



**SUBJECT:** Statutory Public Meeting and Report Recommending Approval  
of an Official Plan and Zoning By-law Amendment at 452 and  
454 Locust Street, 1437 and 1445 Elgin Street

**TO:** Planning and Development Committee

**FROM:** Department of City Building - Planning Building and Culture

Report Number: PB-45-18

Wards Affected: 2

File Numbers: 505-05/17 and 520-13/17

Date to Committee: May 14, 2018

Date to Council: May 22, 2018

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### **Recommendation:**

Approve a modified version of the application submitted by Saxony Developments Inc. to amend the Official Plan and Zoning By-law to permit a seven storey mixed-use development consisting of ground floor commercial, 60 residential units and mechanical penthouse and rooftop amenity on the seventh storey on the basis that it conforms to the Provincial Policy Statement, the Places to Grow Act and the Regional Official Plan; and,

Approve Amendment No. 112 to the City of Burlington Official Plan, as contained in Appendix B of Report PB-45-18, to designate the subject lands "Downtown Mixed Use Centre with site specific policy", to permit a six storey mixed-use development consisting of ground floor commercial and 60 residential units; and,

Deem that Section 17(21) of The Planning Act has been met; and,

Instruct the City Clerk to prepare the necessary by-law adopting Official Plan Amendment No. 112 as contained in Appendix B of Report PB-45-18; and,

Approve Zoning By-law 2020.XXX, attached as Appendix C of report PB-45-18, rezoning the lands at 452 and 454 Locust Street, 1437 and 1445 Elgin Street from "DC-348" to "DC-481".

Deem that the amending zoning by-law will conform to the Official Plan for the City of Burlington once Official Plan Amendment No. 112 is adopted; and,

State that the amending zoning by-law will not come into effect until Official Plan Amendment No. 112 is adopted.

<b>RECOMMENDATION:</b>		<i>Modified Approval</i>	<b>Ward No.:</b>	<b>2</b>
<b>Application Details</b>	<b>APPLICANT:</b>  <b>OWNER:</b>  <b>FILE NUMBERS:</b>  <b>TYPE OF APPLICATION:</b>  <b>PROPOSED USE:</b>	<i>Greg Poole, Greg Poole &amp; Associates Inc.</i>  <i>Saxony Developments Inc.</i>  <i>505-05/17 and 520-13/17</i>  <i>Official Plan &amp; Zoning By-law Amendment</i>  <i>7-storey mixed use building with one floor of commercial and residential, five floors of residential, and additional space on top of the sixth floor for mechanical penthouse and rooftop amenity.</i>		
<b>Property Details</b>	<b>PROPERTY LOCATION:</b>  <b>MUNICIPAL ADDRESS:</b>  <b>PROPERTY AREA:</b>  <b>EXISTING USE:</b>	<i>North side of Elgin Street, between Locust Street and Blathwayte Lane</i> <i>452-454 Locust Street, 1437 and 1445 Elgin Street</i>  <i>0.25 ha</i>  <i>Vacant</i>		
<b>Documents</b>	<b>OFFICIAL PLAN Existing:</b>  <b>OFFICIAL PLAN Proposed:</b>  <b>ZONING Existing:</b>  <b>ZONING Proposed:</b>	<i>Downtown Mixed-Use Centre</i>  <i>Downtown Mixed-Use Centre with site specific policy</i>  <i>Downtown Core – Site Specific Exception (DC-348)</i>  <i>Downtown Core – Site Specific Exception (DC-481)</i>		
<b>Processing Details</b>	<b>NEIGHBOURHOOD MEETING:</b>  <b>PUBLIC COMMENTS:</b>	<i>January 11, 2018</i>  <i>Staff have received 16 emails.</i> <i>Note: Some constituents sent multiple pieces of correspondence.</i>		

## **Purpose:**

Applications have been submitted requesting amendments to the City's Official Plan and Zoning By-law 2020 for the subject property in order to permit a six storey 60-unit mixed-use development. Appendix A contains sketches showing the proposed development.

The applicants are proposing to amend the Official Plan ("Downtown Mixed Use Centre") and Zoning By-law ("Downtown Core – Site Specific Exception (DC-348)") to permit the proposed seven storey mixed use building with a density of 240 units per hectare.

The development proposal aligns with the following objective in Burlington's Strategic Plan 2015-2040:

### **A City that Grows**

- Intensification
  - 1.2 d) Transitioning neighbourhoods are being designed to promote easy access to amenities, services, recreation and employment areas with more opportunities for walking, cycling and using public transit; and,
  - 1.2 h) Burlington has a downtown that supports intensification and contains green space and amenities, has vibrant pedestrian-focused streets, is culturally active and is home to a mix of residents and businesses.
- Focused Population Growth
  - 1.3 a) Burlington is an inclusive and diverse city that has a growing proportion of youth, newcomers and young families and offers a price range and mix of housing choices.

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## **Background and Discussion:**

### **Site Description:**

The subject property is located on the north side of Elgin Street between Locust Street and Blathwayte Lane. The property has an area of 0.25 hectares (0.62 acres). The site is currently vacant; however excavation of the lands is currently underway. Surrounding land uses include the following:

North: Office uses in converted single detached dwellings fronting onto Locust Street, residential townhouses fronting onto Blathwayte Lane

East: City Hall and two-storey commercial units

South: Burlington Performing Arts Centre

West: St. Luke's Close Seniors Apartments

### **Description of Application and History:**

A Site Plan application was submitted to the City in 2015. The application proposed a five-storey, 37 unit mixed-use building with the fifth floor being used for mechanical penthouse and amenity area. In order to facilitate the proposed development, a number of minor variances were required. The applicant obtained approval of the minor variances from the Committee of Adjustment and subsequently obtained draft Site Plan approval for the five-storey proposal. A copy of the Committee of Adjustment meeting minutes with a list of previously approved variances is attached as Appendix "D".

