

VIA EMAIL

October 29, 2024

ATTN: Nancy Martins, Administrator Planning and Housing Committee

Planning and Housing Committee

Toronto City Hall

100 Queen Street West

Toronto

Toronto, ON M5H 2N2

Dear Chair Perks and Members of the Planning and Housing Committee

**Re: PH16.1 – Housing Action Plan: As-of-Right Zoning for Mid-rise
Buildings on Avenues and Updated Rear Transition Performance
Standards – Final Report
2850 Kingston Road
Comments on Behalf of Canadian Tire Corporation Limited**

Our File: CAT/TOR/24-02

We are the planning consultants for Canadian Tire Corporation Limited (“Canadian Tire”), the landowner of a number of properties throughout Toronto. On behalf of Canadian Tire, we have been monitoring the Toronto Housing Action Plan initiatives, including the *Avenues, Mid-rise, and Mixed Use Areas Study*.

Canadian Tire’s land holdings include the property municipally known as 2850 Kingston Road, Toronto (the “subject property”). The subject property is located along an *Avenue*, being at the intersection of Kingston Road and St. Clair Avenue East and is currently developed with a Canadian Tire store. The subject property is also designated *Mixed Use Areas* under the City of Toronto Official Plan and currently zoned CR 0.4 (c0.4; r0.0) SS3 (x501) under the City-wide Zoning By-law 569-2013, as amended. The subject property is not subject to an existing Avenue Study.

We have reviewed the *As-of-Right Zoning for Mid-rise Buildings on Avenues and Updated Rear Transition Performance Standards – Final Report* dated October 15, 2024, which provides details on a proposed Zoning By-law Amendment to implement as-of-right zoning permissions for mid-rise buildings along *Avenues* in the CR zone. As per the Staff Report, the Planning and Housing Committee (“PHC”) is recommended to advance the Draft Zoning By-law Amendment to City Council for approval at the November 13th City Council meeting. **The proposed zoning under the October 2024 Draft Zoning By-law for the subject property is CR 6.7 (c6.7; r0.0) SS5 (x501), which notably provides no residential use permissions per the 0.0 residential Floor Space Index (“FSI”).**

We have previously reviewed the “Proposals Report” and associated Draft Zoning By-law Amendment prepared by City Staff dated May 27, 2024, and provided comments to the PHC in a letter dated June 12, 2024 [see Appendix A].

Having reviewed the October 2024 Draft Zoning By-law, we offer the following preliminary comments on behalf of Canadian Tire.

PRELIMINARY COMMENTS

Our primary concern, as first detailed in our June 12, 2024, letter, is with respect to the proposed Residential FSI permissions for a number of properties included in the “As-of-Right Zoning Project,” including the subject property. In review of the proposed zoning for the subject property, it is apparent that Staff are proposing permissible Commercial FSI, **but with 0.0 permitted Residential FSI, contrary to the stated goal of the Housing Action Plan.** Upon a broader examination of other impacted properties, it was identified that, of the 345 properties included in the As-of-Right Zoning Project, **47 will not receive any residential permissions. 78 properties in total will receive a permitted residential FSI of equal to or less than 2.0.**

The properties with a 0.0 permitted Residential FSI would not be permitted to construct any residential units under the as-of-right zoning. Further, in our opinion, the proposed residential FSI permissions of 2.0 or less substantially restrict the ability to provide housing and construct a built form that is consistent with the Mid-rise Guidelines, which the As-of-Right Zoning Project is intended to implement “As-of-Right”. This is despite each of the impacted properties being designated in the City of Toronto Official Plan (OP) as *Mixed Use Areas* and with an *Avenue* overlay, per the Study parameters.

