

CITY OF HAMILTON

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Development and Real Estate Division

Report to: Chairman and Members Planning and Economic Development Committee	Submitted by: Lee Ann Coveyduck General Manager
Date: September 30, 2005	Prepared by: Owen Quinn
File: ZAR-05-87	Ext. 1334

SUBJECT: Application for a Modification to the Zoning for Lands Located at 447 and 453 Dundas Street East (Flamborough) (PED05143) (Ward 15)

RECOMMENDATION:

That approval be given to **Zoning Application ZAR-05-87, Picard Fine Food Products, owner**, for a modification to the Highway Commercial "HC" Zone, to permit a Specialty Food Store for the Sale of Nuts and Nut Related Products, including but not limited to other Food and Accessory Products, as an additional permitted use, for lands located at 447 and 453 Dundas Street East, as shown on Appendix "A" to Report PED05143, on the following basis:

- (a) That the subject lands be rezoned from the Highway Commercial "HC" Zone to the Highway Commercial "HC-12" Zone;
- (b) That the draft By-law, attached as Appendix "B" to Report PED05143, which has been prepared in a form satisfactory to Corporate Counsel, be enacted by City Council; and,
- (c) That the proposed change in zoning is in conformity with the Hamilton-Wentworth Official Plan and the Town of Flamborough Official Plan.

Lee Ann Coveyduck
General Manager
Planning and Economic Development Department

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EXECUTIVE SUMMARY:

The purpose of the rezoning application is to permit a Specialty Food Store for the Sale of Nuts and Nut Related Products, and including but not limited to other Food and Accessory Products, as an additional permitted use.

The proposal has merit and can be supported in view of the fact that the modification in zoning is consistent with the Provincial Policy Statement, and conforms to the Hamilton-Wentworth Official Plan and the Town of Flamborough Official Plan. The proposal is compatible with existing land uses in the surrounding area, and is a specialty commercial use which would serve the local community and the travelling public.

BACKGROUND:

Proposal

The application is for a change in zoning for lands located at 447 and 453 Dundas Street East. The purpose of the application is to change the Highway Commercial “HC” Zone to a site specific Highway Commercial “HC-12” Zone, to permit a Specialty Food Store for the Sale of Nuts and Nut Related Products, and including but not limited to other Food and Accessory Products as an additional permitted use. The applicant proposes this use on the southern portion of the property at 447 Dundas Street East. A restaurant and a dwelling unit will remain on 453 Dundas Street East until redeveloped for commercial uses in the future. The owner submitted a site plan application (DA-05-077) in June of 2005, for a new 385 square metre, one-storey commercial building for 447 Dundas Street East (see Appendix “C”). The site plan application is being held in abeyance pending a decision on the rezoning, and resubmission of revised plans.

Details of Submitted Application:

Owner/ Applicant: Picard Fine Food Products

Agent: Dryden, Smith & Head Planning Consultants Ltd.

Location: At the northeast corner of Dundas Street East and Pamela Street, municipally known as 447 and 453 Dundas Street East (see Appendix “A”).

Description:

Width:	55.78 metres
Depth:	84.78 metres
Area:	4,510.13 square metres

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EXISTING LAND USE AND ZONING:

	Existing Land Use	Existing Zoning
<u>Subject Lands:</u>	Vacant (447 Dundas Street East) and Restaurant and dwelling unit (453 Dundas Street East)	Highway Commercial “HC” Zone
<u>Surrounding Lands:</u>		
North	Vacant (proposed car wash)	Automotive Commercial “AC” Zone
South	Single Detached Dwellings	Urban Residential (Single Detached) “R1-1” Zone
East	Agricultural land	Agriculture “A” Zone
West	Single Detached Dwellings	Urban Residential (Single Detached) “R1-1” Zone, Urban Residential (Single Detached) “R1-18” Zone and Medium Density Residential “R6-7” Zone

FINANCIAL/STAFFING/LEGAL IMPLICATIONS:

Financial: N/A.

Staffing: N/A.

Legal: As required by the Planning Act, Council shall hold at least one (1) Public Meeting to consider an application for a change in Zoning.

POLICIES AFFECTING PROPOSAL:

Provincial Policy Statement

Policy 1.1.3.1 of the Provincial Policy Statement provides that lands use patterns in settlement areas shall be based on densities and a mix of land uses which efficiently use land and are appropriate for, and efficiently use the infrastructure which is available. The proposal is consistent with the principles and policies of the Provincial Policy Statement (PPS).