On November 7, 2017, the Department of City Building acknowledged that a complete application had been received for an Official Plan Amendment and Zoning By-law Amendment to facilitate an additional two storeys to the previously proposed five storey building. The rooftop includes a mechanical penthouse and amenity area. Both the indoor areas and the outdoor patio on top of the sixth floor will be located near the corner of Locust Street and Elgin Street in order to mitigate privacy impacts on adjacent residential developments. The location of the subject lands and a detail sketch are illustrated in Appendix A.

The current Official Plan designation on the subject lands is "Downtown Mixed Use Centre" in accordance with Schedule "B" of the Official Plan. The lands are more specifically designated as "Downtown Core Precinct" and are subject to the specific policies listed in Part III, Section 5.5.8.1 of the City's Official Plan. The current zoning is "Downtown Core with site specific exception (DC-348)". The applicant is proposing to construct one storey of commercial and residential units, five storeys of residential units only and an additional storey consisting of a mechanical penthouse and amenity area. It should be noted that the additional area proposed on top of the sixth storey is the same as the previously approved rooftop mechanical penthouse and amenity area; however it would be two floors higher than the original approval. Site specific amendments to the Official Plan and Zoning By-law are required to facilitate the proposal.

The proposed building will have frontage on Locust Street, Elgin Street and Blathwayte Lane. Commercial units are proposed along the Locust Street frontage only; along with six ground floor residential units fronting onto Elgin Street and Blathwayte Lane. Residential units are proposed on floors 2 to 6, for a total of 60 units. The application also proposes three levels of underground parking, which would be accessed from Locust Street. It should be noted that the three levels of underground parking and the rooftop amenity area were approved through the previous Site Plan application process and construction is currently underway. No surface parking is proposed. The proposed

density for the development is 240 units per hectare, and the proposed Floor Area Ratio (FAR) is 4.6:1.

Information report PB-26-18, including all public comments received up until the date of the writing of the report, was presented to the Planning and Development Committee on April 4, 2018, when a Statutory Public Meeting was held.

Throughout the process, the applicant met with both staff and the public on numerous occasions. In March of 2018, the applicant submitted revised applications. The revised applications addressed some concerns that were raised by the public related to the design of the building and added terracing and landscape screening, which will be discussed in further detail within this report.

This report provides details of the application and an analysis of the proposal against applicable policies and regulations. Agency comments from the technical circulation are included. It is recommended that the site be designated “Downtown Mixed-Use Centre with Site Specific Policy” in the City’s Official Plan, and that the property be rezoned from “Downtown Core with Site Specific Exception (DC-348)” to “Downtown Core with Site Specific Exception (DC-481)”, with modified zoning regulations. Staff are recommending increased setbacks above the 5<sup>th</sup> and 6<sup>th</sup> floors abutting Blathwayte Lane and are recommending that balconies within the terraced portions of the fifth and sixth storeys incorporate landscape screening. This is to provide some visual space between the three storey St. Luke’s Close, the two storey townhouses to the north, and the proposed mixed-use building.

The following documents were submitted as part of the application:

- [Planning Justification Report](#) (prepared by Greg Poole & Associates Inc., dated December 2017)
  - This document outlines details of the proposal, including the site context and applicable policy framework.
- [Site Plan](#) (prepared by Roderick Lahey Architect Inc., revision dated March 6, 2018)
  - The Site Plan drawing depicts the proposed site design, site statistics and development standards.
- [Phase II Environmental Site Assessment](#) (prepared by Hallex Environmental Limited, dated September 28, 2017)
  - This document outlines the existing site conditions and notes that no further environmental site assessment work is considered to be necessary.
- [Noise Impact Brief](#) (prepared by DBA Acoustical Consultants Inc., dated September 11, 2017)

- This brief is an addendum to the Noise Study that was reviewed at the prior Site Plan application process and indicates that two additional residential floors (to the previously approved four floors) would be an improvement for existing residences as the HVAC units would be located two storeys higher and therefore further away from existing development. Noise mitigation measures will still be required and implemented through the Site Plan process.
- [Urban Design Brief](#) (prepared by GSP Group and Roderick Lahey Architect Inc., dated September 2017)
  - This document describes the proposal and provides justification as to how the proposed design is compatible with existing development.
- [5<sup>th</sup>](#) and [6<sup>th</sup> Floor Plans](#) (dated September 2017)
  - Floor Plans were submitted for the additional two proposed storeys and outline the extent and layout of the proposed units.
- [Shadow Study](#) (prepared by GSP Group, dated February 2018)
  - The Shadow Study depicts the proposed shadow impact on surrounding development. The study compares the shadow impact of the previously approved four storeys with the impact of the two additional storeys. The study concludes that very little additional shadowing is proposed.
- [Perspective Drawings](#) (prepared by Roderick Lahey Architect Inc., dated February 2018)
  - The perspective drawings show proposed design changes made by the applicant, which are outlined further in this report.

## **Discussion:**

### **Policy Framework**

The proposed Official Plan Amendment and Zoning By-law Amendment are subject to the following policy framework: the Provincial Policy Statement 2014, Places to Grow: Growth Plan for the Greater Golden Horseshoe (Growth Plan), the Halton Regional Official Plan, the City of Burlington Official Plan, and Zoning By-law 2020, as amended.

### **Provincial Policy Statement (PPS) 2014**

The Provincial Policy Statement provides broad policy direction on land use planning and development matters of provincial interest. The PPS provides policies for appropriate development based on efficient use of land and infrastructure, protection of natural resources, and supports residential and employment development including a mix of land uses. The Provincial Policy Statement promotes intensification, but also requires that a municipality determine the appropriate locations for intensification and the appropriate standards to apply to intensification.

Subsection 1.1.1 e) of the Provincial Policy Statement states that healthy, livable and safe communities are sustained by *“promoting cost-effective developments and standards to minimize land consumption and servicing costs”*; and subsection 1.1.3.2 a) 2) states that land use patterns within settlement areas shall be *“appropriate for, and efficiently use, the infrastructure and public service facilities which are planned or available, and avoid the need for their unjustified and/or uneconomical expansion”*.

