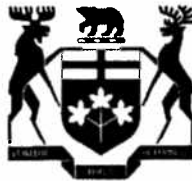
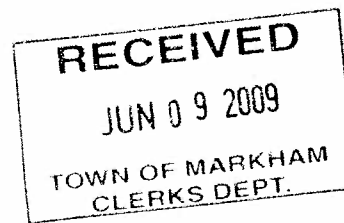


ISSUE DATE:

June 08, 2009



Ontario



PL080019

Ontario Municipal Board  
Commission des affaires municipales de l'Ontario

1691126 Ontario Inc. (Liberty Development Corporation) has appealed to the Ontario Municipal Board under subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, from Council's refusal or neglect to enact a proposed amendment to the Official Plan for the Town of Markham for the purpose of amending policy 6.4.2.6 in the Thornhill Secondary Plan to allow for an increased maximum combined residential and non-residential density of 3.85 floor/area ratio ( Approval Authority File No. OP 06-127138)  
OMB File No. PL080019

1691126 Ontario Inc. (Liberty Development Corporation) has appealed to the Ontario Municipal Board under subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended from Council's refusal or neglect to enact a proposed amendment to Zoning By-law 2237 of the Town of Markham to rezone lands respecting 7161 Yonge Street and 7171 Yonge Street from Highway Commercial General (HC1) and Highway Commercial Automobile (HC2) to a zoning category (to be determined) to permit high density residential uses, at grade retail, and office commercial uses  
OMB File No. PL071195

**APPEARANCES:**

**Parties**

1691126 Ontario Inc.

Town of Markham

Regional Municipality of York

**Counsel**

M. Flowers

C. Lyons

R. Miller

**Participant**

Marion Matthias

**MEMORANDUM OF ORAL DECISION DELIVERED BY M.A. SILLS ON  
MAY 25, 2009 AND ORDER OF THE BOARD**

1691126 Ontario Inc., known as Liberty Development Corporation (Applicant) is proposing a mixed-use development on the four hectare parcel of land situated at 7161 and 7171 Yonge Street in the Town of Markham. The proposal consists of high density

residential towers, a hotel/office tower, apartment buildings and retail space. The site, which is to be serviced by three privately owned roads, is proposed to contain two park areas, and 50 surface and 2,500 underground parking spaces. The Applicant has appealed the refusals by the Town of Markham (Town) to enact an Official Plan Amendment and a Zoning By-law Amendment required to facilitate this development.

At the commencement of the hearing, the Board was informed that the parties have achieved a full settlement of the appeals in accordance with the Official Plan Amendment set out in Exhibit 6, and the Zoning By-law Amendment set out in Exhibit 7.

Mr. Peter Walker, a registered Professional Planner in the Province of Ontario and a Fellow of the Canadian Institute of Planners, provided professional opinion evidence in support of the proposed amendments before the Board.

Mr. Walker provided the Board with an extensive overview of the subject lands and surrounding area, the development proposal and the application process. He informed the Board that the proposed Official Plan and Zoning By-law Amendment documents are the result of a collaborative effort between the Applicant, the Town of Markham and the Region of York.

Mr. Walker provided a detailed review of the proposal within the policy context of provincial and municipal planning policies and opined that these policies support the proposed development. He contended the proposal fits with the Young Street Corridor Study and will serve as a major entry site for Markham as a result of the strategic location. He said this proposal is an appropriate development which conforms to all applicable planning policies and represents an "incredibly good project for Markham and area and sets an incredibly good planning precedent". He opined that the proposal has regard for matters of Provincial interest, it is consistent with the Provincial Policy Statement, and it conforms to the Growth Plan and the intent of the Markham Official Plan. No amendment to the Regional Official Plan, which supports this type of development on this type of site, is required.

The Board then heard from Thornhill resident, Marion Matthias, who voiced a number of concerns with respect to new development in general. Her opposition arises from her perceptions related to the potential creation of adverse impact resulting from intensification and infill development.

The Board relies upon and accepts the professional opinion evidence of Mr. Walker to find that the proposed development represents good planning and is in the public interest and accordingly, the Official Plan and Zoning By-law Amendments should be approved.

THE BOARD ORDERS that the appeals are allowed and the Official Plan for the Town of Markham is amended as set out in Attachment "1", and Zoning By-law No. 2237 is amended as set out in Attachment "2", to this Order.

