

January 23, 2008

Ref. 4301 Roland Avenue

As a follow up to our recent discussions with members of the Roland Park Civic League, Councilwoman Mary Pat Clarke, Attorney Stanley Fine and representatives for the owners and developers of the above referenced property, this letter shall clarify the position of the office of the Zoning Administrator with regards to the authorized use of this property.

A previous letter dated June 28, 2007 from this office indicated that the use of the property was housing for the elderly, a conditional use under the current provisions of Subsection 4-704 and 4-904, requiring authorization of the Mayor and City Council. "Housing for the elderly" as defined under Subsection 1-151, means a residential building: (1) that contains 10 or more dwelling units specifically designed for the needs, use, and occupancy of people who are 60 years old or older or who are disabled; (2) in which the only occupants other than those 60 years old or older or disabled are spouses, caretakers, or similar individuals; and (3) in which no more than 10% of the occupied units contain spouses, caretakers, or similar individuals who are neither 60 years old or older nor disabled. A review of the city records available for this property does not definitively conclude that the use coincides accurately with the definition of housing for the elderly.

This office recently received a statement from The Daughters of Charity and affidavit from Brother Frank O'Donnell, in care of The Marianists, which outlined the historical use of the property from 1928 to 2007. The information submitted, along with further discussions on behalf of the prior occupants, provided a description of the use more closely identified as a "convalescent" or "rest home", which is defined under Subsection 1-129 as a home in which 3 or more people who are aged, chronically ill, infirm, incurable, or suffering bodily disorders are housed and provided with food and care. "Convalescent, nursing, or rest home" does not include any hospital, clinic, or similar institution devoted primarily to the diagnosis and treatment of disease and injury, maternity cases, or mental illness. Based on this definition, and the additional information received by this office, we believe that the authorized use of the premises would be classified under the current zoning code provisions as a convalescent or rest home. This use is also listed as a conditional use requiring authorization of the Mayor and City Council. The convalescent/rest home became a legally established conditional use in 1971, when the comprehensive Zoning Ordinance 1051 was enacted.

Subsection 3-306(b)(1) of the code states: If an existing lawful use is reclassified by this article as a conditional use in the district in which it is located, the use may be continued as a lawful conditional use subject to the conditions and restrictions previously imposed on it by law or regulation, and, (2) Any change to that use, including any expansion, relocation, or structural alteration, is subject to the procedures and requirements imposed by this article on conditional uses. The Board, under Subsection 2-110(2) has the jurisdiction and authority to hear and decide, in the manner prescribed by and subject to the standards established in this article, applications for conditional uses and variances.

This letter serves to clarify the position of this office regarding this property. Any proposed changes to this use would require an appeal and public hearing before the Board of Municipal and Zoning Appeals. To this date, no appeal has been filed or processed through this office.

Should you have any questions regarding this matter, please feel free to contact me.

Sincerely,

Geoffrey Veale
Acting Zoning Administrator

cc: Stanley Fine (atty.)
Councilwoman Mary Pat Clarke
Roland Park Civic League
David Tanner (BMZA)
Gary Cole (Planning)
Michael Braverman, Deputy Commissioner