

## **TOWN PLANNING BOARD**

### **Minutes of 356th Meeting of the Metro Planning Committee held at 9:00 a.m. on 24.8.2007**

#### **Present**

Director of Planning  
Mrs. Ava S.Y. Ng

Chairperson

Dr. Greg C.Y. Wong

Vice-chairman

Mr. Nelson W.Y. Chan

Professor N.K. Leung

Professor Bernard V.W.F. Lim

Dr. Daniel B.M. To

Mr. Stanley Y.F. Wong

Ms. Sylvia S.F. Yau

Mr. Walter K.L. Chan

Mr. Raymond Y.M. Chan

Mr. K.Y. Leung

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

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

Assistant Director (Kowloon), Lands Department  
Miss Eliza K.F. Ma

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

Secretary

**Absent with Apologies**

Mr. Leslie H.C. Chen

Ms. Maggie M.K. Chan

Mr. Felix W. Fong

Professor Paul K.S. Lam

Ms. Starry W.K. Lee

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

**In Attendance**

Assistant Director of Planning/Board  
Mr. Lau Sing

Chief Town Planner/Town Planning Board  
Ms. Brenda K.Y. Au

Town Planner/Town Planning Board  
Ms. Paulina L.S. Pun

**Agenda Item 1**

Confirmation of the Draft Minutes of the 355th MPC Meeting held on 10.8.2007

[Open Meeting]

1. The Secretary said that the draft minutes of the 355th MPC meeting held on 10.8.2007 were circulated to Members on 22.8.2007 and no proposed amendments had been received.

2. Miss Eliza Ma said that Mr. James Merritt, Lands Department's representative at the last meeting, was currently on leave and his comments on the draft minutes were not available. In response, the Secretary explained that the draft minutes would have to be confirmed at this meeting to ensure timely notifications be sent to all applicants and concerned parties of the Committee's decisions in accordance with the Town Planning Board's practice and procedures.

[Professor Bernard V.W.F. Lim arrived to join the meeting at this point.]

3. Miss Eliza Ma then referred to paragraph 47 of the draft minutes and said that the planning brief would not form part of the lease for the Oil Street site. It would only be attached as part of the Explanatory Note to the lease and was not legally binding. As such, the first sentence in this paragraph should be amended accordingly.

[Dr. Daniel B.M. To arrived to join the meeting at this point.]

4. In response, the Secretary said that since Mr. James Merritt had not mentioned the explanatory note during the discussion in the last meeting, it was inappropriate that the minutes be so amended.

5. After some discussion, it was agreed that the draft minutes be confirmed and further comments, if any, could be provided by the Lands Department upon Mr. Merritt's return. The Chairperson remarked that as no third party interests would be affected, the suggested way forward was acceptable. The draft minutes of the 355th MPC meeting was confirmed without amendments.

**Agenda Item 2**

Matters Arising

[Open Meeting]

6. The Secretary said that there were no matters arising to report.

**Tsuen Wan and West Kowloon District**

**Agenda Item 3**

Section 12A Application

[Open Meeting (Presentation and Question Sessions only)]

Y/K20/1                      Application for Amendment to the  
Draft South West Kowloon Outline Zoning Plan No. S/K20/19  
for Amendments of Notes of “Residential (Group A)1” zone,  
Kowloon Inland Lot 11146, Hoi Fai Road, West Kowloon  
(MPC Paper No. Y/K20/1)

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7. The Secretary reported that a letter from the applicant was received on 14.8.2007 requesting all Government officials including the Chairperson to withdraw from the meeting during deliberation of this item. Also, a commenter had requested to send legal representatives to the meeting to make submissions. The Committee was requested to discuss and deliberate on these issues before the consideration of the s.12A application.

8. The Chairperson said that there had been past cases in which the Town Planning Board (the Board) meeting was closed when legal and procedural matters were discussed. However, as the legal advice previously sought on the relevant issues had been discussed at open meeting, Members could consider if the deliberation on the subject could be made in public as well.

9. A Member said that as similar requests would be made in the future, discussion in open meeting could facilitate the public to have a better understanding on how the Board

operated. Other Members agreed.

10. The Secretary then reported that a letter was submitted by the applicant on 13.8.2007 requesting that all Government officials should declare interests and leave the meeting during the deliberation of this item. A copy of the letter had been dispatched to Members. She then read out the letter translated as follows :

*“.... To be just and fair, we request that all Government officials should withdraw from the meeting (that is, all of them should leave the conference room) while the Committee is conducting the deliberation of the application.*

*Our reasons are simple. As the proposals we put forward (including the requests for reduction of the maximum permissible domestic plot ratio, introduction of a building height limit and request for an air ventilation assessment to justify the design and disposition of the blocks) will certainly reduce the value of the site, thereby damaging the interest of relevant developers, who will then enter into complex negotiations with the Government in future. It is expected that the Government officials in attendance will make an effort to join hands in opposing our application. Even those officials who recognise our new thinking on planning may find it difficult to freely express their own views.*

*As Government officials have role conflicts in this meeting, we request that all of them should withdraw from the meeting to avoid unfairness to our resolution. ....]*

[Mr. Nelson W.Y. Chan arrived to join the meeting at this point.]