On a related matter, the Board was advised that an appeal has been filed with respect to the associated site plan. On consent and at the request of the parties, the Board has scheduled the hearing for this matter. A pre-hearing telephone conference call is scheduled for Thursday, July 30, 2009 at 9:00 a.m. (1-866-355-2663 Code 6251). Further, ten (10) days have been set aside on the Board's calendar for the hearing, commencing on Tuesday, October 13, 2009 at 10:30 a.m. in the Markham Civic Centre.

This Member is seized.

So Orders the Board.

"M. A. Sills"

M. A. SILLS  
MEMBER



# **ATTACHMENT “1”**

**OFFICIAL PLAN**

**of the**

**TOWN OF MARKHAM PLANNING AREA**

**AMENDMENT NO. XXX**

To amend the Official Plan (Revised 1987) as amended.

***(1691126 Ontario Inc. (Care of Liberty Development Corporation))***

***May 2009***

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## **PART I - INTRODUCTION**

(This is not an operative part of  
Official Plan Amendment No. XXX)

## **PART I - INTRODUCTION**

### **1.0 GENERAL**

- 1.1** PART I - INTRODUCTION, is included for information purposes and is not an operative part of this Official Plan Amendment.

PART II - THE AMENDMENT, including Figure No. 3.1, attached hereto, constitute Amendment No. XXX to the Official Plan (Revised 1987), as amended. Part II is the operative part of this Official Plan Amendment.

### **2.0 LOCATION**

The Amendment applies to lands at the northeast quadrant of Yonge Street and Meadowview Avenue, and municipally known as 7161 and 7171 Yonge Street. The subject lands are approximately 4.0 hectares in size and are shown in Figure No. 3.1 to this Amendment.

### **3.0 PURPOSE**

The purpose of this Official Plan Amendment is to amend certain provisions of the Official Plan (Revised 1987) to permit a mixed use development comprised of a diverse range of uses including high density residential, and non-residential including office, hotel, retail, service, community, institutional and Open Space uses that will function as a significant focal point along the Yonge Street corridor.

### **4.0 BASIS OF THIS OFFICIAL PLAN AMENDMENT**

The basis for this Amendment to the Town of Markham Official Plan is to implement the intensification and transit-supportive policies of the Provincial Policy Statement, the Greater Golden Horseshoe Growth Plan, and the Region of York Official Plan, including those pertaining to Regional Corridors and Key Development Areas.

The proposed development implements the policies of these plans by providing increased densities to support existing and planned transit for the Yonge Street Corridor in a mixed use design that includes four residential point tower buildings, a mixed use office and hotel building and retail and service commercial uses. Approximately 0.68 hectares of Open Space will be provided. Approximately 50 surface parking spaces will be provided on the site, in addition to approximately 2,500 underground parking spaces.

The lands subject to this Amendment are currently underutilized and include a one-storey commercial plaza, a free-standing vacant restaurant building, surface parking and automobile service station uses. The lower intensity and automobile-oriented nature of these uses fail to implement the transit-supportive policies of the approved policy framework and do not capitalize on the locational attributes of the site in proximity to the breadth of transit services operating and planned for Yonge Street, as well as services



currently existing along Steeles Avenue and connecting to the Toronto Transit Commission's Finch Subway Station.

The proposal will introduce high density residential, office, hotel, retail, and service commercial uses along the Yonge Street and Meadowview Avenue frontages. The point towers will serve as landmarks for the area and reinforce the importance of the site as part of a gateway between York Region and the City of Toronto.

## **PART II - THE AMENDMENT**

(This is an operative part of  
Official Plan Amendment No. XXX)

## PART II - THE AMENDMENT

### 1.0 THE AMENDMENT

- 1.1 Section 1.1.2 of Part II of the Official Plan (Revised 1987) as amended, is hereby amended by the addition of the number XXX to the list of amendments, to be placed in numerical order including any required grammatical and punctuation changes.
- 1.2 Section 4.3.3 is hereby amended by adding a new subsection 4.3.3.2, as follows, and Figure No. 3.1 attached hereto:

#### “4.3.3.2 Specific Site and Area Policies

- a) 7161 and 7171 Yonge Street  
(Official Plan Amendment No. XXX)  
Notwithstanding any other provisions of this Plan to the contrary, certain lands designated COMMERCIAL (Community Amenity Area), municipally known as 7161 and 7171 Yonge Street, and shown on Figure No. 3.1, shall be subject to the following policies:

##### i) Vision

1. The property known as 7161 and 7171 Yonge Street is intended to become a vibrant, transit supportive and pedestrian friendly destination within the Yonge Street corridor consisting of high density residential, office, hotel, retail and service commercial uses in several buildings.
2. Densities will achieve, at a minimum, the relevant Regional and Provincial intensification targets, including, at full build-out, a minimum overall floor space index of 2.5 FSI for all uses combined, but shall not exceed an overall floor space index of 3.5, of which residential uses shall comprise a floor space index of no more than 2.5 .
3. Building height, form, placement and architectural design will reinforce the prominent locational attributes of the site as a gateway between the Thornhill community to the north and the evolving Yonge Street corridor to the south.
4. A publicly accessible Private Street System, designed to resemble a public street system, will be established within the site that will provide connections from Meadowview Avenue and Yonge Street, and provide for interconnected vehicular and pedestrian circulation through the block for residents, visitors, employees and the surrounding community.
5. New urban Public Open Spaces will become community gathering places. The Yonge Street Open Space will be a setting for outdoor patios, farmers markets, outdoor markets and community special events.

6. Vehicular parking will be provided below grade and accessed from the Private Street System. Only limited surface parking will be located along certain Private Streets to reinforce the urban character of the site.
7. Sustainable and environmentally responsible building design, as contemplated by the principles of LEED Silver and FLAP, will be encouraged.
8. Grade-related, pedestrian-oriented retail and commercial uses will be located along the Yonge Street frontage;
9. Building heights will transition down from the Yonge Street frontage towards the established residential neighbourhood south east of the Dudley Avenue/Meadowview Avenue intersection. In this regard, building heights shall have regard to an angular plane measured from the north east corner of Dudley Avenue and Meadowview Avenue, and rising toward Yonge Street from this point at the following slope: height =  $\frac{1}{2}$  horizontal distance.

**ii) General Land Use Structure**

1. The general land use structure for the site will consist of a broad mix of uses including high density residential, retail, service commercial, hotel, and office uses.
2. High density residential, office and hotel uses will be generally located along Yonge Street west of Street 'A' and high density residential uses will be generally located adjacent to the northern edge of the "Meadowview Avenue Open Space" as shown on Figure No. 3.1
3. Retail uses will be generally located within the base of buildings along Yonge Street and within an indoor shopping centre located internal to the site, which may also have a pedestrian access located at the base of the high density residential buildings adjacent to the northern edge of the "Meadowview Avenue Open Space".
4. Two new Open Space areas will serve as community Public Open Space along Yonge Street and Meadowview Avenue, as indicated on Figure No. 3.1. That portion of Street 'A' extending through the "Yonge Street Open Space" will be designed to resemble a public street in order to provide for pedestrian and vehicular movements.
5. A publicly-accessible Private Street System providing vehicular and pedestrian access within the site will be developed as indicated on Figure No. 3.1. These streets will be designed to resemble public roads.

**iii) Land Use**

1. The lands identified as "COMMERCIAL (Community Amenity Area) on Figure No. 3.1 may be zoned to permit the following uses:

**(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;
- public parks;
- recreational establishments;
- repair shops;
- restaurants;
- restaurants, take-out;
- retail stores;
- schools, commercial;
- schools, private;
- schools, public;
- supermarkets;
- theatres; and,
- trade and convention centres.

2. Underground parking garage structures shall be permitted anywhere on the lands identified on Figure No. 3.1.

**iv) Open Space General Policies**

1. Two new Open Space areas shall be created as part of the redevelopment of the site. The "Yonge Street Open Space" will have

frontage along Yonge Street and the "Meadowview Avenue Open Space" will have frontage along Meadowview Avenue as depicted in Figure No. 3.1. The precise location and sizing of the Open Space areas will be determined through site plan approval.

2. The two new Open Space areas are intended to act as passive Open Space for site and community residents, employees and visitors to the site, as well as to provide pedestrian connections through the block for the adjacent community.
3. Cafés, patios and outdoor markets will be permitted uses in the "Yonge Street Open Space" in order to animate this space to provide a safe, vibrant environment at all times of the day.
4. The "Meadowview Avenue Open Space" will be designed for passive recreational uses and will be characterized by a predominance of soft landscaping.
5. The Open Space areas may be developed on top of any underground parking garage structure on the site, and may include structural elements such as stairways and vents.
6. The "Yonge Street Open Space", including that portion of Street 'A' that passes through this Open Space area, and the "Meadowview Avenue Open Space" shall be counted toward the required parkland contribution under the Planning Act. A cash-in-lieu or offsite contribution may be provided to off-set any potential deficiency in meeting the required parkland contribution through the dedication of the two on-site Open Space areas.

