



The City of Saint John

Date: October 15, 2021
To: Planning Advisory Committee
From: Growth & Community Services
Meeting: October 19, 2021

SUBJECT

Applicant: Orion Management and Construction Inc.
Landowner: East Point Holdings Inc.
Location: 310 Retail Drive
PID: 55230544
Plan Designation: Regional Retail Centre
Zoning: Regional Commercial Residential (CR-R)
Application Type: Variance
Jurisdiction: The *Community Planning Act* authorizes the Planning Advisory Committee to grant reasonable variances from certain requirements of the Zoning By-law. Terms and conditions can be imposed.

EXECUTIVE SUMMARY

The applicant is proposing to increase the heights of the three proposed buildings in the East Point development. These buildings will have dwelling units on the upper floors with commercial uses anticipated on the ground floors. To allow for flexibility in leasing due to potential market conditions, the applicant is also seeking approval to permit dwelling units on the ground floor. Approval of the application is recommended subject to a condition relating to the height of the ground floor storey within the proposed buildings.

RECOMMENDATION

That the Planning Advisory Committee grant the following variances from the requirements of the Zoning By-Law:

- a) to increase the height of buildings K2 and K3 from 24 metres to approximately 28 metres and to increase the height of building K1 from 24 metres to approximately 57 metres; and
- b) to permit dwelling units on the ground floor of buildings K1, K2, and K3 subject to the condition that buildings K1, K2, and K3 incorporate a minimum first floor storey height of 3.7 metres measured between the floor elevation of the first storey and the floor elevation of the second storey.

DECISION HISTORY

On April 10, 2006, Common Council redesignated an approximately 21.4-hectare parcel of land at 336 Westmorland Road from Low Density Residential to Regional Centre. At the same time, Council rezoned the same area from “RS-2” One and Two Family Suburban Residential, “R-2” One and Two Family Residential and former unzoned street areas to “SC” Shopping Centre. The rezoning was adopted subject to an agreement, pursuant to Section 39 (now 59) of the *Community Planning Act*, setting out detailed conditions covering such matters as the maximum size of the development, excavation, trunk service installations, site and Public Street improvements and approval of detailed plans with respect to grading, drainage and site development. The Planning Advisory Committee had recommended, at its March 21, 2006, meeting, that the proposed Municipal Plan Amendment and rezoning not be approved. The application was subsequently approved by Common Council.

On July 4, 2006, Common Council redesignated and rezoned an additional 0.76-hectare parcel of land, located at 310 Westmorland Road, subject to the same conditions as are applicable to the area that was redesignated and rezoned on April 10, 2006, to provide for the development of the Hampton Inn and Suites hotel.

On July 11, 2006, the Committee approved the street name Retail Drive and recommended Common Council assent to the subdivision of the shopping centre with respect to the proposed creation of Retail Drive as a public street, as well as any required municipal services easements and public utility easements. Common Council adopted the Committee’s recommendation on July 17, 2006.

On June 17, 2019, Common Council amended the text of the Municipal Plan related to the Regional Commercial Centre designation to provide for mixed-use residential development in these areas and rezoned the site to Regional Commercial Residential (CR-R) to provide for residential development on the site. This rezoning was subject to a condition that limited the number of dwelling units on the site to 200.

On January 26, 2021, the Planning Advisory Committee granted a variance from the requirements of the Subdivision By-law relieving the applicant from requiring any land for public purposes dedication or money in-lieu dedication for the subdivision of the subject parcel. The variance was subject to conditions related to the development of the proposed amenity space on the subject site. The location of this amenity space can be viewed on the attached Site Plan.

ANALYSIS

Proposal

The applicant is proposing to construct three multi storey buildings that will incorporate residential units. Buildings K2 and K3 will be 8 stories in height and generally have a height of between 27 metres and 28 metres. Each of these buildings will include approximately 77 residential units. Building K1 will be 14 stories in height, with the final number of units in the building subject to final detailed design of the floorplan layouts. This building is anticipated to have a maximum height of 57 metres, depending on the detailed structural design. The Regional Commercial Residential (CR-R) zone limits maximum building heights to 24 metres.