Under the Official Plan, *Mixed Use Areas* permit a broad range of commercial, **residential**, and institutional uses, in single-use or mixed-use buildings (Policy 4.5.1). Further, large-scale stand-alone retail stores are not permitted except where existing or permitted through Zoning By-law Amendment (Policies 4.5.3 and 4). It is the clear intent of the Official Plan that lands such as the subject property can be developed or redeveloped for mixed-use land uses, in the form of mid-rise-to-tall buildings, with commercial uses at grade, and **a primary emphasis on residential uses in the storeys above grade.**

Avenues, as per Section 2.2.3 of the Official Plan, are encouraged to **create new housing** and job opportunities. In particular, where *Avenues* and *Mixed Use Areas* overlap, development will contribute to the creation of a range of housing options in the community (Policy 2.2.3.6).

We submit that by excluding residential permissions on the impacted properties, the As-of-Right Zoning Project is not in conformity with the Official Plan and, more broadly, does not fulfill the stated purpose of the Housing Action Plan.

The October 15, 2024, Staff Report comments on this disparity on page 19 by stating:

“The recommended zoning by-law amendment applies the recommended built form standards, and as-of-right height and density permissions to all subject areas but does not introduce residential use permissions to areas where residential uses are not currently permitted. City-wide Zoning By-law 569-2013 brought forward the use permissions contained in the former municipalities' General Zoning By-laws, which took into account each area's context of uses. The introduction of residential or other sensitive land uses in these areas would continue to require demonstration of land use compatibility by the landowner, or through more focused area-specific reviews.

The PPS (2024) directs planning authorities to ensure that the planning and development of sensitive land uses is only permitted where potential land use compatibility impacts are avoided, minimized and mitigated. The City's Official Plan policies require that development proponents demonstrate land use compatibility through a Compatibility/Mitigation Study where a landowner proposes or seeks to introduce sensitive

land uses, including residential uses, adjacent to or near to Employment Areas or within the influence area of major facilities. This ensures that they are appropriately designed, buffered and/or separated from Employment Areas and major facilities, and provide for appropriate mitigation of environmental and health impacts to residents.”

We submit that the above-stated rationale for excluding residential permissions, including for the subject property, is not appropriate for the following reasons:

1. Policy 2.2.1(b).2 of the Provincial Planning Statement, 2024 (2024 PPS) states that “planning authorities shall provide for an appropriate range and mix of housing options and densities [...] by **permitting and facilitating all types of residential intensification, including the development and redevelopment of underutilized commercial and institutional sites (e.g., shopping malls and plazas) for residential use** [emphasis added], development and introduction of new housing options within previously developed areas, and redevelopment, which results in a net increase in residential units in accordance with policy 2.3.1.3.”

It is our opinion that 2024 PPS Policy is applicable to many of the impacted properties, including the subject property, and that the City of Toronto should permit and facilitate residential development and redevelopment on these properties, accordingly. The proposed Draft Zoning By-law does not permit or facilitate such residential development for these impacted properties in its current form.

2. Policy 2.4.1.3(e) of the 2024 PPS states “Planning authorities should support redevelopment of commercially-designated retail lands (e.g., underutilized shopping malls and plazas), to support mixed-use residential.”

It is our opinion that the proposed Draft Zoning By-law is not consistent with the 2024 PPS Policy 2.4.1.3(e). Given that the City is endeavouring to provide as-of-right housing permissions as part of the Housing Action Plan, the As-of-Right Zoning Project, in our view, is the appropriate opportunity to implement the PPS policies with respect to facilitating housing.

