

EXPLANATORY NOTE

BY-LAW 2009-118

A By-law to amend By-law 2237, as amended

1691126 Ontario Inc. (Liberty Development Corp.)
7161 & 7171 Yonge Street

LANDS AFFECTED

The By-law applies to lands located on the north east corner of Yonge Street and Meadowview Drive, in Thornhill.

EXISTING ZONING

The lands subject to this By-law are presently zoned Highway Commercial One [HC1] and Highway Commercial Two [HC2] by By-law 2237, as amended.

PURPOSE AND EFFECT

The purpose and effect of this By-law is to rezone the subject site to the Community Amenity One [CA1] to permit a high density, mixed use residential and retail, office and hotel development. The By-law applies site-specific zoning provisions for a new CA1 zone, including site-specific permitted uses, height provisions, maximum floor areas and separation distances for high-rise towers, maximum number of dwelling units and hotel suites, parking provisions, and specialized provisions for outdoor markets and events on one of the open space areas. A portion of the site fronting Meadowview Avenue is rezoned to Open Space One [O1]; to provide for a neighbourhood park at this location. The zoning by-law incorporates a detailed phasing plan for the proposed development, implemented through H1, H2 and H3 Holding Zone Provisions.

The specific conditions for removal of these holding provisions are set out in the By-law and relate to the following matters:

Conditions for removal of the H1 provisions:

- Submission of municipal servicing and transportation impact studies;
- Execution of a site plan agreement providing for: construction of the office component prior to or concurrent with the first phase of residential development; construction of the internal road network; construction of a new intersection with Yonge Street and the internal roadway network that meets Region of York design criteria; possible widening of the Yonge Street right of way if the Region proceeds with Bus Rapid Transit along Yonge Street;
- Execution of a Section 37 Agreement between the Town and the Applicant regarding financial or in-kind contributions towards the provision of community amenities in Ward 1 or the Thornhill community;
- Execution of one or more Development Agreements between the Town and the Owner and where applicable, York Region, relating to the financing and/or construction of off-site infrastructure;
- Execution of one or more “no-pre sale” agreements between the Town and the Owner relating to phases of residential development that have not been granted servicing allocation;

Effect of lifting the H1 provisions:

- Permission for a maximum of 476 dwelling units;
- Permission for a maximum of 50,000 m² of permitted non-residential development;
- Permission for construction of one residential tower (A1) and the associated podium
- Permission for construction of a portion of the podium beneath towers B1 and B2;
- Permission for construction of all underground structures.

Conditions for removal of the H2 provisions:

- Removal of the H1 provisions;
- Submission of updated transportation impact/monitoring study;
- Availability of servicing capacity to provide for the number of dwelling units proposed.

Effect of lifting the H2 provisions:

- Permission for 252 additional residential units;
- Permission for construction of tower A2.

Conditions for removal of the H3 provisions:

- Removal of the H1 and H2 provisions;
- Submission of updated transportation impact/monitoring study;
- Availability of servicing capacity to provide for the number of dwelling units proposed;
- Confirmation that the final design for the Yonge Street BRT has been completed or construction has commenced or that funding for the Yonge Subway has been confirmed;
- Confirmation that the minimum density on the site shall be 2.5 FSI

Effect of lifting the H3 provisions:

- Permission for 522 additional residential units;
- Permission for construction of towers B1 and B2 and completion of the associated podium.



BY-LAW 2009-118

*A By-law to amend Zoning By-law 2237, as amended
To rezone the lands at the north east corner of Yonge Street and Meadowview
Avenue to permit high density mixed commercial and residential development*

THE COUNCIL OF THE CORPORATION OF THE TOWN OF MARKHAM
HEREBY ENACTS AS FOLLOWS:

1. That By-law 2237, as amended is hereby further amended as it applies to the lands outlined on Schedule 'A' attached hereto as follows:

- 1.1 By re-zoning the lands from the Highway Commercial One [HC1] and Highway Commercial Two [HC2] Zones to the Community Amenity Area One (Hold 1) [CA1(H1)]; Community Amenity Area One (Hold 2) [CA1(H2)]; Community Amenity Area One (Hold 3) [CA3(H3)] Zones; and Open Space One [O1] Zone.