Adequate servicing exists for the proposed development, and the proposal is a more compact built form. Further, the proposed development seeks to intensify a property that has the existing potential for redevelopment and intensification. As such, existing infrastructure and land can be used efficiently and responsibly.

Policy 1.1.3.3 states that planning authorities must *“identify appropriate locations and promote opportunities for intensification and redevelopment where this can be accommodated taking into account existing building stock or areas, including brownfield sites, and the availability of suitable existing or planned infrastructure and public service facilities required to accommodate projected needs”*.

This policy states that a municipality is to identify appropriate locations for intensification while considering the characteristics of the location and the availability of infrastructure and public services. The subject lands are located within the Downtown Core, and adequate infrastructure is available to support the proposed development. Staff are of the opinion that the subject lands are an appropriate location for the proposed development.

Subsection 1.1.3.4 of the Provincial Policy Statement requires planning authorities to promote appropriate development standards *“which facilitate intensification, redevelopment and compact form, while avoiding or mitigating risks to public health and safety”*.

The City of Burlington Official Plan contains a set of evaluation criteria for intensification that must be carefully considered. These criteria help to ensure that development does mitigate risks to public health and safety. The proposed development is analyzed in accordance with the City’s intensification policies further in this report, and staff are of the opinion that the criteria are met if the proposal is modified as recommended.

Subsection 1.4.3 e) states that *“planning authorities shall provide for an appropriate range and mix of housing types and densities to meet projected requirements of current and future residents of the regional market area by establishing development standards for residential intensification, redevelopment and new residential development which minimize the cost of housing and facilitate compact form, while maintaining appropriate levels of public health and safety”*, and, in subsection 1.4.3 d), *“promoting densities for new housing which efficiently use land, resources, infrastructure and public service*

*facilities, and support the use of active transportation and transit in areas where it exists or is to be developed”.*

The proposed development supports population growth and intensification and contributes to the establishment of a range and mix of housing types. The proposed changes to the Zoning and Official Plan will support compact built form while having regard for public health and safety. The development proposal will also promote walkability by providing ground level commercial uses that will improve the pedestrian experience.

The City of Burlington has established development standards for residential intensification through the Intensification Evaluation Criteria in its Official Plan. This application, as modified, has been assessed against these criteria and meets them if modified as recommended by staff. The development proposal is consistent with the PPS as it facilitates intensification in the built-up area, accommodates an appropriate range of uses to meet long-term needs of the community and proposes to use existing infrastructure.

### **Growth Plan for the Greater Golden Horseshoe**

The Growth Plan for the Greater Golden Horseshoe came into effect on July 1, 2017 and provides a growth management policy direction for the defined growth plan area. Through the Growth Plan, growth is focused in the existing urban areas through intensification. The guiding principles of the Growth Plan include building compact, vibrant and complete communities, and optimizing the use of existing and new infrastructure to support growth in an efficient, well-designed form.

Subsection 2.2.1.2 a) of the Growth Plan states that *“the vast majority of growth will be directed to settlement areas that have a delineated built boundary; have existing or planned municipal water and wastewater systems; and can support the achievement of complete communities”.*

The application proposes to intensify an existing property. The subject property is located in an area which is comprised of a mix of uses, and the proposed development would contribute to a complete community. The proposed mixed use building would use existing infrastructure and would be promoting growth and intensification within the urban area.

Part 2.2.2, Delineated Built-up Areas, Policy 4 states that *“all municipalities will develop a strategy to achieve the minimum intensification target and intensification throughout the delineated built-up areas, which will:... identify strategic growth areas to support achievement of the intensification target and recognize them as a key focus for development”.*



Part 5, Section 5.2.5(6) states that *“In planning to achieve the minimum intensification and density targets in this Plan, municipalities will develop and implement urban design and site design official plan policies and other supporting documents that direct the development of a high quality public realm and compact built form”*.

The property is in an identified “Downtown Core Precinct” within the City’s Official Plan. This land use designation allows for a mix of uses and encourages intensification. The Official Plan also contains intensification policies, discussed in further detail in this report, which assist in determining which areas are appropriate for intensification. Staff find the subject application is consistent, as modified, with the Growth Plan as it supports a compact and efficient development form as well as a complete community.

While the Burlington Official Plan is supportive of potential growth and intensification, it must also be compatible with the character of the existing neighbourhood. The proposed development meets the evaluation criteria for intensification projects in the City and is therefore consistent with the Places to Grow Act.

### **Halton Region Official Plan (ROP)**

The subject lands are designated “Urban Area” within the Regional Official Plan. Urban areas are locations where urban services (water and wastewater) are or will be made available to accommodate existing and future development. The Regional Official Plan states that permitted uses shall be in accordance with local Official Plans and Zoning By-laws and other policies of the Regional Official Plan.

Objective 78(1) of the Regional Official Plan is to *“provide an urban form that is complementary to existing developed areas, uses space more economically, promotes live-work relationships, fosters social interaction, enhances public safety and security, reduces travel by private automobile, promotes active transportation and is environmentally more sustainable”*.

As previously mentioned, the City developed evaluation criteria for intensification proposals based on the above-noted requirements, among others. Staff are of the opinion that the applicant has worked with staff and the public to ensure that the proposed built form can be compatible with the variety of land uses surrounding the subject lands; which include residential uses; commercial uses; Burlington City Hall and the Burlington Performing Arts Centre. The building will relate to the street and will help to foster social interaction and promote live-work relationships. By promoting walkability (which will be further enhanced at the Site Plan stage where the City’s forthcoming Downtown Streetscape Guidelines will be implemented), public safety and security will be enhanced. The proposed development is in proximity to several bus routes and is within walking distance to a range of land uses including retail, restaurants and parks. This will both reduce travel by private automobile and promote active transportation.