3. The proposed zoning for the impacted properties referenced above allows for as-of-right zoning permissions for mid-rise commercial developments such as office but not residential. The resulting effect is that the removal of barriers for mid-rise commercial development is generally achieved, yet the barriers for residential/mixed-use development remain the same or similar as to prior to the As-of-Right Zoning Project, still requiring a Zoning By-law Amendment application to facilitate development. This renders the purpose of the As-of-Right Zoning Project ineffective, as it does not remove the requirement of a Zoning By-law Amendment application to facilitate residential uses on these impacted sites.
4. In the case of the subject property, and many of the other identified properties, there are no lands designated *Employment Areas* in their vicinity, and/or any major infrastructure, and thus no apparent compatibility concerns are present. To address concerns of compatibility, we suggest that Staff could apply the methodology of examining proximity to *Employment Areas* for the impacted properties, to determine if this additional land use compatibility analysis is required

at all. We suggest that if this methodology were applied for the subject property, it would be found that there is no such employment or industrial use within the sphere of influence that would raise compatibility concerns. As this potential compatibility issue appears to be the only reason identified by Staff for excluding residential permissions for the subject property, we suggest this modest exercise would be appropriate and result in residential permissions for many of the impacted lands.

5. Further, in the event that potential compatibility concerns *are* identified for other impacted properties, such matters of land use compatibility can be addressed through the Site Plan Approval (“SPA”) process, which is a technical review of site-specific development considerations, required for generally any development with greater than 10 residential units. We suggest that where compatibility concerns remain, Staff may require land use compatibility studies on a case-by-case basis through an SPA application, as opposed to requiring a site-specific Zoning By-law Amendment application, which can be a lengthy process resulting in the delay of residential uses.
6. By virtue of the impacted lands being designated as *Mixed Use Areas* in the Official Plan, the City’s high-level policy direction is for development and redevelopment including residential uses. As such, we suggest that by way of the *Mixed Use Areas* designations, the potential land use compatibility impacts have already generally been considered from a planning policy perspective.
7. Finally, Policy 6.1.7 of the 2024 PPS states that “Planning authorities shall keep their zoning and development permit by-laws up-to-date with their official plans and the Provincial Planning Statement by establishing permitted uses, minimum densities, heights and other development standards to accommodate growth and development.”

For reasons highlighted above, it is our opinion that the proposed Zoning By-law Amendment, by excluding residential use permissions for 2850 Kingston Road and the other similar properties, is neither up to date with the City of Toronto Official Plan nor consistent with the 2024 PPS.

We would welcome the opportunity to meet with Staff to discuss our comments further. In addition, please kindly ensure that the undersigned is notified of any further step or decision with respect to this matter as well as any further public meetings concerning the As-of-Right Zoning for Mid-Rise Buildings on Avenues Project.

Should you have any questions, or require further information, please do not hesitate to call.

Sincerely,

ZELINKA PRIAMO LTD.



Jonathan Rodger, MScPl, MCIP, RPP
Principal Planner

cc. Canadian Tire Corporation Limited
Toronto Planning and Housing Committee
Kyle Knoeck, Director, Zoning and Committee of Adjustment
John Duncan, Senior Planner, Zoning Section
Emilia Floro, Director, Urban Design
Rong Yu, Project Manager, Urban Design
Signe Leisk, Cassels LLP

**APPENDIX A: ZELINKA PRIAMO LTD. LETTER TO PLANNING AND HOUSING
COMMITTEE, DATED JUNE 12,2024**

VIA EMAIL

June 12, 2024

Avenues, Mid-rise and Mixed Use Areas Study Team
City Planning Division
City Hall, East Tower
12th Floor, 100 Queen Street West
Toronto, ON M5H 2N2

Attention: Nancy Martins, Administrator Planning and Housing Committee

**Re: PH13.4 – Housing Action Plan: As-of-Right Zoning for Mid-rise
Buildings on Avenues and Updated Rear Transition Performance
Standards – Proposals Report
2850 Kingston Road
Preliminary Comments on Behalf of Canadian Tire Corporation
Limited**

Our File: CAT/TOR/24-02

We are the planning consultants for Canadian Tire Corporation Limited (“Canadian Tire”), the landowner of a number of properties throughout Toronto. On behalf of Canadian Tire, we have been monitoring the Toronto Housing Action Plan initiatives, including the *Avenues, Mid-rise, and Mixed Use Areas Study*.