2. That By-law 2237, as amended is hereby further amended by adding the following to the list of zones in Section 3.2 as set out below:

"Community Amenity Area One - CA1"

3. Notwithstanding any other provision of By-law 2237, as amended, the provisions in this Section shall apply to only those lands denoted on Schedule 'A' attached hereto. All other provisions of this By-law unless specifically modified/amended by this Section, continue to apply to the lands subject to this Section.

3.1 Use Definitions

- a. **"Drive-Through Service Facility"** means a building or structure or part thereof where goods and/or services are offered to the public within a parked or stationary vehicle by way of a service window or kiosk, where goods, money or materials are exchanged. Kiosks within a parking garage or associated with a surface parking area are not considered to be drive-through service uses.
- b. **"Outdoor Market"** means a temporary outdoor retail operation which may be comprised of multiple vendors and temporary accessory structures and may occur on a regular weekly and/or seasonal basis.
- c. **"Outdoor Special Events"** means an outdoor area used for temporary outdoor recreational events and temporary accessory structures that may occur on a regular weekly and/or seasonal basis.
- d. **"Theatre"** means a premises that is used for the showing of motion pictures or for dramatic, musical or live performances.
- e. **"Trade and convention centre"** means a premises where facilities are provided for the displaying of goods and/or services for the general public, such as an auto show or a computer trade show or where groups of people meet for civic, educational, political, religious or social purposes.

- 3.2 The following provisions shall apply in the Community Amenity Area One [CA1] Zone:

3.2.1 Only Uses Permitted

(i) RESIDENTIAL

- *apartment dwellings;*
- *townhouse dwellings;*
- *multiple dwellings.*

(ii) NON-RESIDENTIAL

- *art galleries;*
- *banquet halls;*
- *business offices;*
- *clubs, private;*
- *commercial fitness centres;*
- *community centres;*
- *day nurseries;*
- *financial institutions;*
- *hotels;*
- *libraries;*
- *medical offices;*
- *museums;*
- *outdoor markets;*
- *outdoor special events;*
- *personal service shops;*
- *places of amusement;*
- *places of worship;*
- *recreational establishments;*
- *repair shops;*
- *restaurants*
- *restaurants, take-out;*
- *retail stores;*
- *schools, commercial;*
- *schools, private;*
- *schools, public;*
- *supermarkets;*
- *theatres; and,*
- *trade and convention centres.*

3.2.2 Zone Standards

The following specific zone standards apply

a) Floor Space Index

The maximum *Floor Space Index (FSI)* for all of the buildings on the lands delineated on Schedule 'A' to this By-law shall not exceed 3.5. Notwithstanding the foregoing, the total *FSI* for all permitted residential uses combined shall not exceed 2.5. For the purposes of this By-law, only the following floor areas are exempted from the *FSI* calculation:

- car parking areas above or below grade;
- rooftop mechanical penthouses;
- lobbies located below 197 metres geodetic height above sea level;
- loading areas located below 197 metres geodetic height above sea level;
- storage lockers located below 197 metres geodetic height above sea level;
- garbage/recycling, utility, mechanical, and electrical rooms located below 197 metres geodetic height above sea level.

b) Height

The maximum height of any building or structure shall be the geodetic height above sea level shown on Schedule 'B' to this By-law, measured to:

- i) the highest point of the roof surface or the parapet, whichever is the greater, of a flat roof;
- ii) the deckline of a mansard roof;
- iii) the mean level between eaves and ridge of a gable, hip or gambrel roof or other type of pitched roof;
- iv) in case of a structure with no roof, the highest point of said structure.

