerely yours,

KCP
Kenneth C. Proctor.

KCP/lg

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Mr. James A. Dyer, Chairman
Zoning Advisory Committee
Date: March 3, 1965
FROM: Mr. Charles F. Morris, Sr.
Fire Bureau - Plans Review
SUBJECT: Property Owner - Grace Zimmerman
NW corner of Belmont Ave. & Security Blvd.
District 1
Present Zoning - M.L.R.
Proposed Zoning - R.A. - Variance to section 217.5
No. Acres - 13.72

#65-302RA
MAP
2-B
WESTERN
AREA
RA
NW-2-G
4/2/65

1. Location of proposed hydrants and size of water mains shall be indicated on plot plan. Water mains, meters, and fire hydrants shall be of an approved type and installed in accordance with the Baltimore County Standard Design Manual. Spacing of hydrants shall be 500 feet distance apart as measured along an improved road, and within 300 feet from any dwelling. Hydrants shall be located in a pattern approved by the Baltimore County Fire Bureau.
2. Parking shall be designed so as to give emergency vehicles an improved radius for turning at end of parking areas.

CPH/lbr

PETITION FOR RECLASSIFICATION AND VARIANCE
Grace L. Zimmerman Property - Northwest corner
of Belmont Avenue and Security Boulevard - From MLR to RA
No. 65-302-RA

MEMORANDUM

The subject petition is a request for a reclassification of property zoned MLR to an RA Zone, on the basis of error in the adoption of the original Land Use Map and because of change in the character of the neighborhood. Thus it can be seen that basically the request embodies the upgrading of the use of the property.

The industrial zone, of which the parcel that is the subject of this petition is part, consists of vacant tracts of land and the subject property has direct access to existing roads of adequate capacity. There was competent and uncontradicted testimony from experts that (1) there is no danger of hazard or safety from traffic congestion that may be generated by the proposed apartment development, that in fact, the development of the property as an industrial site could produce considerably more traffic than the proposed residential use; that (2) public facilities of water and sewer are provided and are adequate for apartment development and will have no effect on the surrounding industrial or residential communities; that (3) storm water run-off is adequately provided for and would be substantially less due to open spaces of greenery provided in apartments that are not so provided in industrial uses where there are large areas set aside and paved for parking purposes; that (4) it is conceded by all that no health hazard can exist by reason of apartment development nor does industrial development of adjacent tracts create a health hazard to neighboring residential uses; that (5) the public health, safety, morals

or general welfare of the community will in no manner be affected by the use of the property for residential apartments, but on the contrary, these classic requirements of all zoning will be enhanced; that (6) there will be no detrimental effect on adjacent properties which are residential in character nor will apartments deter the efficient use of adjoining industrial tracts; and finally, where it is shown that orderly development of industrial land requires the facility of readily available rental housing and that apartments are necessary and needed in close relationship to industrial uses so that one complements the other.

Though the interpretation now placed on an MLR classification excludes residential use in the zone (although the zoning regulations do not specifically so state), we urge not only a substantial error in the adoption of the map as it relates to the subject property, but also that there is either an error in the interpretation of the regulations themselves, or in the adoption of such regulations in respect to the exclusiveness of use, particularly where a property owner is desirous of upgrading the use. Certainly somewhat analogous is the fact that an owner of residentially zoned property of a higher density may certainly develop his property in a lower density category if he so desires, thereby upgrading it.

The Supreme Court of the United States in Nectow v. City of Cambridge, 277 U.S. 183; 48 S.Ct. 447, 448; 72 L.Ed. 812, followed in Hoffman v. Mayor and City Council of Baltimore, 79 A.2d 367, held "... The governmental power to interfere by zoning regulations with the general rights of the land owner by restricting the character of his use, is not unlimited, and, other questions aside, such restriction cannot be imposed if it does not bear a substantial relation to the public health, safety, morals or general welfare ... That the invasion of the neighborhood is added

- 2 -

the property of plaintiff in error was serious and highly injurious is clearly established; and, since a necessary basis for the support of that invasion is wanting, the action of the zoning authorities comes within the ban of the Fourteenth Amendment and cannot be sustained."

It is submitted that the instant case clearly falls within the mandate of the wording of the Supreme Court, for the property owner in the instant case is deprived of a use of her property that very clearly would not affect the public health, safety, morals or general welfare of the community and that therefore, either the interpretation of the Baltimore County Zoning Regulations or the Regulation itself is clearly erroneous as adopted.