11. The Secretary continued to say that similar allegations had been made by other parties with regard to the consideration of rezoning requests in respect of the Central District (Extension) and Wan Chai North Outline Zoning Plans, as well as the s.16 application relating to the Lee Tung Street/Mcgregor Street site before. Legal advice had been sought from Dr. Christopher Forsyth, a Queen’s Counsel and the main points obtained were as follows :

- (a) the Board was an administrative and not a judicial body. It was exercising administrative functions specified in the Town Planning Ordinance (the Ordinance). The participation of officials in the deliberations of the Board was specifically authorized under the Ordinance;
- (b) as members of an administrative decision-making body, the Chairperson and Government officials were expected to have views on the matters that came before the Board for decision;
- (c) the Hong Kong courts recognized in various cases that participation of official members in an administrative decision-making body did not compromise its independence and impartiality; and
- (d) the Chairperson, Vice-chairman and all members were appointed by the Chief Executive in accordance with the Ordinance, and non-official members were the majority.

12. The Secretary added that as stipulated in the Ordinance, five Members of the Committee formed a quorum at any meeting, one of whom must be the Chairperson or Vice-chairman and three of whom (which was the majority) must be non-official Members. Based on the legal advice above, the Board's decision, after taking into account all relevant planning considerations, would be fair and independent even with the presence of Government officials.

13. The Chairperson said that the Board had previously discussed similar allegations and decided that Government officials could remain during the deliberation of the concerned cases.

14. A Member said that the legal advice was given by a Queen's Counsel who was authoritative in this area. Up to now, there was no court case to challenge the previous principles and justifications. As such, there did not appear to be any reasons for the Committee to deviate from the previous decisions.

15. Another Member said that the procedure of meeting had been established in the Board's practice. There should not be special arrangements for individual cases. The Board's meeting was conducted with the participation of Government officials and it was the normal way of how the Board transacted its business. With the support of the legal advice, it was considered that the existing practice should be followed. Other Members agreed.

16. The Secretary then went on to elaborate on the second issue in that one of the commenters, the owner of the application site, Sun Hung Kai Properties Ltd. (SHKP) represented by Winston Chu & Company Solicitors & Notaires (Winston Chu & Company), had requested to send legal representatives to the meeting to make submissions. It was claimed that the commenter's interest would be directly affected by the outcome of the application and in accordance to the principles of natural justice, the commenter should be granted the opportunity to orally address the Committee. The commenter also requested to submit additional material to supplement his comments. The Secretary said that in accordance with s.12A(18) of the Ordinance, only the applicant was entitled to attend the relevant Board's meeting and to be heard. There was no provision to allow a commenter to attend the Board's meeting. Regarding submission of supplementary material, the commenter was advised that all comments made after the expiration of the statutory publication period should be treated as not having been made.

17. The Secretary said that three letters dated 15, 17 and 20.8.2007 from Winston Chu & Company were received. On 22.8.2007, the Secretariat gave verbal advice restating the above position. As a result, Winston Chu & Company indicated that its representative and two other representatives from SHKP would view and record the proceedings of the meeting in the Public Viewing Room.

18. The Chairperson remarked that the SHKP had submitted its comments within the statutory publication period and they were already reflected in the Paper. The Committee agreed that in accordance with the Ordinance, the request could not be acceded to.

19. The Secretary said that as SHKP, had submitted a public comment objecting to the application, Dr. Greg C.Y. Wong, having current business dealings with SHKP, had declared an interest in this item. The Committee noted that Dr. Wong had not yet arrived at the meeting.

Presentation and Question Sessions

[The hearing was conducted in Cantonese.]

20. Mr. Louis K.H. Kau, Senior Town Planner/Tsuen Wan & West Kowloon (STP/TWK) and the following applicant's representatives were invited to the meeting at this point :

Mr. Ng Wing Fai

Mr. Lai Ming Chuen

21. The Chairperson extended a welcome and briefly explained the procedures of the hearing. She then invited the Planning Department (PlanD)'s representative to brief Members on the background to the application.

