

LOCAL LAW # 13 OF 2006
(Adopted July 26, 2006)

Local law to amend Zoning (Chapter 213) of the Code of the Town of North Castle, New York, so as to extend the previously adopted extension of the moratorium on (1) the approval of applications for residential subdivisions anywhere in the Town of North Castle, and (2) the approval of site plans, special use permits and any other development proposals within the Banksville hamlet business area which would result in any new construction or in the renovation of any existing building containing ten thousand (10,000) square feet or more of gross floor area, for the period beginning August 11, 2006 and ending December 31, 2006.

Section 1. Short Title.

This local law shall be known and may be cited as the Residential Subdivision and Hamlet Business Centers Third Moratorium Extension Local Law of the Town of North Castle, New York.

Section 2. Legislative Intent.

The Town Board is concerned about the impact which residential development has been having in recent years upon the quality of North Castle's environment, the damage to the Town's natural resources, the loss of open space, the ability of the infrastructure of Town and special district facilities and services to adequately serve Town residents (including roads, water supply, sewage disposal, and educational, emergency, recreational and administrative services), the character of the community, and the health, safety and general welfare of the Town's residents. For these reasons, the Town Board has asked its Planning Consultant to conduct a study of recent Town development and the Town's present zoning and land development controls with the intent of preparing recommendations for change, within the framework of the Town's current Comprehensive Plan, which will mitigate these impacts, will better protect the Town's environment and its natural resources, will provide a better balance between the demand for new services and the ability of the Town and its various districts to deliver such services, will help to preserve open space and protect North Castle's attractive character, and will otherwise help to promote the health, safety and general welfare of its residents.

The Town Board is also concerned with respect to the nature, intensity, character, design and pattern of development in its three hamlet business centers, Armonk, North White Plains and Banksville, specifically including, but not limited to, increased traffic congestion, the inadequacy of available parking, the scale and character of new and expanded buildings, the adequacy of available sewerage and water supply facilities, and other similar related factors. For these reasons, the Town Board has asked its planning consultant to also study the present zoning and development pattern in the Armonk, North White Plains and Banksville hamlet areas with the intent of preparing recommendations for changes which will address these concerns and allow these business