Policy 81(6) of the Regional Official Plan requires that local municipalities “*ensure the proper integration of Intensification Areas with surrounding neighbourhoods through pedestrian walkways, cycling paths and transit routes and the protection of the physical character of these neighbourhoods through urban design*”. The proposed development is located within the city’s downtown core. In this area pedestrian connectivity, transit and the character of neighbourhoods are of particular importance. The proposal has regard for contributing to a vibrant downtown by providing for ground floor commercial uses, but respects the adjacent historic neighbourhood character. Staff are recommending that the application incorporate changes to the design, such as terracing and screening, to mitigate potential negative impacts such as sun-shadowing and privacy, through the modified approval.

In order to enforce the compatibility of the proposed development in the context of the surrounding area, the City’s Official Plan contains Evaluation Criteria for intensification. A full analysis of the proposal in relation to the Evaluation Criteria is included in the City of Burlington Official Plan section of this report.

Policy 86(6) of the Regional Official Plan requires that “*at least 50 per cent of new housing units produced annually in Halton be in the form of townhouses or multi-storey buildings*”.

The proposed development is for a multi-storey mixed use building, which is also a permitted form of development within the City of Burlington Official Plan. As such, the proposed development meets this criteria.

For the reasons noted above, staff are of the opinion that the proposed development is in keeping with the Halton Region Official Plan; and that the City’s evaluation criteria for intensification proposals help to implement these policies.

### **City of Burlington Official Plan**

The subject lands are located within the “Downtown Core Precinct” of the “Downtown Mixed-Use Centre” designation of the City’s Official Plan. This designation allows for commercial uses; high-density residential uses (including the residential use of upper storeys of commercial buildings); cultural uses; recreation and hospitality uses; entertainment uses and community facilities. The Official Plan allows for a maximum height of four storeys, in accordance with Part III, Section 5.5.8.2 j) of the Official Plan; and a maximum Floor Area Ratio (FAR) of 4.0:1. This policy states that “*development within the north-west quadrant of Elgin Street and Locust Street shall have a minimum height of two storeys and a maximum height of four storeys, to ensure compatibility with the existing residential uses to the north and west*”. As the policy suggests, the intent is to ensure that the development of this quadrant is compatible with the immediately adjacent residential development and its established character. For reasons discussed

further in this section of the report, staff are of the opinion that the proposed development is compatible with the surrounding area, and that the impacts caused by the additional storeys, which will also be discussed, will be addressed through the recommended modified approval. Staff are supportive of the applicant's request for a six storey building with an additional storey of mechanical rooftop and rooftop amenity in accordance with the modifications outlined in this report.

The Official Plan contains criteria that must be assessed when considering proposals for housing intensification. This proposal represents intensification of a property adjacent to an existing residential neighbourhood. Criteria found in subsection 2.5.2 (a) of the Official Plan), include the following:

- i) Adequate municipal services to accommodate the increased demands are provided, including such services as water, wastewater and storm sewers, school accommodation and parkland.*

The site is located in the urban area and servicing is available. The Region of Halton has provided comments on the proposal and notes that the Functional Servicing Report submitted by the applicant is adequate and that appropriate measures will be taken to service the proposed development.

According to the Halton District School Board, students generated from the proposed development can be accommodated at Central Public School and Burlington Central High School with minimum impact to the facility. Similarly, the Halton Catholic District School Board has noted that students can be accommodated at St. John Catholic Elementary School and Assumption Catholic Secondary School. Other area schools may be able to accommodate new residents using portables.

Parks and Open Space staff have noted that adequate parkland is available to accommodate the development as Apeldoorn Parkette and Brock Park are located within a 0.8 kilometre distance from the site for a neighbourhood park and Spencer Smith Waterfront Park and Maple Park are located within the 0.8 kilometre to 2.4 kilometre distance for a city/community park. As such, cash-in-lieu of parkland dedication will be required at the Site Plan stage.

It should be noted that adequate parkland exists in the area for the new dwelling units proposed, and existing schools can accommodate the increase in residents.

- ii) Off-street parking is adequate.*

The applicant is not requesting a reduction in the required parking. The Zoning By-law requires 1.25 spaces per residential unit, for a total of 75 spaces; however the applicant is proposing 132 underground parking spaces. Neither the Official Plan nor the Zoning By-law require on-site parking for non-residential uses. In addition, there are multiple

paid parking lots in the vicinity. Staff are of the opinion that off-street parking is adequate.

- iii) The capacity of the municipal transportation system can accommodate any increased traffic flows, and the orientation of ingress and egress and potential increased traffic volumes to multi-purpose, minor and major arterial roads and collector streets rather than local residential street.*

The City's Transportation section has reviewed the proposal and notes that there is no issue with the proposed development from a traffic perspective. The proposal was reviewed in detail at the Site Plan stage. When the applicant made the subject Official Plan Amendment and Zoning By-law Amendment applications for an additional two storeys, Transportation staff indicated that a revised Traffic Report would not be required.

- iv) The proposal is in proximity to existing or future transit facilities.*

Bus routes, including bus stops, currently exist along Ontario Street, Brant Street and other streets throughout the downtown. Additionally, a central bus terminal exists on John Street, providing increased connectivity throughout the City and to Hamilton.

- v) Compatibility is achieved with the existing neighbourhood character in terms of scale, massing, height, siting, setbacks, coverage, parking and amenity area so that a transition between existing and proposed buildings is provided.*

The area surrounding the subject lands is characterized by a variety of types of development; including low, medium and high-density residential uses, commercial uses, City Hall and the Burlington Performing Arts Centre. Various building heights also exist in the area. City Hall, located to the north of the subject lands, is 33 metres high; whereas the townhouse units on Blathwayte Lane, to the west of the subject lands, are approximately 8 metres high. The proposed development would be 22 metres high with an additional 3.5 metres for the mechanical penthouse and rooftop amenity area; a similar height to the Burlington Performing Arts Centre located at 440 Locust Street. The heights noted are based on a Building Height Survey which was prepared by an Ontario Land Surveyor and submitted by the applicant as part of the development application. Due to the variety of built forms and development types, the proposed development would not be out of character with respect to its height or the proposed use.