#### **Yonge Street Open Space**

7. The "Yonge Street Open Space" will have frontage on Yonge Street and will generally extend eastward through the block as indicated on Figure No. 3.1.
8. The primary functions of the "Yonge Street Open Space" will be to provide for pedestrian connections from Yonge Street to a public outdoor gathering space for site and community residents, employees, and visitors to the site; to provide pedestrian connections to the commercial uses within the site; and, to generally provide for passive Open Space uses within the community.
9. Street 'A' will be extended through this Open Space area as a publicly-accessible shared pedestrian/vehicular right of way, and will be considered a part of this Open Space area. Street 'A' will be designed to resemble a public road, as set out in Section 4.3.3.2 a) vi) "Transportation Policies" Subsection 7.

10. Limited surface parking will be permitted along the edges of this Open Space area and along Street 'A'.
11. This Open Space area will have an urban rather than natural character that will feature more emphasis on hard landscaping, paved walkways, seating areas, lighting, and landscaping appropriate to the urban character of the site. Structures associated with the underground parking garage structure beneath the Open Space Area will be permitted, and will be screened and landscaped, as appropriate.
12. Cafés and patios will be permitted along the edges of this Open Space area in conjunction with restaurants and other retail uses located in the surrounding buildings.
13. Temporary outdoor markets, outdoor special events and other appropriate outdoor events will also be permitted within this Open Space Area in accordance with any municipal by-laws or permitting requirements.

#### **Meadowview Avenue Open Space**

14. The primary function of the "Meadowview Avenue Open Space" will be to provide passive Open Space uses for the residents, visitors and employees on the site, and for the adjacent residential community.
15. The "Meadowview Avenue Open Space" will have frontage along Meadowview Avenue between Street 'A' and Street 'C' as indicated on Figure No. 3.1.
16. In order to reflect the more passive, community oriented role of this park from that of the more activity oriented role of the Yonge Street Open Space, cafés, patios, outdoor markets and farmer's markets will not be permitted within the "Meadowview Avenue Open Space".
17. This Open Space area will reflect its role as a largely passive community oriented Open Space through appropriate landscaping treatment. Structures associated with the underground parking garage structure beneath the Open Space area will be permitted, and will be screened and landscaped, as appropriate.

#### **v) Urban Design Principles**

In order to achieve the vision for the site of a vibrant, transit supportive and pedestrian friendly destination within the Yonge Street corridor, the following general urban design principles will be adhered to:

## **General**

1. Providing for building heights that will reinforce the prominent locational attributes of the site as a landmark gateway between the Thornhill community to the north and the evolving high density Yonge Street corridor to the south;
2. Providing for densities that will facilitate the gateway function, and allow for a critical mass of activity on the site, and within the Yonge Street corridor, that will support a vibrant street life and mix of uses;
3. Providing for a transition of building heights and massing from the Yonge Street frontage, the location for the highest building heights and mass, to the established residential neighbourhood located south east of Meadowview Avenue and east of Dudley Avenue;
4. Allowing for creative flexibility to realize a diversity of architectural expressions including sustainable elements on the site;
5. Creating a dynamic pedestrian experience at street level;
6. Encouraging a well integrated and mixed urban form;

## **Density**

7. A maximum total Floor Space Index (FSI) of 3.5 shall be permitted on the site for all uses, of which a maximum FSI of 2.5 shall apply to residential uses.
8. At full build-out, a minimum overall floor space index of 2.5 FSI shall be achieved on the site for all uses combined,

## **Height**

9. The maximum heights shall be as set out in Figure No. 3.1 measured in accordance with the provisions of the implementing zoning by-law;
10. Notwithstanding the foregoing, implementing zoning by-laws will allow for specific architectural, mechanical or functional building features to project beyond the height limits set out in Section 4.3.3.2 a) v) "Urban Design Principles" Subsection 9 above;

## **Built Form**

11. Built form generally will be comprised of mid-rise podium buildings up to a height of 232 metres geodetic elevation above sea level that address the edges of public and private streets, with tower buildings being located above the podium buildings;



12. High-rise residential towers located above mid-rise podiums shall have a maximum floor area of 880 square metres;
13. A low-rise retail and service commercial component comprising an indoor shopping centre will generally be located in the northeastern quadrant of the site, east of Street 'A'.