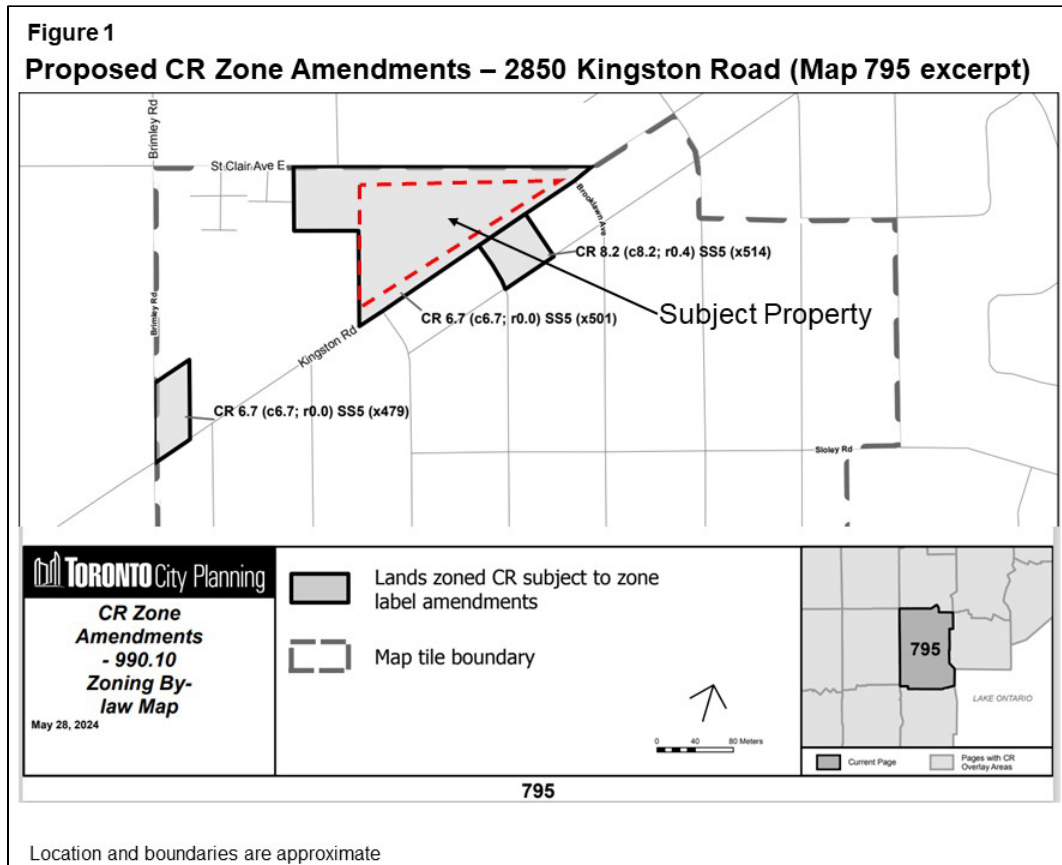
We have reviewed the *As-of-Right Zoning for Mid-rise Buildings on Avenues and Updated Rear Transition Performance Standards – Proposals Report* Staff Report dated May 27, 2024, which provides details on a proposed Zoning By-law Amendment to implement as-of-right zoning permissions for mid-rise buildings along Avenues in the CR zone. As per the Staff Report, the Planning and Housing Committee is recommended to direct City Planning Staff to consult stakeholders and the public on the proposed draft Zoning By-law Amendment and report back with the final recommended Zoning By-law Amendment in the third quarter of 2024.

Canadian Tire’s land holdings include the property municipally known as 2850 Kingston Road, Toronto (the “subject property”). The subject property is located along an *Avenue*, being at the intersection of Kingston Road and St. Clair Avenue East and is currently developed with a Canadian Tire store. The subject property is also designated *Mixed-Use Areas* in the City of Toronto Official Plan, and currently zoned CR 0.4 (c0.4; r0.0) SS3 (x501) within the City-wide Zoning By-law 569-2013, as amended. The subject property is not subject to an existing Avenue Study.

