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

Date: February 26, 2008
To: City Council
From: Chief Planner and Executive Director, City Planning Division
Wards: Ward 23 - Willowdale
Reference Number: cc080013

SUMMARY

The purpose of this report is to provide additional information to Council with respect to previous development projects on the Northtown site, east of Yonge Street and south of Finch Avenue in the North York Centre, as requested at the Council meeting of January 29 and 30, 2008. The additional information provided in this Report supports a technical amendment that is required to recognize density permission for an existing grocery store, as outlined in the Report of the City Solicitor dated January 18, 2008.

Financial Impact

There are no financial implications.
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/bgrd/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/bgrd/backgroundfile-521.pdf. Both were before City Council at the time the Zoning By-law 91-2007, a By-law respecting a 30-storey residential building and an 8-storey residential building, both with grade-related commercial uses, was approved by City Council at its meeting of February 5, 6, 7 and 8, 2007.

A Report from the City Solicitor recommending a technical amendment to Zoning By-law 91-2007 was before City Council at its meeting of January 29 and 30, 2008, and can be accessed at http://www.toronto.ca/legdocs/mmis/2008/cc/bgrd/cc16.4.pdf.

The Report from the City Solicitor had advised that the proposed technical amendment to Section 64.25(5) is needed because there had been an error in drafting By-law 91-2007. The Report further advised that the proposed technical amendment does not in any way affect the size or scale of the development approved by City Council, and would bring the zoning by-law into compliance with the authority for a zoning by-law amendment approved by City Council at its February 2007 meeting.

At its meeting of January 29 and 30, 2008, City Council deferred consideration of Item CC16.4, the Report of the City Solicitor, to its next regular meeting of March 3, 2008, so that:

“the Chief Planner and Executive Director, City Planning, can report on whether there have been any similar errors on the many development projects within the Northtown site that would have been in the City’s favour”.

ISSUE BACKGROUND

COMMENTS

The approval of applications for residential and more limited commercial development on the site of the former Northtown Plaza, which once occupied lands generally bounded by Yonge Street, Kenneth Avenue, Church Avenue and Byng Avenue in the former North York, date back to 1993. The site has developed as a phased project. Attachment 1 to this Report shows the existing zoning of the Northtown lands. Attachment 2 shows the location of each of the approved buildings on the site (all of which have now been constructed and occupied with the exception of no. 10, which was approved by City Council in February, 2007, and which is permitted by Zoning By-law 91-2007).

A major component of the Northtown redevelopment is the provision of the Doris Avenue Service Road, which runs in a north-south direction and bisects the original
Northtown Plaza lands. Over a period of time, the City has secured the Service Road lands, on-site public park space, and other community benefits authorized by the Secondary Plan.

Although accounted for in the development statistics that were prepared by City Planning staff and confirmed by both Building Division staff and the applicant at the time of the Final Report, a drafting error in Zoning By-law 91-2007 resulted in the By-law failing to recognize as a density incentive a 4,250 m² grocery store that had been rebuilt and relocated in 2000/2001 from its original location in the middle of the future Service Road alignment. The site-specific Secondary Plan policies for the Northtown site authorize a density incentive in the amount of the floor area of the as-built, relocated grocery store.

Further to Council’s instructions, staff have reviewed the planning reports and accompanying Planning Committee and Council minutes for all planning applications on the Northtown site from 1993 to the present time to determine whether or not any similar error may have been made with respect to gross floor area. Staff have also undertaken a detailed review of the relevant site-specific Official Plan policies and zoning by-laws in effect at each stage of the site’s development, and, along with Building Division staff, have reviewed the gross floor area and unit count figures authorized with each Building Permit for superstructure issued on the Northtown site.

Staff’s research has concluded that the building permits issued at the various stages of development of the Northtown site do not authorize any more density or units than would have been permitted by either the Zoning By-law or the Official Plan policy in effect at the relevant time (which, since its original conception in 1993, has allowed a density of 3.75 FSI (western part of the site) and 2.6 FSI (eastern part of the site), plus available density incentives and transfers). Further, the various site-specific Official Plan and Zoning By-law amendments that have been adopted or enacted by Council during this time period (including Council of the former City of North York) are also consistent with the relevant staff reports adopted by Council and with the direction of Council with respect to gross floor area and units.
CONCLUSION

Based on the detailed research conducted by staff with respect to the Northtown site’s application and approval history, as well as building permits issued, there do not appear to be any errors similar to the one inadvertently made in the drafting of Zoning By-law 91-2007.

The proposed technical amendment is intended solely to correct a drafting error. The amendment is in conformity with the Secondary Plan policy authorizing a density incentive for the relocated grocery store, and would implement the development application approved by City Council at its meeting of February 5, 6, 7 and 8, 2007.

CONTACT

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SIGNATURE

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City Planning Division

ATTACHMENTS
Attachment 1: Zoning Map
Attachment 2: Context Plan
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Attachment 2: Context Plan