

Township of Cranford

Zoning Audit: Conditional Uses

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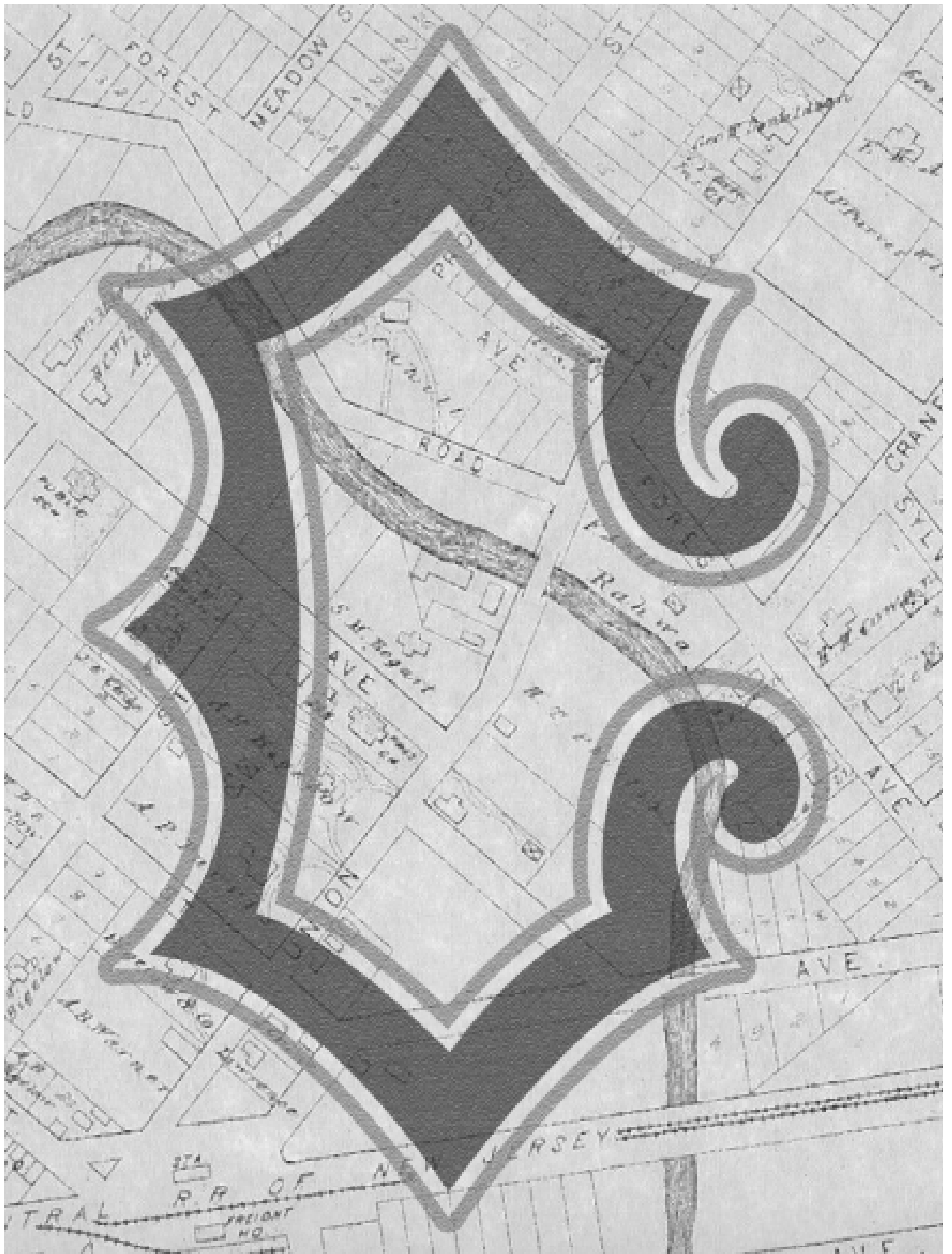
Office of Planning & Zoning

8 Springfield Avenue | Cranford, NJ 07016

P: 908-709-7216

Jason Bottcher, AICP, CFM - Zoning Officer | Planner
Kathy Lenahan - Land Use Administrator | Board Secretary
Ruth Nicholas - Office Assistant





Zoning Audit: Conditional Uses

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INTENT AND PURPOSE

The purpose of zoning regulations is to apply standards to both building requirements and the types of permitted activities. The Township applies these standards by zoning district in order to ensure that what is built, where it is built, and how it is utilized is not detrimental to the existing character of the neighborhood and the Township nor in conflict with the Township's Master Plan. The “what, where, and how” standard is the most basic means of protecting the Township’s look and feel.

The Township’s Use Regulations are codified in §255-36 - Use Regulations. The use regulations define permitted uses, conditional uses, and subsequently, non-permitted uses. The Zoning Ordinance is a permissive ordinance. This means that any use not specifically defined or specified as permitted or conditional is considered to be non-permitted. Conditional Uses, on the other hand, can best be described as being neither permitted nor non-permitted uses. Conditional uses exist in between the two and are defined by specific conditional requirements within the Zoning Ordinance.

Conditional uses require, at the very least, approval from the Planning Board *if* all of the conditions specified by the ordinance are met. If those conditions are not met, approval from the Zoning Board of Adjustment is required in order for an application to move forward. The primary point of conflict related to conditional uses stems from the fact that the Planning Board, assuming an application meets the conditions specified in the Zoning Ordinance, does not have a right to deny such an application.

The Township also applies *Supplemental Use Regulations* (§255-37 of the Township Code) which serve to provide additional requirements for certain permitted uses. A permitted use that meets these supplemental requirements can be approved by the Zoning Officer unless otherwise specified. In essence, the difference between the conditional use requirements and the supplemental use regulations applied to certain permitted uses is subtle. The primary difference being that a conditional use will require approval from one of the Township’s Boards no matter the circumstances.

The purpose of this document is to identify all of the conditional uses and the conditional requirements in the Township. This audit will allow for an examination of how these requirements are applied and whether or not such requirements should remain ‘as-is’ or if these standards should be reconsidered. Ultimately, this document will serve to:

1. Limit the Township's and the Board's potential exposure to liability concerns;
2. Simplify the administration of conditional uses and supplementary use regulations in the Township;
3. Remove unnecessary bureaucratic burdens on business and property owners.





1 | CONDITIONAL USES

Section 1.1 - Conditional Use Overview

The Municipal Land Use Law (MLUL), N.J.S.A. 40:55D-1 et. seq., is the framework and guiding legislation that grants the State’s municipalities the power to regulate land use. Each municipality that engages in land use regulation and administration must adhere to the principals and tenets of the MLUL. The MLUL establishes both the content and procedural guidelines that municipalities must follow in administering zoning regulations and the review of applications for development.

Within this framework, municipalities can define conditional uses within their jurisdiction which is specifically permitted by the MLUL under N.J.S.A. 40:55D-67. A conditional use is defined as:

“A use permitted in a particular zoning district only upon a showing that such use in a specified location will comply with the conditions and standards for the location or operation of such use as contained in the zoning ordinance, and upon the issuance of an authorization therefor by the planning board.”¹

Conditional uses are designed to ensure that any specific use is in fact congruent with the zoning district and the neighborhood within which it would be located. Any use defined as conditional within the Zoning Ordinance must meet specific requirements defined in §255-39 - Conditional Uses. These 'conditions' are typically measurable or quantifiable and cannot be vague standards that cannot be reasonably enforced or applied. For these reasons and as described in the MLUL, conditional use approval begins with the planning board. However, if an applicant is unable to meet the conditions specified in the applicable ordinance, a d(3) variance is required from the Zoning Board of Adjustment. For additional information about d(3) variances, please refer to the *Township of Cranford - Development Assistance Package*².

Section 1.2 - Regulating Conditional Uses in the Township

§255-36 - Use Regulations of the Township Code, defines the principal permitted, conditional, and non-permitted uses by zoning district throughout the Township. The Zoning Ordinance, being a *permissive ordinance*, assumes that any use not defined as either permitted or conditional is a non-permitted use.

The general intent, as defined within the aforementioned subsection, states that:

"All conditional uses shall be subject to site plan review. A conditional use shall not be approved unless it is found that it meets all the requirements of this chapter, does not substantially impair the use and enjoyment of surrounding properties and does not substantially impair the character of the surrounding area."³

This language suggests that the Planning Board would have significant oversight over the approval of conditional uses even under the circumstances where a proposed use meets all of the conditions as specified. However, generally speaking, the Board does not have the right to deny a conditional use *if* the conditions have been

1 State of New Jersey, N.J.S.A. 40:55D-3- Municipal Land Use Law- Definitions
2 Bottcher, Jason. *Township of Cranford - Development Assistance Package*. 2012. Online.
3 Township of Cranford, §255-39A- Land Development, Article V Zoning, Conditional Uses



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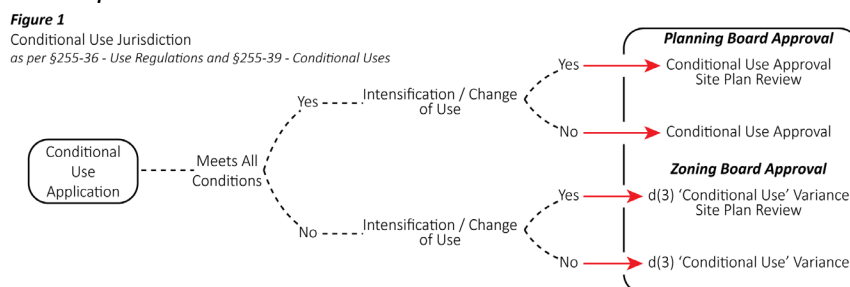
met. Furthermore, it has been determined that a zoning ordinance, specifically conditional use requirements, are 'defective' if they imply or state that the *negative criteria* be met by an applicant. The negative criteria is a proof that is required of applications to the Zoning Board, or in this case the Planning Board, that shows that the proposed shall 1) not be substantially detrimental to the public good and 2) not substantially impair the intent and purpose of the Master Plan and Zoning Ordinance.

Based upon New Jersey case law, the Board's authority to deny a conditional use application due to an applicant's inability to prove the negative criteria would be contrary to the authority granted to the Planning Board by the State and the MLUL. As such, the inclusion of the language "does not substantially impair the use and enjoyment (...)" is not enforceable by the Planning Board and cannot be considered by the Board when determining whether or not to approve or deny a conditional use. As the MLUL defines a conditional use as essentially being a permitted use with conditions, the application of the negative criteria is in conflict with the MLUL. *As such, it is recommended this language be removed from the ordinance.*

The subsection governing conditional uses also specifies that all applications for conditional use approval be subject to site plan review. However, it seems that in past practice site plan review was not always required by the Township if the proposed use did not result in an intensification or change in use on the subject property. This remains true today and also applies to Zoning Permit Applications for 'tenant fit-out' or 'occupancy'. If a proposed use does not result in an intensification or a change in use, for example, site plan has not been required by the Township. It is also specified in the MLUL that "a conditional use shall include any *required* site plan review."⁴

In the event that any application for development or a zoning permit application, outside of one- and two-family homes, is determined to represent an intensification or change of use; site plan review is required. Typically, conditional uses and site plan review is the jurisdiction of the Planning Board. However, as previously mentioned, if a proposed conditional use does not meet the conditions specified in §255-39 - Conditional Uses, then a d(3) 'conditional use' variance is required. All "d" variances are under the jurisdiction of the Zoning Board of Adjustment even if site plan review is required. As per N.J.S.A. 40:55D-76, the Zoning Board of Adjustment is empowered to review and make a ruling on site plan applications where a "d" variance is sought by an applicant.

