

TOWN PLANNING BOARD

Minutes of 325th Meeting of the Metro Planning Committee held at 9:00 a.m. on 28.4.2006

Present

Director of Planning
Mr. Bosco C.K. Fung

Chairman

Dr. Greg C.Y. Wong

Vice-chairman

Mr. Nelson W.Y. Chan

Mr. Leslie H.C. Chen

Professor N.K. Leung

Professor Bernard V.W.F. Lim

Mr. Daniel B.M. To

Mr. Stanley Y.F. Wong

Ms. Sylvia S.F. Yau

Mr. Walter K.L. Chan

Ms. Maggie M.K. Chan

Mr. Raymond Y.M. Chan

Mr. Felix W. Fong

Ms. Starry W.K. Lee

Mr. K.Y. Leung

Assistant Commissioner for Transport (Urban),
Transport Department
Mr. Anthony Loo

Assistant Director(2), Home Affairs Department
Ms. Margaret Hsia

Assistant Director (Environmental Assessment and Noise),
Environmental Protection Department
Mr. Elvis W.K. Au

Deputy Director of Planning/District
Miss Ophelia Y.S. Wong

Secretary

Absent with Apologies

Mr. Erwin A. Hardy

Professor Paul K.S. Lam

Assistant Director (Kowloon), Lands Department
Mr. James Merritt

In Attendance

Assistant Director of Planning/Board
Mr. Lau Sing

Chief Town Planner/Town Planning Board
Mr. C.T. Ling

Town Planner/Town Planning Board
Miss Jessica K.T. Lee

Agenda Item 1

Confirmation of the Draft Minutes of the 324th MPC Meeting held on 7.4.2006

[Open Meeting]

1. The draft minutes of the 324th MPC meeting held on 7.4.2006 were confirmed without amendments.

Agenda Item 2

Matters Arising

[Open Meeting]

2. The Secretary reminded Members to return the registration form on declaration of interests to the Secretariat as soon as possible if they had not done so.

(i) Town Planning Appeal Received

Town Planning Appeal No. 8 of 2006 (8/06)

Temporary Open Storage of Vehicle Glass

(including Parking and Loading/Unloading) for a Period of 3 Years,
in "Village Type Development" zone,

Lot 466RP (Part) in DD 109, Kam Tin Road, Kam Tin, Yuen Long
(Application No. A/YL-KTN/239)

3. The Secretary reported that the Town Planning Appeal Board (TPAB) on 20.4.2006 received an appeal against the decision of Town Planning Board on 10.2.2006 to reject on review an application (No. A/YL-KTN/239) for temporary open storage of vehicle glass (including parking and loading/unloading) for a period of 3 years at a site zoned "Village Type Development" on the Kam Tin North Outline Zoning Plan. The hearing date was yet to be fixed.

(ii) Appeal Statistics

4. The Secretary also reported that as at 28.4.2006, 30 cases were yet to be heard by the TPAB. Details of the appeal statistics were as follows:

Allowed	:	16
Dismissed	:	83
Abandoned/Withdrawn/Invalid	:	113
Yet to be Heard	:	30
Decision Outstanding	:	1
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Total	:	243

Kowloon District

[Mr. Raymond K.W. Lee, District Planning Officer/Kowloon (DPO/K), and Mr. Kelvin K.W. Chan, Senior Town Planner/Kowloon (STP/K), were invited to the meeting at this point.]

Agenda Item 3

[Open Meeting (Presentation and Question Sessions Only)]

Further Consideration of Application No. A/K9/206

Proposed Conversion of an Existing Commercial/Office Building for Hotel Use
in “Residential (Group A)” zone,

83 Wuhu Street,

Hung Hom

(MPC Paper No. A/K9/206)

Presentation and Question Sessions

5. The Vice-chairman declared an interest in this item as he had current business dealings with the applicant.

[The Vice-chairman left the meeting temporarily at this point.]

6. Mr. Raymond K.W. Lee, DPO/K, presented the application and covered the following aspects as detailed in the Paper:

[Mr. Raymond Y.M. Chan joined the meeting during the presentation session.]

- (a) background to the application highlighting that the case was deferred on 17.3.2006 in order to seek legal advice on the applicant's further information on the interpretation of the Notes;
- (b) proposed conversion of an existing commercial/office building for hotel use;
- (c) departmental comments – no objection from concerned Government departments was received;
- (d) during the publication period, three public comments were received with one of them objecting the application on scale of development, environmental and waste management problems; and
- (e) the Planning Department (PlanD)'s views – PlanD was of the view that there was no provision for the Committee to grant planning permission for the proposed hotel for reasons given in paragraphs 11.1 to 11.3 of Enclosure I of the Paper. In particular, the conversion of the existing building for hotel development would result in a plot ratio exceeding the maximum plot ratio of 9 for non-domestic building as stipulated in paragraph (2) of the Remarks of the Notes for the "Residential (Group A)" ("R(A)") zone.

7. Members had no question on the application.

Deliberation Session

8. Whilst agreeing with the PlanD's and the Department of Justice's (DoJ) views on the application, a Member enquired whether there was any need to review the interpretation of paragraphs (1) and (2) of the Remarks of the Notes for the "R(A)" zone. The Secretary replied that given that the relevant Remarks of the Notes had been adopted since 1993 and the DoJ's advice was clear that the proposed development should be governed by paragraph (2) of the Remarks, a practice note could be considered to help clarify the issues and interpretations of the relevant Notes to the building industry.

9. Another Member asked whether there was any precedent case that the interpretation of the subject Remarks was being challenged in such a way. The Secretary said that this was the first case and supplemented that the relevant Remarks of the Notes had been adopted for most of the Kowloon Outline Zoning Plans and any proposed amendments to the subject Remarks would have a wide implication on the “R(A)” zone in other Kowloon areas.

[Mr. Leslie H.C. Chen joined the meeting at this point.]

10. In the light of the legal advice and the above discussion, the Chairman concluded that there was no provision for the Committee to grant permission for the hotel development as proposed and remarked that it was appropriate to promulgate a practice note to help clarify the issues and interpretations to the building industry. In response to the Chairman’s enquiry, the Secretary said that such a conclusion would not be subject to review under s.17 of the Town Planning Ordinance.