22. Mr. Louis K.H. Kau said that the current application involved a proposal to amend the Notes for the "Residential (Group A)1" ("R(A)1") zone of the draft South West Kowloon Outline Zoning Plan (OZP) No. S/K20/19 regarding the application site at Hoi Fai Road. He covered the following main aspects as detailed in the Paper and summarized below :

- (a) the application site was zoned "R(A)1" with restrictions of a maximum domestic and non-domestic plot ratio (PR) of 6.5 and 1.0 respectively on the OZP. It was surrounded by existing residential developments with One SilverSea to the south, the Long Beach to the north and Island Harbourview to the east;
- (b) the applicant's proposal to amend the Notes for the "R(A)1" zone included the following :
  - (i) to reduce the maximum permissible domestic PR of the application site from 6.5 to 5;



- (ii) to introduce a building height limit of 30m to a strip of land of about 10m in width at the north boundary of the application site; and
  - (iii) to require the submission of an air ventilation assessment (AVA) for the proposed development at the application site to justify the design and disposition of blocks for approval by the Planning Department;
- (c) the background regarding the application site was detailed in paragraph 1 of the Paper;
- (d) the application site involved three previous rezoning requests from “R(A)1” to “O” or “G/IC”. All three requests were not agreed by the Committee on similar grounds that there was no strong justification to rezone the residential site for open space or solely for government, institution or community use, and that residential use of the site was appropriate to optimize use of valuable urban land. In March 2005, the application site was included in the List of Sites for Sale by Application and in May 2007, it was successfully triggered for auction. On 4.6.2007, the current application was submitted. On 12.6.2007, the application site was sold in the land auction. On 3.7.2007, a set of building plans for the residential development on the application site was submitted to the Buildings Department for approval;
- (e) departmental comments were detailed in paragraph 9 of the Paper. It was highlighted that the Lands Department (LandsD) objected to the application as the development intensity as permitted under the Conditions of Sale had been reflected in the sale price. The approval of the application would affect the permissible development intensity and impose additional development restrictions. The purchaser might claim for loss. No objection from other concerned Government departments was received;
- (f) a total of 131 public comments were received. One commenter, who was the current owner of the application site, objected to the application. The remaining 130 public comments supported the application. The grounds

of objection/support to the application were detailed in paragraphs 10.1 and 10.2 of the Paper respectively. The District Officer (Yau Tsim Mong) advised that the District Council (DC) member of the concerned constituency and the Chairman of Yau Tsim Mong West Area Committee supported the application; and

- (g) the PlanD's views – the PlanD did not support the application for the reasons detailed in paragraph 11 of the Paper. The use and development parameters of the application site on the OZP were established based on technical assessments and the OZP had gone through all the statutory plan-making procedures. The application site had already been sold based on the permissible development intensity under the OZP. There were already various view corridors in the area, such as Cherry Street and the “O” and “G/IC” sites, prepared based on past studies and assessments. Hence, an AVA might not be necessary. There was insufficient information to demonstrate that the introduction of building height limit of 30m to a strip of land along the northern site boundary would improve the air quality and ventilation of the Tai Kok Tsui area. While the proposed 10m-wide non-building area in the northern part of the application site might be desirable to enhance the design and deposition of building blocks, it was a matter of detailed design and could be addressed at the building plan submission stage.

23. The Chairperson then invited the applicant's representatives to elaborate on the application.

24. Mr. Ng Wing Fai thanked the Committee for the opportunity to present the application. He introduced Mr. Lai Ming Chuen, Vice-chairman of Green Sense, to briefly address the Committee.

25. With the aid of a Powerpoint presentation, Mr. Lai Ming Chuen said that the applicant, Green Sense, was a local non-profit organization which had raised concerns and actively expressed views on 'wall buildings' for the past two years. He said that based on a questionnaire survey done in the Tai Kok Tsui area in collaboration with the office of DC

member Mr. Lam Ho Yeung on the ‘wall buildings’ as defined by professional planners and general public, a total of 58 existing and proposed tower blocks were identified. By highlighting these blocks on a map, Mr. Lai said that they formed many ‘walls’ that would be very closely packed together.

26. With the aid of a Powerpoint presentation, Mr. Ng Wing Fai said that the application site was surrounded by high-rise developments with the harbour and typhoon shelter nearby. When viewed from Kowloon and from the harbour, one could see that the application site was the only gap among the building blocks in the area. He briefly summarized the applicant’s proposal, highlighting the request for the stipulation of a building height limit of 30m to a strip of land of about 10m in width at the northern boundary of the application site. Referring to Drawing Z-1 of the Paper, Mr. Ng explained that the future development on the application site would be very close to the buildings of the Long Beach resulting in ventilation problem.