Notwithstanding the above, any ornamental roof construction features including towers, steeples or cupolas, shall not be included in the calculation of height. Mechanical features, including their screening, and structures containing the equipment necessary to control an elevator, are permitted to project a maximum of 5.0 metres above the highest point of the roof surface, regardless of the height of the building.

c) Front Lot Line

The Yonge Street frontage shall be deemed to be the front lot line

d) Minimum front yard and flankage yards: 5 metres

For greater clarity, the front yard shall be measured from the front lot line as it exists after the conveyance to York Region of the lands required for the widening of Yonge Street as shown in the "Yonge Street Corridor Rapid Transit Improvements Environmental Assessment Report" unless capital funding for the construction of a subway along Yonge Street between Finch Avenue and Highway 7 has been confirmed by York Region and/or York Region otherwise advises that such widening is not required.

e) Minimum side and rear yards: 9 metres

f) Maximum permitted projections

Notwithstanding the foregoing, encroachments into the permitted yard setbacks shall be as follows:

STRUCTURE	MAXIMUM PERMITTED PROJECTION
Eaves, cornices, ornamental or architectural elements, light fixtures, balustrades, mullions, window sills, and bay windows	Maximum projection of 0.3 metres into the required yard setback
Canopies and awnings	Maximum projection of 2.4 metres into the required yard setback

g) Minimum number of loading spaces: 2 spaces

h) Residential Floor Area

The maximum floor area of any portion of Towers A1, A2, B1 and B2 above 232 metres geodetic height above sea level, shall be 880 square meters. Notwithstanding the foregoing, the maximum floor area of each floor of the uppermost four storeys of Towers A1, A2, B1 and B2 shall be 750 square metres. For the purposes of this provision, the floor area is deemed to include all of the horizontal space between the exterior faces of the exterior walls of the building at each floor level, whether it is broken or not by elevator shafts, stairwells or similar breaks in the floor.

i) Minimum separation distances

The minimum separation distance between portions of buildings above 232 metres geodetic height above sea level shall be 25 metres.

j) Maximum number of *dwelling units*:

The maximum number of *dwelling units* permitted is 1,250.

k) Maximum number of *hotel suites*:

The maximum number of *hotel suites* permitted is 175.

l) Minimum gross floor area for *business offices* and/or *medical offices*:

There shall be no less than 8,000 square metres of *gross floor area* for *business offices* and/or *medical offices* within Tower C as shown on Schedule 'B' to this By-law.

3.2.3 Special Parking Provisions

- a) A minimum number of parking spaces are required for all of the uses permitted as set out below:

Use	Minimum Parking Spaces required
<i>Apartment dwelling</i> <i>Townhouse dwelling</i> <i>Multiple dwelling</i>	1.10 <i>parking spaces</i> per <i>dwelling unit</i>
<i>All permitted non-residential uses except a hotel and shopping centre</i>	1 <i>parking space</i> for every 30 square metres of <i>net floor area</i>
<i>Hotel</i>	0.85 <i>parking spaces</i> per <i>suite</i>
<i>Shopping Centre</i>	1 <i>parking space</i> for every 30 square metres of <i>leasable floor area</i>

- b) A maximum of 50 surface *parking spaces* are permitted
- c) Parking for a maximum of 10 rental cars shall only be permitted within a *parking garage* located below 197 metres geodetic elevation above sea level.

3.2.4 Special Site Provisions

The following additional provisions shall apply:

- a) *Outdoor storage* is not permitted.

- b) The establishment of a *drive-through service facility* associated with any use is not permitted.
- c) For the purposes of this By-law, *artists' studios* shall be permitted as a component of *art galleries*.
- d) For the purposes of this By-law, a *hotel* may contain rooms with or without cooking facilities.
- e) Nothing in this By-law shall be interpreted to prevent the construction of a *parking garage* located below 197 metres geodetic elevation above sea level for the purpose of *motor vehicle* or bicycle parking and/or *storage lockers* on any portion of the lands identified on Schedule A to this By-law.
- f) Nothing in this By-law shall prevent uses incidental to construction, such as a construction camp or other such temporary work camp, tool shed, scaffold or other *building* or *structure* incidental to the construction, only for so long as the same are necessary for work in progress which has neither been finished nor abandoned.
- g) Nothing in this By-law shall prevent the use of land for a sales office for the sale of residential, industrial or commercial *suites* provided that the *suites* to be sold are to be located on lands within the limits of the Town of Markham.