§255-39 - Conditional Uses of the Township Code has not been evenly applied over the years. The requirement that an applicant seek both site plan approval as a part of a conditional use approval along with meeting the negative criteria is inconsistent with common practice within the Township and contrary to case law in the State of New Jersey. *Reconsideration of the application of conditional uses as a whole should be considered in order to create consistent requirements that can be applied evenly and fairly without creating an unnecessary burden on applicants within the Township.*





1 | CONDITIONAL USES

Section 1.3 - Existing Conditional Uses in the Township

Conditional uses are specified in §255-36 - Use Regulations of the Township Code. A majority of the zoning districts throughout the Township have numerous conditional uses identified with their own set of conditions outlined in §255-39 - Conditional Uses. In this section, conditional uses will be identified by district type starting with residential districts and continuing on with business districts, office districts, and research-office-industrial districts.

Section 1.3a - Existing Conditional Uses in Residential Districts

Table 1 - §255-36A - Use Regulations - Residential Districts

Uses	Districts Where Permitted									
	R-1	R-2	R-3	R-4	R-5	R-6	R-7	R-8	R-SC-1	
Community residences for developmentally disabled ¹	PPU	PPU	PPU	PPU	PPU	—	—	—	—	—
Community shelters for victims of domestic violence ²	Permitted in all zones									
Family day-care homes ³	Permitted in all zones									
Detached 1-family dwellings	PPU	PPU	PPU	PPU	PPU	—	—	—	—	—
Detached 2-family dwellings	—	—	—	—	PPU	—	—	—	—	—
Semidetached 1-family dwellings	—	—	—	—	CU	PPU	CU	—	—	—
Attached 1-family dwellings	—	—	—	—	CU	PPU	CU	—	—	—
Garden apartment dwellings	—	—	—	—	—	—	PPU	CU	—	—
Apartment dwellings	—	—	—	—	—	—	—	PPU	—	—
Farms	PPU	PPU	PPU	PPU	PPU	PPU	PPU	PPU	PPU	PPU
Farm stands	CU	CU	CU	CU	CU	CU	CU	CU	CU	CU
Country clubs and private swimming clubs	PPU	—	—	—	—	—	—	—	—	—
Institutional and public uses	CU	CU	CU	CU	CU	CU	CU	—	—	—
Essential services	PPU	PPU	PPU	PPU	PPU	PPU	PPU	PPU	PPU	PPU

Abbreviations

- R-1 - R-4 - One-Family Detached Residence District
- R-5 - One- and Two-Family Detached Residence District
- R-6 - Townhouse Residence District
- R-7 - Garden Apartment Residence District
- R-8 - Apartment Residence District
- R-SC-1 - Senior Citizen Apartment Residence District

The IMR - Inclusionary Multifamily Residence District, is not included in Figure 2. The IMR District does not have any associated conditional uses.

PPU = Principal Permitted Use
 CU = Conditional Use
 (-) = Non-Permitted Use

CONDITIONAL USES | 1



Section 1.3a - Existing Conditional Uses in Residential Districts Cont.

Currently, there are numerous residential districts throughout the Township where conditional uses are established.

They include:

- Semi-detached 1-family dwellings in the R-5 and R-7 districts;
- Attached 1-family dwellings in the R-5 and R-7 districts;
- Garden apartments in the R-8 district;
- Farm stands in all residential districts;
- Institutional and public uses in the R-1 through R-7 districts.

The associated conditions for each of these uses is as follows:

Semi-Detached One-Family Dwellings in the R-5 Zone - §255-39B(26)

- (a) Except as part of a townhouse development, the minimum lot width and area shall be the same as required for a one-family detached dwelling;
- (b) Such uses shall be constructed in attached pairs simultaneously on contiguous lots;
- (c) The minimum remaining side yard shall be not less than 30% of the lot width.

There are no specific conditions noted for semi-detached one-family dwellings in the R-7 zone.

Residential Uses - §255-39B(22) [Amended 9-27-2016 by Ord. No. 2016-23 - App. B]

- (a) Each apartment shall have its own entrance to a hallway, staircase or to the exterior;
- (b) The ground floor entrance to the apartment unit or units shall be separate from the entrance to the ground floor use;
- (c) An applicant or developer shall provide credible evidence to the satisfaction of the reviewing board that sufficient parking spaces are available and/or reserved in either public or private off-street parking lots for the overnight parking of vehicles of the prospective tenants of the apartment or apartments;
- (d) Such apartments shall be a minimum of 700 square feet for one-room studio or efficiency apartments and 150 square feet for each additional bedroom, but in no case contain more than two bedrooms;
- (e) No boarders shall be permitted to occupy such apartments, nor shall any portion of the space within the apartment be sublet or rented out for any period of time;
- (f) A minimum lot size of 5,000 square feet is required;
- (g) The gross density shall not exceed 20 units per acre;
- (h) A principal nonresidential use must be located on the ground floor of the building.

The conditions listed in §255-39B(22) would apply to all residential uses that are considered to be conditional outside of semi-detached one-family dwellings in the R-5 district including semi-detached one-family dwellings in the R-7 district, attached 1-family dwellings in the R-5 and R-7 districts, and garden apartments in the R-8 district.



1 | CONDITIONAL USES

Section 1.3a - Existing Conditional Uses in Residential Districts Cont.

Farm Stands - §255-39B(12)

Farm stands shall only be permitted where:

- (a) The products sold are in their natural state;
- (b) The stands are located on a farm;
- (c) The place of sale or storage of any such products, whether of a permanent or temporary nature, shall not be closer than 100 feet to any side or rear lot line;
- (d) The sale of any such products shall not have a deleterious effect on adjoining properties by reason of nuisance or health hazard or other factors as specified in this chapter;
- (e) The sale of any such products shall also require that a suitable amount of off street parking and loading space be required as provided in this chapter.

Institutional and Public Uses - §255-39B(16)

- (a) Such uses shall be permitted in residential zones only if located on a primary or secondary arterial street;
- (b) A minimum lot area of one acre shall be provided;
- (c) All or part of the required off-street parking may be located on a separate lot in accordance with Article IV of this chapter and such separate lot area may be counted as part of the minimum required lot area;
- (d) The maximum impervious surface shall not exceed that permitted in the zone where located;
- (e) The minimum side yard shall be equal to the height of the principal structure or 20 feet, whichever is greater;
- (f) The front and rear yards shall be the same as required for principal permitted uses in the zone where located or 20 feet, whichever is greater;
- (g) A ten-foot landscaped buffer shall be required along the rear property line;
- (h) Parking areas shall be screened from view from residential zones or uses by landscaping, fencing, or a combination thereof to create a buffer at least five feet wide and at least five feet tall and shall provide screening of vehicles in all seasons;
- (i) Trash disposal areas shall be located as far from residential zone boundaries as possible;
- (j) Lighting shall be located no closer than eight feet to an adjoining residential district and shall not exceed eight feet in height. Lighting shall be designed to avoid up-lighting or halo effect with fixtures incorporating shielding/cutoffs to prevent spillage off-site and on adjacent residential properties.

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CONDITIONAL USES | 1



Section 1.3b - Existing Conditional Uses in Business Districts

Table 2 - §255-36A - Use Regulations - Business Districts

Uses	Districts Where Permitted				Uses	Districts Where Permitted			
	D-C	D-B	D-T	VC		D-C	D-B	D-T	VC
Advertising agencies and website design companies	CU	CU	PPU	CU	Furniture stores	—	PPU	PPU	—
Antique stores	PPU	PPU	PPU	PPU	Gasoline service stations	—	CU	CU	—
Apparel and accessory stores	PPU	PPU	PPU	PPU	Gift, card and novelty shops	PPU	PPU	PPU	PPU
Apparel embroidery and printing stores	PPU	PPU	PPU	PPU	Grocery stores	PPU	PPU	PPU	PPU
Appliance and electronic service, supply and repair shops	CU	CU	PPU	CU	Hobby and game shops	PPU	PPU	PPU	PPU
Art galleries	PPU	PPU	PPU	PPU	Home furnishing stores	PPU	PPU	PPU	PPU
Artist and artisan studios and workshops	PPU	PPU	PPU	PPU	Household appliance sales	—	PPU	PPU	—
Bakeries	PPU	PPU	PPU	PPU	Hotels	CU	CU	—	—
Banks and financial institutions	CU	PPU	PPU	PPU	Institutional and public uses	CU	CU	CU	CU
Banks and financial institutions with drive-through services	—	CU	CU	—	Insurance agents and brokers	CU	CU	PPU	CU
Bars and taverns	PPU	PPU	—	—	Jewelry stores	PPU	PPU	PPU	PPU
Beauty and barber shops	PPU	PPU	PPU	PPU	Laundry and dry-cleaning services	PPU	PPU	PPU	PPU
Bed-and-breakfast hotel	CU	CU	—	CU	Liquor and package goods stores	PPU	PPU	PPU	PPU
Bicycle repair and sales shops	PPU	PPU	PPU	PPU	Luggage and leather goods stores	PPU	PPU	PPU	PPU
Building supply, garden and hardware stores	PPU	PPU	PPU	PPU	Museums and art galleries	PPU	PPU	PPU	PPU
Camera and photo supply stores	PPU	PPU	PPU	PPU	Musical instrument sales, rentals and repair shops	PPU	PPU	PPU	PPU
Candy stores	PPU	PPU	PPU	PPU	New and used bookstores	PPU	PPU	PPU	PPU
Child-care centers	PPU	PPU	PPU	PPU	New and used vehicle sales dealers	—	CU	—	—
Coffee shops	PPU	PPU	PPU	PPU	Offices (professional, business, administrative)	CU	CU	PPU	PPU
Convenience stores	CU	CU	CU	CU	Office, professional in dwellings	—	CU	PPU	PPU
Dance and theatrical studios	PPU	PPU	PPU	PPU	Office supply and support stores	PPU	PPU	PPU	PPU
Delicatessens	PPU	PPU	PPU	PPU	Paint and wallpaper stores	PPU	PPU	PPU	PPU
Educational services	PPU	PPU	PPU	PPU	Party goods stores	PPU	PPU	PPU	PPU
Essential services	PPU	PPU	PPU	PPU	Performing arts studios	CU	CU	PPU	—
Eyeglass sales and repair	PPU	PPU	PPU	PPU	Pet groomers, supply and purchase stores	PPU	PPU	PPU	PPU
Florists	PPU	PPU	PPU	PPU	Pharmacies	PPU	PPU	PPU	PPU
Fruit and vegetable stores	PPU	PPU	PPU	PPU	Photography studios	PPU	PPU	PPU	PPU
Funeral homes	—	CU	CU	CU	Physical fitness studios, gyms, yoga and martial arts instruction	PPU	PPU	PPU	PPU
Furniture stores	—	PPU	PPU	—					

PPU = Principal Permitted Use
 CU = Conditional Use
 (-) = Non-Permitted Use



1 | CONDITIONAL USES

Section 1.3b - Existing Conditional Uses in Business Districts Cont.