11. The Committee agreed to advise the applicant that there was no provision for the Committee to grant planning permission for the proposed hotel development, which had a non-domestic plot ratio exceeding the maximum plot ratio restriction for non-domestic building in “Residential (Group A)” zone.

[The Vice-chairman returned to join the meeting at this point.]

Agenda Item 4

Section 16 Applications

[Open Meeting (Presentation and Question Sessions Only)]

- (i) A/K9/207 Proposed Religious Institution
(Commercial Place of Remembrance)
in “Residential (Group A)” zone,
Shops E and F, G/F and M/F and Shops A to V, 1/F,
Cheong Lok Mansion,
1-11 Lo Lung Hang Street,
Hung Hom Inland Lot 484
(MPC Paper No. A/K9/207)
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Presentation and Question Sessions

12. Ms. Starry W.K. Lee declared an interest in this item as she was a member of Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) who was one of the commenters against the application.

[Ms. Starry W.K. Lee left the meeting temporarily at this point.]

[Ms. Sylvia S.F. Yau joined the meeting at this point.]

13. Mr. Raymond K.W. Lee, DPO/K, presented the application and covered the following aspects as detailed in the Paper:

- (a) background to the application;
- (b) proposed religious institution (commercial place of remembrance) for placing about 8,100 name plaques and photos of ancestors;
- (c) departmental comments – no objection from concerned Government departments was received;
- (d) a total of 116 public comments with more 1,000 signatures against the application were received during the publication periods. The grounds of objections were mainly on incompatibility with residential use, adverse traffic and environmental impacts and setting undesirable precedent. A group of local residents led by Mr. Choi Wing Fai of DAB staged a petition to the Committee on the day of the meeting. Two petition letters from the DAB and the Incorporated Owners of Cheong Lok Mansion against this application were tabled at the meeting; and
- (e) the Planning Department (PlanD)'s views – PlanD did not support the application for reasons given in paragraphs 10.1 and 10.2 of the Paper in that the proposed development was considered not compatible with the residential use of the subject building, the proposed development would cause nuisance to residents in the subject building, and the approval of the application would set an undesirable precedent.

[Mr. K.Y. Leung left temporarily and returned to the meeting during the question session.]

[Mr. Daniel B.M. To joined the meeting during the question session.]

14. Members had the following questions:

- (a) whether there was any similar application for religious institution (commercial place of remembrance) use in the area;
- (b) whether planning permission was required for the proposed religious institution (commercial place of remembrance) in other zones, such as “Commercial” or “Industrial”;
- (c) which Government department was responsible for regulating those Buddhist halls in private commercial/residential premises and whether they involved niches or storage of human ashes; and
- (d) noting that about 8,100 name plaques and photos of ancestors were involved in the application, whether the means of escape and the existing structure of the subject building as well as the capacities of the local roads were adequate to serve the number of visitors attracted to the application premises especially during major festival times.

15. Mr. Raymond Lee responded as follows:

- (a) according to the applicant, there would be no incineration of worship materials, no ceremonial performance of any kind, and no storage of niches or human ashes in the application premises. The applicant considered that the nature of use under application, i.e. ‘commercial place of remembrance for ancestors’, was more akin to an ‘ancestral hall’ and could be regarded as a ‘religious institution’ use;
- (b) in general, ‘religious institution’ use was permitted as of right in “Commercial” and “Government, Institution or Community” zones, whilst it was a Column 2 use in “Residential (Group A)” (“R(A)”) and

“Industrial” zones in which planning permission from the Town Planning Board was required;

- (c) two similar applications (No. A/K9/108 and 185) for religious institution use in “R(A)” zone on the Hung Hom Outline Zoning Plan were approved in 1998 and 2004 respectively. The former application was for conversion of a cinema to a church in the non-domestic portion of a composite building, whilst the later application was for conversion of the whole residential building to a religious institution of Buddhism. There was no application similar to the proposed religious institution (commercial place of remembrance) in “R(A)” zone in Hung Hom area;
- (d) the operation of Buddhist hall might need to be registered with the Secretary of Home Affairs under the Chinese Temples Ordinance. Should the operation of business involve undertaking of all or any duties connected with the burial of human cadavers (if required), the proposed use would be covered by an Undertakers of Burials Licence issued by the Director of Food and Environmental Hygiene. Any potential noise and air nuisances to the residents would come under the preview of the Director of Environmental Protection; and
- (e) there was an internal staircase linking the application premises at G/F to 1/F. The applicant claimed that this internal staircase would provide a separate access for those visitors to the application premises. There were four common staircases to serve the subject building. The Buildings Department (BD) pointed out that the visitors to the application premises should not be blocked from using these four common staircases which were the required means of escape. It was expected that during major festival times, there would be large number of visitors gathering at the application premises. They might spill over to the common staircases in the subject building affecting the residents. Moreover, BD advised that the adequacy of means of escape and the structural adequacy of the subject building would be considered in details at the formal building plan submission stage. The applicant should provide information and justifications on the number of visitors and population density of the application premises for BD’s

consideration. The Transport Department advised that capacities of the public roads in the vicinity were adequate to address the pedestrian and vehicular traffic demand arising from the proposed religious institution. The Commissioner of Police (C of P) was of the view that Lo Lung Hang Street was neither a major road nor a known black spot for traffic accident or complaint of illegal parking. During 1.9.2005 to 27.2.2006, C of P received 10 complaints about vehicle obstruction in the vicinity of the subject building.

16. The Secretary supplemented that two applications for religious institution (Chinese temple) use within commercial building in Sheung Wan area were approved in 2004 and 2005. However, the size of the application premises and the scale of operation were smaller in these two cases than the current application. There was no similar application for religious institution (commercial place of remembrance) in other zones or areas. According to the Definition of Terms, any place or premises which provided facilities for storage of niche containers/human ashes was classified as 'funeral facility' or 'funeral services centre'. In general, 'funeral facility', 'funeral services centre' and other related ancillary uses were put under "Other Specified Uses" zone to reflect the land use planning intention.

17. Mr. Anthony Loo added that adverse impact to the existing road network due to the traffic generated by the proposed use was not anticipated. In the event of huge influx of traffic during major festival times, special traffic arrangements could be made by the Police.

Deliberation Session

18. The Chairman remarked that the key consideration of the application was whether the proposed development was compatible with the subject building which was mainly residential in nature.