The applicant is also seeking a variance to provide for residential dwelling units to be located on the first storey. This is being requested to provide flexibility in leasing space within the building. The buildings will incorporate a greater floor to ceiling height on the first floor to allow for ground floor commercial uses, however the applicant has requested flexibility to have ground floor residential units in the event market conditions are not conducive to ground floor commercial.

Site and Neighbourhood

The site, approximately 4 hectares in area, fronts on the west side of Retail Drive and is generally located between the lot containing the Sobeys/NB Liquor retail outlets and Fashion Drive. Two retail buildings are in the northeastern portion of the site on either side of East Point Way and have tenants including a bank, clothing store and restaurants. Most of the subject site is largely undeveloped and contains an internal roadway linking to the developed areas of the East Point development.

The East Point Retail Development is generally bounded to the north by retail development and a manufactured housing development and to the south by a mix of commercial and residential development, an electrical substation and undeveloped land. An area of residential development is located to the west along Oakland Street with Westmorland Road bordering the lands to the east.

Municipal Plan, Zoning By-law, and Variance

The McAllister Regional Retail Centre is identified in the Municipal Plan as the major Regional Retail Centre in the City and is envisioned to continue to be the focus for retail and service-based uses for Southwestern New Brunswick.

Amendments to the Municipal Plan in 2019 provide for mixed-use residential development within Regional Retail Centres. Within these areas, Municipal Plan policies encourage new

development to incorporate high quality urban design and a more intense land use and development pattern which provides for pedestrian connectivity and a more pedestrian-oriented atmosphere.

From an urban design perspective, Policy UD-9 and Policy UD-15 provide the following general urban design criteria related to building height and ground floor uses:

- That new development respect and reinforce the existing and planned context in which it is located through appropriate setbacks, landscaping, buildings entrances, building massing, architectural style and building materials.
- In Employment Areas, such as Regional Retail areas, uses will be located and organized to provide functional buildings that foster alternative transportation modes and limit any impacts on nearby Stable Areas.
- Directing high-rise buildings to appropriate areas and ensuring their design is sensitive to the neighbourhood and/or heritage context.
- Where appropriate and desirable, encouraging active pedestrian-oriented uses and a high level of transparency at grade to reinforce and help animate the public realm.

Building Height Variance

The CR-R zone standard limits the building height to 24 metres. Buildings K2 and K3 will require a variance to increase the height to between 27 metres and 28 metres and Building K1 will require a variance to increase the height to approximately 57 metres. The buildings incorporate mechanical penthouses, but these are excluded from the definition of building height in accordance with Section 8.10 of the Zoning By-law.

With respect to the height variance, there is limited context in the surrounding area to provide a reference for building height. The only multi-storey building on the East Point site is the Hampton Inn and Suites building located southwest of the proposed residential buildings. The hotel site has an elevation that is generally 6 metres higher than the subject site with the geodetic elevation of the top of the hotel estimated at 55 metres. As a comparison, the top of the cliff to the southwest of the site has a geodetic elevation of 64 metres at its highest point.

Based on information submitted with the application, buildings K2 and K3 will have a geodetic elevation of approximately 64 metres measured to the roof, with building K1 having an elevation of approximately 91 metres geodetic.

A consideration of the Municipal Plan with respect to increased building height is the impacts on adjacent Stable Areas. The increased height will have limited impact on adjacent stable areas as the lands immediately adjacent to the site and the proposed Building K1 have limited development including an electrical substation, communications tower, and electrical transmission corridor. Given this, Staff consider the variance for the increased building height appropriate. The closest residential dwellings are located approximately 160 metres south of the site at 304 and 306 Westmorland Road.

Ground Floor Use Variance

The applicant is also requesting variance approval to have dwelling units on the ground floor of the proposed residential buildings. The CR-R zone standards limit the location of dwelling units to locations above the first storey.

The applicant is proposing that one-third of the ground floor area of each building include amenity space and supporting uses related to the dwelling units, which is not restricted by the zone standards. The balance of the ground floor would be available for retail or residential use. While the proponent's primary intention is to attract boutique retailers on the ground floors of the proposed buildings, they are also seeking flexibility in ground floor use, including residential, to better meet market demands. The applicant has noted changes to the demand for retail space associated with increased on-line shopping which reduces demand for traditional "brick and mortar" retail. Allowing for dwelling units on the ground floor would provide flexibility in leasing the building in the event commercial tenants cannot be found to occupy the ground floor. Staff note that information provided by the applicant show a greater floor to ceiling height for the ground floors of the buildings. This additional floor-to-ceiling height would be consistent with retail and commercial uses.