When it is shown that the health, safety, convenience and general welfare of the inhabitants of the part of the County affected will not be promoted by the inclusion of land in an industrial zone, thereby inhibiting its use for residential purposes to the serious damage of the owner, such zoning may be set aside. cf. Hoffman v. Mayor and City Council, 79 A.2d, 367 at 373.

The granting of the rezoning to the apartment zone in this case will be in the public interest as well as an expression of desire for choice on the part of the property owner. It would seem that when such is the case, more specifically, where there is an undisputed upgrading of the property to a more desirable zone, coupled with the undisputed expert testimony that it is in the public interest and is the desire of the property owner, that when the only apparent reason for retaining the industrial zone is to create a reservoir of property so zoned, that in such instance the burden of proof should rest upon the proper planning or zoning officials to demonstrate a reasonable basis for restricting the property to the use for which

- 3 -

it was originally zoned. To do otherwise, it seems to deny a property owner of all common law rights of ownership and subject him to the whims of governmental agencies.

The basis for all zoning, as an exercise of the police power, lies with the need for legislative controls over private property to avoid land use mixtures or combinations that conflict to the detriment of the community as a whole, or using the general welfare provision broadly, to promote or further a comprehensive plan for harmonious land uses. The MLR Zone that we are dealing with in the instant case, is specifically designed to be compatible with residential uses and no health question exists, which historically was the original basis for residential exclusion and the only one generally recognized by the courts. Therefore, where there is no conflict in land use mixtures and where there is no detrimental effect on the community with relation to any of the classic factors considered in zoning or rezoning, then an exercise of this police power that deprives a property owner of a legitimate and proper use of his property, is clearly erroneous and an abuse of power.

Considering the subject tract from the latest technique in good planning, it is clear that it is ideally suited for apartment development since it provides an excellent buffer zone for the residential property to the north, thereby providing a transition zone to the industrial property to the south. Certainly the failure to provide this buffer, which is so universally recognized in today's methods of planning and zoning, constitutes an error.

It is further urged that the planning staff failed to take into consideration the rapid growth of population in the area stemming from the nearby

- 4 -

industrial uses, particularly in the tremendous growth of the Social Security facilities, which are a mere stone's throw from the site. If it can be said that planning gave no consideration to this aspect, then error was committed; but if, on the other hand, it is said that planners could not have anticipated such a growth and for that reason could not have considered it, then a major and substantial change has occurred in the neighborhood. In either instance, there lies reasonable, justifiable, and logical reason for rezoning the property from the standpoint of change.

In the main, this memorandum has concerned itself with "error", however, this is not to be construed that it is felt by petitioners that no changes, other than population as set forth in the preceding paragraph, have occurred. Substantial increases to the Social Security complex, which in fact removed some available area zoned for apartment use, and the imminent construction of additional buildings and the construction of Clarke Boulevard in close proximity are examples of significant changes that have occurred.

The need for rental housing in the area and the failure of the authorities to provide it on the map, has been many times expounded before the Zoning Authorities as reason for error, and to further press the point in this memorandum would simply be redundant.

In conclusion, since zoning is not static, where there is a showing that it is in the interest of public welfare to rezone, that there will be no detrimental effect on the area, and coupled with the consideration of the interest and rights of the individual property owner to develop his property so as not to interfere with the

- 5 -

general welfare, then in the general interest, it is in good conscience that the subject property should be reclassified into an RA Zone.

Respectfully submitted,

A. Owen Hennegan
A. Owen Hennegan
406 Jefferson Building
Towson, Maryland - 21204
Valley 5-7500
Attorney for Petitioner

- 6 -

Mh.
Cousery

cc: Mr. Greenwalt-Health Department
Mr. Moore-Traffic Engineering

James E. Dyer
JAMES E. DYER
Chief of Permit and
Petition Processing

HEARING: Thursday, April 29, 1965 (2:00 P.M.)

The planning staff of the Office of Planning and Zoning has reviewed the subject petition and offers the following comments:

1. The Western Plunge Area Comprehensive Zoning Map was adopted only after careful analysis of, among other things, industrial needs and employment opportunities. Appropriate land was reserved for industry where there were prime accessibility characteristics. The subject site falls within that category, and is zoned M.L.R.R. There is no question in the mind of the map was carefully when adopted and that there have been no changes in the area to justify reclassification for apartment use. The County cannot afford to be prodigal with industrial land.
2. The site plan submitted even strengthens our view that reclassification would not be in the public interest. The very life blood of the County's economy — industry — would be displaced by apartment development of almost totally undistinguished design.
3. In view of the above, particularly in light of the need to provide ample and diversified employment opportunities in the Social Security Headquarters area, we strongly recommend that the subject petition be denied.