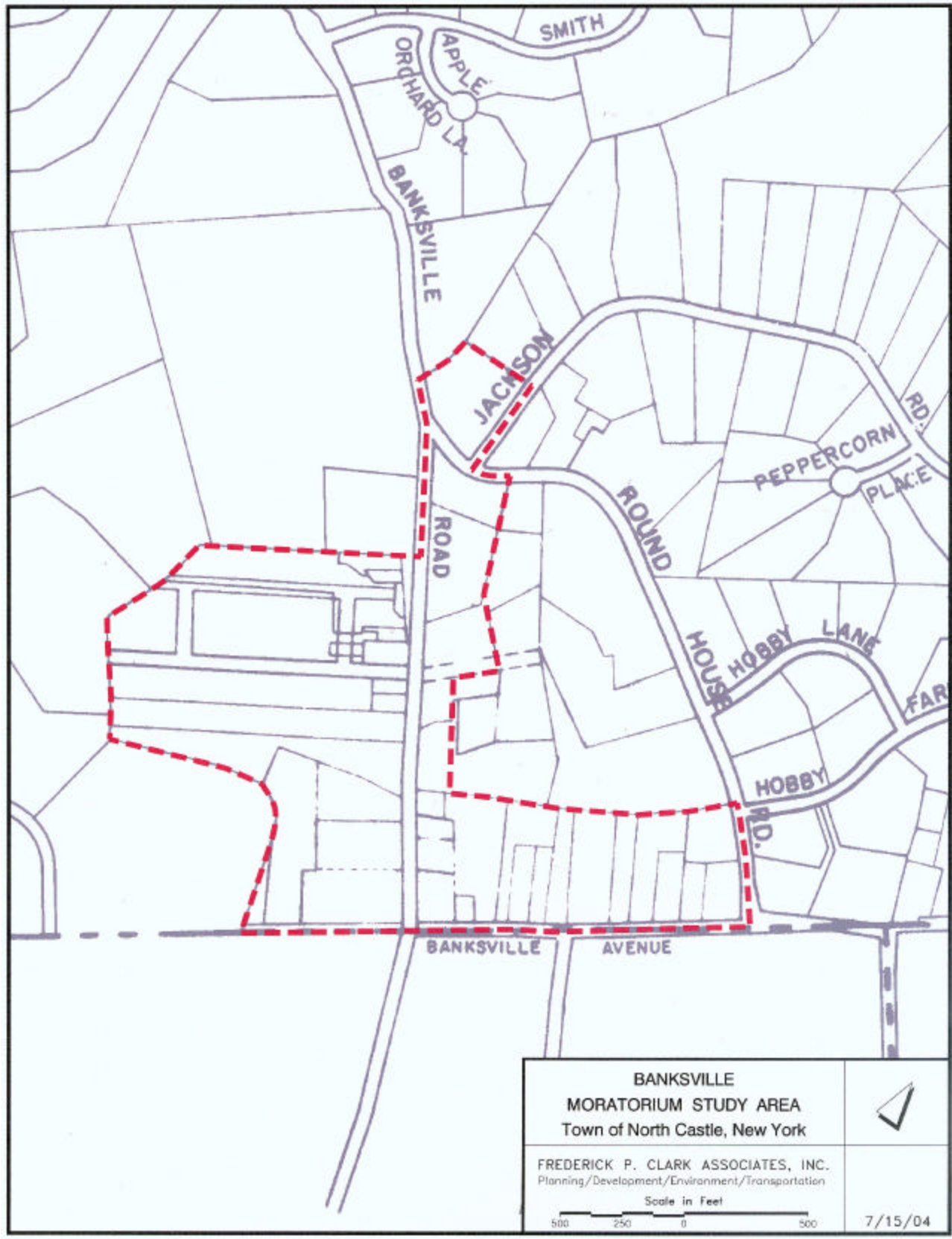
centers to properly, safely, efficiently, conveniently and attractively serve their function as a part of the greater North Castle community.

The Town Planning Consultant has completed its study with respect to the Hamlet Business Centers and proposes significant changes within the Banksville Hamlet area. Changes proposed within the Armonk and North White Plains Hamlet Centers relate primarily to the desire to better conform zoning district boundaries to existing patterns of land use, property boundaries and the Town Plan.

Therefore, this moratorium extension is specifically determined to be necessary in order to prevent the final approval of any further residential subdivisions Townwide and any new construction or large scale renovations in the Banksville business area until such time as the proposed new and/or amended zoning controls, land development and/or environmental protection regulations can be fully and carefully considered by the Town Board and other involved boards and agencies, as well as by the public, and then put into effect.

Section 3. Regulatory Controls.

For the period from August 11, 2006 through December 31, 2006, no residential subdivision application shall be granted final approval anywhere in the Town of North Castle. Also, for the period from August 11, 2006 through December 31, 2006, no site plan, special use permit, use variance or subdivision application shall be granted final approval if it involves any new construction or the renovation or alteration of any existing building which contains ten thousand (10,000) square feet or more of gross floor area and is located within the Banksville Moratorium Study Area, as shown on the maps on the following page. The provision allowing waiver of site plan approval by the Building Inspector, as set forth in § 213-34 of the Town Zoning Code, shall not be applicable during the period of this moratorium.



Section 4. Excluded Applications.

Any residential subdivision application which has been filed with the Planning Board of the Town of North Castle, New York on or prior to June 1, 2004 shall continue to be processed in accordance with all applicable zoning, land development and environmental regulations unless such application is withdrawn or is, in the opinion of the Planning Board, not being diligently pursued. Such applications are specifically identified as follows:

Cohen -	Round Hill Road	Section 1, Block 9, Lots 13 & 13-2
Massaro -	Custis Avenue	Section 6, Block 5, Lot 2-3
Scott -	Mianus River Road	Section 1, Block 7, Lot 4
Seven Springs -	Oregon Road/Sarles St.	Section 2, Block 6, Lot 1 & 2

Any application for the construction of Middle Income Units (MIU's), or for temporary uses requiring Town Board approval, shall continue to be processed in accordance with all applicable zoning, land development and environmental regulations.