Staff note the buildings are oriented such that they face interior common areas on the site and not the Public Street frontage. Given the ground floor space related more to a semi-private/semi-public realm opposed to a more public realm found along a Public Street, there is rationale to support the requested ground floor use variance. To assist in preserving the ability for the ground floor space to be used for commercial uses, Staff recommend a condition requiring that the storey height on the ground floors of the three buildings be greater than the upper storey (residential storey) heights as illustrated on the cross-section drawings submitted with the variance application, with a minimum first floor storey height of 3.7 metres measured between the floor elevation of the first storey and the floor elevation of the second storey.

Additional Development Considerations

Residential development on the subject site is restricted by a Section 59 condition that limits the number of dwelling units on the site to 200. Should the proponent wish to pursue development of dwelling units exceeding 200 units, an amendment to the existing Section 59 conditions will be required through a separate application process. In addition to limiting the number of dwelling units to 200, Section 59 conditions imposed in 2019 require the following:

- Completion of a traffic impact study by the developer and approved by the City with transportation improvements completed at the developer's expense for any improvements or signalization to existing driveways along Retail Drive.
- A prohibition of any additional driveway access to Westmorland Road.
- For the proposed development site involving 200 residential units, the developer's engineering consultant provided a theoretical peak domestic sewage flow rate for the proposed development. Where necessary the City calculated the theoretical peak

domestic sewage flow rates for all properties on the contributing East Point development site. Using the provided and calculated theoretical flow rates it indicates a potential capacity constraint downstream from the proposed development on Retail Drive, within a section of approximately 45 m of existing 200 mm sanitary sewer main, infrastructure that was previously installed by the developer. In order to determine if there is a capacity constraint, the developer may, prior to undertaking any downstream improvements, perform flow monitoring (wet & dry weather monitoring) on the wastewater system, under the direction of the City, to determine actual measurements in the system and confirm capacity. Upon review of the submitted flow monitoring results, should the City confirm sufficient capacity exists, the identified downstream infrastructure upgrade will not be required by the developer. Should the flow monitoring determine there is a capacity constraint as the City's initial review indicated, the developer shall be required, at the developer's expense to undertake the engineering review to determine the nature of the constraint and provide the analysis to the City for review. Should system improvements be required, the full design and construction of these improvements shall be subject to the approval by the City and shall be the full cost responsibility of the developer. If any of the required work and infrastructure improvements can be phased to accommodate the proposed development, this will be supported by the City.

Given the capacity constraint identified in past sanitary sewer modelling completed by the City, the developer must either upgrade a section of sanitary sewer on Retail Drive or engage a consultant to conduct a flow monitoring program of the downstream sanitary sewer to confirm if improvements are required as indicated by the modelling. Should this analysis determine that improvements are required to downstream sections of the sanitary sewer, these will be the responsibility of the developer and must be completed before the issuance of building permits for any of the proposed residential buildings.

Although not a specific requirement to the current application, Staff encourage the developer to undertake this engineering assessment as soon as possible to allow for the timely issuance of permits. In addition, Staff note that a traffic impact study prepared for the 2019 rezoning application to support the inclusion of residential units at the site noted that 200 dwelling units could be supported based on the current roadway configuration in the area. Any future application seeking approval of additional dwelling units beyond the 200 units currently approved will require a traffic impact study reviewing the need for transportation network improvements to support future commercial and residential development at the East Point site.

Conclusion

Staff support the granting of the requested variance subject to a condition relating to a minimum ground storey height.

ALTERNATIVES AND OTHER CONSIDERATIONS

No alternatives were reviewed.

ENGAGEMENT**Public**

In accordance with the Committee's Rules of Procedure, notification of the proposal was sent to landowners within 100 metres of the subject property on October 8, 2021.