3.3 OPEN SPACE ONE [O1] ZONE

The following provisions shall apply in the Open Space One [O1] Zone:

3.3.1 Only Uses Permitted:

- *public parks*;

4. HOLDING SYMBOLS

4.1 Location of H1, H2 and H3 Zones

The Hold 1 (H1), Hold 2 (H2) and Hold 3 (H3) zones are shown on Schedule 'A' attached to this By-law.

4.2 Uses Permitted Prior to the Lifting of a Holding Provision

Only the uses and floor area that existed on the effective date of this By-law are permitted prior to the removal of the H1 provision. Once the H1 provision is lifted, all of the uses and floor area that are provided for as a consequence of removing the H1 provision are permitted prior to the removal of the H2 provision. Once both the H1 and H2 provisions are lifted, all of the uses and floor area that are provided for as a consequence of removing the H1 and H2 provisions are permitted prior to the removal of the H3 provision.

4.3 Conditions for Removing the H1 Provision

The Hold 1 (H1) Provision shall not be lifted until the following conditions have been met to the satisfaction of the Town of Markham:

- i) Submission of municipal servicing and transportation impact studies to the satisfaction of Director of Engineering in consultation with York Region;
- ii) Execution of a site plan agreement between the Town and the Owner :
 - o requiring a minimum of 8,000 m² of *gross floor area* for *business offices* and/or *medical offices* in Tower C as shown on Schedule 'B' with such Site Plan Agreement requiring the issuance of a building permit for Tower C prior to, or concurrent with, issuance of any building permit for a building designed for residential occupancy;
 - o requiring that Street 'A' and Street 'B' are completed through the site, and connected to Yonge Street and Meadowview Avenue all to the satisfaction of the Town of Markham and York Region;
 - o requiring that the intersection of Street 'A' and Yonge Street be designed to the appropriate engineering standards reflecting the connection of a municipal public street to a Regional Road including the provision of daylighting triangles to the satisfaction of the Town of Markham and York Region;
 - o providing for a sufficient public right of way on the east side of Yonge Street to protect for the widening of Yonge Street as shown in the "Yonge Street Corridor Public Transit Improvements Environmental Assessment Report" unless capital funding for the construction of a subway on Yonge Street between Finch Avenue and Highway 7 has been confirmed by York Region and/or York Region otherwise advises that such a widening is not required.
- iii) Execution of a Section 37 Agreement between the Town and the Owner regarding a financial or in kind contribution equivalent to \$2 million for the provision of community services in Ward 1 or the Thornhill Community, to be paid at the time of issuance of the first residential building permit, to the satisfaction of the Town;
- iv) Execution of one or more Development Agreement(s) between the Town, the Owner and, where applicable, York Region, relating to the construction, financing and implementation of required off-site servicing and transportation infrastructure improvements, and, if required by the Town and/or York Region, streetscape improvements to the east boulevard of the Yonge Street right-of-way between Meadowview Avenue and the CN Rail right-of-way.
- v) Execution of one or more "no pre-sale agreements" between the Town and the Owner applying to all phases of residential development proposed in Tower A2, and Towers B1 and B2 and associated podium, as shown in Schedule 'B'.

4.4 Effect of lifting the Hold 1 (H1) provision:

That the lifting of the Hold 1 (H1) provision has the effect of:

- i) Only permitting a maximum of 476 *dwelling units* on all of the lands subject to this By-law;
- ii) Only permitting a maximum of 50,000 square metres of *gross floor area* devoted to permitted non-residential uses on all of the lands subject to this By-law;

- iii) Permitting construction of Tower A1 in its entirety and the podium located beneath Towers A1 and A2 up to a maximum height of 231 metres geodetic elevation above sea level, as shown on Schedule 'B';
- iv) Permitting construction of the portion of the podium under Towers B1 and B2, as shown on Schedule B, up to a maximum height of 205 metres geodetic elevation above sea level;
- v) Permitting construction of all structures below 197 metres geodetic elevation above sea level.

