Technical Amendment to Subsection 64.25(5) of North York Zoning By-law 7625
Zoning Amendment Application
5435 Yonge St., 32 and 38 Byng Ave., and 31 Olive Ave.

Date: January 18, 2008
To: City Council
From: City Solicitor
Wards: Ward 23 – Willowdale
Reference Number: File Nos. 03 035345 NNY 23 OZ (Rezoning); 05 144186 NNY 23 SA (Site Plan Control)

SUMMARY

This report recommends a technical amendment to Subsection 64.25(5) of North York Zoning By-law 7625 to bring it into compliance with the authority for a zoning by-law amendment approved by City Council in February 2007. The proposed technical amendment is needed because there had been an error in drafting By-law 91-2007. The proposed technical amendment does not in any way affect the size or scale of the development approved by City Council.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council amend North York Zoning By-law 7625, Subsection 64.25(5), substantially in accordance with the draft Zoning By-law amendment attached hereto as Attachment 1; and

2. no further notice be given with respect to the proposed by-law.

FINANCIAL IMPACT

There are no financial implications resulting from the adoption of this report.
DECISION HISTORY

The Final Report from the Director of Community Planning, North York District can be accessed at http://www.toronto.ca/legdocs/mmis/2007/ny/bgpdf/backgroundfile-520.pdf. A Supplementary Report had also been prepared by staff and can be accessed at http://www.toronto.ca/legdocs/mmis/2007/ny/bgpdf/backgroundfile-521.pdf. Both were before City Council at the time the zoning by-law amendment was approved.

ISSUE BACKGROUND

At its meeting of February 5, 6, 7 and 8, 2007, City Council adopted the recommendations of the North York Community Council to approve a zoning amendment application and site plan control application for a development consisting of a 30-storey residential building and an 8-storey seniors’ residential building, both with grade related commercial uses, for lands at 5435 Yonge Street. A Statutory Public Meeting had been held at the January 16, 2007 meeting of North York Community Council. On February 6, 2007, City Council enacted By-law No. 91-2007, a site specific zoning amendment by-law.

The development of the approved 30-storey residential building and 8-storey seniors’ residential building is the final phase of a multiple-phase project to develop the lands that once comprised the Northtown Plaza. The zoning amendment in By-law 91-2007 incorporated standards to permit the two proposed buildings on the site and is a further site-specific amendment respecting the former Northtown Plaza lands. Previous site-specific by-laws, including this latest By-law 91-2007, have permitted a range of density transfers and density incentives consistent with the policies of the North York Centre Secondary Plan. These incentives include matters such as indoor recreational amenity space, the provision of a grocery store on the site, the provision of lands for Service Road purposes, and a monetary contribution for density.

COMMENTS

It has come to the attention of the Building Division that there was a technical error made in By-law 91-2007, as the By-law failed to recognize a density incentive for an existing grocery store that was provided on the site as part of an earlier development phase. The purpose of this report and the attached amending by-law is to correct this technical inconsistency.

By-law 91-2007, in conjunction with its predecessor site-specific by-laws for the subject site, was intended to recognize both existing and proposed density incentives. The drafting of By-law 91-2007 inadvertently excluded the density incentive provided by the Secondary Plan for the grocery store. Therefore, a technical amendment is required to Subsection 64.25(5) of North York Zoning By-law 7625 due to the error in By-law 91-2007 that amended this Subsection. The draft zoning by-law in Attachment No. 1 provides the technical correction required to recognize the existing grocery store, which has a gross floor area of 4,240.25 m², within the density incentives permitted by the
Secondary Plan. The attached technical amendment is in full compliance with the North York Centre Secondary Plan.

A statutory public meeting under the Planning Act was held at the January 16, 2007 meeting of North York Community Council in order to consider the zoning amendment for the proposed 30-storey residential building and 8-storey senior’s residential building along with grade related commercial uses. No further statutory public meeting is necessary to implement the proposed technical amendment to recognize the existing grocery store density incentive. This density had already been accounted for in the project that was presented at the January 16, 2007 public meeting. Therefore, no further notice is required with respect to the proposed zoning amendment By-law.

CONTACT

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SIGNATURE

_____________________________________________________________________
Anna Kinastowski
City Solicitor

ATTACHMENTS
Attachment 1: Draft Zoning Amendment By-law
Attachment 1: [Draft Zoning Amendment By-law]

Authority: North York Community Council Item No. 2.46 as adopted by Council on February 5, 6, 7 and 8, 2007 and Report _____ from the City Solicitor dated January ___, 2008.

Enacted by Council:

CITY OF TORONTO

BY-LAW No. ____-2008

To amend former City of North York By-law No. 7625 in respect of a portion of lands located east of Yonge Street between Byng Avenue and Church Avenue municipally known as 5435 Yonge Street, and lands at 32 and 38 Byng Avenue and 31 Olive Avenue.

WHEREAS authority is given to Council by Sections 34 of the Planning Act, R.S.O. 1990, c.P. 13, as amended, to pass this By-law; and

WHEREAS Council of the City of Toronto has provided adequate information to the public and has held at least one public meeting in accordance with the Planning Act.

The Council of the City of Toronto HEREBY ENACTS as follows:

1. Section 64.25(5) of By-law No. 7625, as amended, is further amended as follows:

(a) In subsection (m)(i) with respect to increased height and density, add a new paragraph (M) as follows:

“(M) the provision of a grocery store with a gross floor area of 4,240.25 m², which is located on the north side of Church Avenue, west of Doris Avenue, within Building Envelope 2, and which grocery store existed on the site at the time of enactment of this by-law.”

(b) In subsection (n) add a new paragraph (x) as follows:

“(x) a maximum total gross floor area of 4,240.25 m² attributable to the provision of the 4,240.25 m² grocery store referenced in paragraph (m)(i)(M) above.”

ENACTED AND PASSED this _____ day of __________, A.D. 2008.

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ULLI S. WATKISS
Deputy Mayor
(Corporate Seal)