27. Mr. Ng Wing Fai then made the following main points :

- (a) regarding development intensities, there had been cases of good planning in Hong Kong. From the planning of 3 ventilation corridors with lower permissible development intensity at the Oil Street site, it showed that the Committee agreed to lower development intensity in the urban areas. However, there were more cases of bad planning. According to an index prepared by the Economic Intelligence Unit, a sister organization to The Economist in 2005 on the global livability rankings of world’s cities, Hong Kong was only ranked 41. Also, the outbreak of the deadly contagious disease Severe Acute Respiratory Syndrome (SARS) in 2003 was a result of high-density developments. It was the responsibility of the Board, the Development Bureau and town planners to exercise their powers to address the problems of bad planning;
- (b) as stated in s.3(1) of the Ordinance, the Board should undertake its functions with a view to “the promotion of the health, safety, convenience and general welfare of the community”. However, the Ordinance did not empower the Board to take into consideration financial gains of developers,

confidence in investment, and results of land sales;

- (c) in relation to the above, the objection from the LandsD that the purchaser might claim for loss with the approval of the application should be disregarded as the problem of compensation should not be a consideration of the Board;
- (d) most concerned Government departments including the Buildings Department, Fire Services Department, Drainage Services Department had no objection to the application. In particular, the Chief Town Planner/Urban Design and Landscape of PlanD did not raised objection. There was also support from the Chairman of Yau Tsim Mong DC, the DC member of the concerned constituency and Area Committee and representatives of different political parties on lowering the development intensity of the application site.

28. In response to PlanD's views on the application, Mr. Ng Wing Fai made the following main points:

*Permissible PR supported by technical assessments*

- (a) although it was stated that planning studies had been undertaken when the development parameters in West Kowloon were determined and gazetted in 1992 and that the plot ratio restriction for the application site was already tighter than that of the surrounding sites, the carrying out of air ventilation assessments was not required at that time. Since 1990s, after the Kai Tak Airport was relocated, more high-density developments had emerged in the urban area. SARS in 2003, which seriously affected the economy and society as whole, was very much related to high-density developments. Various parties including environmental groups, DC members, overseas commerce groups and the general public had raised criticisms on high-density development;

Insufficient information to demonstrate the effectiveness of the proposed 10m corridor on improvement of air ventilation

- (b) the PlanD could not prove that the proposed 10m-wide ventilation corridor was professionally inappropriate either. As shown on an extract of a letter from the Development Bureau to the applicant dated 28.7.2007, the PlanD did at some point of time propose to impose a restriction of a 10m-wide non-building area to the application site. The proposal however was not accepted by the LandsD. The PlanD then changed its position to not support the current proposal which was actually more flexible than a non-building area as a 30m high podium would be allowed; and
- (c) the 10m-wide strip, though not the ideal solution, could act as a ventilation corridor to improve the existing situation in which the adjacent Long Beach was built up close to the boundary of the application site and mitigate the wall effect;
- (d) while an AVA was not conducted when the past studies were undertaken, this application site with a site area smaller than 2 hectares did not fall within the prevailing criteria for conducting an AVA. This practice of breaking up of development sites should be reviewed by the Government in relation to the requirement of an AVA;
- (e) the PlanD stated that the applicant could not prove that the proposed restrictions on the development at the application site would be related to any improvements to Tai Kok Tsui area. It was because the applicant, like the general public, had limited resources to carry out a proper AVA. This further demonstrated the importance and necessity for the Government to undertake AVAs;

10m wide corridor was a matter of detailed design

- (f) according to the developer's building plan submission, 8 tower blocks were proposed on the application site. Adverse visual and ventilation impacts

were inevitable. However, the general public could not participate in the consideration and approval of the detailed building plan submissions. This was therefore the right moment to raise the concern.

29. Mr. Ng Wing Fai said that the applicant did not trust that the PlanD and Government could represent the public. For the past 10 years, many of the Board's decision had been overturned, including proposed reclamation, the West Kowloon Cultural District, and matters on heritage protection and wall buildings. As such, there were more cases that the members of the public and Legislative Council members stepped in to file judicial reviews on bad planning decisions. The applicant appealed to the Board to perform its responsibility and power to guard the developments in Hong Kong. The PlanD should be instructed to undertake mid-stage consultation, enhancing the participation of the LegCo members, the DC and the general public. Consideration should also be given to a two-stage planning system and the British planning aid system.

30. Mr. Ng Wing Fai concluded his presentation with a recap of the applicant's proposal, i.e. to reduce the restriction of domestic PR of the application site from 6.5 to 5; incorporation of a maximum building height of 30m to a 10-wide strip of land; and incorporation of a requirement for AVA.

31. Members raised questions regarding the various issues recorded in the following paragraphs.

*Relevant considerations of the Board*

32. With regard to LandsD's comments as detailed in paragraph 9.1.1 of the Paper, a Member enquired whether the Board should take Government revenue or purchaser's claim as part of its consideration. In response, Mr. Louis K.H. Kau said that land sale revenue should not be a relevant planning consideration. Rather, the development intensity, PR and use of the sites should be the major concerns.

33. The Chairperson added that under the Ordinance, there was no provision for compensation if a site was affected by the OZP. She went on to say that the preamble of the Ordinance stated that the Board should promote the health, safety, convenience and general

welfare of the community. On the last objective, it could be interpreted in a broad sense that the Board should promote a healthy and sustainable development of society as a whole.

34. A Member noted the comments from the Chief Town Planner/Urban Design and Landscape Section in paragraph 9.1.5(a) of the Paper that there was no objection on the proposed reduction of development intensity from an urban design point of view. This kind of professional views was appreciated. As the proposed PR reduction from 6.5 to 5 was not significant, this Member enquired whether there were any planning studies or assessments done to demonstrate that the applicant's proposal was inappropriate from a professional planning point of view.

35. In response, Mr. Louis K. H. Kau reiterated that the use and development parameters were based on the findings of the "West Kowloon Reclamation - Planning and Urban Design Report" and a comprehensive review of the development intensity of residential sites in the West Kowloon Reclamation area. The proposed PR of 6.5 and 1 was considered acceptable from professional planning point of view. The applicant had not provided sufficient justifications to demonstrate that this was necessary. Also, the proposed height restriction would affect the design flexibility of the future development. More information was required to substantiate the claim that the proposal under application was better.

36. Mr. Ng Wing Fai said that conversely, there was no way to prove that the current proposed amendments, which were minor in nature, were not appropriate in professional planning terms.

#### Reduction of PR

37. A Member enquired about the existing building height and intensity of the surrounding developments, and the appropriate building height for the application site if the PR was reduced to 5. In response, Mr. Louis K.H. Kau said that both the Long Beach and One SilverSea were subject to a maximum domestic and non-domestic PR of 6.5 and 5 respectively. The Long Beach had 52 storeys at a maximum height of 156mPD and One SilverSea had 45 storeys at 177mPD. The application site was restricted to a maximum building height of 140mPD as stipulated under the land sale conditions. It was

comparatively lower than the adjacent developments.

38. In response to the Chairperson's follow-up enquiry on the reasons for a lower permitted building height on the application site, Mr. Louis K.H. Kau said that according to the Urban Design Guidelines in the Hong Kong Planning Standards and Guidelines (HKPSG) promulgated in 2003, views of the ridgelines in the territory should be protected from selected vantage points. The application site was located within the view fan of the vantage point at Sun Yat Sen Memorial Park in Sai Ying Pun. Having regard to the height profile, permitted PR on site, nearby developments and urban design principles, a building height of 140mPD was considered appropriate.

39. Mr. Ng Wing Fai said that there was a series of guidelines under the HKPSG including guidelines on better development layout for air ventilation, and lower building heights on the harbourfront. However, unlike the many guidelines of the Hong Kong Monetary Authority which were very strictly followed, the HKPSG remained as guidelines only.

10m-wide strip with maximum 30m building height restriction

40. Regarding the proposed 10m-wide corridor with a building height restriction of 30m along the northern boundary of the application site, Members' questions were summarized as follows :

- (a) what was the history of the 10m-wide non-building area and PlanD's position on it;
- (b) whether the 10m strip would lead to a reduction in PR of the application site;
- (c) whether the applicant had scientific support that the proposal would address wall effect or improve ventilation in the area;
- (d) what was the applicant's justification or scientific evidence that the 10m strip on the northern site boundary would be the best solution to address



problems of wall effect and ventilation, bearing in mind that if the requirement was stipulated on the OZP, the layout of the development would be constrained and possibly hindering other better solutions.

41. In response, Mr. Louis K.H. Kau made the following main points :

- (a) as stated in Attachment III of the Paper, a non-building area in the application site to minimize wall effect was proposed by a LegCo member during a meeting with PlanD in November 2005. As per the request of the Member, the PlanD relayed the proposal to concerned Government departments for comments. At the same time, the PlanD conducted preliminary assessments and found that even with 10m non-building area, the development potential of the application site at PR 6.5 should still be achievable. However, the proposal was objected to by the LandsD and therefore not taken forward; and
- (b) the non-building area was a proposal without any support of an AVA to address ventilation problems. The PlanD had not changed its position on the issue as alleged by the applicant. In fact, ventilation of the application site and the area as a whole had always been a concern of the PlanD. It only held a different view from the applicant on whether the 10m-wide strip could resolve the air ventilation problems. The applicant had not submitted any information to demonstrate that it could lead to an improvement in ventilation in the area.

42. In response, Mr. Ng Wing Fai made the following main points :

- (a) there was no easy solution to the air ventilation problem and 'wall buildings' in the area;
- (b) as shown on Plan Z-4 of the Paper, the application site bordered on the waterfront to the west, Hoi Fai Road to the east and the podium and recreation facilities of One SilverSea to the south. Along the northern boundary, development on the application site could be built right up to

Long Beach. It was considered appropriate that the ventilation corridor be on this side of the site. Although the applicant had no resources to undertake an AVA, the 10m strip with a podium of 30m in height would definitely bring improvement; and

- (c) when the PlanD circulated the proposal of the 10m non-building area, it should have already professionally considered that the proposal was acceptable. The proposal under the current application allowing development at a maximum 30m in height on the strip was more flexible than what was proposed by the PlanD before.

43. Miss Eliza Ma clarified that although the 10m strip of non-building area might not affect the achievable PR on the application site, any kind of development restrictions would affect land value. In response, Mr. Ng Wing Fai said that the 10m strip would prevent the development from getting unreasonably close to the adjacent buildings. Such an improvement in layout would actually have a positive impact on land value.

*Spirit of land sale contract and timing of application*

44. A Member said that the application site had already been sold and an agreement had been signed between the Government and land owner. The core principle of such a contractual agreement was highly respected in Hong Kong. The approval of the current application would inevitably lead to amendments to the sale conditions to a certain extent. Regardless whether there was merit in the application, this Member enquired about the applicant's reasons for not submitting the application at an earlier stage.

45. In response, Mr. Ng Wing Fai said that there had been previous requests that the land sale be put on hold but to no avail. The application was made as soon as the details of the sale were announced. While it was agreed that the spirit of contract should be respected, members of the public could also exercise their right to submit applications under the Ordinance. In fact, there had been numerous cases in which development restrictions imposed on statutory plans under the provisions of the Ordinance affected the right under private contracts on land for public good and environmental improvements.

46. In response to the Chairperson's enquiry, the Secretary said that the relevant background was stated in paragraph 1 of the Paper. There were three previous rezoning requests for the application site from 2003 to 2005, but they were for different kinds of uses. Only after the three requests were considered and rejected by the Committee was the application site put on the Application List. She said that it was the first time that the kind of amendments under the current application were proposed for this site. Mr. Louis K.H. Kou added that the last rezoning request was submitted in February 2005 and was rejected in April 2005. While the current application was submitted on 4.6.2007, the application site was sold on 12.6.2007.

47. A Member enquired if all the auctioneers for the application site were notified of the current application and whether it was publicized to all media and members of the public. In response, Mr. Louis K.H. Kou said that the information of the current application was passed to the applicants of land sale before the auction. The Chairperson added that the application had been published in accordance with the provisions of the Ordinance, and notifications on the Board's website and site notices had been posted. There was also wide coverage of the application in the press.

48. Mr. Ng Wing Fai said that the current application had been extensively reported in the media and there had even been speculation that the sale price was lower than expected. All auctioneers should have taken the application into their risk calculation. Nonetheless, as explained earlier, the Committee needed not take into account the developers' considerations.

#### Further action

49. In response to a Member's enquiry on what further action the Committee could take given that the application site was sold, the Chairperson said that there were a lot of transactions everyday in the property market which were not known nor needed to be known by the Committee. The Committee should therefore focus on whether the existing development parameters for the site were suitable and whether there were sufficient justifications for amendments. Both planning merits and public interests should be taken into account. She went on to say that the Government had conducted various reviews on the planning of the area. In 1992, while West Kowloon was still a new area, the development intensities were set based on the "West Kowloon Reclamation – Planning and Urban Design

Report”. The permitted maximum PR for the “R(A)” zone were already lower than that permissible under the Building (Planning) Regulations. In 1998, the use and development parameters of the sites in West Kowloon were revisited under a comprehensive review supported with technical assessments. In 1998-1999, the Kowloon Density Study undertook technical assessments on the overall planning of Kowloon in environmental, infrastructural and traffic terms. In 2003, the Urban Design Study was completed with guidelines including protection of the ridgeline and lower developments on the harbourfront. Based on these guidelines, a building height restriction of 140mPD for the application site was recommended. Between 2003 and 2005, the Committee had deliberated on and rejected the 3 rezoning requests with due regard to all planning considerations.

50. The Chairperson continued to say that the guidelines on AVA were only promulgated in 2006. Although the application site of about 1.1 hectares did not meet the criteria for requirement of an AVA, assessments on visual and ventilation corridors in the area had been conducted under the previous planning studies with Cherry Street and green space network identified as ventilation corridors.

51. Mr. Ng Wing Fai made the remark that the Board’s decision in 1998 to increase the PR of the application site to 6.5 was outdated. It was based on past studies without scientific basis as currently required under the AVA. There was no information to demonstrate that the applicant’s proposal to reduce development intensity was unreasonable. While the PlanD stated that the 10m strip was a detailed design matter, the public had no chance to express their views on building plan submissions. He requested Members to exercise their power and responsibility on determining the application.

52. As the applicant’s representatives had no further points to make and Members had no further question to raise, the Chairperson informed them that the hearing procedures had been completed and the Committee would further deliberate on the application in their absence and inform the applicant of the Committee’s decision in due course. The Chairperson thanked the applicant’s representatives and PlanD’s representative for attending the meeting. They all left the meeting at this point.

Deliberation Session

53. The Chairperson said that the Committee should plan for certainty for both the developers and general public and consider public interest. In this case, the Committee had agreed with the use and development intensity of the application site based on past planning studies and the decision was reaffirmed after a few rounds of discussion on the previous rezoning requests.

54. The Secretary said that under s.12(A) of the Town Planning Ordinance, all members of the public could submit applications as a right of law. Empowered by the Town Planning Ordinance, the Board should take into account public interest and the interest of Hong Kong as whole. Revenue from land sale should not be a factor of consideration. The Secretary continued to say that the subject South West Kowloon OZP was a draft plan. If the application was approved, the plan would have to be amended, gazetted and to go through the objection procedures before the plan could be submitted to the Chief Executive in Council (CE in C) for approval.

55. Members then had a long discussion on the application. Their views were summarized below :

- (a) the applicant's effort to submit the application on a voluntary basis regarding their issues of concern was much appreciated;
- (b) a Member opined that appropriate studies should be carried out to impose development restrictions at an early stage and incorporate them into lease conditions to provide certainty for both the developers and the public. The Government should note the community's concern on the issue of 'wall buildings';
- (c) some Members considered that the timing of the application submission was bad as the application site had already been sold. Although a few Members indicated general support for a reduction of development intensity, other Members considered that approval of the application would have a very wide implication on Hong Kong as an international city where the spirit of contract was the core principle and was highly respected. It was difficult to support the applicant's proposal;

- (d) the Committee had previously considered three rezoning requests relating to the application site. All planning factors had been thoroughly and seriously considered. The residential use and the development parameters as stipulated on the OZP were considered appropriate; and
- (e) the mechanism of the AVA was not yet mature at this point of time, and AVA was not a statutory requirement. In this particular case, the application site did not fit the criteria for the requirement of undertaking an AVA.

56. Members then deliberated on the proposal of the 10m strip with building height restrictions. The main points were summarized as follows :

- (a) a Member considered that the applicant's proposal of the 10m-wide corridor with building height restriction was a good requirement to impose in terms of visual and ventilation impacts. It was unfortunate that the previous proposal for imposing a non-building area had not been brought to the attention of the Committee and that the LandsD had objected to it;
- (b) the proposal could be supported as the inclusion of a 10m-wide strip of non-building area would not affect the achievable PR on the site, as confirmed by the PlanD previously. In practical terms, if prescribed windows were provided alongside this site boundary, a required setback equaling one-quarter of the building height might already exceed 10m;
- (c) while it could be understood why the 10m-wide corridor was proposed on the northern site boundary, without scientific evidence, there was no support that it was most appropriate solution to address the ventilation problem; and
- (d) given that the application site had been sold and the land sale contract should be respected, Members agreed that a more pragmatic approach would be to ask the developer to incorporate a ventilation corridor in the

detailed design of the development through an administrative channel with coordination among concerned Government departments.

57. In response to the Chairperson's enquiry on whether the Design and Disposition clause in the lease conditions could be a means to address the Committee's and public concerns, Miss Eliza Ma said that any development restrictions would affect developers' interest. To go back on a signed agreement, even under the name of public interest, would violate the spirit of a contract. However, an administrative approach was acceptable.

58. The Secretary said that if the application were agreed, a long process would be involved to incorporate the new requirements into the OZP and had it gazetted and approved by the CE in C. However, a set of building plans had already been submitted by the developer to the Buildings Departments. The PlanD would provide comments to the Buildings Department to reflect the Committee's concerns.

59. The Chairperson concluded that balancing all considerations, the proposed reduction of PR relating to the application site was not accepted. As there was no scientific evidence in the application to support the applicant's claim that the proposed 10m-wide ventilation corridor was the most effective means to improve air ventilation, it would be inappropriate to incorporate this as a statutory requirement on the OZP. Rather, it was considered more practical to achieve the same objective through the administrative mechanism.

