

PETITION FOR ZONING RE-CLASSIFICATION AND/OR SPECIAL EXCEPTION

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

Charles G. Scherr and
we, Adele A. Scherr, legal owners of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition (1) that the zoning status of the herein described property be reclassified, pursuant to the Zoning Law of Baltimore County, from an R-6 zone to an R-A zone, for the following reasons:

To permit the erection of 36 garden-type apartments on the subject property.

See attached description

and under a Special Exception, under the existing Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property as:

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above reclassification and/or Special Exception advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract purchaser
Address: 4905 Liberty Heights Ave., Baltimore, Maryland 21207

Protestant's Attorney
Address: Baltimore, Maryland 21202

ORDERED By The Zoning Commissioner of Baltimore County, this 6th day of April, 1971, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commission of Baltimore County in Room 106, County Office Building in Towson, Baltimore County on the 27th day of May, 1971, at 2:00 o'clock.

Edward D. Hardesty
Zoning Commissioner of Baltimore County

(over)

CHARLES G. SCHERR ET AL
W/S Ingleside Ave. 30' from the SW/S Baltimore County Beltway
1st District
R-6 to R-A
2.194 acres

April 6, 1970 Petition filed
June 15 D.Z.C. (Dinenna) GRANTED reclassification
July 9 Order of Appeal to County Board of Appeals
Feb. 1, 1971 Board GRANTED reclassification
E " 23 Order for Appeal filed in the Circuit Court by Harry S. Swartzwelder, Jr., Esq., Attorney for Mary Mongelli and Gerard Kloby, Protestants-Appellants (File #4632)
Mar. 26 Order of Judge Barrett extending time for transmittal of records for an additional thirty days
Apr. 28 Order of Judge Menchine extending time for transmittal of records
E May 20 Motion to Stay Proceedings filed in Circuit Court by Mr. Swartzwelder Order of Judge Menchine to the County Board of Appeals to show cause on or before the 6th day of June, 1971, why relief herein prayed should not be granted. (Answer to Show Cause Order handled by the Office of Law-Thom, Averest, Esq.)
E " " Petitioner filed Petition for Writ of Mandamus in Circuit Court (9/13/4675)
E June 7 Judge Menchine DISMISSED zoning case as moot under Bill #100 (no written Order - Oral Opinion and entered on Court Docket)
E " 29 Hearing held by Judge Proctor on Writ of Mandamus DISMISSED in Oral Opinion

RE: PETITION FOR RECLASSIFICATION *
from an R-6 zone to an R-A zone
W/S Ingleside Ave. 30' from the SW/S Baltimore County Beltway
1st District
Charles G. Scherr, et al,
Petitioners
Zoning File No. 70-220-R
Mary Mongelli and
Gerard Kloby
Protestants-Appellants

ORDER FOR APPEAL

Mr. Clerk:
Please enter an Appeal on behalf of Mary Mongelli and Gerard Kloby, Protestants-Appellants, from the Order of the County Board of Appeals dated February 1, 1971, and reclassifying from an R-6 to an R-A zone, the subject property being located at the West-side Ingleside Avenue 30' from the Southwest-side Baltimore County Beltway, in the First Election District of Baltimore County, to the Circuit Court for Baltimore County.

Harry S. Swartzwelder, Jr.
400 Totman Building
210 East Redwood Street
Baltimore, Maryland
Attorney for Appellants

I HEREBY CERTIFY, that on this 23rd day of February, 1971, copy of the foregoing Order for Appeal was mailed to County Board of Appeals, County Office Building, Towson, Maryland; and Aaron Margolis, Esquire, 506 Tower Building, Baltimore, Maryland.

Harry S. Swartzwelder, Jr.

J. WILLIAM TREUTH, JR.
C. VICTOR MCFARLAND
LAW OFFICES
TREUTH AND MCFARLAND
922 FREDERICK AVENUE
GATTONSVILLE, MARYLAND 21220

July 7, 1970

Edward D. Hardesty, Esquire
Zoning Commissioner of Baltimore County
County Office Building
Towson, Maryland 21204

Re: Case No. 70-220-R
Charles G. Scherr - Petitioner
Item 179
Map 1 - Sec. 2A SW -2-P
R.A.
Ingleside Ave. & Beltway

Dear Mr. Hardesty:

Please enter an appeal on behalf of the protestants in the subject case to the County Board of Appeals for Baltimore County from the decision of the Deputy Zoning Commissioner on June 15th, 1970.