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Hamilton-Wentworth Official Plan

The subject property is designated “Urban Area” in the Hamilton-Wentworth Official Plan. Policy 3.1 states that a wide range of urban uses based on full municipal services will be concentrated in the Urban Areas. As the nature of the application is to permit the development of the subject lands for commercial purposes where municipal services are available, the proposal complies with the policies of the Hamilton-Wentworth Official Plan.

Town of Flamborough Official Plan

The subject land is designated “Highway Commercial - Urban” on Schedule “A” – Waterdown Urban Area. The following policies of the Town of Flamborough Official Plan, among others, are applicable to the proposed development:

“A.3.3 HIGHWAY COMMERCIAL-URBAN are those uses located along Provincial Highways in the Urban Area, which are directly related to the travelling public and are reliant on locations accessible to automobile traffic. Council shall encourage development which consolidates existing HIGHWAY COMMERCIAL-URBAN uses into discrete areas, and will discourage their haphazard extension.

A.3.3.1 Those areas designated on Schedule ‘A’ as HIGHWAY COMMERCIAL-URBAN shall permit uses which are by the nature of their business, directly related to the travelling public. These uses are reliant on locations readily accessible by vehicles. HIGHWAY COMMERCIAL-URBAN uses are: automobile service uses, fruit and vegetable markets, ice cream parlours, restaurants, hotels and motels, and similar uses.”

Based on the foregoing, the proposal complies with the “Highway Commercial” designation.

CONSULTATION WITH RELEVANT DEPARTMENTS/AGENCIES:

Agencies/Departments Having No Comment or Objections

- Traffic Engineering and Operations Section, Public Works Department;
- Revenues Division, Corporate Services Department;
- Budget and Fiscal Policy Services, Corporate Services Department;
- Union Gas Company; and,
- Hamilton Hydro.

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PUBLIC CONSULTATION:

In accordance with the Public Participation Policy approved by Council on May 29, 2003, the Manager of Development Planning, in consultation with the Ward Councillor has determined that preliminary circulation of this application was not required since the proposed change in zoning is to add a minor use to an existing non-residential zoning category in order to solve a technicality. However, as per the Planning Act regulations, Notice of the Public Meeting was circulated to all property owners within 120 metres of the subject lands, and a sign was posted on the subject lands. To date, no comments have been received.

CITY STRATEGIC COMMITMENT:

The proposed change in zoning is consistent with the objectives of sustainable development, in that it allows for the development of a new commercial building within an existing urban area. No adverse impacts with respect to economic, social, health and environmental matters have been identified with this application.

COMMENTS:

1. The proposal has merit and can be supported for the following reasons:
 - (i) It is consistent with the Provincial Policy Statement and complies with the Hamilton-Wentworth Official Plan, and the Town of Flamborough Official Plan;
 - (ii) The proposed use is compatible with existing uses in the surrounding Waterdown Urban Area, and the proposed retail use will complement the restaurant on the subject lands; and,
 - (iii) Sufficient infrastructure is available to service the site.

2. Proposed Zoning

The purpose of the application is to change the existing Highway Commercial "HC" Zone to a site specific Highway Commercial "HC-12" Zone, to permit a Specialty Food Store for the Sale of Nuts and Nut Related Products, and including but not limited to other Food and Accessory Products, as an additional permitted use. The owner submitted a site plan application in June of 2005, for a new commercial building for 447 Dundas Street East (see Comment 3 below).

According to Section 20.1 of the Flamborough Zoning By-Law No. 90-145-Z, the existing Highway Commercial "HC" Zone permits a range of commercial uses, including a Convenience Retail Store and the Retail Sales of Antiques and Crafts. The proposed rezoning is required as the result of a technicality. While the current zoning allows a Convenience Retail Store, the applicant's proposed

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use (sale of nuts, nut related products and other food and accessory products) is considered a speciality retail use and is, therefore, not currently permitted. The recommended zoning to permit this use is site-specific and applies a maximum Gross Floor Area of 385 square metres to reflect the proposed site plan.