Table 2 - §255-36A - Use Regulations - Business Districts

Uses	Districts Where Permitted			
	D-C	D-B	D-T	VC
Picture framing	PPU	PPU	PPU	PPU
Printing and publishing services	CU	CU	PPU	CU
Public and private garages (structured parking)	CU	CU	PPU	—
Religious goods stores	PPU	PPU	PPU	PPU
Residential apartments	CU	CU	CU	CU
Restaurant	PPU	PPU	—	PPU
Secondhand and consignment stores	PPU	PPU	PPU	PPU
Security brokers	CU	CU	PPU	CU
Shoe and luggage repair	PPU	PPU	PPU	PPU
Sidewalk cafes	PPU	PPU	PPU	PPU
Social service agencies	CU	CU	CU	—
Spa, nail and hair salons	PPU	PPU	PPU	PPU
Sporting goods stores	PPU	PPU	PPU	PPU
Stationary stores	PPU	PPU	PPU	PPU
Tax return preparation service	CU	CU	PPU	—
Theaters	CU	PPU	—	CU
Trophy shops	PPU	PPU	PPU	PPU
Veterinarian office	CU	CU	CU	—
Watch and clock repair	PPU	PPU	PPU	PPU
Web-based retailers	—	—	PPU	—

PPU = Principal Permitted Use
 CU = Conditional Use
 (-) = Non-Permitted Use

Abbreviations

D-C - Downtown Core
 D-B - Downtown Business
 D-T - Downtown Transition
 VC - Village Commercial

The business districts throughout the Township host numerous conditional uses. They include:

- Advertising agencies in the D-C, D-B, and VC zones;
- Appliance and electronic service, supply and repair shops in the D-C, D-B, and VC zones;
- Banks and financial institutions in the D-C zone;
- Banks and financial institutions with drive-through services in the D-B and D-T zones;
- B & B's in the D-C, D-B, and VC zones;
- Convenience stores in all business zones;
- Funeral homes in the D-B, D-T, and VC zones;
- Gasoline service stations in the D-B and D-T zones;
- Hotels in the D-C and D-B zones;
- Institutional and public uses in all business zones;
- Insurance agents and brokers in the D-C, D-B, and VC zones;
- New and used vehicle sales sealers in the D-B zone;
- Offices (professional, business, administrative) in the D-C and D-B zones;

- Office (professional in dwellings) in the D-B zone;
- Performing arts studios in the D-C and D-B zones;
- Printing and publishing services in the D-C, D-B and VC zones;
- Public and private garages (structured parking) in the D-C and D-B zones;
- Residential apartments in all business zones;
- Security brokers in the D-C, D-B and VC zones;
- Social service agencies in the D-C, D-B and D-T zones;
- Tax return preparation services in the D-C and D-B zones;
- Theaters in the D-C and VC zones;
- Veterinarian offices in the D-C, D-B and D-T zones.

The associated conditions for each of these conditional uses is as follows:



Section 1.3b - Existing Conditional Uses in Business Districts Cont.

Advertising Agencies - §255-39B(1)

Appliance and Electronic Service Supply and Repair Shops - §255-39B(2) [Amended 9-27-2016 by Ord. No. 2016-23 - App. B]

Printing and Publishing Services - §255-39B(20)

Security Brokers - §255-39B(25)

Social Service Agencies - §255-39B(27)

Tax Preparation Services- §255-39B(28)

Veterinarian Office - §255-39B(30)

- (a) Shall be permitted on the second floor or above without limit as to size;
- (b) Shall be permitted on the first floor in existing space measuring 1,000 square feet or less;
- (c) The space shall be measured from the interior wall surface of the walls encompassing the use;
- (d) First-floor uses shall be required to provide on-site parking.

Banks and Financial Institutions - §255-39B(5)

Such uses shall be located a minimum distance of 200 feet from other such uses as measured from the perimeter of the lot line.

Banks and Financial Institutions with Drive-Through - §255-39B(6)

- (a) Such uses shall be located a minimum distance of 200 feet from other such uses, theaters and public recreation uses and repair garages and gasoline service stations, as measured from the perimeter lot line;
- (b) Ingress to the site shall not be from the same street as egress;
- (c) The minimum lot area shall be 15,000 square feet, with a minimum street frontage of at least 100 feet;
- (d) A bypass lane shall be provided.

Bed-and-Breakfast Hotels - §255-39B(7)

- (a) The owner or operator of the bed-and-breakfast establishment shall live on the premises;
- (b) The total number of guest rooms shall not exceed 10;
- (c) The establishment shall be located within a 1,000 foot walking distance of a parking lot or an enclosed parking facility in which space is leased for tenant use or within a 1,000 foot walking distance of Cranford Station;
- (d) New off-street parking spaces shall not be created for the establishment unless the establishment is located in a base zone district which allows accessory off-street parking;
- (e) Off-street parking spaces that were in existence as of the date of adoption of this section may be utilized for the establishment;
- (f) The establishment may serve meals but such meals shall be served only to overnight guests of the facility;
- (g) Kitchen facilities other than a microwave oven and compact refrigerator shall not be provided in individual guest rooms.



1 | CONDITIONAL USES

Section 1.3b - Existing Conditional Uses in Business Districts Cont.

Convenience Stores - §255-39B(9) [Amended 11-5-2018 by Ord. No. 2018-16 - App. C]

- (a) Shall be located at least 100 feet from any residential district;
- (b) Shall provide on-site parking. *Funeral Homes - §255-39B(1)*
- (c) Shall be permitted on the second floor or above without limit as to size;
- (d) Shall be permitted on the first floor in existing space measuring 1,000 square feet or less;
- (e) The space shall be measured from the interior wall surface of the walls encompassing the use;
- (f) First-floor uses shall be required to provide on-site parking.

Gasoline Service Stations - §255-39B(13)

- (a) Such uses shall be located a minimum distance of 100 feet from any residential zone as measured from the perimeter of the lot line;
- (b) All repairs and services shall take place within a principal structure. All minor repairs and services are permitted to take place outdoors;
- (c) The minimum lot area shall be 15,000 square feet, with a minimum street frontage of not less than 100 feet on a single street;
- (d) The walls of the principal structure shall be at least 25 feet from the side and rear lot lines and at least 40 feet from a street right-of-way line;
- (e) All exist and entrance drives shall be at least 10 feet from any adjoining property line and 20 feet from the corner of an intersecting public street;
- (f) Any fuel or air pump and filler pipe shall be located 25 feet from any property line;
- (g) No sale, leasing, or rental of any vehicles shall be permitted.

Hotels - §255-39B(15)

- (a) Such uses shall be required to provide adequate on-site parking in accordance with the provisions of this chapter;
- (b) Hotel and motel units shall not contain kitchen facilities of any nature, shall not be used as apartments for non-transient tenants, shall not contain more than two rooms and shall not be connected by interior doors in groups of more than two. There shall be no more than one hotel or motel unit for each 1,000 square feet of site area, exclusive of required yards;
- (c) Each hotel or motel room shall have an area of at least 300 square feet. Each hotel or motel unit shall have a bath facility with shower or bath, one toilet facility and sink;
- (d) The following accessory uses shall be permitted;
 - [1] One coffee shop for hotels or motels with no more than 100 rooms. For hotels or motels of over 100 rooms, a restaurant and a coffee shop are permitted. Such facilities shall be located within the hotel building.
 - [2] Amusements and sports facilities for the exclusive use of hotel guests, including:
 - [a] Swimming pool;
 - [b] Children's playground;
 - [c] Tennis and other game courts;
 - [d] Game or recreation rooms.
 - [3] Office and lobby, provision of which shall be mandatory for each hotel;
 - [4] Meeting and/or conference rooms.



Section 1.3b - Existing Conditional Uses in Business Districts Cont.

Hotels - §255-39B(15) cont.

- (e) All hotels shall be equipped with sprinkler and fire alarm systems in accordance with the Township of Cranford Fire Prevention Code. (§223, Art. I, Fire Prevention)

Institutional and Public Uses - §255-39B(16)

- (a) Such uses shall be permitted in residential zones only if located on a primary or secondary arterial street;
- (b) A minimum lot area of one acre shall be provided;
- (c) All or part of the required off-street parking may be located on a separate lot in accordance with Article IV of this chapter and such separate lot area may be counted as part of the minimum required lot area;
- (d) The maximum impervious surface shall not exceed that permitted in the zone where located;
- (e) The minimum side yard shall be equal to the height of the principal structure or 20 feet, whichever is greater;
- (f) The front and rear yards shall be the same as required for principal permitted uses in the zone where located or 20 feet, whichever is greater;
- (g) A ten-foot landscaped buffer shall be required along the rear property line;
- (h) Parking areas shall be screened from view from residential zones or uses by landscaping, fencing, or a combination thereof to create a buffer at least five feet wide and at least five feet tall and shall provide screening of vehicles in all seasons;
- (i) Trash disposal areas shall be located as far from residential zone boundaries as possible;
- (j) Lighting shall be located no closer than eight feet to an adjoining residential district and shall not exceed eight feet in height. Lighting shall be designed to avoid up-lighting or halo effect with fixtures incorporating shielding/cutoffs to prevent spillage off-site and on adjacent residential properties.

Insurance Agents and Brokers

§255-39 - Conditional Uses does not have any specific requirements listed for insurance agents and brokers. In application, the requirements for Offices (professional, business, administrative) would be applied for insurance agents and brokers however this may be a questionable application of the ordinance.

New and Used Vehicle Sales Dealers- §255-39B(17)

[Amended 9-27-2016 by Ord. No. 2016-23 - App. B]

- (a) The minimum lot area shall be 40,000 square feet;
- (b) They shall be located on primary or secondary arterial streets;
- (c) All sales and repair activities shall take place within a principal structure.

Offices, Professional, Business and Administrative Uses - §255-39B(18)

[Amended 9-27-2016 by Ord. No. 2016-23 - App. B]

- (a) Offices shall be permitted on the second floor or above without any limit as to size;
- (b) Offices (not accessory to any other permitted use) shall only be permitted on the first floor in



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Section 1.3b - Existing Conditional Uses in Business Districts Cont.

Offices, Professional, Business and Administrative Uses - §255-39B(18) cont.

existing space measuring less than 1,000 square feet or in an existing office-style building that does not have storefront-type windows on the first floor;

- (c) Space shall be measured from the interior wall surface of the walls encompassing the office;
- (d) First-floor offices shall be required to provide off-street parking;
- (e) No first-floor space for a single occupant may be divided to create an occupant space of less than 1,000 square feet.

Office (Professional in Dwellings) - §255-39B(19)

(a) Such uses shall be allowed in all residential zones and all nonresidential zones in one-family detached dwellings in accordance with the following requirements;

- [1] The minimum lot size shall be 10,000 square feet;
- [2] The professional must reside on the premises;
- [3] A maximum of two nonresident employees shall be permitted;
- [4] Not more than 25% of the gross floor area of the principal building, excluding cellar areas, shall be permitted to be used for the professional office;
- [5] The professional office shall meet all performance standards as set forth in Article IV - Development Requirements and Standards;
- [6] No retail sale of products shall be permitted;
- [7] Only one practitioner at any time may be allowed on premises;
- [8] Professional offices in the R-1 through R-5 Zones shall be permitted only on those streets designated as major or minor arterials in the 1979 Cranford Master Plan;
- [9] Professional offices in all zones shall be subject to the provisions of Chapter 225, Floor Damage Prevention, and Chapter 364, Stormwater Management, of this Code.

(b) The Planning Board shall approve a site plan of the professional office, which shall meet site plan review standards and requirements set forth in this chapter.

Performing Arts Studios

§255-39 - Conditional Uses does not have any specific requirements listed for performing arts studios. In application, performing arts studios would have to be treated as a non-permitted use in zones where the particular use is listed as a conditional use.

Public and Private Garages- §255-39B(21)

(a) Lot Area;

- [1] Minimum lot area: 10,000 square feet;
- [2] Maximum lot area: 25,000 square feet for a parking garage service private uses; 125,000 square feet for a parking garage service public uses and located within 100 feet of the public building it is intended to serve;

(b) Lot Width;

- [1] Minimum lot width: 100 feet;



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Section 1.3b - Existing Conditional Uses in Business Districts Cont.

Public and Private Garages- §255-39B(21) - cont.

- [2] Maximum lot width: 250 feet for a parking garage serving private uses; 500 feet for a parking garage serving public uses and located within 100 feet of the public building it is intended to serve;
- (c) Maximum height;
 - [1] The maximum height for a parking garage serving private uses shall be the same as for the district in which it is located;
 - [2] Maximum lot coverage: The maximum lot coverage for a parking garage serving public uses and located within 100 feet of the public building it is intended to serve shall be 95%. For other parking garages; the lot coverage requirements for the district in which the garage is located shall apply;
- (d) Principal uses permitted in parking garages. In addition to off-street parking, the following uses shall be permitted on ground level facing the street in a parking garage:
 - [1] Business and professional offices;
 - [2] Retail sales and personal services and restaurants;
 - [3] Accessory uses shall be those permitted for the above uses, subject to all applicable requirements of this chapter.

Residential Uses - §255-39B(22) [Amended 9-27-2016 by Ord. No. 2016-23 - App. B]

- (a) Each apartment shall have its own entrance to a hallway, staircase or to the exterior;
- (b) The ground floor entrance to the apartment unit or units shall be separate from the entrance to the ground floor use;
- (c) An applicant or developer shall provide credible evidence to the satisfaction of the reviewing board that sufficient parking spaces are available and/or reserved in either public or private off-street parking lots for the overnight parking of vehicles of the prospective tenants of the apartment or apartments;
- (d) Such apartments shall be a minimum of 700 square feet for one-room studio or efficiency apartments and 150 square feet for each additional bedroom, but in no case contain more than two bedrooms;
- (e) No boarders shall be permitted to occupy such apartments, nor shall any portion of the space within the apartment be sublet or rented out for any period of time;
- (f) A minimum lot size of 5,000 square feet is required;
- (g) The gross density shall not exceed 20 units per acre;
- (h) A principal nonresidential use must be located on the ground floor of the building.

Theaters- §255-39B(29)

Such uses shall be located a minimum distance of 200 feet from other such uses, drive-in uses, auto repair garages and gasoline service stations, as measured from the perimeter of the lot line.



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Section 1.3bc - Existing Conditional Uses in Office Districts

Table 3 - §255-36C - Use Regulations - Office Districts

Uses	O-1	O-2	ORC ¹	NC
Artist and artisan studios and workshops	—	—	PPU	PPU
Banks and financial institutions	—	CU	CU	CU
Beauty and barber shops	—	—	—	PPU
Business and administrative offices	PPU	PPU	PPU	CU
Child-care centers	:8 Permitted in all zones			
Convenience stores	—	—	—	PPU
Data processing and computer firms	PPU	PPU	PPU	—
Essential services	PPU	PPU	PPU	PPU
Existing one- and two-family residential dwellings as of 2014 subject to the R-5 Zone standards	—	—	PPU	PPU
Funeral homes	—	PPU	PPU	—
Gasoline service stations	—	—	—	CU
Institutional and public uses	CU	CU	CU	CU
Nursing homes, long-term care facilities and rehabilitation centers	PPU	—	—	—
Pharmacies	—	—	—	PPU
Physical fitness studios, gyms, yoga and martial arts instruction	—	—	—	PPU
Professional offices in dwellings	CU	CU	PPU	PPU
Research laboratories	PPU	PPU	—	—
Residential uses	—	—	CU	CU
Restaurants	—	—	—	PPU
Tax return services	—	—	—	PPU
Veterinarian office	—	PPU	—	PPU

PPU = Principal Permitted Use
 CU = Conditional Use
 (-) = Non-Permitted Use

Abbreviations

O-1 - Low-Density Office Building District
 O-2 - Medium-Density Office Building District
 ORC - Office Residential Character District
 NC - Neighborhood Commercial District

The office districts throughout the Township host numerous conditional uses. They include:

- Banks and financial institutions in the O-2, ORC and NC zones;
- Business and administrative offices in the NC zone;
- Gasoline service stations in the NC zone;
- Institutional and public uses in all office zones;
- Professional offices in dwellings in the O-1 and O-2 zones;
- Residential Uses in the ORC and NC zones;
- Funeral homes in the D-B, D-T, and VC zones.

The associated conditions for each of these conditional uses is as follows:

Banks and Financial Institutions - §255-39B(5)

Such uses shall be located a minimum distance of 200 feet from other such uses as measured from the perimeter of the lot line.

Offices, Professional, Business and Administrative Uses - §255-39B(18)

[Amended 9-27-2016 by Ord. No. 2016-23 - App. B]

- (a) Offices shall be permitted on the second floor or above without any limit as to

size;

- (b) Offices (not accessory to any other permitted use) shall only be permitted on the first floor in existing space measuring less than 1,000 square feet or in an existing office-style building that does not have storefront-type windows on the first floor;
- (c) Space shall be measured from the interior wall surface of the walls encompassing the office;
- (d) First-floor offices shall be required to provide off-street parking;
- (e) No first-floor space for a single occupant may be divided to create an occupant space of less than 1,000 square feet.



Section 1.3c - Existing Conditional Uses in Office Districts Cont.

Gasoline Service Stations - §255-39B(13)

- (a) Such uses shall be located a minimum distance of 100 feet from any residential zone as measured from the perimeter lot line;
- (b) All repairs and services shall take place within a principal structure. All minor repairs and services are permitted to take place outdoors;
- (c) The minimum lot area shall be 15,000 square feet, with a minimum street frontage of not less than 100 feet on a single street;
- (d) The walls of the principal structure shall be at least 25 feet from the side and rear lot lines and at least 40 feet from a street right-of-way line;
- (e) All exit and entrance drives shall be at least 10 feet from any adjoining property line and 20 feet from the corner of an intersecting public street;
- (f) Any fuel or air pump and filler pipe shall be located 25 feet from any property line;
- (g) No sale, leasing, or rental of any vehicles shall be permitted.

Institutional and Public Uses - §255-39B(16)

- (a) Such uses shall be permitted in residential zones only if located on a primary or secondary arterial street;
- (b) A minimum lot area of one acre shall be provided;
- (c) All or part of the required off-street parking may be located on a separate lot in accordance with Article IV of this chapter and such separate lot area may be counted as part of the minimum required lot area;
- (d) The maximum impervious surface shall not exceed that permitted in the zone where located;
- (e) The minimum side yard shall be equal to the height of the principal structure or 20 feet, whichever is greater;
- (f) The front and rear yards shall be the same as required for principal permitted uses in the zone where located or 20 feet, whichever is greater;
- (g) A ten-foot landscaped buffer shall be required along the rear property line;
- (h) Parking areas shall be screened from view from residential zones or uses by landscaping, fencing, or a combination thereof to create a buffer at least five feet wide and at least five feet tall and shall provide screening of vehicles in all seasons;
- (i) Trash disposal areas shall be located as far from residential zone boundaries as possible;
- (j) Lighting shall be located no closer than eight feet to an adjoining residential district and shall not exceed eight feet in height. Lighting shall be designed to avoid up-lighting or halo effect with fixtures incorporating shielding/cutoffs to prevent spillage off-site and on adjacent residential properties.

Office (Professional in Dwellings) - §255-39B(19)

- (a) Such uses shall be allowed in all residential zones and all nonresidential zones in one-family detached dwellings in accordance with the following requirements;
 - [1] The minimum lot size shall be 10,000 square feet;
 - [2] The professional must reside on the premises;
 - [3] A maximum of two nonresident employees shall be permitted;



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Section 1.3c - Existing Conditional Uses in Office Districts Cont.

Office (Professional in Dwellings) - §255-39B(19) cont.

- [4] Not more than 25% of the gross floor area of the principal building, excluding cellar areas, shall be permitted to be used for the professional office;
 - [5] The professional office shall meet all performance standards as set forth in Article IV - Development Requirements and Standards;
 - [6] No retail sale of products shall be permitted;
 - [7] Only one practitioner at any time may be allowed on premises;
 - [8] Professional offices in the R-1 through R-5 Zones shall be permitted only on those streets designated as major or minor arterials in the 1979 Cranford Master Plan;
 - [9] Professional offices in all zones shall be subject to the provisions of Chapter 225, Floor Damage Prevention, and Chapter 364, Stormwater Management, of this Code.
- (b) The Planning Board shall approve a site plan of the professional office, which shall meet site plan review standards and requirements set forth in this chapter.

Residential Uses - §255-39B(22) [Amended 9-27-2016 by Ord. No. 2016-23 - App. B]

- (a) Each apartment shall have its own entrance to a hallway, staircase or to the exterior;
- (b) The ground floor entrance to the apartment unit or units shall be separate from the entrance to the ground floor use;
- (c) An applicant or developer shall provide credible evidence to the satisfaction of the reviewing board that sufficient parking spaces are available and/or reserved in either public or private off-street parking lots for the overnight parking of vehicles of the prospective tenants of the apartment or apartments;
- (d) Such apartments shall be a minimum of 700 square feet for one-room studio or efficiency apartments and 150 square feet for each additional bedroom, but in no case contain more than two bedrooms;
- (e) No boarders shall be permitted to occupy such apartments, nor shall any portion of the space within the apartment be sublet or rented out for any period of time;
- (f) A minimum lot size of 5,000 square feet is required;
- (g) The gross density shall not exceed 20 units per acre;
- (h) A principal nonresidential use must be located on the ground floor of the building.

Funeral Homes - §255-39B(16)

§255-39 - Conditional Uses does not have any specific requirements listed for funeral homes. In application, performing arts studios would have to be treated as a non-permitted use in zones where funeral homes are listed as a conditional use.

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Section 1.3d - Existing Conditional Uses in Research-Office-Industrial Districts

Table 4 - §255-36C - Use Regulations - Research-Office-Industrial Districts

Uses	District Where Permitted			Abbreviations
	C-1	C-2	C-3	
Animal hospital	—	PPU	—	C-1 - Commercial - 1 District
Banks and financial institutions	—	PPU	—	C-2 - Commercial - 2 District
Business, administrative, executive and professional offices	PPU	PPU	PPU	C-3 - Commercial - 3 District
Car dealers	—	CU	—	The research-office-industrial districts throughout the Township host numerous conditional uses. They include: <ul style="list-style-type: none"> • Car dealers in the C-2 zone; • Convenience stores with and without gasoline in the C-1 and C-2 zones; • Pilot plant operation in conjunction with research lab in the C-1 and C-2 district.
Convenience stores with and without gasoline	CU	CU	—	
Essential services	PPU	PPU	PPU	
Existing one- and two-family residential dwellings as of 2014 subject to the R-5 Zone standards	—	PPU	—	The associated conditions for each of these conditional uses is as follows: <ul style="list-style-type: none"> • Pilot plant operation in conjunction with research lab in the C-1 and C-2 district.
Golf courses	—	—	PPU	
Grocery stores	—	—	—	The associated conditions for each of these conditional uses is as follows: <ul style="list-style-type: none"> • Pilot plant operation in conjunction with research lab in the C-1 and C-2 district.
Industrial and manufacturing uses	PPU	PPU	—	
Institutional and public uses	—	—	—	<i>New and Used Vehicle Sales - §255-39B(17)</i>
Health and fitness clubs	—	PPU	—	<i>[Amended 9-27-2016 by Ord. No. 2016-23 - App B]</i>
Health care facilities	—	—	PPU	(a) The minimum lot area shall be 40,000 square feet;
Hotels	PPU	PPU	—	(b) They shall be located on primary or secondary arterial streets;
Laboratories	PPU	PPU	—	(c) All sales and repair activities shall take place within a principal structure.
Lawn and garden equipment sales and repair	—	PPU	—	<i>Convenience stores - §255-39B(10)</i>
Office distribution centers	—	—	PPU	
Performing arts studios	—	PPU	—	<i>[Amended 11-5-2018 by Ord. No. 2018-16 - App C]</i>
Pilot plant operation in conjunction with research lab	CU	CU	—	(a) Shall be located at least 100 feet away from any residential district;
Professional offices in dwellings	PPU	PPU	—	(b) Shall provide on-site parking.
Recreation facility, commercial	—	PPU	—	
Research laboratories	PPU	PPU	PPU	
Restaurants	—	—	—	
Warehouses	PPU	PPU	—	

PPU = Principal Permitted Use
 CU = Conditional Use
 (-) = Non-Permitted Use

Convenience stores with gasoline sales - §255-39B(10) [Amended 11-5-2018 by Ord. No. 2018-16 - App C]

- (a) The minimum lot size shall be 60,000 square feet;
- (b) The lot shall have a minimum of 200 feet of frontage along a state or county roadway;
- (c) Any overhead canopy serving the gas fueling positions shall be set back a minimum of 30 feet



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Section 1.3d - Existing Conditional Uses in Research-Office-Industrial Districts Cont.

Convenience stores with gasoline sales - §255-39B(10) cont.

from a public right-of-way.

- (d) The maximum impervious coverage shall be 80%;
- (e) The maximum height shall be 35 feet for principal buildings and 30 feet for the canopy;
- (f) An average fifteen-foot landscaped buffer shall be provided along any residential zone boundary line; however, in no event shall said buffer area be less than 10 feet at any such location;
- (g) No auto repair or service, other than gasoline sales, shall be permitted;
- (h) No tractor trailer diesel fuel sales shall be permitted;
- (i) Canopies shall have a pitched roof with a change in elevation of at least seven feet from the bottom to the top most point of the roof-line;
- (j) The subject property shall be located a minimum of 100 feet from any residential district as measured from the perimeter of the lot line;
- (k) Shall provide off-street parking in accordance with §255-44;
- (l) No sale, leasing, or rental of any vehicles shall be permitted;
- (m) The walls of the principal structure shall be at least 25 feet from the side and rear lot lines and at least 40 feet from a street right-of-way line;
- (n) All exit and entrance drives shall be at least 10 feet from any adjoining property line and 20 feet from the corner of an intersecting public street;
- (o) Any fuel or air pump and filler pipe shall be located 25 feet from any property line.

Pilot plan operation in conjunction with research lab

§255-39 - Conditional Uses does not have any specific requirements listed for pilot plan operations in conjunction with research labs. In application, this particular use would have to be treated as a non-permitted use in zones where it is listed as a conditional use.

Section 1.3e - Existing Conditional Uses in the Education and Public Use Districts

The Education District [(E-1)(§255-36E)] and Public Use District [(P-1)(§255-36F)] do not have any conditional uses defined. As such, these districts will not be considered for additional analysis in this document.

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Section 1.3f - Existing Conflicts and Challenges

This section is meant to provide an overview of the existing challenges and conflicts that have been identified in applying §255-39 - Conditional Uses of the Township Code.

As noted in the Section 1.2 - Regulating Conditional Uses in the Township, the base requirements established in §255-39 - Conditional Uses may be viewed as questionable within the framework of the MLUL. §255-39A - Conditional Uses - General, states that:

"All conditional uses shall be subject to site plan review." A conditional use shall not be approved unless it meets all the requirements of this chapter, does not substantially impair the use and environment of surrounding properties and does not substantially impair the character of the surrounding area."

1. "All Conditional uses shall be subject to site plan review." The MLUL states that "the review by the planning board of a conditional use shall include any required site plan review pursuant to article 6 of this act." While the difference may seem subtle, the requirement for all conditional use applications to be subject to site plan review may be viewed as being in conflict with the MLUL requirements where conditional uses are subject to site plan review when required along with how these regulations have been historically applied in the Township.

"Site Plan" is defined in the MLUL as:

"A development plan of one or more lots on which is shown (1) the existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, drainage, flood plains, marshes and waterways, (2) the location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping, structures and signs, lighting, screening devices, and (#) any other information that may be reasonably required in order to make an informed determination pursuant to an ordinance requiring review and approval of site plans by the planning board (...)."5

In practice, a project is referred to the Planning Board for site plan review *if* a proposed project will result in an intensification of use on the subject property or properties, if a change of use is proposed that will alter how a subject property or properties is utilized, or if the proposed project or use will require improvements to the subject property or properties that would typically fall under the purview of site plan review. This practice is and has been applied to conditional use applications in the Township in spite of the fact that the ordinance specifies that "all conditional uses shall be subject to site plan review."

Furthermore, the burden placed on applicants which, in many cases are small businesses, in order to prepare site plans when they would not otherwise be deemed as arbitrary and excessive from a cost standpoint and in terms of the time needed to obtain an approval. The average Planning Board application may take upwards of three (3) months to obtain approval from the time of submission and often times may take longer.



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2. "A conditional use shall not be approved unless it (...) does not substantially impair the use and environment of surrounding properties and does not substantially impair the character of the surrounding area." The existing conditional use section of the Township's Zoning Ordinance requires applicants seeking conditional use approval to meet the "negative criteria." The *negative criteria* is a proof that is required of applications to the Zoning Board that shows that the proposed project shall not be substantially detrimental to the public good and that the proposed will not substantially impair the intent and purpose of the Master Plan and the Zoning Ordinance. Over the past several decades, it has been found in case law throughout the State of New Jersey that applicants are not required to meet the burden of proving the negative criteria when seeking approval for a conditional use.⁶ The inclusion of language requiring applicants to prove the negative criteria is therefor contrary to case law and the MLUL and should be amended.

3. *Semi-Detached Dwellings in the R-7 Zone* - §255-39 specifies conditions for semi-detached dwellings in the R-5 Zone however there are no specific conditions outlined for the R-7 Zone. In practice, §255-39B(22) - Residential uses would be applied for an application to construct a semi-detached dwelling in the R-7 zone. (See Page 4 or 12) As such, a semi-detached dwelling would most likely be unable to meet the conditions specified for residential uses as the residential uses conditions were drafted for structures with ground floor commercial units and apartment units above.

4. §255-39B(22) - Residential Uses, as it is currently written, this section is tailored to structures which have a nonresidential use on the ground floor with dwelling units above. As outlined in Section 1.3a - Existing Condition Uses in Residential Zones, there are numerous types of single- and two-family residential uses that are identified as conditional uses which would not be able to meet the conditions outlined in §255-39B(22). These include semi-detached dwellings in the R-7 zone, attached one-family dwellings in both the R-5 and R-7 zone, and garden apartments in the R-8 zone.

These uses do not have specific conditions outlined in §255-39 and would therefor require that the residential uses conditions be applied. Outside of garden apartments, these uses would not be able to meet the conditions outlined and would subsequently require a d(3) variance from the Zoning Board of Adjustment.

5. Bed-and-breakfast hotels have been identified as a conditional use in several downtown districts. The ordinance does not adequately address the evolving short-term rental market and the common use of services such as AirBNB, Craigslist, HomeAway, or VRBO.

6. Insurance Agents and Brokers have been identified as a conditional use however there are no specific conditions outlined in §255-39 for this use category while there are specific requirements for security brokers for example. Additionally, there is a separate conditional use category for offices (administrative, business, and professional) under which insurance agents would be placed in practice. The failure of specifying conditions for insurance agents and brokers nor referencing the conditions for offices (administrative, business, and professional) may create a potential issue if a conditional use application

⁶ *Cardinal Properties v. Westwood*, 227 N.J. Super. 285 (App. Div. 1988); *Lincoln Hgts. V. Cranford Plan. Bd.*, 314 N.J. Super. 366, 386-287 (Law Div. 1998), aff'd o.b. 321 N.J. Super. 355 (App. Div.), certif. den. 162 N.J. 131 (1999)



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for such a use were to come to the Office of Planning & Zoning. Additionally, the conditions for offices (administrative, business, and professional) are specific to the D-C and D-B zones where insurance agents and brokers are also a conditional use in the VC zone. This leaves a gap where there are no conditions that could be placed upon the use and it would subsequently have to be denied as a non-permitted use, seek a d(1) 'use' variance, seek an interpretation of the zoning ordinance, or the conditions for offices (administrative, business, and professional) would have to be applied. Furthermore, the lack of identifiable or definite conditions may create an issue of legality regarding this particular conditional use.

7. Conditional Office Uses including:

- Advertising Agencies - §255-39B(1)
- Appliance and Electronic Service Supply and Repair Shops - §255-39B(2)
- Offices, Professional, Business and Administrative Uses - §255-39B(18)
- Printing and Publishing Services - §255-39B(20)
- Security Brokers - §255-39B(25)
- Social Service Agencies - §255-39B(27)
- Tax Preparation Services- §255-39B(28)
- Veterinarian Office - §255-39B(30)

The conditions placed upon general office uses along with certain specific uses which range from administrative, general business, and what would be classified as a professional office use are mostly identical in their requirements with the exception being the catch-all offices (professional, business and administrative uses) classification. The differences are as follows:

Offices uses **not** classified under the catch-all "Offices, Professional, Business and Administrative Uses":

- (a) Shall be permitted on the second floor or above without limit as to size;
- (b) Shall be permitted on the first floor in existing space measuring 1,000 square feet or less;
- (c) The space shall be measured from the interior wall surface of the walls encompassing the use;
- (d) First-floor uses shall be required to provide on-site parking.

Offices classified under the catch-all "Offices, Professional, Business and Administrative Uses":

- (a) Offices shall be permitted on the second floor or above without any limit as to size;
- (b) Offices (not accessory to any other permitted use) shall only be permitted on the first floor in existing space measuring less than 1,000 square feet or in an existing office-style building that does not have storefront-type windows on the first floor;
- (c) Space shall be measured from the interior wall surface of the walls encompassing the office;
- (d) First-floor offices shall be required to provide off-street parking;
- (e) No first-floor space for a single occupant may be divided to create an occupant space of less than 1,000 square feet.

The only difference between the two is that the catch-all classification specifies that offices that are *not an accessory to any other permitted use* shall be permitted on the first floor OR in an existing office-style building that does not have storefront-type windows on the first floor AND that no first-floor space may be divided to create a space of less than 1,000 square feet.



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The second requirement ("E") seems to be superfluous as "B" already specifies that offices shall not be permitted in a space less than 1,000 square feet. The lack of clarity on what would classify as an occupant, whether it be an additional tenant for example or simply the addition of another professional in a professional office creates a situation where interpretation of the intent is ambiguous.

Additionally, the zones in which these conditions are in place are all in what would be considered business districts including the Downtown Core, Downtown Business District, Downtown Transition District, and the Village Commercial District. The lack of variation in location by zone along with the considerable overlap in conditions creates an unnecessary appearance of complexity that should be simplified.

Furthermore, the burden placed on applicants in order to seek conditional use approval when these basic conditions have been met by the applicant and when site plan review is not necessary can arguably be considered to be unnecessary as the Board would not have the right to deny such an application. The conditions as outlined in Table 5 below can be considered to common office uses that would not detract from the intent and character of the host zoning districts.

Table 5 - Existing Conditional Office Uses by Zoning District

Use Type	D-C District	D-B District	D-T District	VC District
Advertising Agencies	✓	✓		✓
Appliance and Electronic Service Supply and Repair Shops	✓	✓		✓
Insurance Agents and Brokers*	✓	✓		✓
Offices, Professional, Business and Administrative	✓	✓		
Printing and Publishing Services	✓	✓		✓
Security Brokers	✓	✓		✓
Social Service Agencies	✓	✓	✓	
Tax Preparation Services	✓	✓		✓
Veterinarian Office	✓	✓	✓	

* Insurance Agents and Brokers are specified as a conditional use however do not have any conditions specified in §255-39.



8. *Performing Arts Studios* are identified as a conditional use however no specific conditions are outlined for such a use. In practice, the Zoning Officer would have to attempt to fit a performing arts studio under the guidelines of a similar conditional use which is a questionable practice. The failure of specifying conditions for a performing arts studio while classifying it as a conditional use may create a potential issue if a conditional use application for such a use were to come to the Office of Planning & Zoning. Both case law in the State of New Jersey and the MLUL emphasizes that conditional uses must be supplemented by "definite specifications and standards which shall be clearly set forth with sufficient certainty and definiteness to enable the developer to know their limit and extent."⁷
9. *Pilot plant operation in conjunction with research lab* is identified as a conditional use in §255-36 - Use Regulations however there are no specific conditions outlined in §255-39 - Conditional Uses. In practice, the use would subsequently be sent to the Zoning Board of Adjustment for a use variance however that practice may be questionable due to the lack of definite conditions placed on the use despite it being identified as conditional.

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2 | SUPPLEMENTARY USE REGULATIONS

Section 2.1 - Supplementary Use Regulations Overview

Section V (Zoning) of the Land Development Ordinance also includes Supplementary Use Regulations (§255-37). The Supplementary Use Regulations provide conditional requirements for uses that are classified as principal permitted uses. The supplemental use regulations, in practice, are no different than conditional use requirements except that they apply to principal permitted uses.

If a proposed use is unable to meet the supplementary requirements for a specific use, the applicant must seek a variance from the Zoning Ordinance from the Township's Zoning Board of Adjustment. However, if the applicant does meet the requirements as outlined in §255-38, approval can be granted by the Zoning Officer without the additional requirement for approval from the Planning Board as is required with conditional uses.

As it pertains to the requirements for site plan review and approval, the same rules and practices apply to uses that have supplementary use regulations as those that are conditional. If a proposed use will lead to an intensification of use on a given property or properties or will require site improvements that are generally under the purview of site plan review and approval; the application would require Planning Board approval (assuming a "D" variance is not required).

Section 2.2 - Uses with Supplemental Use Regulations

The following uses have supplemental use regulations:

- Agricultural Uses;
- Country clubs and private swimming clubs;
- Townhouses;
- Garden apartments;
- Apartment dwellings in the R-8 and R-SC-1 Zones;
- Principal and accessory structure placement limitations (all zones);
- Uses in the E-1 Zone;
- Family day-care home in the R-1 through R-4 Zones;
- Telecommunications antennas and towers;
- Office Residential Character District requirements.

The supplemental regulations for agricultural uses, country clubs and private swimming clubs, townhouses, garden apartments, and apartment dwellings in particular are formatted and written in such a way that they, in essence, mirror the conditional uses outlined in Section 1 of this document.

These supplemental requirements for the uses listed above include:

Agricultural Uses - §255-37A

- (1) Buildings utilized for horticulture, nurseries, greenhouses and for the growing, raising, harvesting and sale of agricultural crops or for any other farm use shall be not less than 100 feet from any side or rear lot line, except that residential buildings may be constructed and located in conformity with the standards for residences within those districts in which they are located;



- (2) No livestock, poultry, fowl or other animals shall be permitted except where incidental to the major agricultural activity.

Country Clubs and Private Swimming Clubs - §255-37B

- (1) No building shall be located within 50 feet of any property line;
- (2) Retail sales shall be restricted to members and their guests only;
- (3) Unenclosed recreational facilities shall be located not less than 50 feet from any property line and shall be effectively screened from adjoining residential uses;
- (4) No public address system shall be permitted which is audible at the property line;
- (5) Such uses shall be subject to site plan review.

The supplemental regulations for agricultural uses and country clubs / private swimming clubs are good examples of how these additional requirements closely resemble the types of requirements outlined in the §255-39 - Conditional Uses. The supplemental requirements for townhouses outline guidelines for tract development, how individual lots should be managed, and building design and siting. The supplemental regulations for garden apartments also cover area, yard and building requirements along with open space guidelines, and density. For a complete list of the supplementary use regulations, please see Appendix C.

Section 2.3 - Implementation of the Township's Supplemental Use Regulations

In practice, most of the uses outlined in the §255-37 would require site plan approval from the Planning Board or Zoning Board of Adjustment if a "D" variance was being sought. If an application for development does not meet the requirements as outlined in the ordinance, a variance would be required. There is no general statement included in §255-37 that outlines the intent and purpose of the section nor any statement that site plan review is required for all of the uses outlined. Several do specify the need for site plan review however including country clubs and private swimming clubs and telecommunications antennas and towers. For the remaining uses, the typical process of determining whether or not the proposed improvements would require site plan approval would be implemented.

The purpose of considering the role and placement of the supplementary use regulations is to determine whether or not any of the conditional uses outlined in §255-36 and 39 of the Township Code may be better placed in this section. The benefit of considering such an amendment is to remove what may be considered an unnecessary burden placed on applications to seek Board approval when the requirements are simple and, at face value, perhaps may be better suited for administrative approval through the typical permitting process that takes place in the Building Department and the Office of Planning & Zoning.

It is also important to note that several of the requirements within the supplementary use regulations have conflicts and issues that require additional investigation and potentially further refinement. The Office of Planning & Zoning highlighted one such issue with the supplementary requirements for Townhouses, for example, in the document entitled "Reconsidered the Bloomfield Avenue R-6 District" which was completed in June of 2019.



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Section 3 will present a series of recommendations that are intended to accomplish several key goals.

1. Limit the Township's and the Board's potential exposure to liability concerns by:
 - Amending and/or removing language in §255-39 that is of questionable legality;
 - Adding conditional use requirements for uses that are currently defined as conditional but lack definite, quantifiable conditions.;
2. Simplify the administration of conditional uses and supplementary use regulations in the Township by:
 - Reconsidering their placement by zone;
 - Simplifying conditions if / where it may make sense;
 - Adding adequate annotations within the Zoning Ordinance so that applicants and reviewers alike are aware of the additional requirements for a particular use.
3. Remove unnecessary burdens on business and property owners by:
 - Removing the requirement for site plan review as a requirement for all conditional use applications;
 - Amending some conditional uses in certain zoning districts from conditional to principal permitted with the addition of supplementary use regulations.

RECOMMENDATION 1 - AMEND SITE PLAN REQUIREMENTS

Remove the existing requirement in §255-39A - Conditional Uses - General for applicants seeking conditional use approval to also seek site plan approval. Currently, the aforementioned section reads "All conditional uses shall be subject to site plan review." This language should be *amended* to read "***If necessary, conditional uses shall be subject to site plan review and approval.***"

RECOMMENDATION 2 - AMEND 'NEGATIVE CRITERIA' REQUIREMENTS AND 'GENERAL INTENT'

Remove the requirement for applicants to prove the negative criteria when seeking approval for a conditional use. In addition, include language which describes the intent and purpose of §255-39 - Conditional Uses.

Proposed amendment to §255-39A - Conditional Uses - General may read:

The purpose of this section is to establish requirements applicable to conditional uses as defined in §255-36 - Use Regulations in accordance with N.J.S.A. 40:55D-67. A use is defined as conditional because of their particular characteristics and the Township's goal of mitigating the potential negative impacts of those uses on the surrounding area. Each specific use is to be considered on a case-by-case basis by the applicable Board.

Generally, the Planning Board must approve conditional uses where the specific conditions established in this chapter have been met. The Zoning Board of Adjustment approves conditional uses where those conditions cannot be met. Conditional uses may be considered to be permitted uses in their respective districts subject to the satisfaction of the conditional use requirements established in this section.

If necessary, conditional uses shall be subject to site plan review and approval.



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RECOMMENDATION 3 - CONSOLIDATE OFFICE USES

In order to simplify the application of §255-36 - Use Regulations and §255-39 - Conditional Uses, it is recommended that the myriad office uses be consolidated, particularly where the conditional and supplemental use requirements have significant overlap and their status as a permitted, conditional, or non-permitted use are consistent across differing zoning districts. This effort would required §255-36 - Use Regulations be amended. The proposed consolidation includes the following:

Table 6 - Recommended Office Use Consolidation including Existing Permissive Status by District

USE TYPE	ZONING DISTRICT											REC.	
	D-C	D-B	D-T	VC	O-1	O-2	ORC	NC	C-1	C-2	C-3		
Advertising Agencies & Website Design	✓	✓	PPU	✓	NP	NP	NP	NP	NP	NP	NP	NP	Consolidate with Office (Pro., Bus., Admin.)
Data Processing & Computing	NP	NP	PPU	PPU	PPU	PPU	PPU	NP	NP	NP	NP	NP	Consolidate with Office (Pro., Bus., Admin.)
Insurance Agents and Brokers	✓	✓	PPU	✓	NP	NP	NP	PPU	NP	NP	NP	NP	Consolidate with Office (Pro., Bus., Admin.)
Office (Professional in Dwellings)	NP	✓	PPU	PPU	✓	✓	PPU	PPU	PPU	PPU	NP	NP	No consolidation recommended
Office (Business, Administrative)	✓	✓	PPU	PPU	PPU	PPU	PPU	✓	PPU	PPU	PPU	PPU	Consolidate with Office (Pro., Bus., Admin.)
Office (Professional, Business, Administrative)	✓	✓	PPU	PPU	NP	NP	NP	NP	PPU	PPU	PPU	PPU	Primary Umbrella Use
Office (Professional, Business, Administrative, Executive)	NP	NP	NP	NP	NP	NP	NP	NP	PPU	PPU	PPU	PPU	Create new Executive Office / Corporate HQ use
Security Brokers	✓	✓	✓	NP	NP	NP	NP	NP	NP	NP	NP	NP	Consolidate with Office (Pro., Bus., Admin.)
Tax Return Services	✓	✓	PPU	NP	NP	NP	NP	PPU	NP	NP	NP	NP	Consolidate with Office (Pro., Bus., Admin.)
Veterinarian Office	✓	✓	✓	NP	NP	NP	NP	NP	NP	NP	NP	NP	Consolidate with Office (Pro., Bus., Admin.)

PPU Principal Permitted Use NP Not Permitted ✓ Existing Conditional Use



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The uses detailed in Table 6 (page 27) have significant overlap in use type and classification. The differentiation between these uses when looked at from the perspective of intensity and their associated regulatory requirements is minimal and subsequently creates unnecessary ambiguity and complexity to the practice of administering the Use Regulations. For example, Tax Preparation Services, for all intents and purposes, could be classified as a business office. Having a distinct use category for Tax Preparation services inherently limits the opportunity for property owners to lease vacant space.

It is further recommended that the definition of *Professional Office* be amended to reflect a less narrow and more practical definition. Currently the Zoning Ordinance defines a *Professional Office* as "the office of an accountant, architect, attorney, dentist, engineer or physician. It is recommended that *Professional Office* be defined as "the office of a professionally licensed or accredited professional including but not limited to accountant, architect, attorney, dentist, engineer, physician, psychiatrist, psychologist, or veterinarian."

The purpose behind this amendment is to allow for greater flexibility in determining permitted uses for licensed professionals that do not fall under the umbrella of a physician. Physicians, for example, are defined by the Zoning Ordinance as "A person licensed to practice medicine or surgery, or a chiropractic physician, doctor of podiatry or a person similarly licensed by the Board of Medical Examiners of the State of New Jersey." As the ordinance is currently constructed, there are no means of administrative approval for a psychologists' office who are licensed by the State Board of Psychological Examiners or for other mental health professionals who would traditionally be classified as a licensed professional.

RECOMMENDATION 4A - AMENDING CONDITIONAL USES FOR CONSOLIDATED USE GROUPS

Based upon the consolidation of uses proposed in Recommendation 3, it would further be recommended that the permissive status of conditional uses, particularly office related uses, be amended as follows:

Table 7 - Existing and Proposed Conditional Uses in the Business Districts

USE TYPE	D-C DISTRICT		D-B DISTRICT		D-T DISTRICT		VC DISTRICT	
	Existing	Rec.	Existing	Rec.	Existing	Rec.	Existing	Rec.
Appliance / Electronic Service Supply and Repair Shops	✓	◊	✓	◊	PPU	PPU	✓	◊
Office (Professional in Dwellings)	NP	NP	✓	◊	PPU	PPU	PPU	◊
Office (Professional, Business, Administrative)	✓	◊	✓	◊	PPU	PPU	✓	◊

- PPU Principal Permitted Use NP Not Permitted
- ✓ Existing Conditional Use ✓ Proposed Conditional Use
- ◊ Proposed Principal Permitted Use with Supplemental Use Regulations

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Table 7 Continued - Existing and Proposed Conditional Uses in the Business Districts

USE TYPE	D-C DISTRICT		D-B DISTRICT		D-T DISTRICT		VC DISTRICT	
	Existing	Rec.	Existing	Rec.	Existing	Rec.	Existing	Rec.
Printing and Publishing Services	✓	◊	✓	◊	PPU	PPU	✓	◊
Social Service Agencies	✓	◊	✓	◊	✓	◊	NP	NP
Office (Professional, Business, Administrative)	✓	◊	✓	◊	PPU	PPU	✓	◊

- PPU Principal Permitted Use NP Not Permitted
- ✓ Existing Conditional Use ✓ Proposed Conditional Use
- ◊ Proposed Principal Permitted Use with Supplemental Use Regulations

It is recommended that all of the existing conditional uses in the business districts be amended to be classified as a principal permitted use with supplemental use regulations. The supplemental use regulations will be identical to the conditional use requirements. This change in status will lessen the bureaucratic and administrative burden on applicants by eliminating the guarantee that board approval will be required. If the supplemental use requirements cannot be met, Zoning Board approval will be required in the form of a "c" variance.

The justification for this shift is the simplicity of the conditional use requirements outlined in §255-39 of the Township Code as well as the fact that the conditions for Advertising and Website Design, Offices (Professional, Business, Administrative), Security Brokers, Security Brokers, Tax Preparation / Return Services, and Veterinarian Offices all have significant overlap in their currently defined conditions.

The consolidation of these uses and the shift from conditional use to principal permitted use with supplementary use regulations can be accomplished without sacrificing the principals behind responsible land use.

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Table 8 - Existing and Proposed Conditional Uses in the Office Districts

USE TYPE	O-1 District		O-2 District		ORC District		NC District	
	Existing	Rec.	Existing	Rec.	Existing	Rec.	Existing	Rec.
Banks and Financial Institutions	NP	NP	✓	✓	✓	✓	✓	✓
Gasoline Service Stations	NP	NP	NP	NP	NP	NP	✓	✓
Institutional and Public Uses	✓	✓	✓	✓	✓	✓	✓	✓
Office (Professional in Dwellings)	✓	◇	✓	◇	NP	PPU	NP	NP
Office (Professional, Business, Administrative)*	PPU	PPU	PPU	PPU	PPU	PPU	✓	◇
Residential Uses	NP	NP	NP	NP	✓	✓	✓	✓

- PPU Principal Permitted Use NP Not Permitted
- ✓ Existing Conditional Use ✓ Proposed Conditional Use
- ◇ Proposed Principal Permitted Use with Supplemental Use Regulations

The recommended amendments to conditional uses in the Township's office districts are focused on the consolidated office uses being made principal permitted uses with supplementary use regulations as well as offices in dwellings. Currently, professional offices are not permitted in any of the Township's office districts. The shift to being permitted uses will not pose a threat to existing land use or the character of the impacted neighborhoods as each applicant would need to meet the supplementary use requirements as well as the requirements established in §255-44 - Off-Street Parking. Additionally, a change in use would most-likely trigger the need for site plan review providing additional oversight and confirmation that a proposed use is congruent with the existing neighborhood and would not prove to be a negative addition.

It is not recommended to make any changes to the permissive status of either *Institutional and Public Uses* or *Residential Uses*, which are both currently classified as conditional, at this time.

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Table 9 - Existing and Proposed Conditional Uses in the Research-Office-Industrial Districts

USE TYPE	C-1 District		C-2 District		C-3 District	
	Existing	Rec.	Existing	Rec.	Existing	Rec.
Car Dealers	NP	NP	✓	✓	NP	NP
Convenience Stores with and without gasoline	✓	✓	✓	✓	NP	NP
Pilot plan operation in conjunction with research lab	✓	✓	✓	✓	NP	NP

- PPU Principal Permitted Use NP Not Permitted
- ✓ Existing Conditional Use ✓ Proposed Conditional Use
- ◊ Proposed Principal Permitted Use with Supplemental Use Regulations

There are no recommendations to reclassify the permissive status of any of the existing conditional uses in the Township's Research-Office-Industrial Districts at this time.

THE RECOMMENDATIONS PRESENTED AS RECOMMENDATION 4A IS MEANT TO BE CONSIDERED ONLY IF RECOMMENDATION 3 - CONSOLIDATE OFFICE USES IS IMPLEMENTED.

RECOMMENDATION 4B - AMENDING CONDITIONAL USES FOR EXISTING USE GROUPS

Amend the current inventory of conditional uses, particularly office related uses. This does not include removing or consolidating any existing uses. ***This series of recommendations is to be considered if Recommendation 3 is not considered either in whole or in part.***

Table 10 illustrates all of the applicable conditional uses that have been identified during the course of the audit that pose the best opportunity for simplifying the zoning ordinance, lessening the burden on applications, and still preserving the Township's ability to effectively protect and administer land use, particularly in the Special Improvement District. The table also highlights the proposed recommendations for modifying these particular conditional uses.

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Table 10 - Existing and Proposed Conditional Uses in the Business Districts

USE TYPE	D-C DISTRICT		D-B DISTRICT		D-T DISTRICT		VC DISTRICT	
	Existing	Rec.	Existing	Rec.	Existing	Rec.	Existing	Rec.
Advertising Agencies	✓	◊	✓	◊	PPU	PPU	✓	◊
Appliance / Electronic Service Supply and Repair Shops	✓	◊	✓	✓	PPU	PPU	✓	✓
Insurance Agents and Brokers	✓	◊	✓	◊	PPU	PPU	✓	◊
Office, Professional, Business and Administrative	✓	◊	✓	◊	PPU	PPU	PPU	PPU
Printing and Publishing Services	✓	◊	✓	◊	PPU	PPU	✓	◊
Security Brokers	✓	◊	✓	◊	PPU	PPU	✓	◊
Social Service Agencies	✓	✓	✓	◊	✓	◊	NP	NP
Tax Preparation Services	✓	◊	✓	◊	PPU	PPU	NP	NP
Veterinarian Office	✓	◊	✓	◊	✓	◊	NP	NP

- PPU Principal Permitted Use NP Not Permitted
- ✓ Existing Conditional Use ✓ Proposed Conditional Use
- ◊ Proposed Principal Permitted Use with Supplemental Use Regulations

Summary of Table 10 - Existing and Proposed Conditional Uses in the Business Districts

It is recommended that a majority of the conditional uses be reclassified as principal permitted uses with supplemental zoning requirements in order to alleviate the administrative, bureaucratic, and monetary burden on applicants. As previously mentioned, this reclassification allows applicants that meet the conditions be approved through the normal building / zoning permitting process without the need for Planning Board approval assuming site plan review is not required. However, if an applicant does not meet these requirements, a d(3) variance would be required from the Zoning Board of Adjustment.



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RECOMMENDATION 5 - ANNOTATIONS

For all uses that have supplemental use regulations, annotations should be added to the applicable section in §255-36 - Use Regulations in order to indicate and reference the applicable section in §255-37 - Supplemental Use Regulations.

The addition of these annotations will indicate to applicants that a specific use has supplementary requirements that go beyond its permissive status. It will also indicate to Township staff and professionals that an application that is under review has additional requirements that must be met before being approved.

RECOMMENDATION 6 - CONDITIONAL USE REQUIREMENTS - INSURANCE AGENTS AND BROKERS

Currently, Insurance Agents & Brokers are defined as a conditional use in the D-C, D-B, and VC Districts. While being defined as its own use category and despite being a conditional use in several districts, there currently exist no conditions for Insurance Agents & Brokers within §255-39 - Conditional Uses.

In application, the requirements for Offices (professional, business, administrative) would be applied for this use however this may be a questional application of the ordinance.

Assuming the recommendations for consolidation of uses (RECOMMENDATION 3) are not implemented, conditions should be added to the ordinance that mirror the conditions outlined for Offices (professional, business, administrative) in order to avoid any ambiguity or confusion.

RECOMMENDATION 7 - CONDITIONAL USE REQUIREMENTS - PERFORMING ARTS STUDIOS

Currently, there are no defined conditions in §255-39 - Conditional Uses for 'performing arts studios' which are defined as a conditional use in the D-C and D-B districts.

It is recommended that a series of conditions be constructed for this use.

RECOMMENDATION 8 - CONDITIONAL USE REQUIREMENTS - OFFICE USES

Currently, the conditions established by ordinance for office uses including advertising agencies, appliance and repair shops, insurance agents and brokers, security brokers, tax preparation professionals, office (professional, business administrative), social service agencies, and veterinarian office's, all require that first floor uses shall be required to provide on-site parking in accordance with the requirements established in §255-44 - Off-Street Parking.

In the D-B and D-C in particular, this is a conditional that is extremely difficult to meet as many properties do not have the space to provide on-site parking. It is recommended that this requirement be removed. Currently, first-floor offices are only permitted in a space that is less than 1,000 square feet in size. Based upon §255-44, if an architect for example, wished to move into a small vacant space in the D-B or the D-C, they would be required to provide up to five (5) on-site parking spaces; one (1)



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parking space for each licensed professional and 1 (one) additional parking space for every 250 square feet of floor space. On its face, it seems unreasonable as the demand for such a use would not dictate a need for five (5) on-site parking spaces.

Additionally, during regular business hours, there is ample parking located both on-street and in the numerous public parking lots located throughout the Township's downtown. Retail uses do not have a parking requirement in these districts despite placing a higher demand on parking in the area.

If it is not seen as a favorable policy decision to remove the parking requirement for first-floor office uses, several additional recommendations may be considered including:

1. Allowing applicants to count publicly available spaces within .125 miles or a 2.5 (two and one half) minute walking distance towards the required off-street parking requirement;
2. Facilitating the completion of a parking study in order to better understand the demand for public parking based upon existing uses and potential build-out in the future.

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CONCLUSIONS | 4

Several issues were identified during the course of outlining and examining all of the Conditional Uses and the applicable conditions placed on those uses. These issues, outlined in Section 1.3f of this document, highlight opportunities where the ordinance can be improved to make the application process more efficient and less burdensome on business and property owners without sacrificing responsible land use administration.

Firstly, the inadequacies in the ordinance and the questionable requirements specified in §255-39A - Conditional Uses - General, should be remedied. As outlined in Section 1, the requirement for applicants seeking conditional use approval to be subject to site plan approval seems to be unnecessarily burdensome. Considering the municipality has procedures in place to ensure that applicants that would typically require site plan approval be directed as such, this requirement places an undue burden on applicants to have site plans prepared at considerable expense when it may be unnecessary to responsibly consider the application at hand. Additionally, the requirement that applicants prove the negative criteria has been determined to be an excessive exercise of the Board's power. Several court cases have led to the judgment that applicants seeking approval for a conditional use are not required to prove out the negative criteria. This language should be amended or removed in its entirety in order for the ordinance to be in full compliance with the MLUL and case law.

Secondly, numerous conditional uses were identified within the Township's business and office districts that have very basic conditions that an applicant must meet. Considering the fact that the Planning Board does not have the right to deny a conditional use that meets these requirements, the intent behind their being defined as conditional must be deduced.

The assumption is that these uses were defined as conditional in order to serve as a disincentive for property and business owners from locating office uses on the ground floor in the Special Improvement District. The rationale behind such a policy decision could have been driven by the desire to promote retail services as a more suitable use. The disincentive comes from the financial burden and potential delays associated with requiring board approval in order to seek conditional use approval. If this was in fact the purpose behind their being classified as conditional, it would be the role of the Township Committee and the Planning Board to consider whether or not such a policy still reflects how the Township sees the Special Improvement District's growth in the future.

Complete removal of these office uses as conditional is not necessarily something that needs to be considered however. As shown in Table 5, these uses are conditional across four business and office zoning districts including the downtown core district, downtown business district, downtown transition district, and the village commercial district. Maintaining the conditional use status of these uses in the downtown core, in particular, may remain a suitable consideration. However, it may be worth exploring the shift from conditional to permitted with the addition of supplemental zoning regulations that mirror the conditional requirements.

Lastly, several conditional uses lack clearly defined conditions. This is contrary to the requirements for conditional uses as defined in the Municipal Land Use Law. Conditions should be placed on such uses if they are to remain defined as conditional uses.

Rapidly Evolving Nonresidential Environment

When the Office of Planning & Zoning had begun this audit in the first quarter of 2020, vacancy rates in the Special Improvement district were ~2.05% of all retail and office spaces⁸. The economic conditions at that time were

⁸ Downtown Cranford. "Available Space" Office Website of Cranford, NJ, Downtown Cranford, Accessed February 27, 2020. www.cranfordnj.org/downtown-cranford



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extremely favorable. In the short time since then, the pandemic related to the spread of COVID-19 has created an environment riddled with uncertainty and economic challenges. With that in mind, it would be negligent to not discuss the impact COVID-19 will ultimately have on land use management and zoning.

Considering the struggles and difficulties we all will face in the coming months and years as a result, it is imperative that local government's consider the role policy will play in economic recovery and sustainability. Policy should serve to not only regulate land use but also to foster an environment that is responsive to the needs of everyone in the community; including its business owners. It is our responsibility to critically examine ordinances that are currently in force in order to identify where unnecessary bureaucratic burdens may exist and potentially offer an opportunity to be amended in order to strike a better balance between responsible regulation and permissiveness.

It can be assumed that the safeguards, such as social-distancing requirements, that are and will continue to be in place to help stymie the continued spread of COVID-19 will create an environment that is less favorable for small businesses, particularly in the service industry, than what existed a few short months ago. Inevitably, vacancy rates will increase, however it is not known to what degree. Policy makers will have to reconsider what the future may hold in terms of evolving demand and consumer behavior and what impact this changing environment might have within its jurisdiction.

Moody's predicts that retail vacancy rates will increase to upwards of 13% by the end of 2020 and near 15% by the end of 2021⁹. In the midst of the so-called 'retail armageddon', there are plenty of examples of small downtowns that have not only survived but thrived while suburban mall complexes and office parks have seen vacancy rates fluctuate. In fact, the 'retail armageddon' by the numbers could hardly be called an 'armageddon' at all. Since the Great Recession, retail and restaurant services have seen steady increases in sales despite the increasing growth and strength of the online retail market. The positive trends seen over the last decade will inevitably falter in the coming quarters and may possibly result in a long-term change in consumer behavior. It is not unrealistic to posit that the steadily increasing market share for e-commerce sales, for example, will begin to increase at a faster rate due to consumer hesitation to frequent traditional brick and mortar stores.



Table 11 - Advance Retail Sales - Jan. 07 - Present (Millions)
 U.S. Census Bureau, Advance Retail Sales: Retail and Food Services, Total [RSAFS], retrieved from FRED, Federal Reserve Bank of St. Louis;

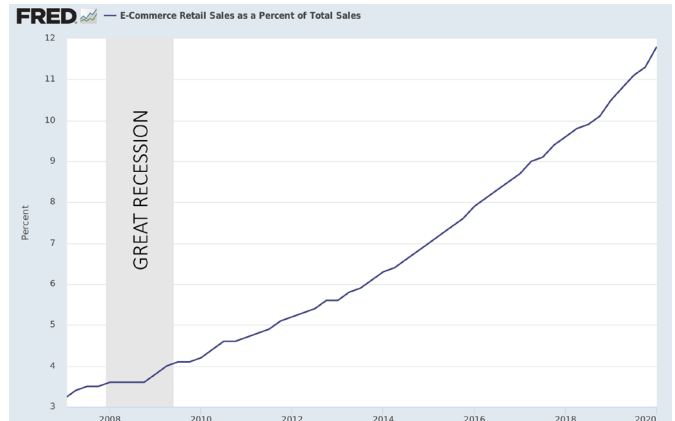


Table 12 - Online Retail Sales - Jan. 07 - Present (% of Total Retail Sales)
 U.S. Census Bureau, E-Commerce Retail Sales as a Percent of Total Sales [ECOMPCTSA], retrieved from FRED, Fed. Res. Bank of St. Louis

9 Calanog, Dr. Victor. "Retail Armageddon: COVID-19 and the Future of Retail Rental Markets." Moody's Analytics, Apr. 2020, www.moodyanalytics.com/videos-on-demand/2020/



The same may be true for dine-in restaurants and other service oriented businesses. Consumer hesitation and government restrictions on capacity may drastically impact existing businesses ability to weather this pandemic and may inhibit future growth. Small business owners and local governments alike will have to be creative in order to cultivate an environment where businsses can not only survive but thrive despite all of the inherent limitations that will be built into our future. A focus on outdoor dining, pedestrian plazas, parklets, stricter air quality standards, personal barriers between diners, and expanded delivery and curbside pick-up may all serve to increase the chances of survival for bars and restaurants.

The long-term ramifications are still very much unknown. It can be theorized that this pandemic, beyond altering consumer behavior, will impact commercial real estate prices and demand. It may also lead to the decentralization of large office spaces where companies will look to expand satellite offices with flexible office space and work from home benefits for employees. With changed perspective comes changed behavior. This evolving environment will ultimately require the Township reconsider the what, where, and how in order to ensure that Cranford remains the thriving community that it is today.

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