The proposed development does not require setbacks under the current zoning, with the exception of the portion of the north side yard abutting a residential zone; however the applicant has provided building setbacks. 0.2 metres are proposed abutting Locust Street; 1 metre abutting Elgin Street; 1.9 metres abutting Blathwayte Lane (for storeys one to four) and 3 metres abutting the north side yard (for storeys one to four). These setbacks help to reduce the impacts of the massing and the coverage. Also, because

the subject property is on the periphery of an established residential neighbourhood, the setbacks help to provide a transition to the Downtown Core.

In terms of the scale of the proposed building, the intent of the minimal setbacks is to create a pedestrian-friendly scale; however the setbacks create a balance between pedestrian scale and having regard for adjacent residential development. Design features such as lighting and landscaping are proposed in order to assist with creating this pedestrian scale, however the future Site Plan application will enforce the inclusion of these elements. At the previous Site Plan stage, the applicant committed to complying with the City's Downtown Streetscape Guidelines, which are not yet complete, and it should be noted that the applicant will be held to the same requirements at the future Site Plan stage.

The applicant has proposed a number of design changes in order to ensure compatibility and mitigate negative effects of the massing and coverage of the additional storeys on those buildings in direct proximity to the subject development. These changes include the terracing of upper storeys of the building, frosted glass railings for balconies and landscape screening to prevent overlook into adjacent yards. These changes will assist in transitioning from the existing residential uses and will increase privacy for existing residents. The applicant has worked to address concerns by the public related to the design of the building, and has redesigned parts of the proposed building accordingly. Planning staff are recommending some additional terracing adjacent to Blathwayte Lane and to the north, as discussed later in the report.

Each unit will have amenity area in the form of an individual balcony, and the ground floor units will have at-grade patios as well as a rooftop terrace at the corner of Elgin Street and Locust Street. The location of the amenity area on the roof is at this corner in order to provide a minimal privacy impact on adjacent development.

It is the opinion of staff that the proposed development is compatible with the existing neighbourhood in terms of its scale, massing, height, siting, setbacks, coverage, parking and amenity area and provides an acceptable transition from the subject lands, located within the Downtown Core Precinct of the Official Plan, to the existing neighbourhood.

*vi) Effects on existing vegetation are minimized, and appropriate compensation is provided for significant loss of vegetation, if necessary to assist in maintaining neighbourhood character.*

The City's Landscaping and Forestry staff reviewed the application in detail at the Site Plan stage. While the proposal is to build additional storeys, the comments relate to the ground floor and as such, will not change. Landscaping and Forestry staff noted that they have no issues with the proposal. Landscaping details will be confirmed at the Site Plan stage.

*vii) Significant sun-shadowing for extended periods on adjacent properties, particularly outdoor amenity areas, is at an acceptable level.*

A shadow study was done to compare the shadow impact of the previously approved four storeys with an additional floor for mechanical penthouse and amenity area to the shadow impact of an additional two floors. The main concerns that staff heard from residents were with respect to shadow impacts on Blathwayte Lane, particularly on the St. Luke's Close Seniors' Residence, and the townhouses to the north of the subject lands.

The submitted shadow study shows that the proposed building has no shadow impact on the St. Luke's Close building, with the exception of the early morning in June 21, where the shadow grazes the building. The townhouse units to the north will experience some shadowing, with the greatest impacts being early in the day; however the impact will not be significantly exacerbated with the additional two storeys proposed. Staff are satisfied that the added effects are minimal. Increased terracing is recommended in order to reduce the effects of sun-shadowing even further.

*viii) Accessibility exists to community services and other neighbourhood conveniences such as community centres, neighbourhood shopping centres and health care.*

The subject lands are located within the "Downtown Mixed Use Corridor" designation of the Official Plan, which permits a large range of uses. Given the proximity of the site to these uses, accessibility will exist for future residents of the proposed development.

*ix) Capability exists to provide adequate buffering and other measures to minimize any identified impacts.*

Buffering will be provided in the form of terracing and design features implemented to mitigate the potential negative effects of the proposed building on adjacent landowners. These design changes will assist in reducing the massing of the building as well as the shadowing. The number of balconies abutting residential properties has been reduced in order to increase privacy for residents. The site design and details of buffers will be reviewed and required at the future Site Plan stage.

The applicant has provided setbacks to property lines whereas none are required abutting a street. This provides increased buffering. The applicant is proposing to provide, for the first four storeys, a 0.2 metre setback abutting Locust Street, 1 metre abutting Elgin Street, 1.9 metres abutting Blathwayte Lane and 3 metres abutting the north side yard. Additional terracing will be provided for portions the fifth and sixth storeys.

The applicant is proposing terracing along Blathwayte ranging from 2 metres on the fifth and sixth storeys along the north part of the property abutting Blathwayte Lane, and 2.7

metres on the sixth storey along the southern portion. This is a modification that staff and the applicant have discussed, and staff is satisfied with these terraced setbacks. In addition, 3.6 metres of terracing on the fifth and sixth storeys at the northwest corner of the building and 3.6 metres on the sixth storey at the northeast corner of the building is also proposed by the applicant.

Staff are recommending that modified approval be given to ensure that balcony encroachments within the terraced portions of the building noted above include landscape screening to prevent overlook into adjacent yards. The setbacks for the first four storeys combined with the proposed terracing and the additional terracing requested by staff will help to provide buffering and minimize negative impacts.

- x) Where intensification potential exists on more than one adjacent property, any redevelopment proposals on an individual property shall demonstrate that future redevelopment on adjacent properties will not be compromised, and this may require the submission of a tertiary plan, where appropriate.*

The subject lands are on a corner lot and the proposed development represents a consolidation of land. The proposal does not prevent any of the surrounding properties from being developed.