Having reviewed the draft Zoning By-law Amendment, we offer the following preliminary comments on behalf of Canadian Tire.

Draft Zoning Label

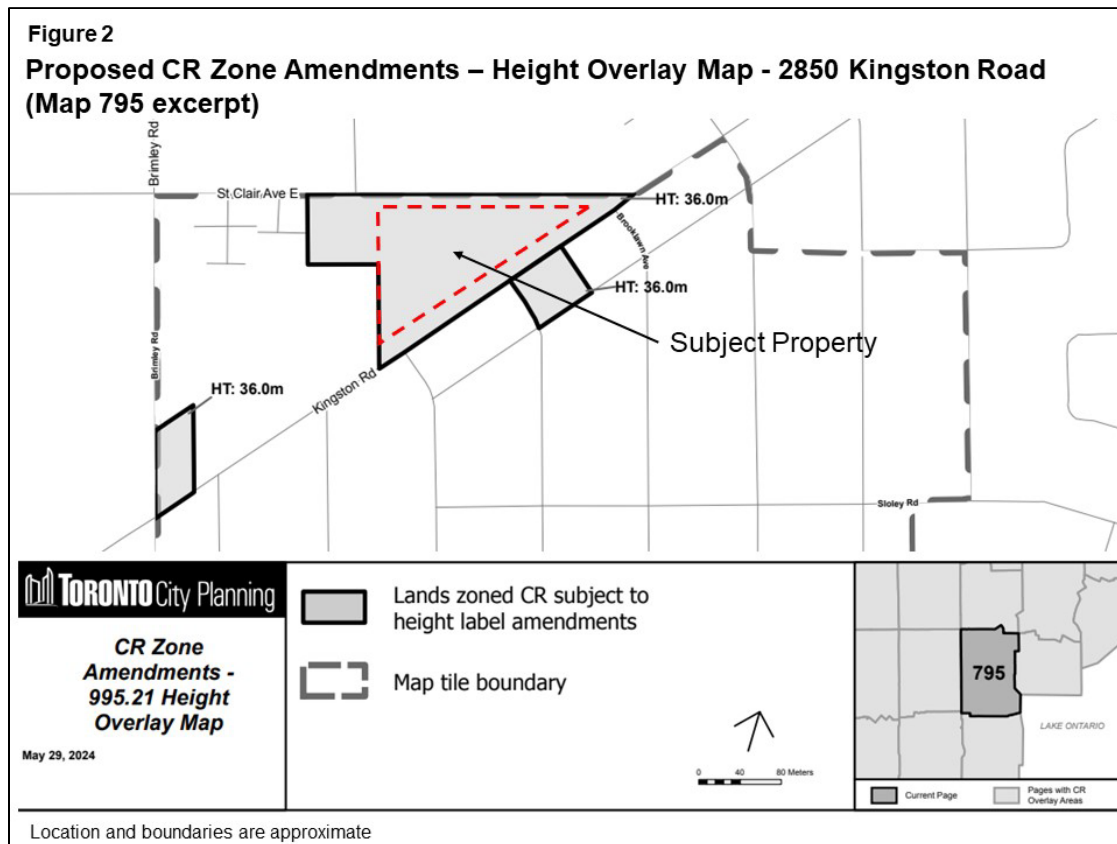
- The draft zoning for the subject property is CR 6.7 (c6.7; r0.0) SS5 (x501) (see Figure 1).