Yours very truly,

C. VICTOR MCFARLAND
Atty. for Mr. Gerard Kloby
protestant

CVMCF:CA
CC (1) Mr. Gerard Kloby
634 Longview Dr.
Baltimore, Md. 21228
(2) County Board of Appeals of Balto. County
County Office Bldg.
Towson, Md. 21204
Registered Mail-Return Receipt Requested

RE: PETITION FOR RECLASSIFICATION :
from an R-6 zone to an R-A zone :
W/S Ingleside Ave. 30' from the :
SW/S Baltimore County Beltway :
1st District :
Charles G. Scherr, et al, :
Petitioners :
BALTIMORE COUNTY :
No. 70-220-R

OPINION

This case comes before the Board upon appeal by the protestants from a decision of the Deputy Zoning Commissioner granting a reclassification of the subject property from R-6 to R-A. The subject property is located on the west side of Ingleside Avenue, in the First Election District of Baltimore County. The general location is approximately midway between U.S. Route 40-Westview Shopping Center and Edmondson Avenue. The north side of the subject property abuts the Baltimore County Beltway. The subject property contains a net acreage of approximately 2.194 acres. The petitioner proposes to erect 36 garden-type apartment units upon this site if the requested reclassification is granted.

L. Alan Evans, a registered professional civil engineer, testified for the petitioner. Mr. Evans located the subject property as we have described above, and pointed out to the Board that the northern contiguous boundary of this property with the Baltimore County Beltway presents a topography problem. The traffic lanes of the Beltway at this point are approximately 24 feet above the level of the subject property. According to Mr. Evans, the subject property is traversed by two now active flowing streams, and some accompanying storm drains which were erected when the Beltway was constructed. Other than this high elevation at the Beltway, the topography of this lot is relatively flat with perhaps a 10 foot rise from Ingleside Avenue west toward the rear. According to Mr. Evans, because of the above described conditions, it would be possible to erect only eight individual houses or twelve semi-detached houses on the entire subject tract in accordance with its existing R-6 zoning. Mr. Evans further testified that adequate sewer and water provisions now exist on the subject property for its development in the proposed classification.

Charles G. Scherr, et al - #70-220-R

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Dr. W. Worthington Ewell, a traffic expert who has testified before this Board on many occasions, spoke on behalf of the petitioner. Dr. Ewell stated that Ingleside Avenue at the subject property now is operating above its practical capacity, particularly between this site and U.S. Route 40. It would appear, from Dr. Ewell's testimony, that the capacity of Ingleside Avenue south of the subject property as it approaches Edmondson Avenue has not been reached. According to Dr. Ewell, the subject property is the last piece of unimproved ground existing on Ingleside Avenue, between Edmondson Avenue and the Beltway, which might have effect upon the traffic flow on this street, and considering this fact and the relatively small number of trips per day that the proposed 36 units would generate, it was the overall opinion of Dr. Ewell that this additional traffic would not seriously overburden Ingleside Avenue anymore than the problems that presently exist.

It was noted that the County plans at this time to widen Ingleside Avenue between Edmondson Avenue and U.S. Route 40-Westview Shopping Center. It appears that this project will be completed in accordance with Baltimore County Bureau of Highways contract item number 5-223, which proposes for right of way acquisitions during 1971 and 1972 and ultimate construction during the years of 1973-74. The completion of this project then would bring Ingleside Avenue traffic well within the capacity of the new road as proposed.

Frederick P. Klaus, a realtor and zoning consultant, also testified on behalf of the petitioner. Although there appears to be some confusion as to exactly when the Baltimore Beltway opened at the subject site, particularly in relation to whether it was before or after the adoption of the zoning maps that cover this area, Mr. Klaus did state that in his opinion the Council erred at the time of the adoption of these maps when they placed the subject property in an R-6 classification. Mr. Klaus feels that this was an error on the part of the Council because of the embankment created by the Beltway which left the subject property at the bottom of a 24 foot hill directly beneath the traveled lanes of the Beltway, as well as the additional fact that the Council did not

Charles G. Scherr, et al - #70-220-R

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provide sufficient rental units on its original map. The subject property being traversed by two streams and the additional storm drain necessitated by the Beltway construction, also was deemed by Mr. Klaus to be a reason why the Council should not have placed it in an R-6 classification at the time of the adoption of the map. In addition to these reasons for error, Mr. Klaus cited various changes in the area which he thought materially affected the existing classification. The most significant of these changes appeared to be Case #65-343-R, which was a reclassification from R-6 to R-A on Ingleside Avenue at Edmondson Avenue, and also an additional reclassification in the same vicinity, from R-6 to R-A with a special exception for offices, in Case #4499.