**vi) Transportation Policies**

1. A publicly-accessible Private Street System, designed to resemble public roads, shall be developed on the site to facilitate vehicular and pedestrian circulation, as indicated on Figure No. 3.1. Precise location of the streets will be determined through Site Plan Control.
2. The Private Street System will be owned privately and may be built upon any underground parking and building structures located on the site.
3. Private streets and driveways additional to those indicated on Figure No. 3.1 also may be developed without amendment to this plan.
4. Double left turn lanes from Meadowview Avenue to Yonge Street are not permitted.

**Street 'A'**

5. The primary role of Street 'A' will be as the main north-south pedestrian movement corridor through the site between Meadowview Avenue and Yonge Street. The portion of Street 'A' that passes through the "Yonge Street Open Space" shall be considered to be a part of this Open Space area.
6. Vehicles will be permitted along with on street parking that will support the non-residential uses along the street.
7. Street 'A' will be designed to a minimum width of 18.5 metres, and will include two boulevards, with a minimum width of 5 meters each, located on either side of a paved vehicular roadway having a maximum curb to curb width of 8.5 metres, except at the intersection with Yonge Street where provisions shall be made for one inbound lane and three outbound lanes and daylighting triangles. The specific configuration and dimensions of this intersection and associated daylighting triangles shall be determined to the satisfaction of the Town of Markham and Region of York, and shall be implemented through site plan approval. Boulevards will incorporate street trees and other landscaping, street furniture, pedestrian-scaled lighting and sidewalks. For clarity, the roadway shown on Figure No. 3.1 running along the north, south and easternmost boundaries of the Yonge Street Open Space shall not be considered part of Street 'A'.

#### **Street 'B'**

8. Street 'B' will provide the primary vehicular access points to the underground parking garage structure and loading areas.

#### **Street 'C'**

9. Street 'C' will function as the primary vehicular movement corridor into the site from Meadowview Avenue and will provide vehicular and pedestrian access between Street 'A' and 'B' and also will provide areas for vehicular drop-offs associated primarily with the residential uses along the "Meadowview Avenue Open Space"
10. Street 'C' will be designed to a minimum width of 14 metres, and will include a pedestrian boulevard, with a minimum width of 5 metres, located on the north side, a paved vehicular roadway with a maximum curb to curb width of 7 metres, and a 2 metre wide sidewalk on the south side of the roadway. The boulevard will incorporate street trees and other landscaping, street furniture, pedestrian-scaled lighting and a sidewalk.

#### **vii) Loading and Servicing Policies**

Loading and servicing areas will be encouraged to locate along Street 'B', and will be screened from public street view.

#### **viii) Hold provisions**

In addition to any other applicable provisions of Section 7.3 c) iii), a zoning-by-law amendment to remove the Hold 1 (H1), Hold 2 (H2) and Hold 3 (H3) symbols from the zoning designations on 7161 and 7171 Yonge Street shall not be passed until the following conditions have been met to the satisfaction of the Town of Markham and York Region, as applicable:

1. Conditions for Removing the Hold 1 (H1) Provision:
  - 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 m<sup>2</sup> of *gross floor area* for *business offices* and/or *medical offices* in Tower C as shown on Figure No. 3.1 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 'C' are completed through the site in the manner described in Section 4.3.3.2 a) vi) "Transportation Policies" Subsections 7 and 10 and connected to Yonge Street and Meadowview Avenue all to the satisfaction of the Town of Markham and York Region;

- 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 as described in Section 4.3.3.2 a) vi) "Transportation Policies", Subsection 7, to the satisfaction of York Region.;
    - 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 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 Figure No. 3.1.
2. Conditions for removing the Hold 2 (H2) provisions:
- 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 York 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;
3. Conditions for Removing the Hold 3 (H3) provision:
- 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 York 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.

4. Effect of Lifting the Hold 1 (H1), Hold 2 (H2), Hold 3 (H3) Provisions:

The effect of lifting the Hold 1 (H1), Hold 2 (H2), Hold 3 (H3) Provisions shall be in accordance with the phasing plan approved by the Town, and as set out in the implementing zoning by-law."