19. Members generally did not support the application and raised the following concerns:

- (a) the proposed use was considered not compatible with the residential use of the subject building;

- (b) the placing of about 8,100 name plaques and photos of ancestors at the subject premises would cause adverse psychological effects to the residents in the building;
- (c) the proposed religious institution (commercial place of remembrance) use would cause serious nuisances to the residents and should be completely separated from the domestic portion of the building;
- (d) there was insufficient information on the number of visitors, the adequacy of means of escape and the structural adequacy of the subject building provided in the submission to substantiate the application; and
- (e) the approval of the subject application would set an undesirable precedent for similar uses to be infiltrated into the residential neighbourhood.

20. Referring to paragraph 10.5 of the Paper, the Chairman suggested amending one of the rejection reasons to state clearly that the proposed development was considered not compatible with the subject building which was mainly residential in nature. Members agreed.

21. The Secretary said that the applicant had made repeated attempts to modify the proposed 'commercial place of remembrance' use so as to purposely fit into the definition of 'religious institution' use. The Definition of Terms on religious institution would need to be reviewed.

22. After deliberation, the Committee decided to reject the application and the reasons were:

- (a) the proposed development was considered not compatible with the subject building which was mainly residential in nature;
- (b) the proposed development would attract a large number of people to the application premises in particular during festival time causing nuisance to residents in the subject building; and

providing supplementary information for consideration of the Committee. A copy of the letter was tabled at the meeting.

27. A Member asked whether the proposed hotel (guesthouse) was permitted under the Deed of Mutual Covenant of the subject building. Mr. Raymond K.W. Lee, DPO/K responded that the information was currently not available. According to the lease conditions, the application premises were subject to message(s) and tenement clause, front & range clause and non-offensive trade clause. As the proposed hotel (guesthouse) use was in breach of the standard offensive trade clause, a lease modification from the Lands Department was required.

28. Noting that some guesthouses located on the 1/F of the surrounding commercial/residential buildings were operated without planning permissions, another Member enquired whether licences had been issued for operation of these guesthouses. Mr. Kelvin Chan said that information was currently not available. Mr. Raymond Lee added that, in order to operate a hotel/guesthouse, the applicant was required to apply to the Chief Officer/Licensing Authority of Home Affairs Department for a licence under the Hotel and Guesthouse Accommodation Ordinance. The Chairman remarked that the licensing matters should be dealt with separately by the relevant licensing authority.

29. In response to a Member's enquiry, Mr. Kelvin Chan said that the application premises was previously used for office purpose and currently vacant and being refurbished. This Member asked whether sympathetic consideration might be given to the application in order to improve the economic environment in the South Wall Road area.

Deliberation Session

30. The Chairman remarked that the application should not be approved as there was no separate access/staircases serving the proposed guesthouse, the operation of the proposed guesthouse would likely cause nuisance and disturbance to the residents, and there were local objections received. Moreover, as there was no similar application approved for conversion of portion of an existing commercial/residential building for guesthouse use in the area, the approval of the application would set an undesirable precedent.

31. After deliberation, the Committee decided to reject the application and the

reasons were:

- (a) there was no information in the submission to demonstrate that the operation of the proposed hotel (guesthouse) would not cause any adverse impact to the residents of the subject building; and
- (b) the approval of the application would set an undesirable precedent for the penetration of the guesthouse use within existing commercial/residential buildings in the Kowloon City residential neighbourhood.

[Open Meeting (Presentation and Question Sessions Only)]

- (iv) A/K13/215 Shop and Services (Convenience Store)
in “Other Specified Uses” annotated “Business” zone,
Portion of Unit 3, G/F,
Kowloon Bay Industrial Centre,
15 Wang Hoi Road,
Kowloon Bay
(MPC Paper No. A/K13/215)
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Presentation and Question Sessions

32. Mr. Kelvin K.W. Chan, STP/K, presented the application and covered the following aspects as detailed in the Paper:

- (a) background to the application;
- (b) shop and services (convenience store);
- (c) departmental comments – the Fire Services Department (FSD) objected to the application as the aggregate floor areas for commercial uses on ground floor of the subject industrial building would exceed the tolerable limit of 460m²;
- (d) no public comment was received during the publication period; and

- (e) the Planning Department (PlanD)'s views – PlanD did not support the application for reasons given in paragraphs 11.1 and 11.2 of the Paper, notably that the application was not acceptable from fire safety point of view.

33. In response to the Vice-chairman's enquiry, Mr. Kelvin Chan supplemented that the applicant claimed that as part of Unit 5 had already been taken up for an estate agent office, the remaining unused area of Unit 5 should be taken into account in FSD's assessment of this application. It should be noted that a planning application (No. A/K13/192) was approved to use the whole Unit 5 for shop and services (fast food cum retail shop) use with permission valid until 28.1.2009. Although part of Unit 5 had been taken up for an estate agent office, the whole Unit 5 could later be used for the approved shop and services (fast food cum retail shop) use before the expiry of planning permission.

[Mr. Felix W. Fong returned to join the meeting at this point.]

34. In response to a Member's enquiry, the Chairman said that a number of applications were previously approved by the Committee with the aggregate floor areas slightly exceeding the tolerable limit. For these applications, the applicants had to demonstrate that the fire safety concern could be satisfactorily addressed, and each case would be considered by the Committee on its own merit.

35. Referring to paragraph 2(g) of the Paper, another Member questioned about the justifications from the applicant that there was a change of registered owner of Unit 5 in August 2005 and thus a new section 16 application was required for that premises. Mr. Raymond K.W. Lee, DPO/K, replied that, even with the change of registered owner of Unit 5, the whole Unit 5 could be used for the approved shop and services (fast food cum retail shop) use before the expiry of planning permission.

Deliberation Session

36. Noting that the application premises was currently used as a convenience store, a Member asked whether sympathetic consideration might be given to the application. The Chairman remarked that the application was not acceptable from fire safety point of view. It was the responsibility of the applicant to make application before starting the operation of the

subject convenience store.

37. Another Member asked whether the tolerable limit of the aggregate floor areas for commercial uses would vary in different industrial building. The Chairman said that there had been presentations by the FSD and discussions by the Committee on the matters on several occasions. In essence, it was not the original intention to allow commercial uses in industrial buildings. Whilst recognising the changing business environment, it was also necessary to ensure the fire safety of those visitors attracted to the commercial activities within the industrial building. Hence, a floor area criterion was adopted by FSD to limit commercial uses on the ground floor of industrial buildings. Under this criterion, the aggregate commercial floor areas on the ground floor of an existing industrial/ industrial-office building with and without sprinkler systems should not exceed 460m² and 230m² respectively. In this regard, the first-come-first-served principle had to apply.

38. A Member raised concern about some applicants holding permissions without implementation. This might be unfair to other similar applications within the same building given the floor area criterion. The Secretary responded that, in order to avoid such possible abuse, when approving any change of use of industrial premises to commercial uses, a shorter time limit of two years, instead of the usual four years, for commencement would be imposed by the Committee. Moreover, for existing operation, a time limit of 6 months would be imposed for compliance with the approval condition relating to fire safety measures with provision of revocation for non-compliance.

39. Whilst acknowledging that the prescriptive criterion was easy to apply and understand, a Member opined that PlanD and FSD should explore alternatives other than the prescriptive criterion of 230m²/460m², such as by adopting a fire engineering approach. This would offer more choices and flexibility to the general public. This Member added that information on the approved similar applications and their implementation should be made known to the public such that the public could check against the limit of the aggregate floor areas.

40. In response, the Secretary said that, after discussions with FSD, the revised Town Planning Board Guidelines (TPB PG) No. 22C and 25C had been promulgated in January 2006 to provide guidance to prospective applicants and spell out how to apply the floor area criterion. Any prospective applicant could check with the PlanD on the aggregate

commercial floor areas in the concerned industrial building. In the current application, the applicant held a different view on FSD's assessment. As mentioned by the DPO, although part of Unit 5 had been taken up for an estate agent office, the whole Unit 5 could later be used for the approved shop and services (fast food cum retail shop) use before the expiry of planning permission. As regards the fire engineering approach, the FSD, in collaboration with the Institute of Fire Engineering (Hong Kong Branch) and the Hong Kong Institute of Engineers, was currently exploring the possibility of introducing a register of fire engineers who could submit fire risk assessments on behalf of individual applicants. The TPB PG-No. 22C and 25C would be further refined to take into account the fire engineering approach once it was finalized. However, there might be cost implication for small-scale operations if they were required to carry out such fire risk assessments.

41. The Chairman added that the FSD's concerns on fire risk arising from the operation of commercial activities within industrial buildings should not be undermined. Change of use of a whole industrial floor to commercial uses could be considered acceptable by the FSD if the commercial uses could be completely separated from the other industrial uses in the same building by a buffer floor of low fire risk uses such as car-parking. Noting that the revised TPB PG-No. 22C and 25C had just been promulgated in January 2006, the Chairman remarked that the floor area criterion and the first-come-first-served principle could be reviewed later as appropriate after the gaining of some experience.

42. After deliberation, the Committee decided to reject the application and the reason was that the application was not acceptable from fire safety point of view.

[Ms. Maggie M.K. Chan and Mr. Elvis W.K. Au left the meeting temporarily at this point.]

[Open Meeting (Presentation and Question Sessions Only)]

(v) A/K14/502 Shop and Services (Estate Agency)
for a Temporary Period of 3 Years
in "Other Specified Uses" annotated "Business" zone,
Unit 1A, G/F,
44-46 Hung To Road,
Kwun Tong
(MPC Paper No. A/K14/502)

Presentation and Question Sessions

43. Mr. Kelvin K.W. Chan, STP/K, presented the application and covered the following aspects as detailed in the Paper:

- (a) background to the application;
- (b) shop and services (estate agency) for a temporary period of 3 years;
- (c) departmental comments – no objection from concerned Government departments was received;
- (d) during the publication period, one public comment was received supporting the application; and
- (e) the Planning Department (PlanD)'s views – PlanD had no objection to the application for reasons given in paragraphs 11.1 and 11.2 of the Paper.

44. Members had no question on the application.

Deliberation Session

45. The Chairman remarked that as the current application had only slightly exceeded the tolerable limit of the aggregate floor areas for commercial uses and the Fire Services Department had no objection to the application, sympathetic consideration could be given to approving the application.

46. After deliberation, the Committee decided to approve the application on a temporary basis for a period of 3 years up to 28.4.2009, on the terms of the application as submitted to the Town Planning Board and subject to the following conditions:

- (a) the submission and implementation of fire safety measures, including complete separation of the existing estate agency use from the industrial portion of the subject building by proper fire resistance construction and design, and provision of means of escape and fire service installations in

the subject premises, within six months from the date of the approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 28.10.2006; and

- (b) if the above planning condition was not complied with by the specified date, the approval hereby given should cease to have effect and should on the same date be revoked without further notice.

47. The Committee also agreed to advise the applicant of the following:

- (a) consult District Lands Officer/Kowloon East, Lands Department on the need of the temporary waiver for the shop use under application including the size of the application premises; and
- (b) appoint an Authorized Person to submit building plans to demonstrate compliance with the Buildings Ordinance, in particular, the fire separation between the application premises and the remainder of the building.

[Open Meeting (Presentation and Question Sessions Only)]

- (vi) A/K18/236 Proposed Minor Relaxation of Building Height Restriction from 51mPD to 54mPD for Addition of Roofs over an Existing Swimming Pool at the Roof of a School in “Government, Institution or Community” zone, 3A Norfolk Road, Kowloon Tong
(MPC Paper No. A/K18/236)
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Presentation and Question Sessions

48. Mr. Kelvin K.W. Chan, STP/K, presented the application and covered the following aspects as detailed in the Paper:

- (a) background to the application;
- (b) proposed minor relaxation of building height restriction from 51mPD to

54mPD;

- (c) departmental comments – no objection from concerned Government departments was received;
- (d) during the publication period, two public comments were received with no objection to the application; and
- (e) the Planning Department (PlanD)'s views – PlanD had no objection to the application for reasons given in paragraph 10.1 of the Paper.

49. In reply to a Member's question, Mr. Kelvin Chan supplemented that the proposal was to cover the existing open-air pool for climate protection. The proposed roof would result in a maximum building height of 53.82mPD or an increase of about 5.88% when compared with the statutory building height restriction of 51mPD. The proposal was considered acceptable by the PlanD.

Deliberation Session

50. Given that the proposed roof would be in arch shape with the edge at a level of 51mPD and that the enclosing walls of the swimming pool roof would be in glass, a Member opined that there were certain design merits in the proposed scheme and significant visual impact on the surrounding areas was not envisaged.

51. After deliberation, the Committee decided to approve the application, on the terms of the application as submitted to the Town Planning Board. The permission should be valid until 28.4.2010, and after the said date, the permission should cease to have effect unless before the said date, the development permitted was commenced or the permission was renewed.

52. The Committee also agreed to advise the applicant of the following:

- (a) the approval of the application did not imply any compliance with the Buildings Ordinance and Regulations; and

[Messrs. Daniel B.M. To and Felix W. Fong left the meeting temporarily at this point.]

54. Mr. Louis K.H. Kau, STP/TWK, presented the application and covered the following aspects as detailed in the Paper:

- (a) background to the application;
- (b) proposed hotel (guesthouse);
- (c) departmental comments – no objection from concerned Government departments was received;
- (d) during the publication period, one public comment was received supporting the application; and
- (e) the Planning Department (PlanD)'s views – PlanD was of the view that there was no provision for the Committee to grant planning permission for the proposed hotel for reasons given in paragraphs 11.1 to 11.3 of the Paper. In particular, the conversion of the existing building for hotel development would result in a plot ratio exceeding the maximum plot ratio of 9 for non-domestic building as stipulated in paragraph (2) of the Remarks of the Notes for the “Residential (Group A)” zone.

55. Members had no question on the application.

Deliberation Session

56. The Chairman remarked that this application was similar to the application No. A/K9/206 considered by the Committee earlier in the meeting and there was no provision under the statutory plan for the Committee to grant planning permission for the proposed hotel (guesthouse) development.

57. The Committee agreed to advise the applicant that there was no provision for the Committee to grant planning permission for the proposed hotel (guesthouse) development, which would result in a non-domestic building with a plot ratio exceeding the maximum plot

ratio restriction for non-domestic building in “Residential (Group A)” zone.

[Messrs. Daniel B.M. To and Felix W. Fong returned to join the meeting at this point.]

[Open Meeting (Presentation and Question Sessions Only)]

- (ii) A/K3/482 Industrial Use (Machinery Repairing Workshop)
 in “Residential (Group E)” zone,
 Workshop 6A, G/F,
 Cheung Fat Industrial Building,
 64-76 Larch Street,
 Tai Kok Tsui
 (KIL 6306, 7644, 7645, 7646, 7647, 7648, 7649)
 (MPC Paper No. A/K3/482)
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Presentation and Question Sessions

58. Mr. Louis K.H. Kau, STP/TWK, presented the application and covered the following aspects as detailed in the Paper:

- (a) background to the application;
- (b) industrial use (machinery repairing workshop);
- (c) departmental comments – no objection from concerned Government departments was received;
- (d) during the publication period, one public comment was received with no comment on the application. One local objection was received by the District Officer (Yam Tsim Mong) against the application on traffic and environmental grounds; and
- (e) the Planning Department (PlanD)’s views – PlanD had no objection to the application for reasons given in paragraphs 10.1 and 10.2 of the Paper in that concerned Government departments had no objection to the application on traffic and environmental grounds.

59. Referring to the “I” beam installed on the ceiling of the application premises as shown on Plan A-3 of the Paper, a Member asked whether operation of the machinery repairing workshop would cause any nuisances to the local residents. Ms. Heidi Chan responded that the local objection raised was not directly related to the machinery repairing workshop under application. It should be noted that the use under application was the same as the previously approved scheme (No. A/K3/467) apart from a slightly enlarged floor area (from 57.8m² to 68m²). There was no change in planning circumstances to depart from the Committee’s previous decision.

60. Another Member enquired whether were any complaints received by the Environmental Protection Department (EPD) about the workshop under application. Mr. Elvis W.K. Au replied that the information was currently not available. As the machinery repairing workshop under application was located within an existing industrial building, EPD had no comment on the application.

61. Noting that the site was zoned “Residential (Group E)” (“R(E)”) the planning intention of which was yet to be realized, a Member asked whether consideration could be given to imposing a time clause should the application be approved by the Committee. It would help facilitate the transformation of the subject industrial building into residential use. Ms. Heidi Y.M. Chan, DPO/TWK, responded that the redevelopment of the subject industrial building for residential use should be determined by the market. Currently, the subject building and its adjoining buildings were still predominantly being occupied by industrial uses. The machinery repairing workshop was considered not incompatible with the existing uses within the subject industrial building. As the application was to continue the industrial use within the existing industrial building, no time clause was recommended. There were six other similar applications for industrial use on G/F of the subject building approved with no time clause.

62. Another Member opined that the industrial use under application was not in line with the planning intention of the area for residential use. The Chairman explained that the “R(E)” zone was intended primarily to encourage phasing out of existing obsolete industrial buildings for residential use through redevelopment. Whilst the eventual phasing out of the existing industrial use was anticipated, the redevelopment process would be a gradual process subject to market force. In the current case, whilst the planning intention of “R(E)” zone in

the area was yet to be realized, flexibility should be allowed for the existing industrial uses to continue their operation before the industrial building was ready for redevelopment. The Secretary supplemented that whilst the existing industrial uses could be tolerated, industrial use (other than non-polluting industrial use) in “R(E)” zone would require planning permission from the Town Planning Board.

Deliberation Session

63. Referring to paragraph 8.1.4 of the Paper, a Member noted that there was local objection against the application in view of pavement obstruction caused by those workshops at Larch Street. Referring to paragraph 10.4(c) of the Paper, the Chairman remarked that an advisory note was proposed advising the applicant not to cause pavement obstruction arising from the loading/unloading activities of the workshop.

64. In response to another Member’s enquiry on the justifications from the applicant, Ms. Heidi Chan said that, according to the Lands Department (LandsD), the proposed machinery repairing workshop was in breach of the ‘brazier’ and ‘blacksmith’ of the non-offensive trades. The applicant should submit application for removal of the relevant offensive trades clause for LandsD’s consideration.

65. Whilst acknowledging that the redevelopment process should be determined by the market, some Members asked whether consideration could be given to approving the industrial operation on a temporary basis. This could help expedite the redevelopment pace of the subject industrial building for residential use.

66. Other Members pointed out that given the planning intention of “R(E)” zone in the area would take time to realize and the machinery repairing workshop was considered not incompatible with the existing uses within the subject industrial building, it would be appropriate to allow the existing industrial uses to continue their operations within the industrial building until redevelopment took place. The application should be approved with no time clause.

67. In response to a Member’s enquiry, the Secretary said that application for regularization of existing operation would normally be approved with no time clause. Ms. Heidi Chan stated that the six similar applications for industrial use on G/F of the subject

building were approved with no time clause. In addition, Ms. Heidi Chan pointed out that whilst applications were approved for residential use in “R(E)” zones at Bedford Road and Arran Street, no application was approved for residential use in “R(E)” zones along Larch Street.

68. The Vice-chairman opined that the Committee should adopt a consistent approach in dealing with the current application. Without detailed study, it was not appropriate for the Committee to deviate from the usual practice and impose a specific approval period. As no application was approved for residential use in “R(E)” zones along Larch Street, it could be construed that the redevelopment process had not yet started. This view was shared by a Member who supplemented that should the subject industrial building be subsequently demolished/redeveloped, the subject machinery repairing workshop occupying one of the units within the building would be phased out accordingly. The application should therefore be approved with no time clause.

69. After deliberation, the Committee decided to approve the application, on the terms of the application as submitted to the Town Planning Board.

70. The Committee also agreed to advise the applicant of the following:

- (a) the Director of Fire Services should be consulted on the fire safety aspect of the industrial use at the Premises;
- (b) the District Lands Officer/Kowloon West, Lands Department should be consulted on the land lease matters for the industrial use at the Premises;
and
- (c) not to cause pavement obstruction arising from the loading/unloading activities of the workshop.

[Open Meeting (Presentation and Question Sessions Only)]

- (iii) A/KC/320 Shop and Services (Real Estate Agency)
 in “Industrial” zone,
 Front Portion of B1, Unit B,
 G/F, On Fook Industrial Building,
 41-45 Kwai Fung Crescent,
 Kwai Chung
 (MPC Paper No. A/KC/320)
-

Presentation and Question Sessions

71. Mr. Louis K.H. Kau, STP/TWK, presented the application and covered the following aspects as detailed in the Paper:

- (a) background to the application;
- (b) shop and services (real estate agency);
- (c) departmental comments – no objection from the Fire Services Department and other concerned Government departments was received;
- (d) no public comment was received during the publication period; and
- (e) the Planning Department (PlanD)’s views – PlanD had no objection to the application for reasons given in paragraph 11.1 of the Paper.

72. Members had no question on the application.

Deliberation Session

73. After deliberation, the Committee decided to approve the application, on the terms of the application as submitted to the Town Planning Board. The permission was subject to the following conditions:

- (a) the submission and implementation of fire safety measures, including complete separation of the Premises from the industrial portion of the

subject building by proper fire resistance construction and design, and provision of means of escape and fire service installations to the satisfaction of the Director of Fire Services or of the Town Planning Board by 28.10.2006; and

- (b) if the above planning condition was not complied with by the specified date, the approval hereby given should cease to have effect and should on the same date be revoked without further notice.

74. The Committee also agreed to advise the applicant of the following:

- (a) the District Lands Officer/Tsuen Wan and Kwai Tsing should be consulted on the need of a temporary waiver for the applied use; and
- (b) the Chief Building Surveyor/New Territories West, Buildings Department should be consulted on the provision of a fire resistance separating wall between the premises and the remaining area of the building, and the compliance with the Buildings Ordinance.

[The Chairman thanked Ms. Heidi Y.M. Chan, DPO/TWK, and Mr. Louis K.H. Kau, STP/TWK, for their attendance to answer Members' enquiries. Ms. Chan and Mr. Kau left the meeting at this point.]

Hong Kong District

[Ms. Christine K.C. Tse, District Planning Officer/Hong Kong (DPO/HK), and Mr. Kevin C.P. Ng, Senior Town Planner/Hong Kong (STP/HK), were invited to the meeting at this point.]

Agenda Item 6

[Open Meeting (Presentation and Question Sessions Only)]

Proposed Amendments to the
Draft Jardine's Lookout & Wong Nai Chung Gap Outline Zoning Plan No. S/H13/10
(MPC Paper No. 12/06)

Presentation and Question Sessions

75. Mr. Kevin C.P. Ng, STP/HK, presented the proposed amendments to the draft Jardine's Lookout & Wong Nai Chung Gap Outline Zoning Plan (OZP) and covered the following aspects as detailed in the Paper:

- (a) the proposed amendments to the Notes of the OZP – mainly to impose gross floor area restriction for “Commercial (1)” zone;
- (b) departmental comments – no objection from concerned Government departments was received;
- (c) the District Officer (Wan Chai) received one local objection requesting more time for consultation. It was considered that the objector could submit representation during the two-month plan exhibition period.

76. Members had no question on the proposed amendments.

Deliberation Session

77. After deliberation, the Committee decided to:

- (a) agree to the proposed amendments to the Notes of the draft Jardine's Lookout & Wong Nai Chung Gap Outline Zoning Plan (OZP) No. S/H13/10;
- (b) agree that the draft Jardine's Lookout & Wong Nai Chung Gap OZP No. S/H13/10A and its revised Notes were suitable for exhibition under section 7 of the Ordinance; and
- (c) adopt the revised Explanatory Statement (ES) as an expression of the

planning intention and objectives of the Town Planning Board for the various land use zonings on the OZP and the revised ES would be published together with the draft OZP.

Agenda Item 7

Section 16 Applications

[Open Meeting (Presentation and Question Sessions Only)]

- (i) A/H4/78 Proposed Bank, Fast Food Shop, Restaurant or Showroom excluding Motor-vehicle Showroom in “Government, Institution or Community” zone, G/F, Cheung Kong Center (Phase 1B), 2 Queen's Road Central (IL 8887RP), Central

(MPC Paper No. A/H4/78)

Presentation and Question Sessions

78. The application was submitted by a company with Hutchison Whampoa Properties (Management & Agency) Ltd. (HWP) being one of the consultants. The Vice-chairman, having current business dealings with HWP, declared interest in this item.

[The Vice-chairman left the meeting temporarily at this point.]

79. Mr. Kevin C.P. Ng, STP/HK, presented the application and covered the following aspects as detailed in the Paper:

- (a) background to the application;
- (b) proposed bank, fast food shop, restaurant or showroom excluding motor-vehicle showroom;
- (c) departmental comments – no objection from concerned Government departments was received;

- (d) during the publication period, five public comments were received raising objection to the application on the ground that the subject premises fell within an area zoned “Government, Institution or Community” (“G/IC”) and priority should be given for GIC uses by local groups and Government departments; and
- (e) the Planning Department (PlanD)’s views – PlanD had no objection to the application for reasons given in paragraphs 12.1 and 12.2 of the Paper, notably that the proposed change of uses would provide convenient service to office workers in the area. As the application premises were within the commercial part of Cheng Kong Centre, the proposed change of uses would not have any adverse impact on the provision of the existing GIC facilities.

80. Referring to paragraph 1.2 of the Paper, a Member enquired about the application premises. Referring to Plan A-3 of the Paper, Ms. Christine K.C. Tse, DPO/HK, said that according to the approved Master Layout Plan (MLP), the application premises was designated as a circulation area at the G/F of the ancillary block of Cheung Kong Center. It was currently used as a seating area and circulation area through which the public could gain access to the fast food shops located on the L/G level of the same building.

Deliberation Session

81. Members raised the following concerns:

- (a) as the subject premises fell within an area zoned “G/IC”, it should be used for GIC uses to serve the local community. Approval of the application would set an undesirable precedent; and
- (b) the applicant proposed to use the existing circulation area for ‘Bank, Fast Food Shop, Restaurant or Showroom excluding Motor-vehicle Showroom’ uses, which would affect the actual circulation space within the premises.

[Mr. Felix W. Fong left the meeting at this point.]

82. Ms. Christine Tse explained that the application premises were within the

commercial part of Cheng Kong Centre. The applicant intended to use the application premises at G/F as ‘take-away service counter’ in support of the existing fast food shop located on the L/G level of the same building. As the proposal was mainly to convert the existing sitting area to a ‘take away service counter’, it would not affect the actual circulation space and the emergency access within the premises. To allow greater flexibility of the use of the application premises in relation to the similar uses permissible at the L/G level in the long term, the applicant sought planning permission to use the application premises for ‘Bank, Fast Food Shop, Restaurant or Showroom excluding Motor-vehicle Showroom’ uses.

83. The Chairman asked about the lease requirements. Referring to the development schedule as shown in Figure 6 of Appendix Ia of the Paper submitted by the applicant, the Secretary said that as the application premises was designated as a circulation area in the approved MLP, the applicant was required to apply to the Lands Department for the proposed change of use and the corresponding amendment to the approved MLP, which might have premium implication. Ms. Christine Tse added that as the application premises had been included in the calculation of commercial GFA under the approved MLP, there was no increase in the total gross floor area of the whole development.

84. A Member opined that the existing fast food shop located on the L/G level of Cheng Kong Centre served not only the office workers in Cheng Kong Centre but also those office workers in the nearby area. The proposed ‘take away service counter’ would reduce congestion in the flow of patrons visiting the existing fast food shop especially during lunch time and inclement weather. Sympathetic consideration could be given to approving the application.

85. Acknowledging that the conversion of the application premises for the intended ‘take away service counter’ use would provide convenient service to office workers in the area, another Member said that the proposed uses set out in the application were different from the intended use as claimed by the applicant. The applicant was required to provide clarification on the apparent differences between the proposed uses and the intended use.

86. The Chairman suggested that the application could be deferred pending the submission of further information from the applicant. The applicant should provide further justification on the conversion of the circulation area to the proposed ‘Bank, Fast Food Shop, Restaurant or Showroom excluding Motor-vehicle Showroom’ uses and on the size and

- (e) the Planning Department (PlanD)'s views – PlanD had no objection to the application for reasons given in paragraphs 11.1 to 11.3 of the Paper. As regards to the local concerns, any potential environmental nuisance could be controlled under the relevant legislation and the applicant had agreed to undertake necessary measures to minimize disturbance to the adjacent residential development.

89. Members had no question on the application.

Deliberation Session

90. Given that an application for minor relaxation of site coverage to 39% was previously approved, the Chairman remarked that the current application which would allow more innovative design could be considered for approval.

91. After deliberation, the Committee decided to approve the application, on the terms of the application as submitted to the Town Planning Board (TPB) and subject to the condition that the submission and implementation of a tree preservation scheme and a landscaping proposal to the satisfaction of the Director of Planning or of the TPB. The permission should be valid until 28.4.2010, and after the said date, the permission should cease to have effect unless before the said date, the development permitted was commenced or the permission was renewed.

[Mr. K.Y. Leung returned to join the meeting at this point.]

[Open Meeting (Presentation and Question Sessions Only)]

- (iii) A/H20/152 Temporary Religious Institution (Church)
for a Period of 5 Years
in "Residential (Group A)" zone,
Parts of the Lower Ground Floor
and Flat Roof of Tower 7,
Greenwood Terrace,
Chai Wan
(MPC Paper No. A/H20/152)
-

Presentation and Question Sessions

92. Mr. Kevin C.P. Ng, STP/HK, presented the application and covered the following aspects as detailed in the Paper:

[Mr. Stanley Y.F. Wong returned to join the meeting during the presentation session.]

- (a) background to the application;
- (b) temporary religious institution (church) for a period of 5 years;
- (c) departmental comments – no objection from concerned Government departments was received;
- (d) during the public inspection period, 110 public comments were received including one objection with 615 signatures, 107 supported, one expressed concerns and one had no comment. The objectors were of the view that the church would lead to a drastic increase in the number of visitors to the residential development and would generate security, noise and hygiene problems. The supporters were of the view that the church could provide support and services for the aged, children and the needy in the community; and
- (e) the Planning Department (PlanD)'s views – PlanD had no objection to the application for reasons given in paragraphs 10.1 and 10.2 of the Paper, notably that according to the applicant, the normal attendance would be less than 70 visitors for most of the week, and the residential blocks and the proposed church were served by separate entrances and accesses.

