

ISSUE DATE:  
**February 6, 2007**  
DECISION/ORDER NO:  
**0328**



Ontario

Ontario Municipal Board

Commission des affaires municipales de l'Ontario

07-205

**RECEIVED**

FEB 12 2007

LAW DEPARTMENT PL060769

IN THE MATTER OF subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Appellant: Diana McClure  
Subject: By-law No. 06-211  
Municipality: City of Hamilton  
OMB Case No.: PL060769  
OMB File No.: R060181

IN THE MATTER OF subsection 17(24) of the *Planning Act*, R.S.O. 1990, C. P. 13, as amended

Appellant: Diana McClure  
Subject: OPA No. 207  
Municipality: City of Hamilton  
OMB Case No.: PL060769  
OMB File No.: O060142

**APPEARANCES:**

Parties

Counsel

Diana McLure

City of Hamilton

N. Smith

**MEMORANDUM OF ORAL DECISION FROM A MEDIATION DELIVERED BY J. CHEE-HING ON JANUARY 27, 2007 AND ORDER OF THE BOARD**

Ms Diana McLure (appellant) and the City of Hamilton (respondent) are the parties to this mediation held on January 27, 2007. As a result of mediation both parties agreed to Minutes of Settlement. On consent of both parties the meditation was converted to a hearing into the minutes of settlement. This member reviewed the minutes of settlement and found them to represent good planning and to be in the broader public interest.

Accordingly, the **BOARD ORDERS** that:

1. On the matter of OPA No. 207, the appeal is dismissed and Amendment No. 207 to the City of Hamilton's Official Plan is approved; and

2. On the matter of Zoning By-law No. 06-211, the appeal is allowed and Zoning By-law No. 06-211 is hereby amended in the manner as set out in Attachment 1. The Board authorizes the municipal clerk to assign a number to this by-law for record keeping purposes.

These are the Orders of the Board.

"J. Chee-Hing"

J. CHEE-HING  
MEMBER

Attachment 1

PL060759

Authority: Ontario Municipal Board Order

CITY OF HAMILTON

BY-LAW NO. \_\_\_\_\_

To amend Zoning By-law No. 6593 as amended by By-law No. 06-211  
Respecting Lands Located at 281 Herkimer Street

Whereas By-law 06-211 was passed by the City of Hamilton on July 12, 2006;

And Whereas Diana McClure appealed By-law 06-211 to the Ontario Municipal Board;

And Whereas Diana McClure and the City of Hamilton agreed to resolve the appeal in accordance with this amendment;

And Whereas the Ontario Municipal Board approved the terms of settlement in accordance with this amendment;

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. That the Preamble of By-law 06-211 be amended by adding the following paragraph:

AND WHEREAS permitting commercial uses furthers the preservation of the cultural heritage values associated with this property, including but not limited to

- the introduction of branch banking in the late 19<sup>th</sup> and early 20<sup>th</sup> Century
- the original architectural configuration of the one-storey bank branch building being intact
- the building, its composition, layout, design and materials, being an excellent example of early 20<sup>th</sup> Century branch-type banking—an extremely well-preserved example of Edwardian architecture.

2. That Section I of By-law 06-211 be deleted and the following substituted:

Sheet No. W-14 of the District Maps, appended to and forming part of By-law No. 6593 (Hamilton), is amended,

- (a) by changing from the "D" (Urban Protected Residential – One and Two Family Dwellings, etc.) District to "D"

**(Urban Protected Residential – One and Two Family Dwellings, etc.) District, Modified.**

3. That all references to the "H" (Community Shopping and Commercial, etc.) District and the associated regulations as contained in Section 14 of Zoning By-law 6593 be deleted and replaced with "D" (Urban Protected Residential – One and Two Family Dwellings, etc.) District, Modified and the associated regulations as contained in Section 10 of Zoning By-law 6593.
4. That Section 2 (a) of By-law 06-211 be amended by deleting "daycare" as a permitted use.
5. That Section 2 (d) and (e) of By-law 06-211 be deleted and the following substituted:
  - (d) That notwithstanding any provision of Zoning By-law No. 6593, the rear yard and side yards shall provide landscaping and parking in substantial accordance with Schedule "B" attached, specifically providing two (2) angled parking spaces and landscaping as indicated.