ILIC:CRM:DE

IBM

1998

ZONING COMMISSIONER OF
BALTIMORE COUNTY

JOHN L. NEW
ZIMMERMAN CONSULTANTS

52/24

Cost of Advertisement, \$.....

65-302 RA

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
 Towson, Maryland

District 1ST Date of Posting Aug 13, 1965
 Posted for: Appeal
 Petitioner: Grace L. Zimmerman
 Location of property: NW Cor Belmont Ave & Security Blvd.
 Location of Signs: ① NW cor Belmont Ave & Security Blvd. ② NW 1/3 Belmont Ave 400' NW of Security Blvd. ③ NW 1/3 Belmont Ave 800' NW of Security Blvd.
 Remarks: _____
 Posted by J. S. Bosse Date of return: Aug 19, 1965
 Signature

3 Signs

45-302 RX RA

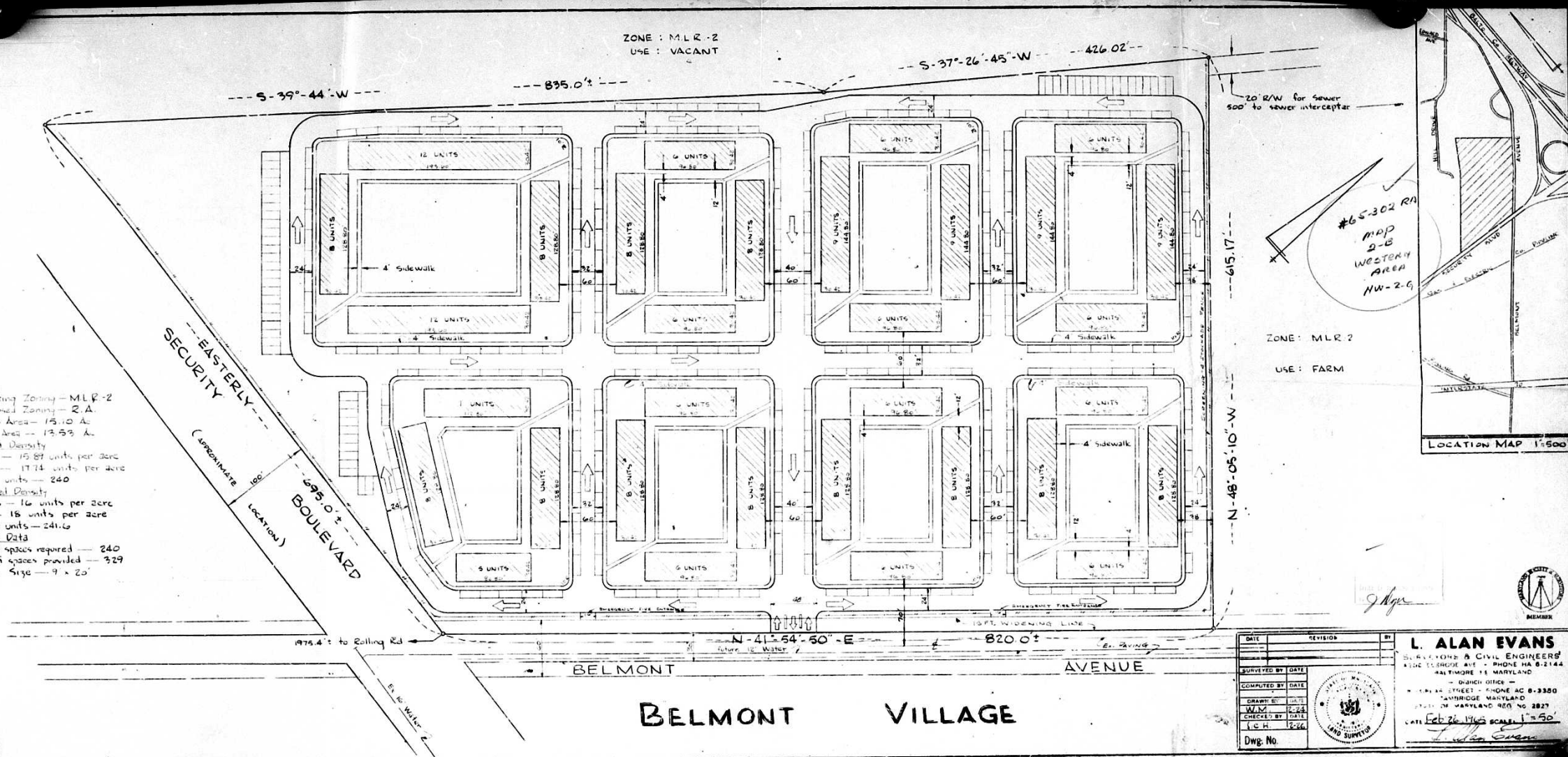
CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
 Towson, Maryland