With regard to the Zone Provisions of the "HC" Zone, the proposed new commercial building for 447 Dundas Street East, as illustrated on the site plan (Appendix "C"), does not comply with the following requirements:

- a 3.0 metre wide planting strip is required along the entire length of Dundas Street East;
- The proposed loading space (8.522m in length) does not conform with the required loading space dimensions which are to be a minimum of 12.0 metres in length;
- The required minimum width for a parking space for disabled persons is 4.4 metres, whereas the site plan illustrates 2.9 metres;
- No parking area shall be permitted within 3.0 metres of a boundary of a Residential Zone. The proposed ten (10) parking spaces along the interior side lot line are 1.5 metres from the adjacent Residential Zone; and
- Access to parking spaces shall be provided by a driveway having a minimum unobstructed width of not less than 6.4 metres, whereas the width of the proposed driveway access is 6.0 metres;

With respect to the above noted deficiencies, staff note that the following should be included in the amending Zoning By-law:

- Based on information provided by the owner, the type of vehicles that will be utilizing the loading space are cube vans. As such, staff note that the proposed loading space (8.522m in length) is sufficient to accommodate this type of vehicle;
- The proposed parking area along the interior side lot line, which is 1.5 metres from a Residential Zone, is acceptable as illustrated on the site plan, provided the zoning requires a visual barrier (1.8 to 2.0 metres high) along this lot line as well as a minimum 1.5 metre wide planting strip between the parking area and visual barrier. This will ensure that residential uses, located along this side lot line, are adequately buffered from the subject lands; and
- A driveway access width of 6.0 metres is acceptable for the proposed development as it would sufficiently enable the two-way movement of traffic on site. The City's Traffic Section had no concerns with the proposed driveway width.

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Staff note that the other two deficiencies can be addressed as revisions to the proposed site plan. Based on a review of the site plan, there appears to be ample space on site to eliminate these deficiencies.

3. Site Plan Application DA-05-077

The owner submitted a site plan application (DA-05-077) in June of 2005, for a new 385 square metre floor area, one-storey commercial building for 447 Dundas Street East (see Appendix "C"). The site plan was considered at the City's Development Review Committee meeting of June 29, 2005. A red-lined revised copy of the site plan was discussed with the applicant which addressed the deficiencies with the Zoning By-law as noted above. The application is being held in abeyance pending a decision on the rezoning, and resubmission of a revised plan.