APPROVALS AND CONTACT

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Application: 21-154

APPENDIX

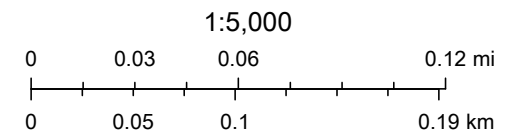
Map 1: **Aerial Photography**
Map 2: **Future Land Use**
Map 3: **Zoning**
Attachment 1: **Site Photography**
Submission 1: **Site Plan**
Submission 2: **Building Cross Sections**
Submission 3: **Building Renderings**

310 Retail Drive - Airphoto



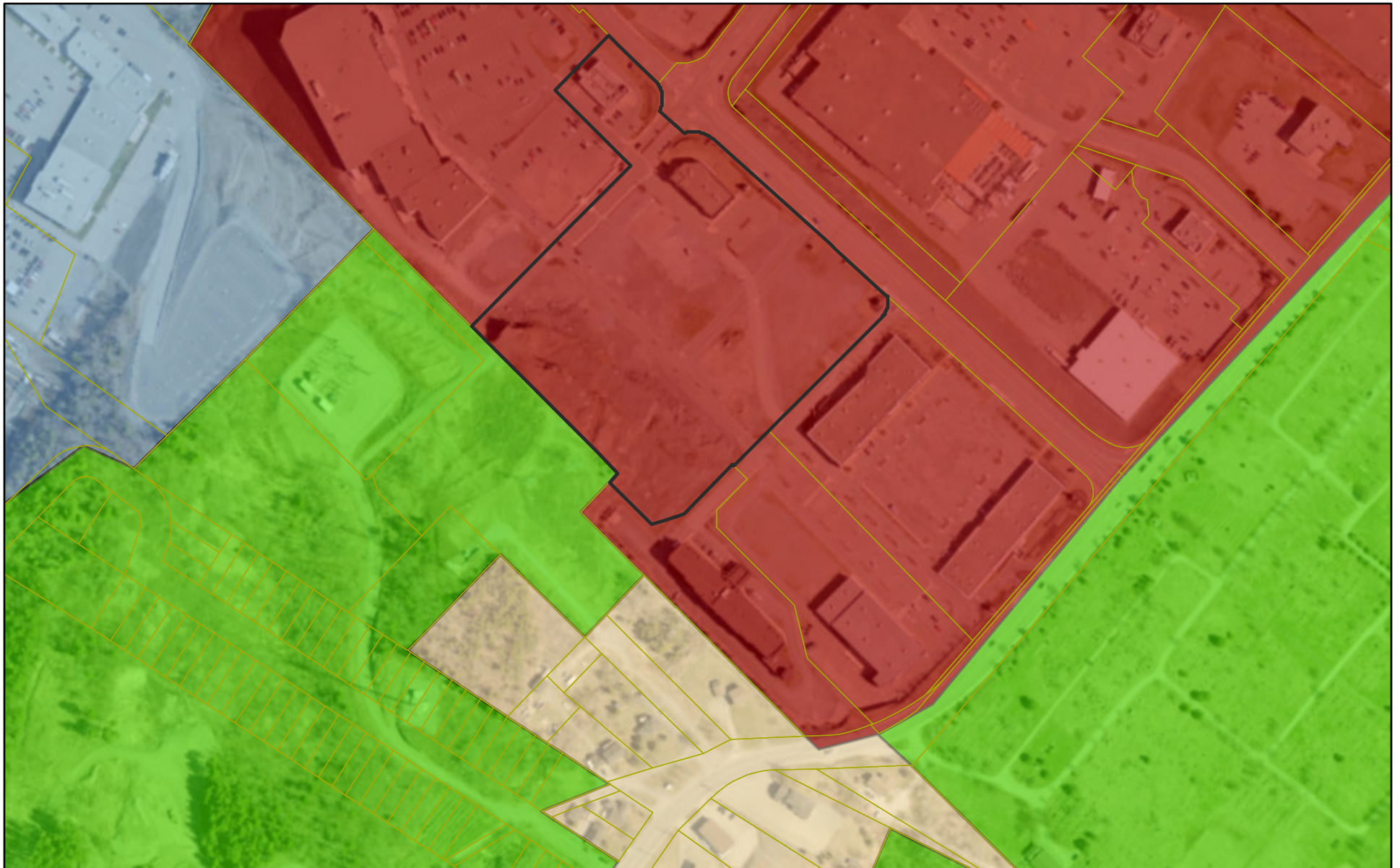
2021-09-24

-  Subject Site  Primary Development Area
 Property Parcels



Govt of New Brunswick, Maxar

310 Retail Drive - Future Land Use




2021-10-04

 Subject Site

 Property Parcels

 Primary Development Area

Future Land Use

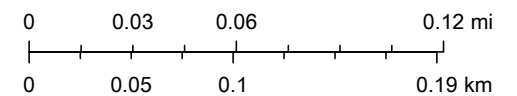
 Regional Retail Centre

 Commercial Corridor

 Park and Natural Area

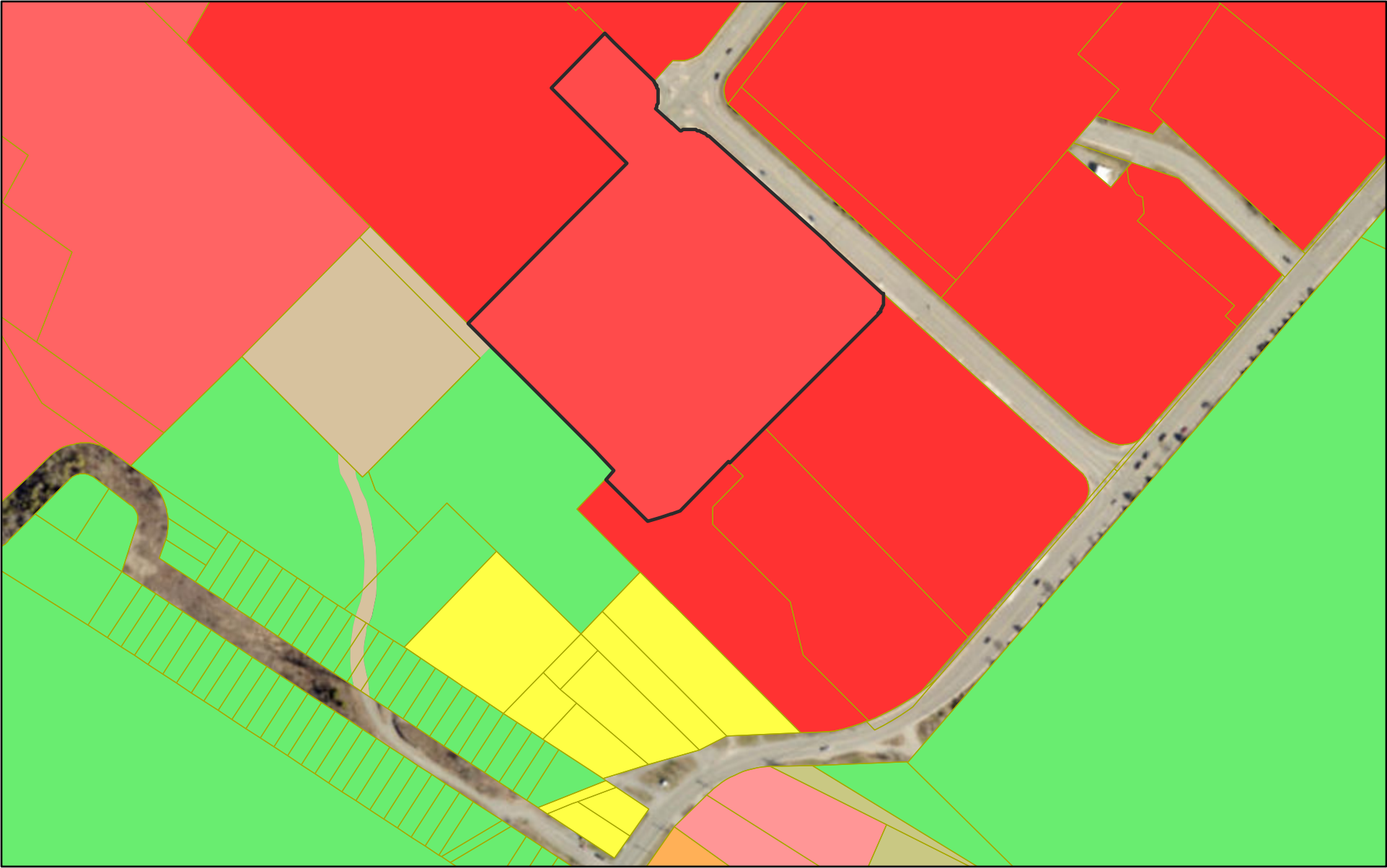
 Stable Residential

1:5,000



Govt of New Brunswick, Maxar

310 Retail Drive - Zoning



2021-10-04

Subject Site

Property Parcels

Zoning

RM

R2

CR

CR-R

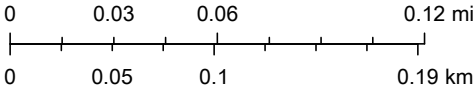
CC

CG

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View of site looking southwest.



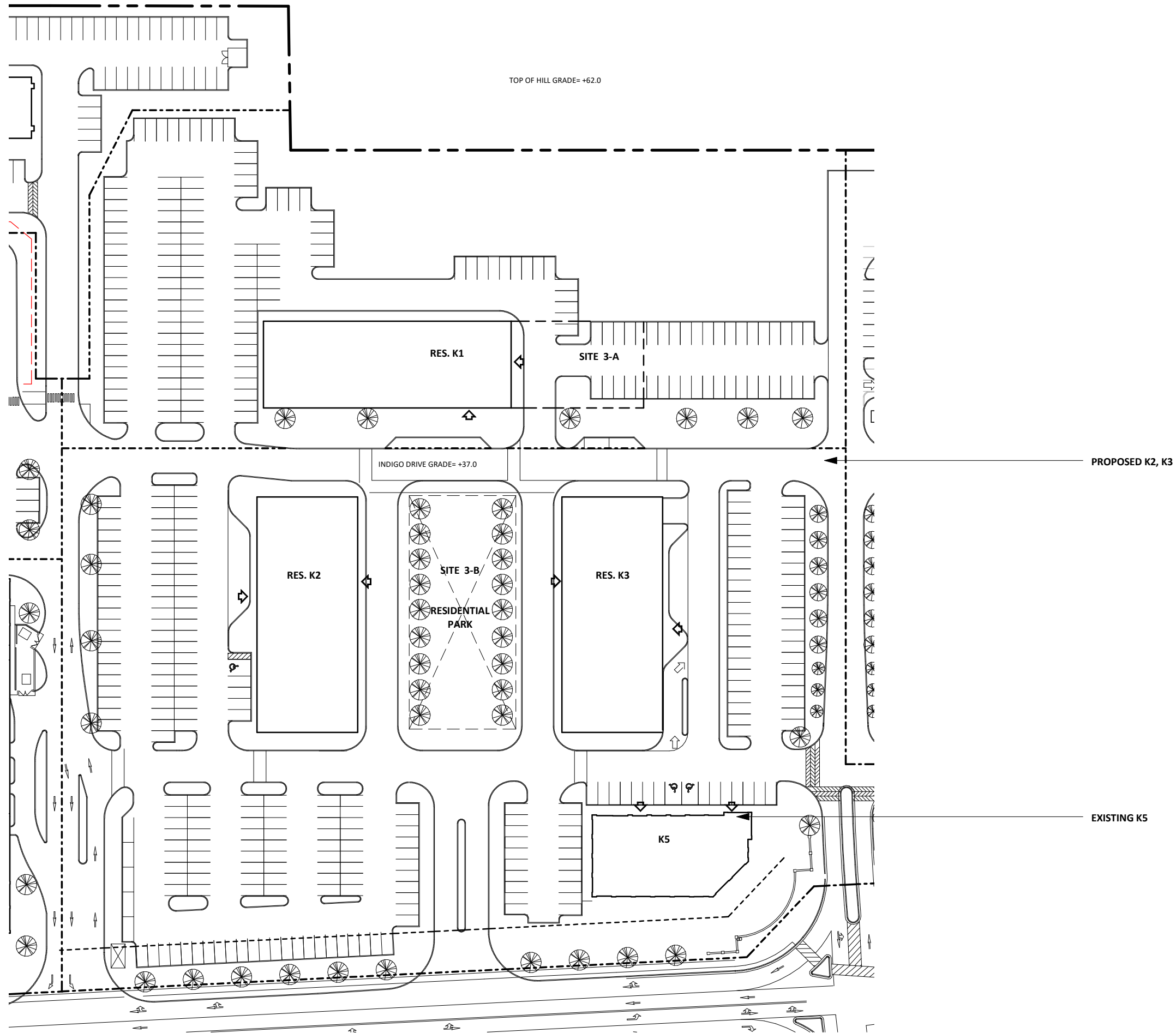
View of site looking north.