District 1ST Date of Posting April 10 1965
 Posted for: Reclassification from MCR to RA - Variance
 Petitioner: Grace L. Zimmerman
 Location of property: NW Cor Belmont Ave & Security Blvd
 Location of Signs: 2 signs NS Belmont Ave at intersection N/E Security Blvd.
2 signs NS Belmont Ave 300' N/E of " "
2 signs SS Belmont Ave 650' N/E of " "
 Remarks: _____
 Posted by J. S. Bosse Date of return: April 15 1965
 Signature

6 Signs

ZONE : M.L.R. - 2
USE : VACANT

Notes:
Existing Zoning - M.L.R. - 2
Proposed Zoning - R.A.
Gross Area - 13.10 A.
Net Area - 13.53 A.
Designed Density
Gross - 15.87 units per acre
Net - 17.14 units per acre
Total units - 240
Permitted Density
Gross - 16 units per acre
Net - 18 units per acre
Total units - 241.6
Parking Data
No. of spaces required - 240
No. of spaces provided - 329
Min. Size - 9 x 20'



ZONE : M.L.R. 2
USE : FARM

#65-302 RA
MAP
D-B
WESTERN
AREA
NW-2-G

LOCATION MAP 1"=500'



DATE	REVISION	BY
SURVEYED BY DATE		
COMPUTED BY DATE		
DRAWN BY DATE		
CHECKED BY DATE		
IN CHARGE DATE		
DWG. No.		

L. ALAN EVANS
S. ALLEN & CIVIL ENGINEERS
4110 ELLERBEE AVE. - PHONE HA 8-2144
BALTIMORE 13, MARYLAND
- DUNN OFFICE -
1101 E. STREET - PHONE AC 8-3350
ANNAPOLIS, MARYLAND
STATE OF MARYLAND REG. NO. 2827
DATE Feb 26 1965 SCALE 1"=50'

BELMONT VILLAGE

ZONE: M.L.R.-2
USE: VACANT

53° 26' 45" W - 466.02'

53° 44' W - 885.0'

SOFTBALL FIELD

SECURITY
EASTERLY
(ADJACENT TO)

MAP
213
WESTERN
AREA
RA
NW-26

240 UNITS
306 GAR. SPACES

BOULEVARD

1975.4' ± Rolling Rd.

BELMONT

N 41° 54' 50" E

880.4'

AVENUE

ZONE: M.L.R.-2

USE: VACANT

BELMONT VILLAGE

101D SEE
REVISED PRINT

NOTES:

Area of Lot - 13.72 ± ac
Gross Area of Lot - 13.10 ± ac
Net Area of Lot - 13.53 ± ac
No. of Units - 240
Gross No. Units - 15.88
Net No. Units - 17.74
No. Parking Spaces - 306
Election District W-1
Present Zone: M.L.R.-2
Present Use: Vacant
Proposed Zone: R.A.
Proposed Use: Apartments
Size Parking Space - 7' x 18' min



Recd. 10-28-77

LOCATION MAP 1"=500'

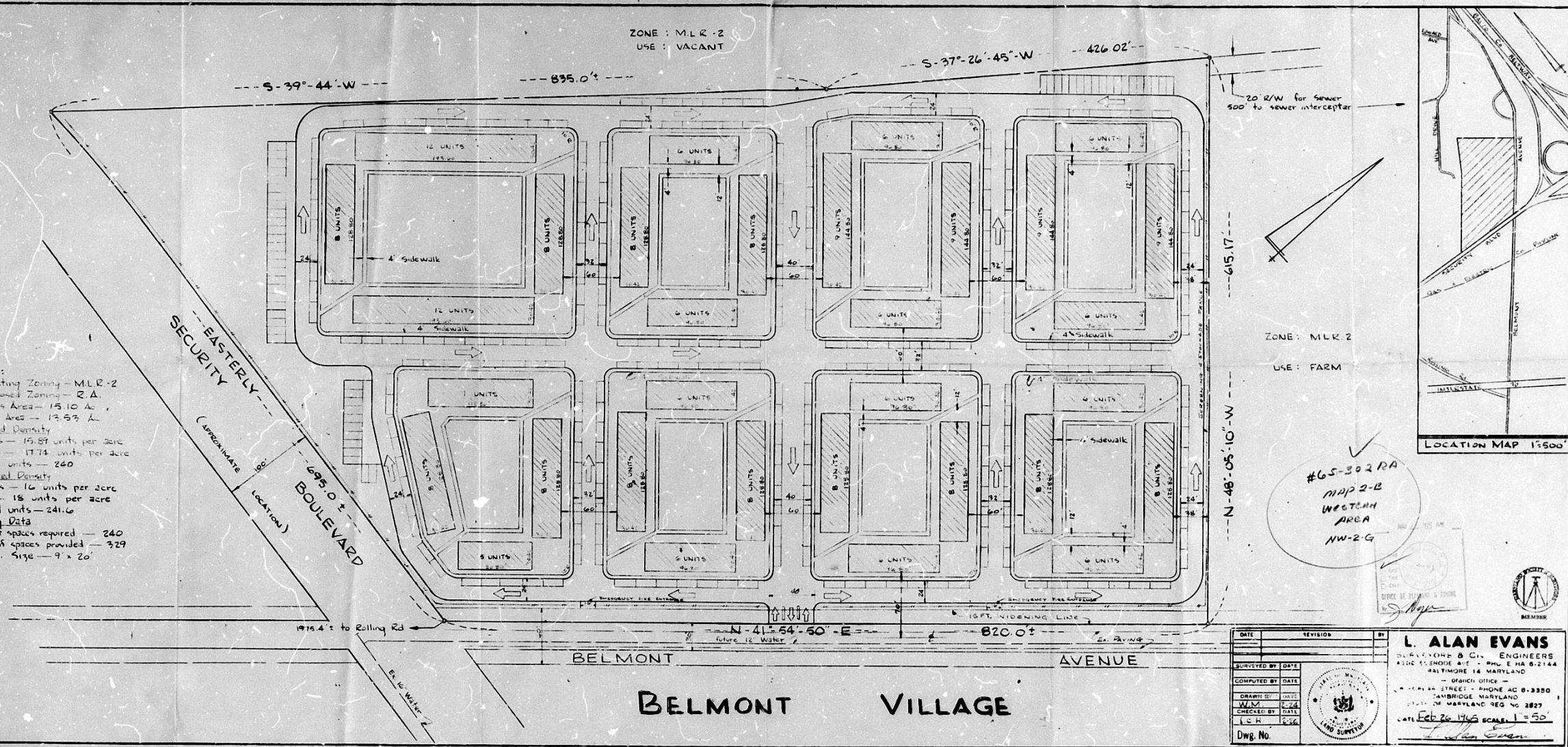
ZONE: M.L.R.-2
USE: FARM

6426
1-22-65
1"=50'
DAN L.A. NELSON & ASSOCIATES
1100 PENNSYLVANIA AVE.
TOWSON, MARYLAND 21204



ZONE : M.L.R.-2
USE : VACANT

Notes:
Existing Zoning - M.L.R.-2
Proposed Zoning - R.A.
Gross Area - 13.10 Ac.
Net Area - 13.53 Ac.
Designed Density
Gross - 15.89 units per acre
Net - 17.74 units per acre
Total units - 240
Permitted Density
Gross - 16 units per acre
Net - 18 units per acre
Total units - 241.6
Parking Data
No. of spaces required - 240
No. of spaces provided - 329
Min. Size - 9 x 20'



#65-302 RA
MAP 2-B
WESTERN
AREA
NW-2-G

DATE	REVISION	BY
SURVEYED BY	DATE	
COMPUTED BY	DATE	
DRAWN BY	DATE	
CHECKED BY	DATE	
DATE	SCALE	
Dwg. No.		

L. ALAN EVANS
SURVEYOR & CIV. ENGINEERS
4100 ELMORE AVE. - PHO. E HA 6-2144
BALTIMORE 14 MARYLAND
BRANCH OFFICE -
1014 N. STREET - PHONE AC 8-3350
DUMFRIES MARYLAND
STATE OF MARYLAND REG. NO. 2827
DATE FEB 26 1975 SCALE 1" = 50'

BELMONT VILLAGE