4. Similar Uses

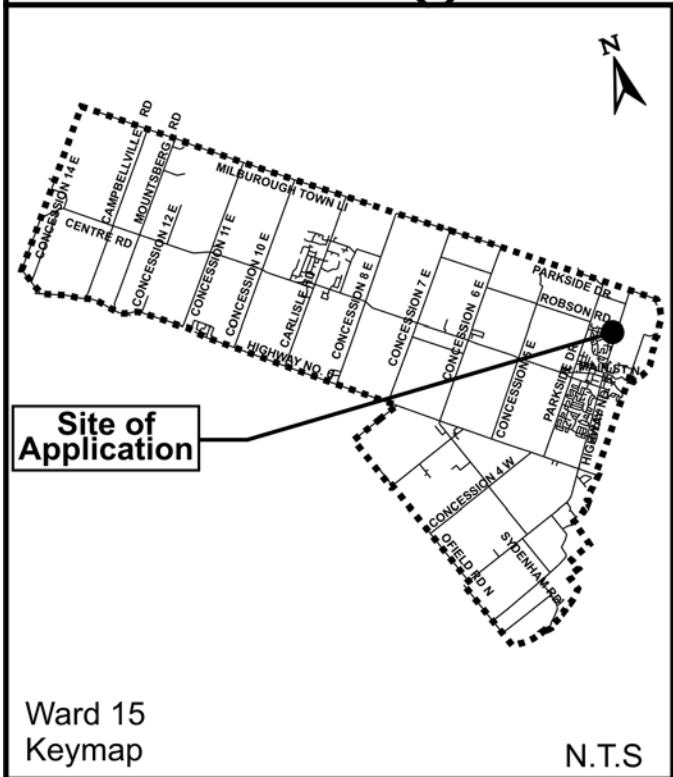
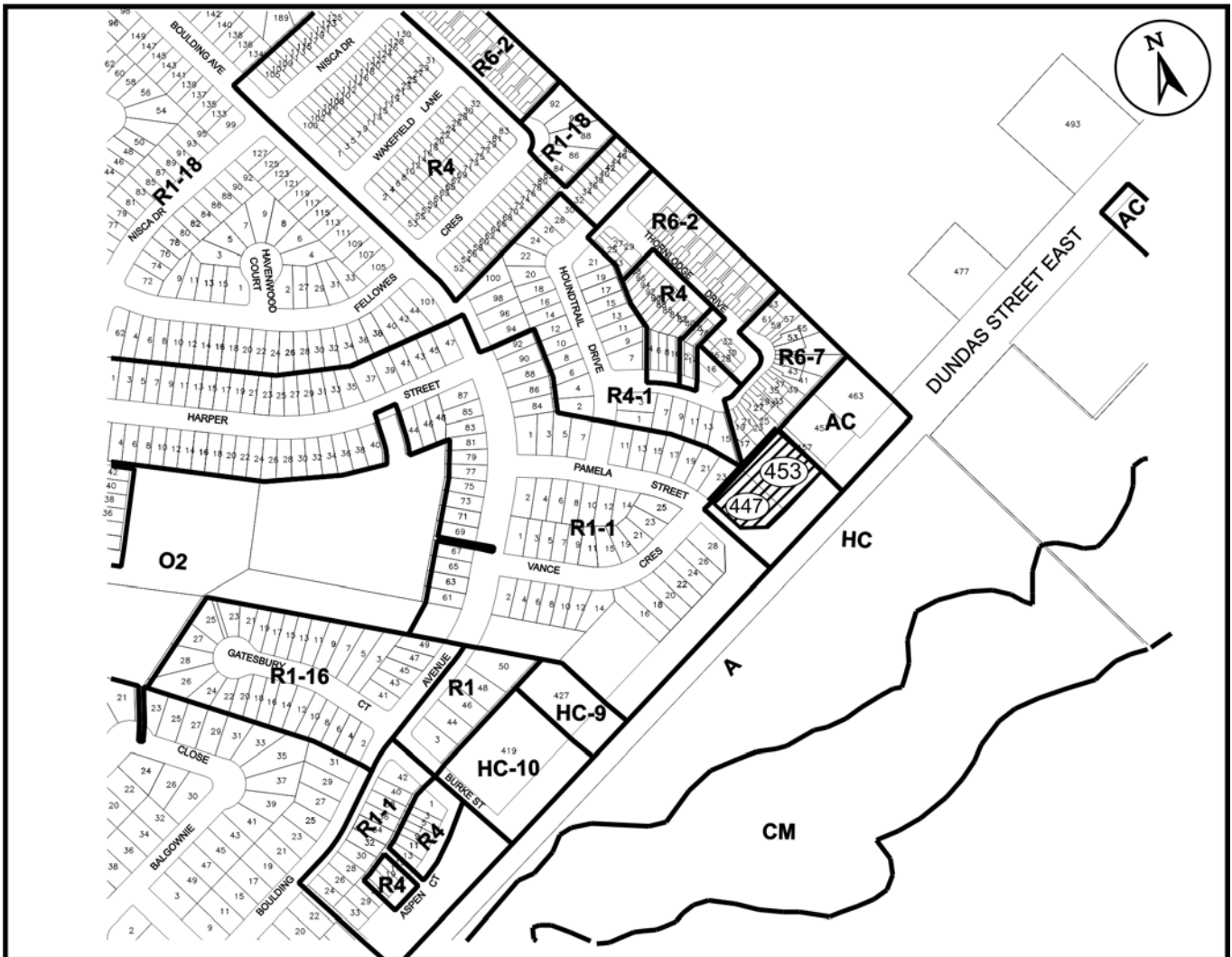
Within the surrounding area of the proposal (see Appendix "A"), there are similar uses. The north portion of the subject property at 453 Dundas Street East has a restaurant on site. In addition, the property located at 419 Dundas Street East, which is less than 250 metres to the south of the subject property, currently has a commercial plaza on site which includes uses such as a bar and restaurant, and a convenience retail store.


CONCLUSION:

Based on the foregoing, the application can be supported.