The testimony for the protestants was presented by two neighbors and George E. Gavrelis, the Director of Planning for Baltimore County. The protest of the neighbors was oriented around the problems that the area has suffered due to inadequate storm drains and overpopulation of schools. In addition, one neighbor also described the horrendous traffic conditions that now exist on Ingleside Avenue, particularly as one would proceed northerly toward the U.S. Route 40-Westview Shopping Center complex. Mr. Gavrelis testified that he had concern about the granting of this reclassification because of the traffic problems on Ingleside Avenue; the school population, as well as the impending changes as now proposed by the Planning Staff and the Planning Board which are at this time pending before the Baltimore County Council.

Considering the evidence and testimony presented in this case, it is the opinion of this Board that the petitioner has sufficiently proven original error and change in the character of the neighborhood to warrant the granting of the reclassification from R-6 to R-A. Whether or not, in fact, the Baltimore County Beltway was open prior to the adoption of the existing map, the Board personally viewed the subject property and was very impressed by the predominance of the 24 foot hill at the Beltway and the subject property. Whether this fact be error or change, it certainly seems to prohibit the use of this property for R-6 single family or semi-detached residences. The streams and storm drain factors are quite significant at this site, and would also seem to reflect upon

Charles G. Scherr, et al - #70-220-R

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the ultimate land use of this site. In addition, the zoning reclassifications as cited by Mr. Klaus also seem to have had some impact upon the character of this neighborhood.

These, along with the overall growth of this general area, including the development and use of the Westview shopping complex, especially as directly oriented toward Ingleside Avenue, in the judgment of this Board, have changed significantly the character of this neighborhood since the adoption of the use map. It is the opinion of this Board that the County will, in the very near future, correct the traffic situation as it now exists in front of the subject property on Ingleside Avenue, and that the overpopulation of the schools in the district will not be affected by the addition of the maximum allowable 36 units as proposed for this site if this reclassification is granted.

Hence, for the reasons set out above, this Board will affirm the decision of the Deputy Zoning Commissioner.

ORDER

For the reasons set forth in the foregoing Opinion, it is this 1st day of February, 1971, by the County Board of Appeals, ORDERED that the reclassification from an R-6 zone to an R-A zone petitioned for, be and the same is hereby GRANTED. Any appeal from this decision must be in accordance with Chapter 1100, subtitle B of Maryland Rules of Procedure, 1961 edition.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Walter A. Keller, Jr., Acting Chairman

John A. Miller

William H. Gaffney

AUG 24 1971

Pursuant to the advertisement, posting of property, and public hearing on the above petition and it appearing that by reason of substantial changes in the character of the neighborhood

the above Reclassification should be had, and to the fact that the proposed

IT IS ORDERED by the Zoning Commissioner of Baltimore County this 15th day of June, 1967, that the herein described property or area should be and the same is hereby reclassified, from an R-6 zone to an RA zone, and the Special Exception for the same is hereby DENIED, from and after the date of this order, subject to the approval of the site plan by the Bureau of Public Services and the Office of Planning and Zoning.

DEPUTY Zoning Commissioner of Baltimore County

Pursuant to the advertisement, posting of property and public hearing on the above petition and it appearing that by reason of

the above re-classification should NOT BE HAD, and/or the Special Exception should NOT BE GRANTED

IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 15th day of June, 1967, that the above re-classification be and the same is hereby DENIED and that the above described property or area be and the same is hereby continued as and to remain a zone, and/or the Special Exception for

Zoning Commissioner of Baltimore County

RECEIVED FOR
PROCESSING
BY: [Signature]
DATE: 2-13-70
OFFICE OF
PLANNING & ZONING

MICROFILMED

BALTIMORE COUNTY ZONING ADVISORY COMMITTEE

COUNTY OFFICE BLDG.
110 S. CALVERT AVE.
BALTIMORE, MARYLAND 21202

OLIVER L. AYERS
Chairman

MEMBERS

BUREAU OF
ENGINEERING

DEPARTMENT OF
TRAFFIC ENGINEERING

STATE ROADS COMMISSION

BUREAU OF
FIRE PREVENTION

HEALTH DEPARTMENT

PROJECT PLANNING

BUILDING DEPARTMENT

BOARD OF EDUCATION

ZONING ADMINISTRATION

INDUSTRIAL
DEVELOPMENT

March 16, 1970

Aaron Margolis, Esq.,
610 Tenth Building
Baltimore, Maryland 21202

RE: Type of Hearing: Reclassification
from an R-6 zone to an RA zone.
Location: SE/4th, Beltway and Ingleside Ave.
Petitioner: Charles G. Scherr
Committee Meeting of March 3, 1970
1st District
Item 179

Dear Sir:

The Zoning Advisory Committee has reviewed the plans submitted with the above referenced petition and has made an on site field inspection of the property. The following comments are a result of this review and inspection.