Also excluded from this third moratorium extension shall be resubdivision applications and minor modifications or field changes to any previously granted approvals, provided such modifications do not increase density, either in terms of dwelling units or gross floor area.

Section 5. Review of New Applications.

Any applicant wishing to submit and proceed with the review and processing of an application whose final approval is precluded by this moratorium extension may do so at their own risk. Such applications may be reviewed, processed and otherwise considered by the appropriate boards, agencies and/or departments of the Town of North Castle having jurisdiction thereof during the timeframe of this moratorium extension, and any possible future extensions thereof, provided it is understood that such applications may ultimately not receive approval as the result of changes in applicable regulations.

Any applicant wishing to proceed in accordance with this provision must first acknowledge to the Town, in writing, that the applicant understands that: a) the applicant is proceeding at its own peril; b) there are no guarantees or assurances, either express or implied, that any application will be finally approved or granted; c) zoning changes and/or other Code changes may be implemented which would prevent or prohibit final approval of its application; d) all default approval provisions of the Town Law, having been superceded by this moratorium, shall not affect the application; e) all time limitations and deadlines as established in accordance with the State Environmental Quality Review Act (SEQRA) are tolled; and f) the applicant will not be entitled to any

indemnification or compensation of any kind in the event that its application is not finally approved or granted, either as proposed or in any other modified form.

Section 6. Appeal.

Any property owner may appeal to the Town Board for relief from the provisions of this moratorium extension and the Town Board shall have the power to grant such relief, or so much relief as said Board may determine to be necessary and appropriate. As a part of the appeal application, the applicant shall set forth the specific basis for the claimed hardship as it relates to this moratorium extension.

Any application for Town Board relief in accordance with the provisions of this section, shall include a detailed plan of the proposed development and any other information as may be deemed necessary or appropriate by the Town Board in order to properly consider and arrive at a determination with respect to the application. The application shall also be accompanied by a nonrefundable filing fee in the amount of \$500.

No application for relief may be filed unless and until the board, agency or official having approval authority with respect to the application shall submit a written statement to the Town Board indicating that the processing of the application has been completed except for the vote on final approval by said approval authority and that the approval authority intends to grant such approval if the request for relief is granted by the Town Board.

Before deciding on any such appeal, the Town Board shall conduct a public hearing with the same notice as required by law for zoning amendments. In arriving at its determination, the Town Board shall take into consideration whether the hardship has been self created, whether it is unique to the specific property for which relief is requested, whether the relief requested is the minimum necessary to overcome the claimed hardship, whether the benefit to the applicant if the requested relief is granted is not outweighed by any detriment to the health, safety and general welfare of the community, and whether the application for which the relief is requested is consistent with any proposed new or amended regulations, if and as such may exist at the time of the public hearing.

The decision of the Town Board on any such application for relief shall be final.

Section 7. Validity.

The invalidity of any word, section, clause, paragraph, sentence, part or provision of this Local Law shall not affect the validity of any other part of this Local Law which can be given affect without such invalid part or parts.

Section 8. Conflicting Standards.

Where the requirements of this Local Law impose a different restriction or requirement than imposed by other sections of the Code of the Town of North Castle, the Town Law of the State of New York or other applicable rules or regulations, the requirements of this Local Law shall prevail.

Section 9. Effective Date.

This Local Law shall take effect immediately upon its filing in the office of the Secretary of State and shall remain in full force and effect for the period from August 11, 2006 through December 31, 2006, unless terminated or further extended by action of the Town Board of the Town of North Castle, New York.

Dated: _____, 2006