:OQ


Attachs. (3)




 Planning and Economic Development Department
Location Map

File Name/Number: ZAR-05-87	Date: September 26, 2005
Appendix "A"	Scale: N.T.S
	Planner/Technician: OQ/NB

Subject Property
 447 and 453 Dundas Street East,
 Waterdown


 Change in zoning from the existing "HC" (Highway Commercial) Zone to the "HC-12" (Highway Commercial) Zone

T&C File Name: N:\1T&c\Location_Maps\2005\August\Corel\ZAR-05-87.cdr

Authority: Item , Planning and Economic
Development Committee
Report 05- (PED05143)
CM:

Bill No.

CITY OF HAMILTON

BY-LAW NO. _____

**To Amend Zoning By-law No. 90-145-Z (Flamborough),
Respecting Lands located at 447 and 453 Dundas Street East**

WHEREAS the City of Hamilton Act, 1999, Statutes of Ontario, 1999 Chap. 14, Sch. C. did incorporate, as of January 1, 2001, the municipality "City of Hamilton";

AND WHEREAS the City of Hamilton is the successor to certain area municipalities, including the former municipality known as the "The Corporation of the Town of Flamborough" and is the successor to the former regional municipality, namely, "The Regional Municipality of Hamilton-Wentworth";

AND WHEREAS the City of Hamilton Act, 1999, provides that the Zoning By-laws and Official Plans of the former area municipalities and the Official Plan of the former regional municipality continue in force in the City of Hamilton until subsequently amended or repealed by the Council of the City of Hamilton;

AND WHEREAS Zoning By-law No. 90-145-Z (Flamborough) was enacted on the 5th day of November 1990, and approved by the Ontario Municipal Board on the 21st day of December, 1992;

AND WHEREAS the Council of the City of Hamilton, in adopting Item of Report of the Planning and Economic Development Committee at its meeting held on the day of , 2005, recommended that Zoning By-law No. 90-145-Z (Flamborough), be amended as hereinafter provided;

AND WHEREAS this by-law is in conformity with the Official Plan of the City of Hamilton (formerly the Town of Flamborough Official Plan) in accordance with the provisions of the Planning Act.

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

1. That Schedule "A-31" attached to and forming part of Zoning By-law No. 90-145-Z (Flamborough), as amended, is hereby further amended by changing the zoning from "HC" Highway Commercial Zone to "HC-12" Highway Commercial Zone on the lands being Part of Lot 4, Concession 3, former Township of East Flamborough, municipally known as 447 and 453 Dundas Street East, the extent and boundaries of which are shown on a plan hereto annexed as Schedule "A".
2. Section 20 – "HC" Highway Commercial Zone of Zoning By-law No. 90-145-Z, is hereby amended by adding the following subsection:

"20.3.12 "HC-12" (See Schedule A-31)

Permitted Uses

- (a) Any use permitted in a HC Zone.
- (b) A Specialty Food Store for the Sale of Nuts and Nut Related Products, and including but not limited to other Food and Accessory Products.

Notwithstanding the provisions of Subsections 5.13.2, 5.21.5 (c) and 5.21.6 (b) of Section 5: General Provisions, of Zoning By-law No. 90-145-Z (Flamborough), the following special provisions shall apply to the lands zoned as "HC-12":

Dimensions of Loading Spaces

- (1) A loading space having minimum dimensions of 8.5 metres long, 3.5 metres wide and a minimum vertical clearance of 4 metres shall be provided and maintained.

Location of Parking on a Lot

- (2) A parking area may be permitted a minimum of 1.5 metres from the boundary of a Residential Zone, provided that a continuous 1.5 metre wide planting strip and a visual barrier not less than 1.8 metres and not greater than 2.0 metres in height, is provided and maintained along any lot line abutting a Residential Zone.

Access to Parking Spaces

- (3) A driveway with two-way vehicular movement shall have a minimum unobstructed width of not less than 6.0 metres."