The subject property is presently vacant with the surrounding properties, with the exception of the northern property line, improved with dwellings, 10 to 30 years of age, in excellent repair. The property to the north is bordered by the Baltimore County Beltway. Ingleside Avenue in this location is not improved as far as concrete curb and gutter are concerned.

PROJECT PLANNING DIVISION:

We have reviewed the subject petition and have the following comments:

- 1) This area is under study as a proposed facility playground by the Department of Recreation and Parks.
- 2) The proposed right-of-way of Ingleside Avenue should be shown.

Aaron Margolis, Esq.

- 2 -

March 16, 1970

PROJECT PLANNING DIVISION: (Continued)

- 3) The comments of the Fire Department must be complied with.
- 4) When the plan is revised it should show the building as 30' x 100'.

DEPARTMENT OF TRAFFIC ENGINEERING:

The plan does not show proposed improvements to Ingleside Avenue. The entrance as shown does not conform to County standards.

HEALTH DEPARTMENT:

Public water and sewers available to this site.

Air Pollution Comments: The building or buildings on this site may be subject to registration and compliance with the Maryland State Health Air Pollution Control Regulations. Additional information may be obtained from the Division of Air Pollution, Baltimore County Department of Health.

BUILDING CODE/INSPECTION OFFICE:

Petitioner to meet requirements of Baltimore County Building Code, rules and regulations.

FIRE DEPARTMENT:

Proposed driveways shall be a minimum of 30' and Fire Department shall require two separate means of egress from proposed site.

Apartment shall comply to all applicable requirements of the Fire Prevention Code and the 191 Life Safety Code, 1959 edition.

BOARD OF EDUCATION:

The Easttown Elementary School with a capacity of 430 and with an October 31, 1970 enrollment of 400 pupils is the school servicing this area. There are no plans for new school construction in this area. The area is currently zoned could yield approximately 6 students, while if rezoned to RA, the yield could possibly be 40 students.

EVANS, HAGAN & HOLDEFER, INC.

SURVEYORS AND CIVIL ENGINEERS

4200 ELMHURST AVENUE / BALTIMORE, MD. 21214 (301) 426-2144
309 POPPULAR STREET / CAMDEN, MD. 21613 (301) 228-3303
115 E. MAIN STREET / WESTMINSTER, MD. 21157 (301) 848-1790
19 S. WASHINGTON STREET / ELLISTON, MD. 21661 (301) 822-433

February 9 1970.

Description of P & S Realty Company Property Located on the Southeast Corner of Baltimore County Beltway and Ingleside Avenue for Zoning Reclassification From R-6 to RA Zone

BEGINNING for the same at a point formed by the intersection of the west side of Ingleside Avenue with the southwest Right of Way line of the Baltimore County Beltway, thence leaving said place of beginning and running and binding on the west side of Ingleside Avenue (1) South 27 degrees 59 minutes West 215 feet, more or less, thence leaving said west side of Ingleside Avenue and running the 3 following courses and distances, viz: (2) North 62 degrees 14 minutes West 271.33 feet, (3) North 15 degrees 03 minutes West 332.19 feet and (4) South 72 degrees 37 minutes East 132.78 feet to intersect the aforementioned southwest right of way line of the Baltimore County Beltway, thence running and binding on said right of way line, as shown on State Roads Commission of Maryland Right of Way Plat No. 10581, the 2 following courses and distances, viz: (5) South 54 degrees 39 minutes East 340 feet, more or less, and (6) South 14 degrees 07 minutes East 30 feet, more or less, to the place of beginning. Containing 2.194 acres of land, more or less.

Subject, however, to an easement area shown on State Roads Commission of Maryland Right of Way Plat No. 10581.

Note: This description has been prepared for zoning purposes only and is not intended to be used for conveyance.

L. Alan Evans



BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Mr. Edward D. Hardesty, Zoning Commissioner Date: May 22, 1970

FROM: George S. Gavellis, Director of Planning

SUBJECT: Petition #70-220-R. West side of Ingleside Avenue 30 feet Southwest of Baltimore County Beltway.
Petition for Reclassification from R-6 to R.A.
Charles G. Scherr - Petitioner

1st District

HEARING: Wednesday, May 27, 1970 (2:00 P.M.)