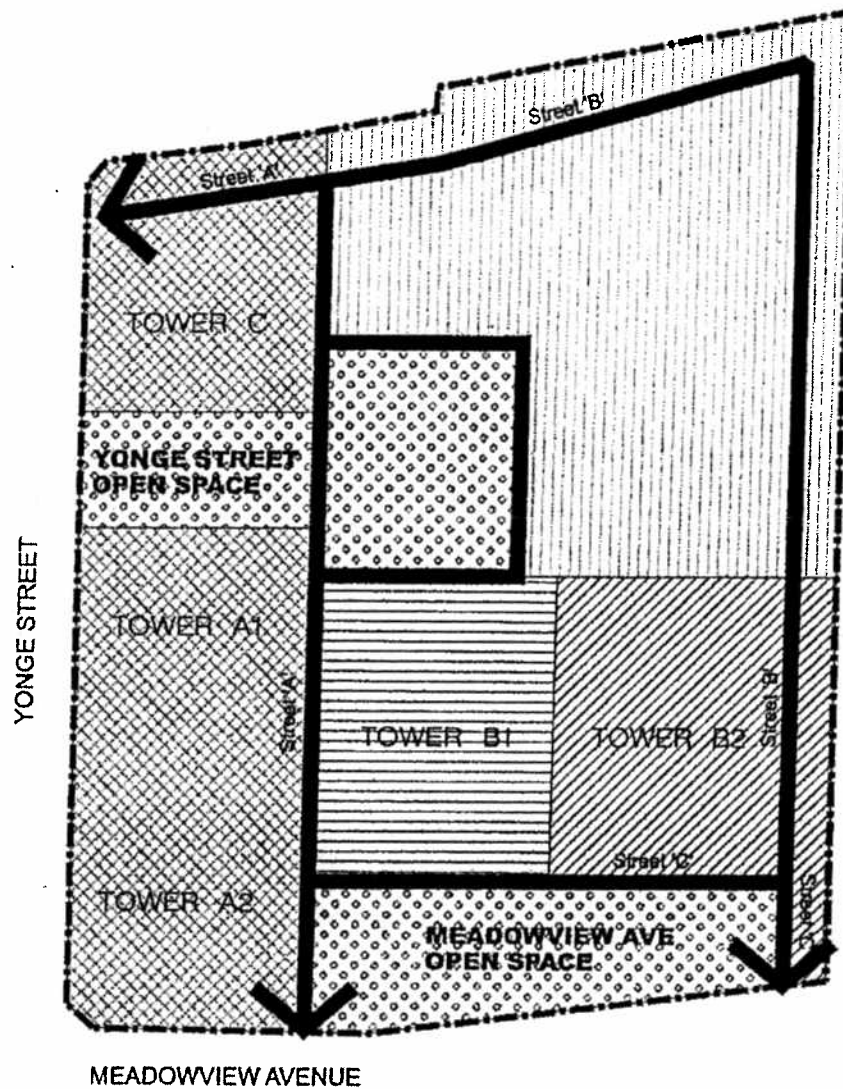
## **2.0 IMPLEMENTATION AND INTERPRETATION**

The provisions of Section 4.3.3.2 a) shall supercede the provisions of the deferred Community Amenity Area Steeles/Yonge area policies of the Thornhill Secondary Plan (PD 3-1) as they relate to these lands.

The provisions of Section 4.3.3.2 a) will be incorporated into the Thornhill Secondary Plan at such time as a statutory Secondary Plan Amendment incorporating the subject lands is prepared.

The provisions of the Official Plan, as amended, regarding the Implementation and Interpretation of the Plan shall apply in regard to this Amendment, except as specifically provided for in this Amendment.

This Amendment shall be implemented by an amendment to the Zoning By-law and Site Plan Approval in conformity with the provisions of this Amendment.