- The zoning as currently proposed would not permit mixed-use residential development, being that the 'r' value is 0.0.
- The *Mixed Use Areas* policies of the Official Plan are applicable to the subject property. The policies include that *Mixed Use Areas* are made up of a broad range of commercial, residential, and institutional uses, in single use or mixed use buildings (Policy 4.5.1). Further, large scale stand-alone retail stores are not permitted except where existing or permitted through zoning by-law amendment (Policies 4.5.3&4)
- It is the clear intent of the Official Plan that lands such as the subject property, would be developed or redeveloped for mixed-use residential uses, in the form of mid-rise-to-tall buildings, with commercial uses at grade, and a primary emphasis on residential uses in the storeys above grade.
- Accordingly, we submit that the proposed zoning for the subject property should be revised to include residential use permissions. As per the approach taken in other similar instances on the proposed zoning maps, **we suggest the proposed zoning for the subject property should be CR 6.7 (c6.7; r6.7) SS5.**

Draft Height Overlay Map

- The draft height overlay map identifies the subject property with a maximum height of 36.0 m (see Figure 2).



- We understand that the City's Housing Action Plan and Avenue Review is a multi-pronged approach that seeks to facilitate development along Avenues and in Mixed Use Areas, including different and inter-related action items that include Official Plan policy and Schedules, review of Urban Design Guidelines and review of the Zoning By-law. We understand that as part of this, the City is reviewing the opportunity to consider sub-classification of Avenues and expanding the existing Avenue structure, among other matters. Due to the inter-related nature of these initiatives, we seek clarification as to how the draft Zoning By-law Amendment intends to incorporate the results of those reviews, including the different standards that may apply to the sub-classification of the Avenues, including the potential for tall buildings with an increased maximum height on the overlay map. **In our submission, it would be appropriate for the Zoning By-law initiative to incorporate the results of ongoing amendments to the Official Plan.**

Development Standard Set 5

- Generally, the proposed development standards are reflective of the Mid-Rise Building Performance Standards. We note one regulation may need to be clarified for certainty of zoning interpretation.

- Proposed regulation 16(B) states “at least 75% of the main wall of the building facing a front lot line must be at or between the front lot line and a maximum of 3.0 metres from the front lot line. We wish to confirm that the intent of this regulation is for only main walls of the first 3 storeys to be within this maximum 3.0-metre setback, as upper storeys require setbacks in accordance with proposed regulation 16(D).

Existing Site-Specific Exception 501

- The subject property is subject to zoning exception 501 which sets out required building setbacks as follows:
 - *The minimum building setback from a lot line that abuts:*
 - *Kingston Rd. is the greater of 21.0 metres, from the centre line of Kingston Rd., or 3.0 metres from a lot line abutting Kingston Rd;*
 - *St. Clair Ave. is the greater of 16.5 metres, from the centre line of St. Clair Ave., or 3.0 meters from a lot line abutting St. Clair Ave.;*
- We request clarification as to the interrelationship of exception 501 (which sets out a minimum front yard setback of 3.0 m), and regulation 16(B) as noted above, which sets out a maximum front yard setback of 3.0 m. These regulations conflict as the resultant minimum and maximum setback from the Kingston Road property line would both be 3.0 m.
- We also note that City Staff have confirmed that a road widening of approximately 3.05 m will be required from the Kingston Road frontage at the next *Planning Act* application or opportunity for the City to collect this widening dedication. This is due to Kingston Road’s planned width of 36 m, whereas the current approximate width is 33.5 m.
- We request clarification as to the status of compliance for the existing Canadian Tire retail store should this draft Zoning By-law Amendment be enacted, and how these regulations would impact potential future redevelopment of the property.
- Our preliminary suggestion is that site-specific zoning exception 501 could be amended to require a minimum setback from Kingston Road of 0.0 m, which would fulfill the intent of draft regulation 16(B) for any future redevelopment and ensure the existing Canadian Tire store maintains zoning compliance.

We would welcome the opportunity to meet with Staff to discuss our comments further. In addition, please kindly ensure that the undersigned is notified of any further meetings with respect to this matter as well as any further public meetings concerning the As-of-Right Zoning for Mid-Rise Buildings on Avenues project.

Should you have any questions, or require further information, please do not hesitate to call.

Sincerely,

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