The Staff of the Office of Planning and Zoning has reviewed the subject petition for reclassification from R-6 to R.A. Zoning. It voices its adverse or negative recommendation relative to the proposed reclassification. The Staff recommends against the proposed reclassification because:

1. Creation of apartment zoning here would constitute spot zoning in that such zoning would not be in accordance with a comprehensive plan nor would it establish land use potentials which are in harmony with those of adjacent single family properties.
2. We question also the capability of Ingleside Avenue to accommodate yet additional traffic pending its widening sometime after 1974.
3. We worry about the effect of apartment zoning on an already overloaded elementary school.

GEG:msh



STATEMENT IN SUPPORT OF PROPOSED ZONING RE-CLASSIFICATION

The subject property for which zoning re-classification is sought consists of approximately 2 1/4 acres situated on the west side of Ingleside Avenue on the southwest corner of the intersection of Ingleside Avenue and the Baltimore Beltway in the First Election District.

Until recently, most of the properties in the area were one-family dwellings situated on separate lots. However, in the last few years, most residential development in the area has been of garden-type apartments of the modest density proposed for the subject property. As, for example, at the intersection of the east side of Ingleside Avenue and the north side of Edmondson Avenue just south of the subject property, construction is being completed on some 60 garden-type apartments. Adjacent to these apartments, retail store and office premises are being erected to serve the local area.

The petitioners are advised and from all of their investigations have determined that all available space at or near main streets and roadways and which have access to utilities are being planned and offered for development for garden-type apartment use. This is the generally accepted type of housing units desired and required by the local residents.

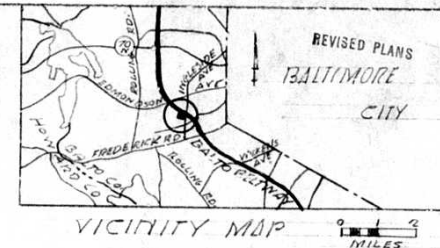
CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

District: 1st Date of Posting: 8-4-70
Posted for: Appeal
Petitioner: C.S. Scherr
Location of property: W/4th of Ingleside - 30' S.W. of Baltimore County Beltway
Location of Sign: 30' S.W. of Ingleside - 30' S.W. of Baltimore County Beltway
Remarks: [Signature]
Posted by: [Signature] Date of return: 8-5-70

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

District: 1st Date of Posting: May 9 - 1970
Posted for: RECLASSIFICATION FROM R-6 TO R.A.
Petitioner: CHARLES G. SCHERR
Location of property: W/4th of Ingleside Ave. 30' S.W. of Baltimore County Beltway
Location of Sign: W/4th of Ingleside Ave. 30' S.W. of Baltimore County Beltway
Remarks: [Signature]
Posted by: Charles G. Scherr Date of return: May 15 - 1970

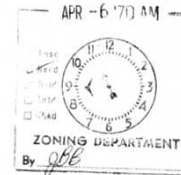
70-220-R



VICINITY MAP

#179 SCHERR

APR - 6 '70 AM



NOTES:

LOCATION: ELECTION DIST. N°1 - BALTO CO. MD.
 EXISTING ZONING: R-6
 EXISTING USE: VACANT
 PROPOSED ZONING: R-4
 PROPOSED USE: GARDEN APARTMENTS

DENSITY

GROSS AREA: 2.208 A^c
 1/2 AREA OF INGLESIDE AVE: 0.074 A^c
 NET AREA: 2.194 A^c
 ALLOWABLE GROSS DENSITY: 30.3
 ALLOWABLE NET DENSITY: 39.5
 PERMITTED N° OF UNITS: 30.3
 PROPOSED N° OF UNITS: 36
 ACTUAL GROSS DENSITY: 15.87 UNITS/A^c
 ACTUAL NET DENSITY: 16.41 UNITS/A^c
 PRO. N° OF PARKING SPACES: 54 = 150%
 PRO. SIZE OF PARKING SPACES: 9' x 20' = 180'

OFFICE COPY

SITE PLAN

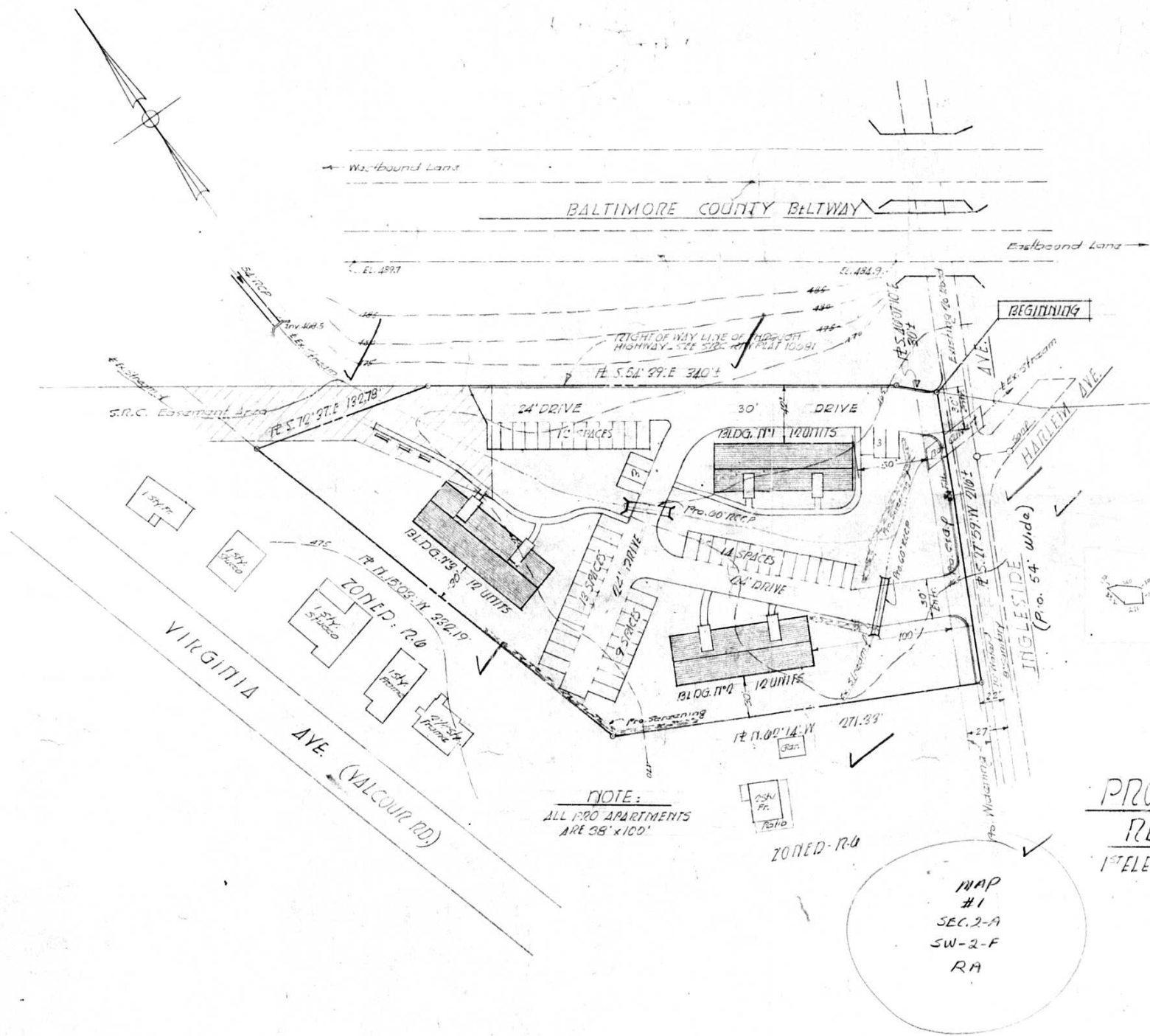
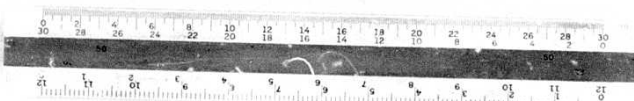
PRO. APARTMENTS ON P&S
 REALTY CO. PROPERTY
 1ST ELECTION DISTRICT, BALTO COUNTY, MD.

Rev: 3-31-70 - Ent. Drives

EVANS, HAGAN & HOLDEFER
 SURVEYORS AND CIVIL ENGINEERS
 4200 ELSRODE AVENUE / BALTIMORE, MD. 21214
 (301) 426-2144

L. Alan Evans
 DATE: FEB. 6, 1970 SCALE: 1" = 50'

DWG. N° - 2778



NOTE:
 ALL PRO. APARTMENTS
 ARE 38' x 100'

ZONED: R-4