Maximum Gross Floor Area

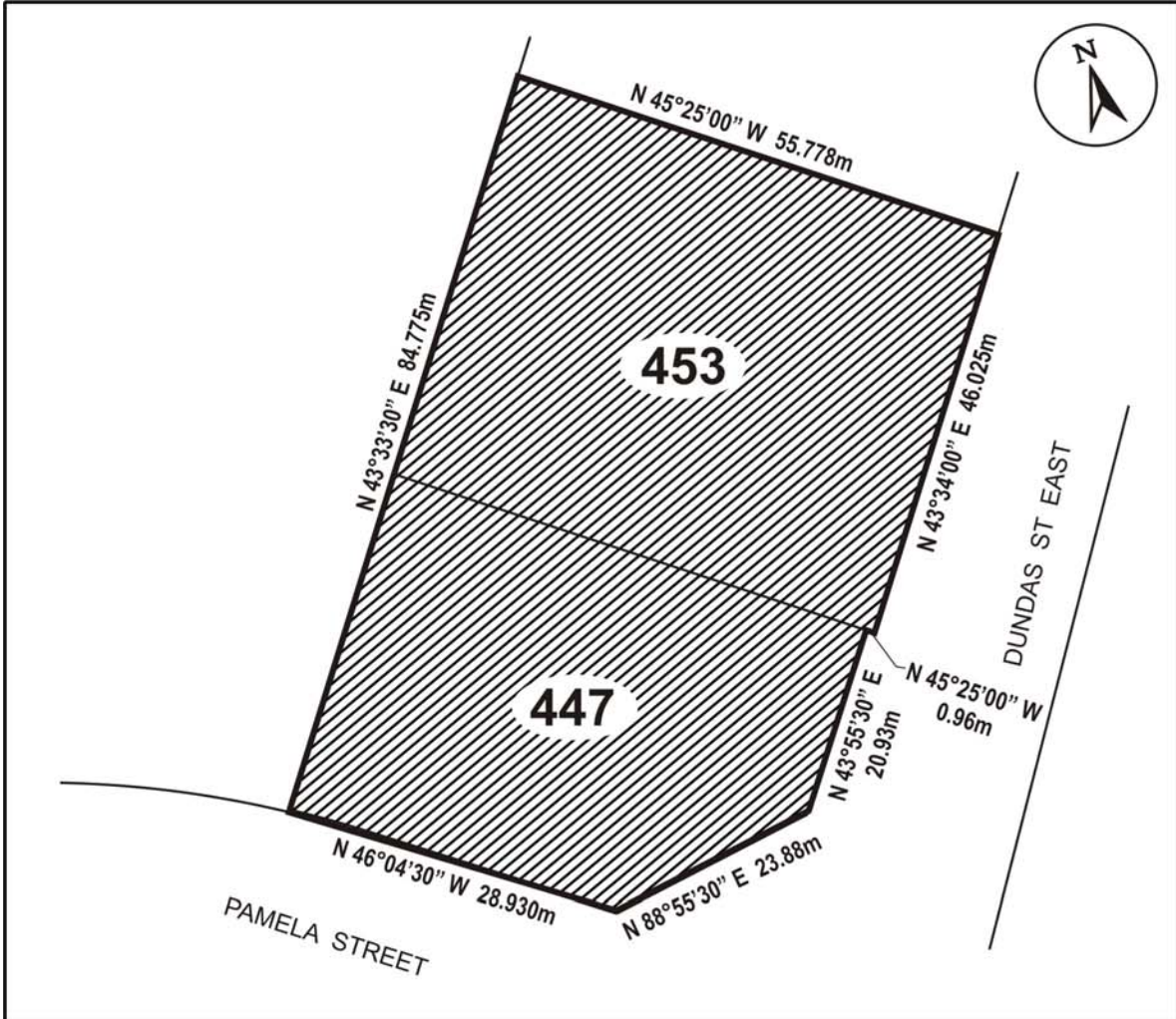
- (4) A Specialty Food Store for the Sale of Nuts and Nut Related Products, and including but not limited to other Food and Accessory Products, shall have a maximum Gross Floor Area of 385 square metres."
3. The Clerk is hereby authorized and directed to proceed with the giving of notice of the passing of this by-law, in accordance with the Planning Act.

PASSED and ENACTED this day of , 2005.

MAYOR

CLERK

ZAR-05-87




This is Schedule "A" to By-Law No. 05— _____
 Clerk


Passed the day of, 2005 _____
 Mayor


Schedule "A"

Map Forming Part of
 By-Law No. 05-_____
 to Amend By-Law No. 90-145-Z

 Planning and Economic Development Department
 Hamilton

Subject Property
 447 and 453 Dundas Street East,
 Waterdown

 Change in zoning from the existing "HC" (Highway Commercial) Zone to the "HC-12" (Highway Commercial) Zone

	Scale: Not to Scale	File Name/Number: ZAR-05-87
	Date: September 26, 2005	Planner/Technician: OQ/NB

T&C File Name:

