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Planning Report #1

DATE: October 11, 2023
TO: Zoning Board, Township of Cranford
FROM: Greer Patras, AICP, PP
APPLICANT: Mark & Denise Smith
ATTORNEY: Robert F. Simon, Esq.
SUBJECT: **APPLICATION ZBA-23-018
100 LAMBERT STREET
BLOCK 322, LOT 18
INTERPRETATION OF ZONING ORDINANCE**

The purpose of this report is to provide the Zoning Board with guidance in its evaluation of Application ZBA-22-018, submitted by Mark & Denise Smith ("the Applicant"). The Applicant has requested an interpretation of the Zoning Ordinance for the Zoning Board of Adjustment to determine whether the current use of the Site for sports recreation is a permitted use in the R-1 One-family Detached Residence Zone. Per Municipal Land Use Law Section 40:55D-70, *"The board of adjustment shall have the power to hear and decide requests for interpretation of the zoning map or ordinance or for decisions upon other special questions upon which such board is authorized to pass by any zoning or official map ordinance, in accordance with this act."*

The following items have been reviewed:

- **Township of Cranford - Development Application Package**, received July 13, 2023.
- **Application Cover Letter**, consisting of 2 pages prepared by Robert F. Simon, Esq., dated July 12, 2023.

I. ZONING ANALYSIS + APPLICABILITY

A. **Zoning:** 100 Lambert Street is within the R-1 One-family Detached Residence Zone.

1. Permitted Principal Uses:

- Community Residences for Developmentally Disabled
- Detached 1-Family Dwellings
- Farms
- Country Clubs and Private Swimming Clubs
- Essential Services.

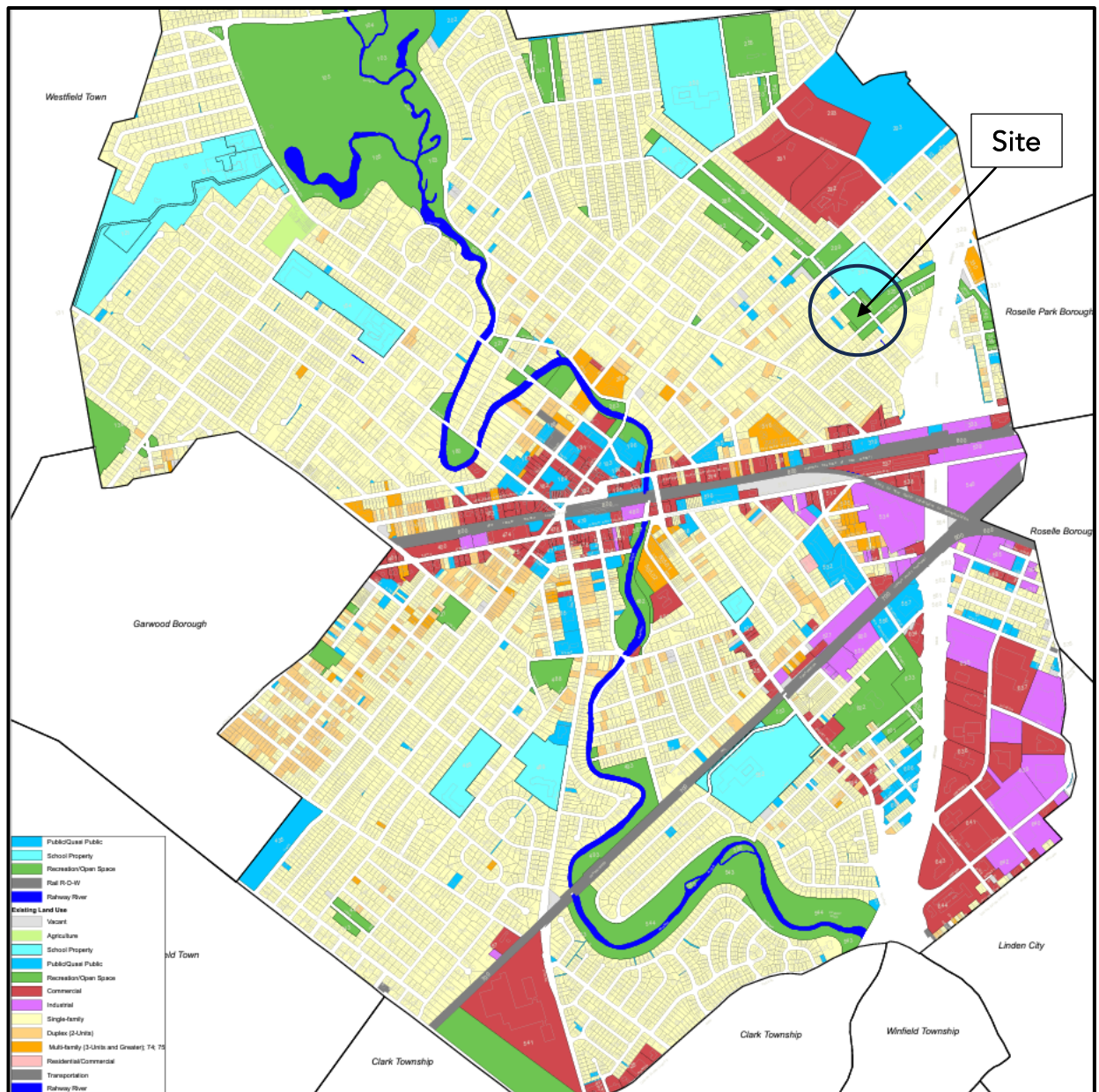
2. Permitted Conditional Uses:

- Institutional and public uses
- Farm stands

B. **Current Use:** The parcel is owned by Cranford Township. It is named the Adams Avenue Complex and contains 3 baseball / softball fields. It is leased to the Cranford Baseball and Softball League, a registered non-profit sports organization. NJSA 40A-12:15 permits agreements between municipalities and non-profits for public purposes.

The lease agreement provided by the Applicant states that the *“premises shall be used for baseball and softball fields and uses accessory thereto, such as refreshment stands, restrooms, equipment storage and the like...”*.

The current use as public creation fields aligns with this description and is consistent with the Township of Cranford Master Plan Land Use Map, which labels the Site as *“Recreation/Open Space”* as of 2019. Further, Adams Park is on New Jersey’s state ROSI list (Recreation and Open Space Inventory), as a Green Acres-funded property that can be used for recreation purposes.



C. Zoning Exemptions:

The subject site is a municipally owned property, and the Cranford Zoning Ordinance Section 255-32.C, titled "Zoning: General Intent" states ***"The Township of Cranford and all of its owned and operated buildings, structures and uses are specifically exempt from the provisions of this article."***

Since the subject property is owned by the Township of Cranford, all zoning provisions, including those related to permitted and conditional uses, are not applicable in accordance with Section 255-32.C.

II. PLANNING COMMENTS

- A. The Applicant is requesting an interpretation specifically related to Zoning Ordinance Section 255-39.B(16), which is in reference to the permitted conditional use of institutional and public use and its standards.

The Applicant's report argues that the current municipally-owned site with recreation use is not a permitted principal nor conditional use because it is not included in the definitions of "institutional and public use".

Ordinance definition of institutional and public uses: *"Nonprofit public or quasi-public institutions and uses such as houses of worship, public and private schools and/or land used for such purposes, but not municipally owned libraries, buildings, structures or land."*

However, the reason that "municipally owned libraries, buildings, structures or land" are specifically exempt from this definition is because municipally owned structures or land cannot be "conditionally permitted uses" since they are specifically exempt from zoning provisions, as stated above in Zoning Ordinance Section 255-32.C, repeated here: *"The Township of Cranford and all of its owned and operated buildings, structures and uses are specifically exempt from the provisions of this article."*

In summary, Township of Cranford owned and operated buildings and uses are not subject to the permitted nor conditional use requirements of the R-1 zone.

- B. The Applicant contends that the use of the field by the Cranford Baseball and Softball League is not permitted. N.J.S.A. 40A-12:15 permits agreements between municipalities and non-profits for any municipal public purposes, including letter (l) of this section: "Any activity for the promotion of the health, safety, morals and general welfare of the community of any nonprofit corporation or association." This, in addition to the zoning exemption for municipalities described above, does not suggest that it is unlawful for such lease agreement or use to exist.
- C. The Applicant outlines a series of concerns regarding nuisances. These should be addressed in the Code Enforcement Department, or if there are safety issues, the Cranford Police Department. Nuisances for a public recreation facility on a municipally owned site are not within the purview of the Zoning Board of Adjustment.
- D. The Applicant has also included a variety of concerns related to terms of the lease agreements, such as activity intensity and subleases. Lease agreements for this Site and use are not within the purview of the Zoning Board of Adjustment. The Applicant can address any concerns or request a review of any potential violations of the terms of the lease agreement with the Township administration directly. The Zoning Board of Adjustment is not party to this agreement and does not maintain jurisdiction.

If you have any further questions regarding this application, please feel free to contact our office.

Sincerely,


Greer Patras, AICP, PP
Board Planner