



MEMORANDUM

TO: ROLAND PARK CIVIC LEAGUE
FROM: STANLEY FINE
CAROLINE HECKER
CC: FRANK HARVEY
SUBJECT: 4301 ROLAND AVENUE – ZONING ANALYSIS
DATE: JANUARY 23, 2009

This memorandum describes the historical use of the property known as 4301 Roland Avenue, the classification of that use under the current Zoning Code, and the proposed future use of the property by Capital Health Group.

4301 Roland Avenue – History

On October 28, 1926, the Daughters of Charity of the Archdiocese of Baltimore opened a facility known as Kirkleigh Villa at 4301 Roland Avenue. This facility functioned as a home for elderly women who were able to function independently and pay for their care, but who preferred not to maintain their own dwelling. The structure, which still stands today, consists of approximately 32 individual rooming units for the residents, with shared bathrooms, kitchen facilities, and common living and recreation areas.

Kirkleigh Villa closed on March 31, 1966 as a result of a decision by the Archdiocese of Baltimore to transfer the residents to the newly constructed Stella Maris facility in Timonium. The property was purchased by the Marianist religious community and, beginning in May 1966, was used for the housing of its elderly religious members. The interior of the facility remained the same, with individual sleeping rooms for the residents and shared living, cooking, and bathroom facilities.

The Marianists continued to use the facility for the housing of their elderly religious members until Global Facilities Management, LLC purchased the property in September 2007. The property has remained vacant since the sale to Global Facilities Management.

Classification of Former Use

The use of 4301 Roland Avenue by the Daughters of Charity and the Marianists can be characterized as a “convalescent, nursing, and rest home” under the Baltimore

City Zoning Code. This use is a conditional use by City Council Ordinance in the R-5 and R-6 Districts in which the property is located. Section 1-129(a) of the Zoning Code defines a “convalescent, nursing, and rest home” 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.” (Emphasis added.) The Daughters of Charity and the Marianists used the property for housing for aged individuals, providing them with food and care, and therefore operated what would be known as a “convalescent, nursing, and rest home” under today’s Zoning Code.

The zoning classification “convalescent, nursing, and rest home”, however, was created when the current Zoning Code was enacted in 1971, and did not exist as a zoning classification at the time the Daughters of Charity opened Kirkleigh Villa in 1926. The 1971 Zoning Code classified this use as a conditional use by City Council Ordinance in the R-5 and R-6 Districts in which the property is located. However, because the property was used in this manner at the time of the enactment of the Zoning Code, the use was grandfathered and a City Council Ordinance was not required. Conditional uses, unlike nonconforming uses, run with the land, and are not deemed abandoned if the property remains vacant for more than a year.¹ Therefore, because 4301 Roland Avenue was used as a “convalescent, nursing, and rest home” prior to and at the time of the 1971 Zoning Code enactment, a City Council Ordinance is not required to permit this use at the property now.

It is important to note that, contrary to some earlier assertions, the facility operated first by the Daughters of Charity and then by the Marianists was never “housing for the elderly”. Section 1-151(a) of the Zoning Code defines “housing for the elderly” as 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.” (Emphasis added.)

¹ Nonconforming uses, by contrast, are those uses which were in existence at the time of the 1971 Zoning Code enactment but which were not classified as permitted or conditional uses in a particular District under the new Zoning Code. These uses may continue so long as their operation remains continuous and uninterrupted. If, however, a nonconforming use is discontinued for a period of more than one year, it is deemed to have been abandoned and it cannot be re-established.

A “dwelling unit” is further defined as “1 or more rooms in a dwelling that (1) are used as living quarters for occupancy by 1 family; and (2) contain permanently installed bathroom and kitchen facilities reserved for the occupants of the room or rooms.” Section 1-137. The facility at 4301 Roland Avenue did not contain permanently installed bathroom and kitchen facilities for the residents of the individual units, but rather contained facilities shared communally by all of the residents. Therefore, the rooming units in the facility do not qualify as “dwelling units.” It follows that because the facility contained no “dwelling units,” it could never have been “housing for the elderly.”

The use of 4301 Roland Avenue by the Daughters of Charity and by the Marianists is properly classified as a “convalescent, nursing, and rest home,” which became a conditional use in the R-5 and R-6 Zoning Districts when the current Zoning Code was enacted in 1971.

Proposed Use of 4301 Roland Avenue

Capital Health Group proposes to raze the existing structure at 4301 Roland Avenue and to construct a new facility in its place. The new facility would include a total of 63 living units, 23 of which would be “assisted living” units and 40 of which would be dedicated memory care units specially designed for those suffering from Alzheimer’s disease. All units would include private bathroom facilities. The facility will be licensed by the Maryland Department of Health and Mental Hygiene as an “assisted living program”, and would not be licensed as a “nursing home”. The staff will be trained to assist the residents of the facility in performing their daily tasks, but will not be nurses, doctors, or other medical professionals. The proposed facility meets the definition of “convalescent, nursing, and rest home” under the Zoning Code, as it will provide housing, food, and care to elderly residents.

Zoning Analysis

As discussed above, the previous use of the property by the Daughters of Charity and the Marianists would be defined as a “convalescent, nursing, and rest home” under the current Zoning Code. This use was classified as a conditional use by City Council Ordinance when the Zoning Code was enacted in 1971; accordingly, the use is permitted to continue without an Ordinance. Modifications of a conditional use, however, must be approved by the Board of Municipal and Zoning Appeals (BMZA). In order to modify the conditional use, therefore, Capital Health Group will have to apply to the BMZA to approve both the structural alteration and the increase in the number of living units from the original 32 units to the proposed 63 units.