4.5 Conditions for Removing the Hold 2 (H2) Provision

The Hold 2 (H2) Provision shall not be lifted until the following conditions have been met to the satisfaction of the Town of Markham:

- i) Removal of the Hold 1 (H1) provision on the site;
- ii) Submission of an updated transportation impact/monitoring study, to the satisfaction of the Director of Engineering in consultation with York Region;
- iii) The Town, in consultation with the Region, is satisfied that sufficient servicing capacity is available and has adopted a resolution granting additional servicing capacity to provide for the number of *dwelling units* permitted;

4.6 Effect of Lifting the Hold 2 (H2) Provision

That lifting of the Hold 2 (H2) provision has the effect of:

- i) only permitting a maximum of 252 additional *dwelling units* beyond the maximum permitted as a consequence of lifting the H1 provisions;
- ii) permitting construction of Tower A2, as shown on Schedule 'B', above 231 metres geodetic elevation above sea level.

4.7 Conditions for Removing the Hold 3 (H3) Provision

The Hold 3 (H3) Provision shall not be lifted until the following conditions have been met to the satisfaction of the Town of Markham:

- i) Removal of the Hold 1 (H1) and Hold 2 (H2) provisions;
- ii) Submission of an updated transportation impact/monitoring study, to the satisfaction of the Director of Engineering in consultation with York Region;
- iii) The Town, in consultation with the Region is satisfied that sufficient servicing capacity is available and has adopted a resolution granting additional servicing capacity to provide for the number of *dwelling units* permitted;
- iv) The final design is completed or construction is commenced for the Yonge Street BRT, or the funding for the Yonge Street subway extension has been confirmed;

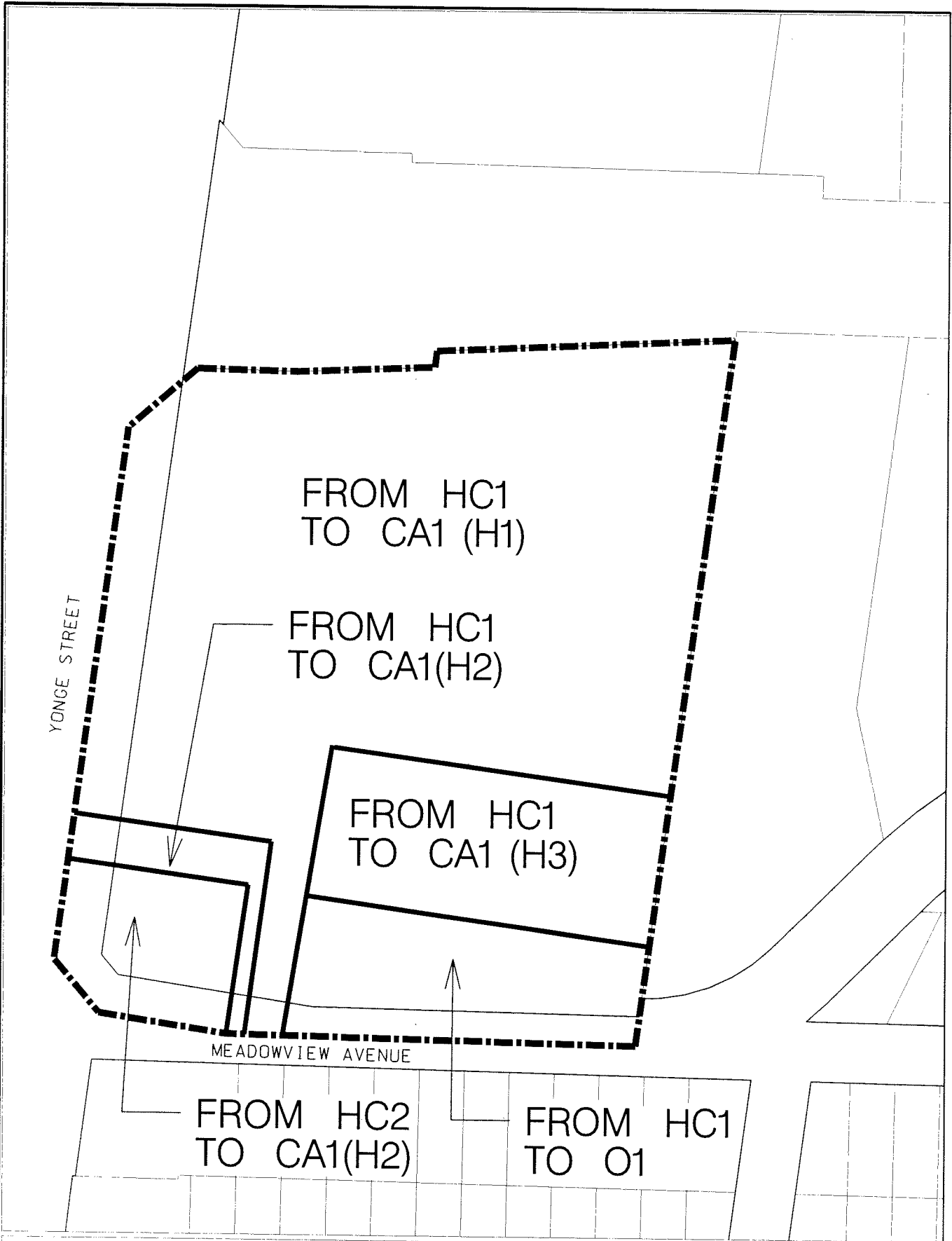
- v) The total density for all uses on the site, both existing and permitted by the lifting of the H3 provision, shall be a minimum of 2.5 FSI