**FIGURE No. 3.1**  
 SPECIFIC SITE AND AREA POLICIES  
 TOWN OF MARKHAM OFFICIAL PLAN (Revised 1987) AS AMENDED

- |  |  |  |  |
|--|--|--|--|
|  | Boundary of area subject to the policies in Section 43.3.2 |  | MAX. HEIGHT 217m*                            |
|  | Land use designation: COMMERCIAL (Community Amenity Area)  |  | MAX. HEIGHT 253m*                            |
|  | PRIVATE STREET SYSTEM                                      |  | MAX. HEIGHT 280m*                            |
|  | OPEN SPACE   |  | GEODETIC ELEVATION ABOVE SEA LEVEL IN METERS |
|  | MAX. HEIGHT 297m*  |  |  |



# ATTACHMENT "2"

## BY-LAW 2009-XXX

*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 :
  - requiring a minimum of 8,000 m<sup>2</sup> 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;
  - 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;
  - 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;
  - 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:

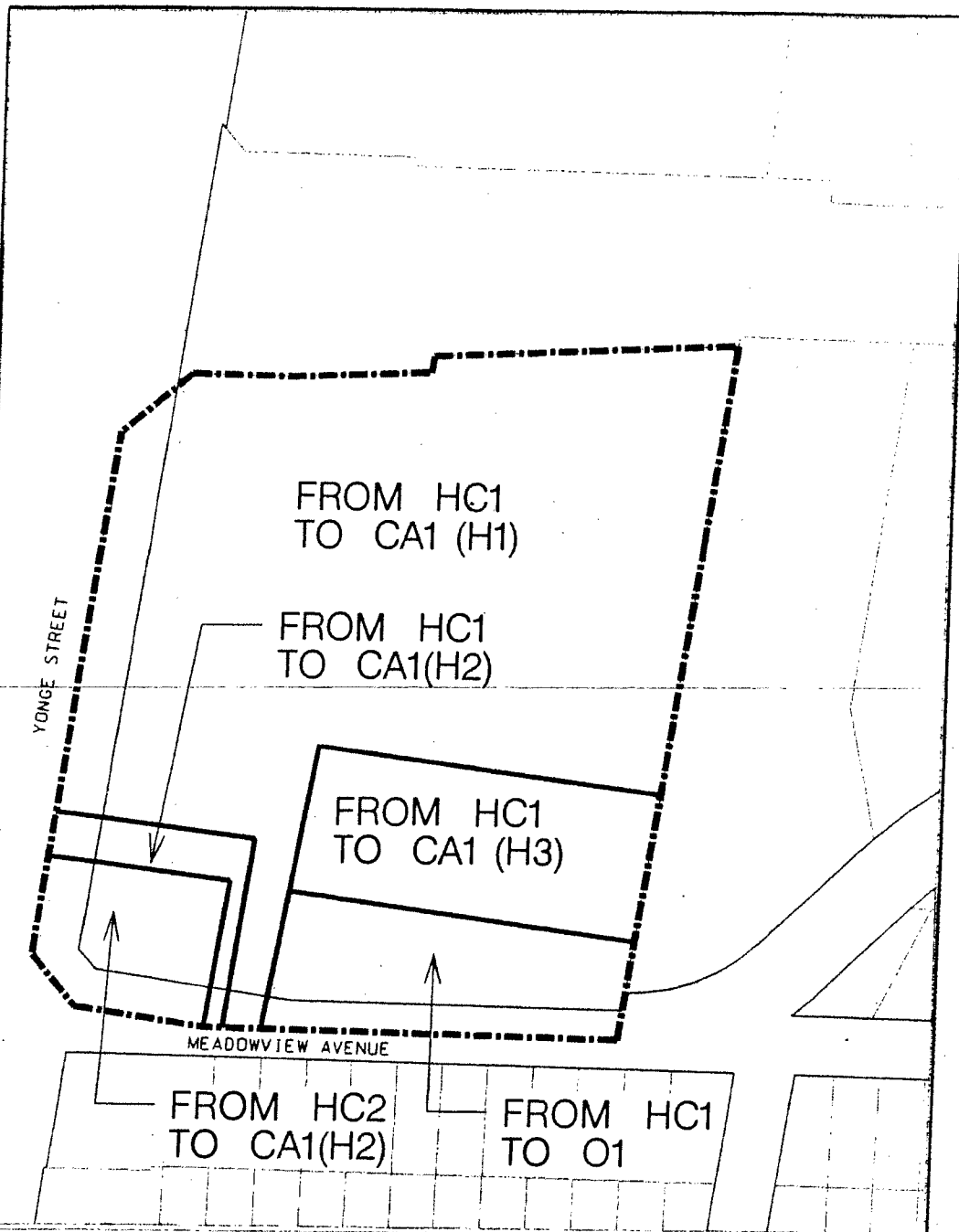
- i) Removal of the Hold 1 (H1) and Hold 2 (H2) provisions;
- ii) Submission of an updated transportation impact/monitoring study, to the satisfaction of the Director of Engineering in consultation with York Region;
- iii) The Town, in consultation with the Region is satisfied that sufficient servicing 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.
-