View of existing Hampton Inn and Suites



View of existing development.



EAST POINT CENTRE

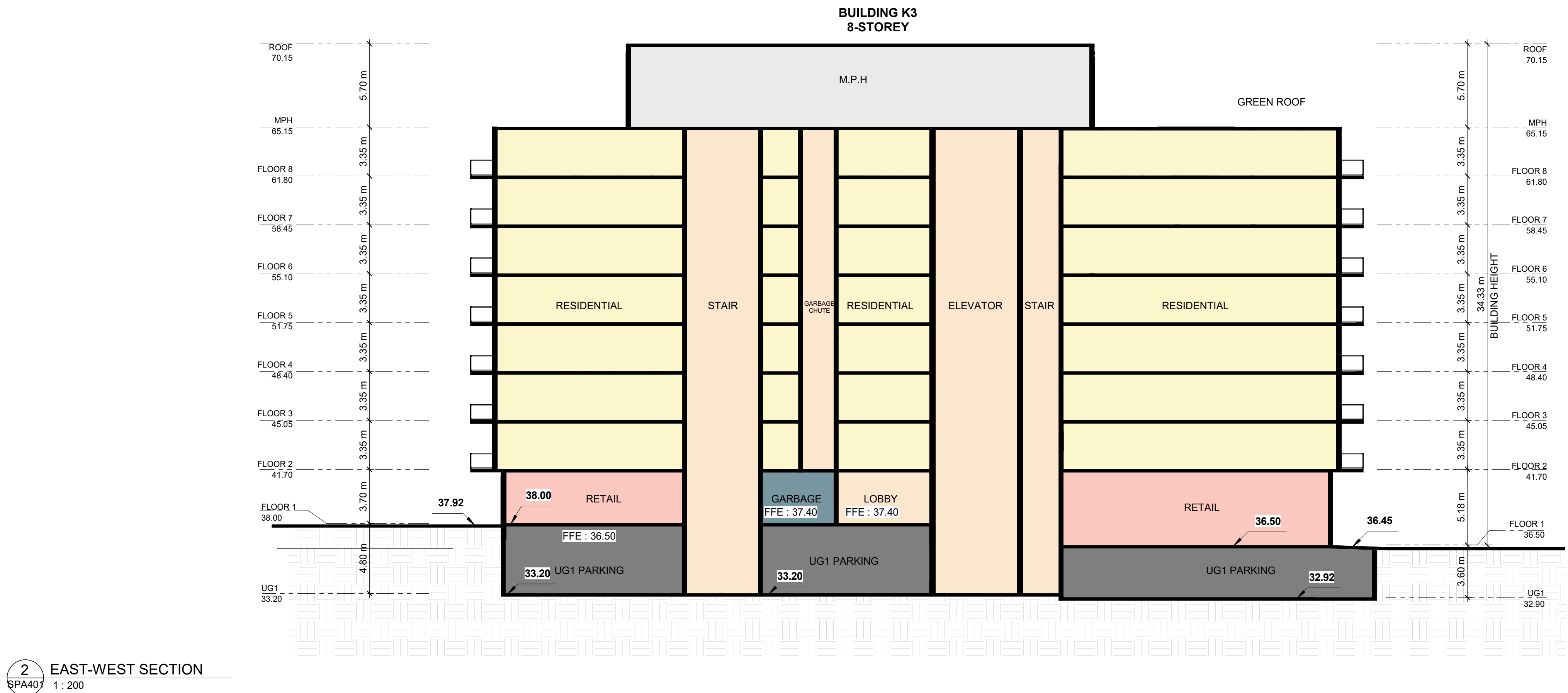
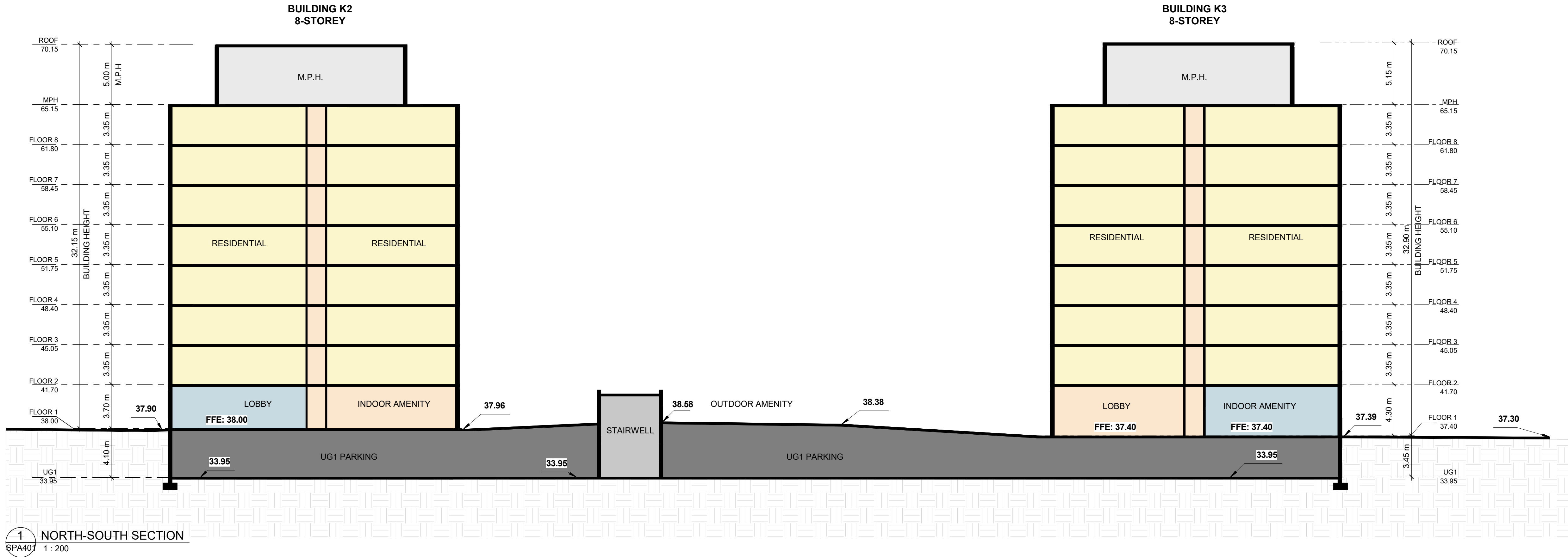
SAINT JOHN, NEW BRUNSWICK
05.110
SITE 3 ENLARGED PLAN

PRELIMINARY

DWG #: A1-648.1
2021-08-13
SCALE = 1 : 1000



This drawing, as an instrument of service, is provided by and is the property of Turner Fleischer Architects Inc. The contractor must verify and accept responsibility for all dimensions and conditions on site and must notify Turner Fleischer Architects Inc. of any variations from the supplied information. This drawing is not to be scaled. The architect is not responsible for the accuracy of survey, structural, mechanical, electrical, etc., information shown on this drawing. Refer to the appropriate consultant drawings before proceeding with the work. Contractor must conform to all applicable codes and requirements of authority having jurisdiction. The contractor working from drawings not specifically marked "For Contractor" must assume full responsibility and bear costs for any corrections or damages resulting from his work.



#	DATE	DESCRIPTION	BY
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PROJECT

East Point Shopping

Saint John, New Brunswick

DRAWING

BUILDING SECTION

PROJECT NO.
05.110

PROJECT DATE
2021-08-19

DRAWN BY
ATS

CHECKED BY
AYU

SCALE
1 : 200

DRAWING NO.
SPA401

REV.



East
Point
Shopping