93. Members had no question on the application.

Deliberation Session

94. In response to a Member's enquiry on the Deed of Mutual Covenant of the subject development, the Chairman remarked that consideration of the application should

focus on the land use planning matters. The building contractual issue should be dealt with separately between the applicant and the concerned owners of the subject development.

95. In response to another Member's enquiry, the Chairman said that it was the decision of the applicant to submit an application to seek a temporary approval of 5 years. The Secretary added that the applicant requested a temporary approval for waiver application as lease modification might be required for a permanent approval.

96. After deliberation, the Committee decided to approve the application on a temporary basis for a period of 5 years up to 28.4.2011, on the terms of the application as submitted to the Town Planning Board (TPB) and subject to the condition that the provision of fire services installations to the satisfaction of the Director of Fire Services or of the TPB.

97. The Committee also agreed to advise the applicant of the following:

- (a) the approval of the application did not imply that the metal frames and the prefabricated structure within the application premises would be accepted by the Building Authority. The applicant should approach the Buildings Department direct to obtain the necessary approval;
- (b) to consult the District Lands Officer/Hong Kong East, Lands Department on the waiver application for the church use of the application premises; and
- (c) to resolve any land issues relating to the development with the concerned owner of the application premises.

Agenda Item 8

Section 16A Application

[Open Meeting (Presentation and Question Sessions Only)]

A/H8/373-2 Proposed Minor Amendments to an Approved Scheme
for a Proposed Comprehensive Development
Comprising a Hotel, Eating Place, Shop and Services
and Place of Recreation, Sports or Culture,
15 – 17 Oil Street,
North Point
(MPC Paper No. A/H8/373-2)

Presentation and Question Sessions

98. The application was submitted by a subsidiary of Cheung Kong (Holdings) Ltd (CKH). The Vice-chairman, having current business dealings with CKH, declared interest in this item.

[The Vice-chairman left the meeting at this point.]

99. Mr. Kevin C.P. Ng, STP/HK, presented the application and covered the following aspects as detailed in the Paper:

- (a) background to the application;
- (b) Class B amendments - increase in building height of the podium from 3 storeys to not exceeding 6 storeys, changes in soft/hard landscape design of the Landscape Master Plan, and changes to the disposition of the carpark, loading & unloading and tour buses drop-off area under Island Eastern Corridor (IEC);
- (c) departmental comments – no objection from concerned Government departments was received;
- (d) no local objection was received by the District Officer (Eastern); and
- (e) the Planning Department (PlanD)'s views – PlanD did not support the application for reasons given in paragraph 10.1 and 10.2 of the Paper. In

considering the previously approved scheme on 10.6.2005, the Committee was concerned about the design of the podium and advised the applicant to improve the design and permeability of the hotel podium to minimize blockage of sea breeze to the inner streets behind the IEC. In the current scheme, the podium height was increased by 7.25m (or 3 storeys). The applicant had not demonstrated that efforts had been made to improve the podium design to address the Committee's previous concerns.

Deliberation Session

100. Noting the waterfront location of the site, a Member opined that there was growing community concern on the air flow impact of high-rise developments at waterfront areas. The applicant had not provided sufficient information in the submission to demonstrate that efforts had been made to improve the design and permeability of the hotel podium to minimize blockage of sea breeze to the inner streets behind IEC. The application should not be supported.

[Ms. Sylvia S.F. Yau left the meeting at this point.]

101. Ms. Christine K.C. Tse, DPO/HK, said that upon detailed design of the development, the applicant noted that it was not feasible to locate all plant rooms within the 3-storey podium as these floors were already occupied by various hotel amenities such as ballrooms, function rooms and catering facilities. To allow for flexibility in the detailed design, the applicant proposed to increase the podium height to not more than 6 storeys. A letter dated 26.4.2006 was submitted by the applicant providing supplementary information for consideration of the Committee. A copy of the letter was tabled at the meeting. The applicant claimed that the overall building height and site coverage of the building (including the podium structure) remained the same. The podium occupied about 40% of the whole site with a 86m setback from the sea. It would allow sea breeze to infiltrate inland from the seashore and via Oil Street and King Wah Road. A double level setback along Oil Street would widen the wind path along Oil Street for wind penetration into the inner streets. Even without the podium, the L-shaped hotel tower would still need to occupy the perimeter of the site along Oil Street and King Wah Road. The increase in the podium height structure would not make any visual difference. With the completion of foundation works, it was impossible to have major changes on the G/F design to further improve the permeability.

Moreover, it would require more than three months and cost about HK\$600,000 to undertake an air ventilation assessment.

102. Members in general did not support the application and raised the following concerns:

- (a) the applicant had not demonstrated any planning and design merits for the proposed increase in podium height;
- (b) the visual impact caused by the proposed increase in the overall bulk of the podium would likely be worsen especially when viewing along/beside the IEC;
- (c) the applicant had not provided any information on the change in gross floor area distribution arising from the 3-storey increase in podium height taken into account that there was no change in the overall gross floor area and building height;
- (d) in a previous briefing to the Town Planning Board by the Harbour-front Enhancement Committee, the connection of the proposed Central-Wanchai Bypass (CWB) to the IEC would probably be located to an area to the north of the proposed hotel, which might affect the application site.

103. In reply to a question from a Member, Ms. Christine Tse said that the applicant claimed that detailed design would be undertaken during the building plan submission stage and information on the gross floor area of the additional facilities was not yet available.

104. The Chairman noted that the application site might be affected by the proposed connection of the CWB to the existing IEC which was still being considered under the review of Wan Chai Development Phase II project. Nevertheless, there was a long planning history for the site and the proposed development was approved in 2000. The Chairman accepted that there would be an increase in visual impact caused by the proposed increase in podium height and there was insufficient information in the submission to demonstrate improvement to the design and permeability of the hotel podium to address the Committee's previous concerns.

105. After deliberation, the Committee decided to reject the application and the reason was that there was insufficient information in the submission to demonstrate that the design of the hotel podium would not result in blockage of sea breeze to the inner street behind Island Eastern Corridor.

[The Chairman thanked Ms. Christine K.C. Tse, DPO/HK, and Mr. Kevin C.P. Ng, STP/HK, for their attendance to answer Members' enquiries. Ms. Tse and Mr. Ng left the meeting at this point.]

Agenda Item 9

Any Other Business

106. There being no other business, the meeting was closed at 12:45 p.m..