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 .....  
PASSED THIS ..... DAY ..... 2009

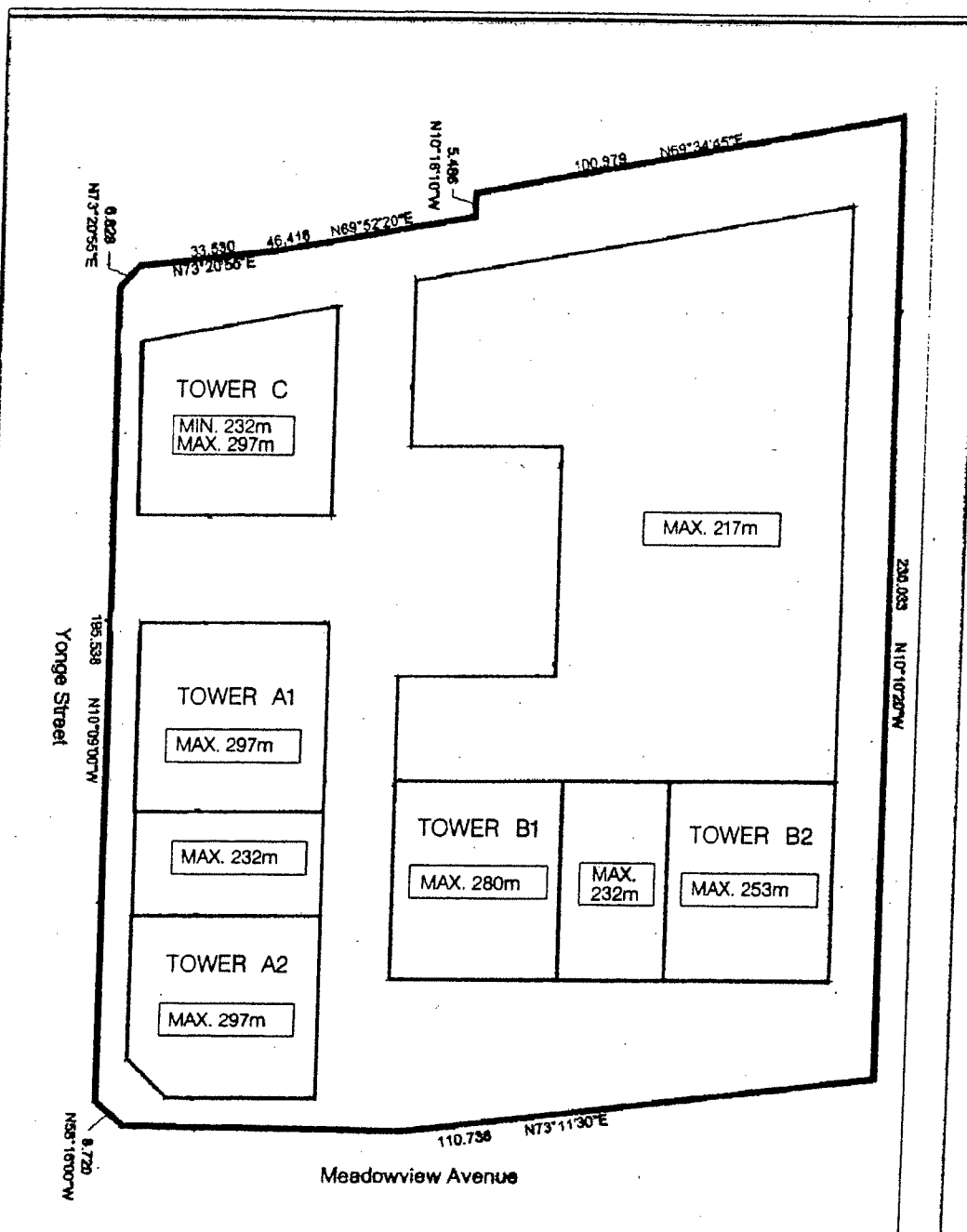
..... MAYOR

..... CLERK

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

361273 DEN 24/04/2009 2:11:17 PM



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  
PASSED THIS DAY 2009

MAYOR

CLERK

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

05/2/2009 2:10:55 PM