- xi) Natural and cultural heritage features and areas of natural hazard are protected.*

Not applicable – no natural and cultural heritage features on this site.

- xii) Where applicable, there is consideration of the policies of Part II, Subsection 2.11.3, g) and m).*

Not applicable – These sections relate to measures to address potential increased downstream flooding or erosion resulting from development occurring in South Aldershot. Neither is applicable to this application.

- xiii) Proposals for non-ground oriented housing intensification shall be permitted only at the periphery of existing residential neighbourhoods on properties abutting, and having direct vehicular access to, major arterial, minor arterial or multi-purpose arterial roads and only provided that the built form, scale and profile of development is well integrated with the existing neighbourhood so that a transition between the existing and proposed residential buildings is provided.*

The proposal is located at the periphery of an existing residential neighbourhood which extends north on Locust Street and Blathwayte Lane. The proposed development has been designed in such a way that respects the low and medium density residential development in the adjacent St. Luke's Precinct, and relates to the higher and more dense developments such as the Burlington Performing Arts Centre and Burlington City

Hall. The proposal seeks an additional two storeys to the four storeys which have already been approved through Site Plan and Committee of Adjustment processes. The additional two storeys would be terraced and have regard for transition to surrounding development. Staff are of the opinion that the development is on the periphery of the existing residential neighbourhood and that transition between existing and proposed development is provided.

### **City of Burlington Proposed New Official Plan**

The proposed new Official Plan has been developed to reflect the opportunities and challenges facing the City as it continues to evolve. The City's proposed new Official Plan reflects Council's vision and as such, should be acknowledged as part of the proposal.

The subject lands are designated "Downtown Urban Centre" in accordance with "Schedule C – Land-Use Urban Area". The Downtown Urban Centre is further divided into precincts which recognize areas with common characters or objectives for land uses and built form. The subject properties are located within the "Bates Precinct", in accordance with "Schedule D – Land Use – Downtown Urban Centre", but are located within a "Special Planning Area".

Subsection 8.1.1(3.6.2) b) of the New Official Plan states that *"development within the Bates Special Planning Area shall be permitted up to a maximum height as approved by the City through a site-specific Official Plan Amendment application"*. The proposed additional height has been reviewed in detail, as described in this report, and a site-specific Official Plan Amendment has been applied for. If approved, the proposed development would be in keeping with this requirement.

Staff have reviewed the Provincial Policy Statement, the Places to Grow Act and note that intensification is encouraged subject to appropriate standards. The City's Official Plan contains evaluation criteria for intensification, which staff have carefully considered above as part of the Official Plan analysis, and the proposal is in keeping with the Proposed New Official Plan. Staff conclude that the proposal is appropriate and compatible and is in keeping with the requirements of the senior level plans.

### **Zoning By-law 2020**

The property is zoned "Downtown Core with site-specific exception (DC-348)" in accordance with Zoning By-law 2020. The "Downtown Core (DC)" Zone permits various retail commercial; office; community; hospitality; entertainment and recreation; and residential uses. This zone permits a maximum height of four storeys and a maximum Floor Area Ratio of 4.0:1. The site specific exception permits a freestanding restaurant in addition to the above. In order to facilitate the proposed use, the applicant is required to rezone the subject lands. The proposed development does not comply with these



regulations, among others, and a Zoning By-law Amendment application is required. The following table outlines the requirements of the proposed DC Zone as well as the proposed site specific exception requested by the applicant, followed by a staff comment.

Regulation	Existing DC-348 Zoning Requirement	Proposed	Staff Comment
Yard Abutting Locust Street:	0 m	0.2 m*	Setbacks on this site are not required, except where abutting a DRL Zone where the requirement is 3 metres (which has been provided). The applicant is providing setbacks in order to facilitate a development that is more compatible with surrounding residential areas.
Yard Abutting Elgin Street:	0 m	1 m*	
Yard Abutting Blathwayte Lane	0 m	1.9 m*	
Storeys 1-4:	N/A	1.9 m (3.9 at the north side of the building, 1.9 and 4.6 m on the fifth and sixth storeys, respectively, at the south side of the building with the exception of the rounded architectural feature)	These setbacks provide for a greater buffer between the proposed development and the existing surrounding development. Further, the proposal will be terraced at the fifth and sixth storeys in order to provide transition between land uses and reduce the visual impact and the massing effects of a six storey building.  Terracing is being recommended abutting Blathwayte Lane. Planning staff and the applicant have agreed to terracing on the fifth and sixth storeys. 2 metres will be provided at the north side on the fifth and sixth storeys, and 2.7 metres on the south side of the sixth storey will be provided, with the exception of the rounded architectural feature. This is part of staff's recommendation for modified approval.
Storeys 5-6:	N/A	1.9 m (3.9 at the north side of the building, 1.9 and 4.6 m on the fifth and sixth storeys, respectively, at the south side of the building with the exception of the rounded architectural feature)	
Storeys 5-6:	N/A	1.9 m (3.9 at the north side of the building, 1.9 and 4.6 m on the fifth and sixth storeys, respectively, at the south side of the building with the exception of the rounded architectural feature)	
North Side Yard:			In addition, staff are requiring terracing along the north side of the property. 3.6 metres of terracing will be required from the north wall of the building for the sixth floor, and will be required on the fifth floor as well abutting a DRL Zone. This terracing will assist in reducing the impact of the fifth and sixth storeys on residents of Blathwayte Lane, both in the
Storeys 1-4:	3 m abutting DRL Zone	3 m abutting DRL Zone	
	0 m other	3 m other	
Storey 5:	N/A	6.6 m abutting DRL Zone	