4.8 Effect of Lifting the Hold 3 (H3) Provision

The lifting of the H3 provision has the following effect:

- i) only permitting a maximum of 522 additional *dwelling units* beyond the maximum permitted as a consequence of lifting the Hold 1 (H1) and Hold 2 (H2) provisions.
 - ii) permitting construction of Towers B1 and B2, as shown in Schedule 'B', and the portion of the associated podium above 205 metres elevation above sea level.
- 5. All other provisions of By-law 2237, as amended, not inconsistent with the provisions of this By-law, shall continue to apply;
 - 6. The lands shown on Schedule 'A' shall be treated as one *lot* for the purposes of this By-law.

APPROVED BY ONTARIO MUNICIPAL BOARD ON MAY 25, 2009



DEVELOPMENT SERVICES COMMISSION

A BY-LAW TO AMEND BY-LAW 2237



BOUNDARY OF AREA COVERED BY THIS BY-LAW
ZONE BOUNDARY

CA1	COMMUNITY AMENITY ONE
HC1	HIGHWAY COMMERCIAL GENERAL
HC2	HIGHWAY COMMERCIAL AUTOMOBILE
O1	OPEN SPACE

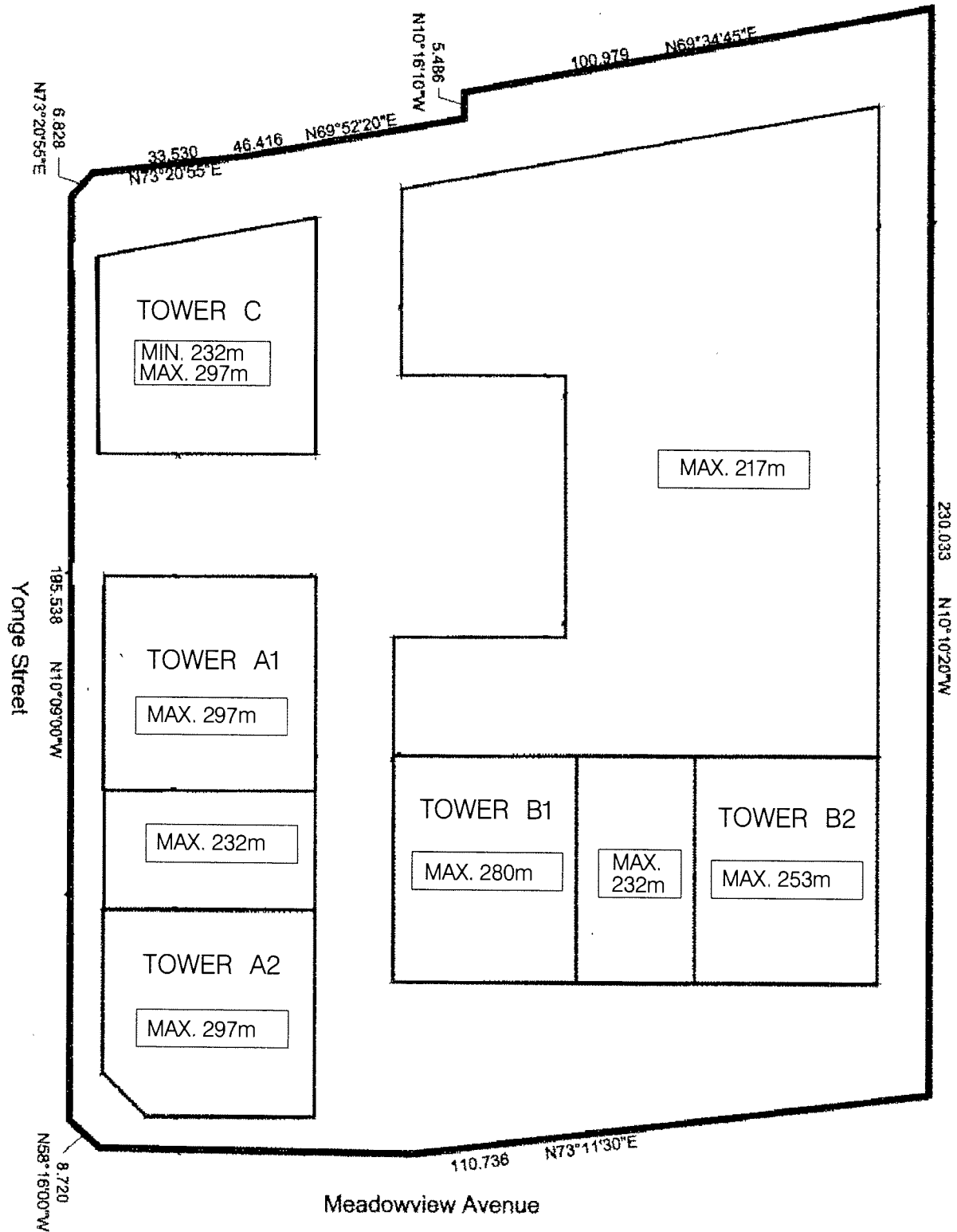
(H1)	HOLDING PROVISION ONE
(H2)	HOLDING PROVISION TWO
(H3)	HOLDING PROVISION THREE

THIS IS SCHEDULE 'A' TO BY-LAW ~~2009-118~~

Approved by ONB
on May 25, 2009

NOTE: 1) DIMENSIONS ARE IN METRES
2) REFERENCE SHOULD BE MADE TO
THE ORIGINAL BY-LAW LODGED IN
THE OFFICE OF THE CLERK

SCALE 1: NA



DEVELOPMENT SERVICES COMMISSION

A BY-LAW TO AMEND BY-LAW 2237

— BOUNDARY OF AREA COVERED BY THIS BY-LAW

GEODETIC ELEVATION ABOVE SEA LEVEL IN METRES

THIS IS SCHEDULE 'B' TO BY-LAW 2009-118

Approved by OMB
on May 25, 2009

NOTE: 1) DIMENSIONS ARE IN METRES
2) REFERENCE SHOULD BE MADE TO
THE ORIGINAL BY-LAW LODGED IN
THE OFFICE OF THE CLERK

SCALE 1: NA

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