Regulation	Existing DC-348 Zoning Requirement	Proposed	Staff Comment
Storey 6:	N/A	3 m other  6.6 m abutting DRL Zone  5.4 m other	<p>abutting townhouses and the St. Luke's Close Seniors' Residence. A portion of the north wall will be permitted to be stepped back 2.4 metres, as shown in the sketch contained within the attached by-law.</p> <p>Terracing is not being required along Locust Street or Elgin Street because staff are satisfied that the visual impacts are minimal along these two sides of the property, given their proximity to office and institutional uses rather than residential.</p> <p>It should be noted that additional setback provisions will be implemented for the floor area on the roof of the sixth storey to accommodate a mechanical penthouse and amenity area. These provisions will direct the floor area and outdoor patio to the corner of Elgin Street and Locust Street in order to ensure that this space is located away from residential development abutting Blathwayte Lane and the north side of the property.</p>
Building Height:  Second Storey Height:	4 storeys to 15 m  4.5 m	7 storeys to 25.5 m  3.3 m*	<p>The proposal will not conform to the required linear height of 15 metres. Staff has reviewed the request for six storeys of residential development and additional floor area on a seventh storey for a mechanical penthouse and amenity area in the context of the applicable policy framework and considers it to be appropriate. As a result of additional storeys, additional linear height is required. It is the opinion of staff that 22 metres is an appropriate linear height for the first six storeys, with additional provisions for the height on the top of the sixth storey.</p> <p>With respect to the height of the first and</p>

Regulation	Existing DC-348 Zoning Requirement	Proposed	Staff Comment
			second storeys, it should be noted that the provision is in place based on the assumption that the ground floor would be used for commercial uses. Having a greater height for the first and second storeys of a commercial development makes it more pedestrian friendly and more relatable to the street. Because only a portion of the ground floor will be used for commercial purposes, decreasing the linear height of the second floor will create increased compatibility between the proposed development and surrounding residential development.
Floor Area Ratio (FAR):	4.0:1	4.6:1	Staff are comfortable with the proposed footprint, size and design of the development in relation to the site. The resulting Floor Area Ratio is 4.6:1. Because of its compatibility with surrounding development, the proposed FAR is appropriate in this case.
Density:	185 units per hectare	240 units per hectare	Transportation staff reviewed the proposal and noted that the traffic impacts generated by the proposed development were minimal, and the range of uses in the Downtown Core promotes walkability. Staff is of the opinion that the proposed increase in density can be accommodated and will encourage a lively, vibrant downtown.
Glazing on First Floor Elevation (facing Blathwayte Lane, Locust Street and Elgin Street):	60%	37%*	The intent of a requirement for a minimum amount of glazing is to provide illumination and visual interest for the anticipated ground floor commercial uses. This building proposes residential units fronting onto Blathwayte Lane and therefore reduced glazing is appropriate.
Setback to Entrance and			Setbacks to an entrance ramp for underground parking are required in

Regulation	Existing DC-348 Zoning Requirement	Proposed	Staff Comment
Exit Ramp:	7.5 m	6 m*	<p>order to ensure that a car can stop at the top of the garage without impacting a public right-of-way or blocking a sidewalk.</p> <p>Transportation staff have reviewed the proposed 6 metre setback to the parking garage ramp and note that 6 metres will be adequate space for a vehicle to be parked at the top of the ramp without blocking sidewalks or roads.</p>
Setback to Underground Parking Garage Locust Street: Elgin Street: Blathwayte Lane: North Side:	3 m 3 m 3 m 3 m	0.6 m* 1.6 m* 1.1 m* 0.4 m*	<p>Capital Works staff have reviewed the location of the parking garage and are satisfied that the construction of the proposed parking garage will be possible. In addition, a Construction Plan will be reviewed in detail at the time of Site Plan approval.</p>
Accessible Parking Pathway:	2 m	1.5 m	<p>A reduction in the width of an accessible parking pathway would allow for two barrier-free parking spaces to be provided for the subject development. Staff have reviewed this proposal and note that two accessible parking spaces having a reduced accessible parking pathway is preferable to having one accessible parking space. The Coordinator of the Burlington Accessibility Advisory Committee has reviewed this reduction and finds it to be acceptable.</p>
Landscape Buffer Abutting DRL-11 Zone:	3 m	0.7 m	<p>The intent of a landscape buffer is to ensure that there is a buffer between residential and commercial uses. Walkways are not included in the landscape buffer; and as such, the closest point, at 0.7 metres abutting Blathwayte Lane, is taken from the other</p>

Regulation	Existing DC-348 Zoning Requirement	Proposed	Staff Comment
			side of the walkway. The walkway is proposed to connect from Blathwayte Lane, along the north side of the property to the middle of the building. Staff note that the Blathwayte Lane side will be residential, and as such, the impact of a smaller landscape buffer will be lessened. It should be noted that the remainder of the north side of the property will include a 3 metre landscape buffer.
Loading Space:	one	None*	Because there is no surface parking space on the subject lands, the opportunity for a loading space is limited. A new loading space has been created outside of the Burlington Performing Arts Centre and will be used to also service the subject lands.
Residential Apartment Units on Ground Floor:	Not permitted	Six*	The Zoning By-law does not permit residential uses on the ground floor. During the minor variance process for the four storey building, many concerns were expressed by surrounding residents with respect to having commercial on the ground floor. The applicant is still incorporating commercial uses at grade along Locust Street, which meets the intent of the Official Plan and Zoning By-law. Incorporating six residential units on the ground floor while also maintaining commercial units is appropriate for the development of the subject lands. Having residential units will help minimize negative impacts on directly abutting residential properties; such as lighting and noise.

\*Approved through prior minor variances for four storey proposal (see Appendix "D").

## **Technical Review**

The rezoning application and supporting documents were circulated to internal departments and external agencies for review. Internal departments who commented on this application include Capital Works, Transportation Planning, Landscaping and Forestry and Tax. External agencies who have commented on this file include Halton Region, Metrolinx, Halton District School Board and Halton Catholic District School Board.

The City's Capital Works, Transportation, Landscaping and Forestry and Tax departments reviewed the proposal and noted that their comments had not changed from the initial four storey Site Plan application. As such, there were no concerns at the Zoning By-law Amendment and Official Plan Amendment stages and no major changes were required from City Departments. No concerns have been noted from external agencies. It should be noted that although a Site Plan application has previously been approved by the City of Burlington for a four storey proposal, the proposed development will be subject to further Site Plan review and more detailed comments may be provided at that time.

## **Region of Halton**

The Region of Halton has provided comments on the development proposal. The Region indicates that all new development in the Urban Area be on the basis of connections to Regional Servicing. There are existing services adjacent to the site along Locust Street, Elgin Street and Blathwayte Lane. Regional staff also note that at this time, Regional waste collection will not be provided for the subject lands, and private waste collection is the responsibility of the owner. The Region of Halton has no objection to the proposal.

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## **Financial Matters:**

In accordance with the Development Application Fee Schedule, all fees determined have been received.

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## **Public Engagement Matters:**

The application was subject to the standard circulation requirements and a public notice and request for comments were circulated in December 2017 to all owners and tenants within 120 metres of the subject property. A notice sign was also posted on the subject property.

All of the technical studies, supporting materials, and any revisions to the documents for this development application were posted on the City's website at [www.burlington.ca/452Locust](http://www.burlington.ca/452Locust).

On January 11, 2018, a neighbourhood meeting was held at City Hall and was attended by approximately 15 members of the public. Key concerns raised by the public at the meeting included issues of compatibility with the existing neighbourhood; loss of sunlight and privacy; and the fact that the proposed height of the building had increased from a previously proposed four storeys.

On February 1, 2018, an informal meeting was held that was attended by City Staff, the Ward Councillor, the applicant and approximately 25 members of the public. Members of the public were able to discuss their concerns with the applicant. Concerns were similar to the meeting held on January 11, 2018; however there was a focus on the design of the building and the future loss of privacy and sunlight to residents of St. Luke's Close on Blathwayte Lane. The applicant continued to work with staff and the public to address some design concerns.

As a result of public consultation, staff received 16 e-mails. Staff notes that some constituents sent multiple pieces of correspondence. Public comments received to date have been included in Appendix E of this report. The following table depicts concerns raised by the public as well as a response from staff:

Public Comment	Staff Response
Two additional storeys will significantly alter the character of the neighbourhood.	The proposal has been reviewed with respect to its compatibility with the surrounding neighbourhood. Since the application was submitted, the applicant has worked with staff and the public in order to implement design changes that increase the compatibility of the proposal with the surrounding neighbourhood. Factors such as massing, setbacks and terracing have all been considered as part of the application. Additional modifications to terracing are being recommended by staff to further improve compatibility.
Blathwayte Lane is too narrow and retail development is not appropriate	The applicant is proposing commercial uses on the first storey; however they will front onto Locust Street only, and not Blathwayte Lane. It should be noted that the Official Plan and Zoning By-law require commercial uses on the ground floor of the building and prohibit residential units on the ground floor. The applicant is proposing some residential units on the ground floor in order to provide a residential interface along

Public Comment	Staff Response
	Blathwayte Lane.
Concerns about excavation that is already occurring on the site	The underground parking was approved as part of the previous Site Plan application. The owner is currently permitted to construct three levels of underground parking and a four storey mixed-use building as of right.
Concern that the intent of additional development is to recover unexpected costs	The recommendation for the proposed development is based on matters of good planning and land use. The applicant's finances are not planning related and as such are not factored into the recommendation.
The proposal will decrease privacy	While the proposal will have an impact on privacy of adjacent properties, the applicant has worked with staff and residents to mitigate these impacts. Design considerations are being implemented such as terracing, frosted glass on balconies and landscape screening on the upper levels of the building. Staff is recommending a modified approval to ensure further terracing and stepbacks on the fifth and sixth storeys abutting Blathwayte Lane for increased privacy.
Disappointment and lack of trust that the original proposal was acceptable and the developer is now proposing something larger	The applicant has a legal right to make an application for a taller building. Regardless of the previous proposal, the applicant would be subject to the applicable process, policies and public consultation.
Strong preference for the original four storey proposal	Design considerations are being made in order to reduce the massing of the proposed building and mitigate the impact of the additional two storeys.
Concern about whether the Shadow Study Report is accurate and requests for a Shadow Study Report showing a larger range of dates and times	The shadow study uses a program that accurately portrays the shadow impacts of proposed developments. Further, the applicant has submitted a shadow study showing a larger range of dates and times.
Concern about loss of sunlight; especially for those along Blathwayte Lane	The shadow study shows that the additional two storeys will not have a significant impact on the sunlight. Staff, however, has recommended a modified approval to implement increased terracing on the fifth and sixth storeys in order to enhance sky views and the sense of space between the two buildings.



## **Conclusion:**

The applicant has made changes to the proposed mixed-use development which have improved its compatibility with the existing neighbourhood. Staff have proposed a further modified setback along the Blathwayte Lane frontage.

Staff's analysis of the application for an Official Plan amendment and Zoning By-law amendment considered the applicable policy framework and the comments submitted by technical agencies and the public. It is the opinion of staff that the proposal meets the requirements of the Provincial Policy Statement, the Places to Grow Act and the Regional Official Plan in that it proposes compact and efficient development, uses existing infrastructure and has regard for public health and safety. Further, the proposed building meets the City's evaluation criteria for intensification, which were created as a tool to meet the intensification requirements of the upper-tier policy documents.

It is recommended that Council approve OPA 112 and Zoning By-law 2020.XXX in Appendices B and C to facilitate the development of this property for a six-storey mixed use building.

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Respectfully submitted,

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Planner II – Development Review

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## **Appendices:**

Appendix A: Sketches

Appendix B: Official Plan Amendment

Appendix C: Zoning By-law Amendment

Appendix D: Committee of Adjustment Decision A006/16

Appendix E: Public Comments

## **Report Approval:**

All reports are reviewed and/or approved by Department Director, Director of Finance and Director of Legal. Final approval is by the City Manager.

## APPENDIX A