60. In response to Members' request on the need to monitor the progress, the Secretary said that the progress of the building plan submission would be reported to the Committee in due course.

61. After further deliberation, the Committee decided not to agree to the application for the following reasons :

- (a) since the Outline Zoning Plan was established after the completion of various technical studies undertaken by the Government and had gone through all the necessary statutory planning making procedures with no objection received at that time, the residential use of the Site and its

maximum development intensity control were considered appropriate and acceptable in environmental and traffic terms; and

- (b) there was insufficient information to demonstrate that the introduction of building height limit of 30m to a strip of land about 10m in width along the north boundary of the Site would improve the air quality and ventilation in the Tai Kok Tsui area.

62. The Committee agreed that the Planning Department should report to the Committee on the progress of the building plan submission for the site in due course.

[A short break of 5 minutes was taken.]

[Professor N.K. Leung, Messrs. Nelson W.Y. Chan, K.Y. Leung and Elvis Au left the meeting temporarily at this point.]

### **Hong Kong District**

#### **Agenda Item 4**

##### **Section 12A Application**

[Open Meeting (Presentation and Question Sessions only)]

Y/H10/1                      Application for Amendment to the Approved Pok Fu Lam Outline Zoning Plan No. S/H10/15 from “Government, Institution or Community” to “Residential (Group C)” for Residential Development, The Ebenezer School and Home for The Visually Impaired, 131 Pok Fu Lam Road, Pok Fu Lam (RBL 136RP)  
(MPC Paper No. Y/H10/1)

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63. The application was submitted by the Ebenezer School and Home for The Visually Impaired (Ebenezer). The Committee noted that Dr. Daniel B.M. To was the director of the “Christian Ministry for the Visually Impaired Persons” (CMVIP) on a voluntary basis and the CMVIP offered assistance to different organizations including the



applicant. However, the Committee agreed that no direct and pecuniary interest was involved and Dr. To was allowed to stay in the meeting and participate in the deliberation of this item.

[Messrs. Nelson W.Y. Chan and Elvis Au returned to join the meeting at this point.]

#### Presentation and Question Sessions

[The hearing was conducted in English and Cantonese.]

64. Ms. Lily Y.M. Yam, Senior Town Planner/Hong Kong (STP/HK) and the following applicant's representatives were invited to the meeting at this point :

Mr. Ian Brownlee  
Dr. Simon Leung  
Mr. Leo Barretto  
Miss Jessica Lam  
Mr. Chris Foot  
Mr. Patrick Chung  
Mr. Matthew Chung  
Mr. Glen Lau  
Mr. Kelvin Leung  
Mr. Simon Lam  
Ms. Rebecca Chan  
Mr. Choi Oi Wing  
Mr. Wong Kam Yiu  
Mr. Chung Sze Wan  
Ms. Law Keng Yin  
Mr. Kam Kwok Keung

65. The Chairperson extended a welcome and briefly explained the procedures of the hearing. She then invited the Planning Department (PlanD)'s representative to brief Members on the background to the application.

66. Ms. Lily Y.M. Yam said that the current application involved a proposal to amend the approved Pok Fu Lam Outline Zoning Plan (OZP) to rezone the application site from “Government, Institution or Community” (“G/IC”) to “Residential (Group C)” (“R(C”). She covered the following main aspects as detailed in the Paper :

- (a) the applicant’s proposal for a residential development was detailed in paragraph 1 of the Paper. Three development options, all with a plot ratio (PR) of 3 and a domestic gross floor area of not more than 19,379.46m<sup>2</sup>, were proposed. The options varied mainly in site coverage, building height and average unit size. The applicant had indicated a preference for Option 1 with two 30-storey towers above a 3-storey podium at a maximum building height of 244.8mPD and a relatively smaller site coverage of 11%. It would provide 120 units with an average size of 160m<sup>2</sup>. The applicant proposed that a new sub-area within the “R(C)” zone (i.e. “R(C)7”) with development restrictions of a maximum PR of 3 and building height of 30 storeys above carports be created if the Board wished to ensure a greater control on the future development;

[Professor N.K. Leung returned to join the meeting at this point.]

- (b) the applicant’s justifications in supporting the application were detailed in paragraph 2 of the Paper, mainly that the redevelopment of the application site would provide the long-term financial security for the applicant to sustain its services at a new premises which could accommodate more advanced facilities, and the proposed development was compatible with the surrounding high-quality residential developments in terms of use and intensity with particular reference to the existing Woodbury Court to the south of the application site;
- (c) the setting of the application site and its surrounding areas was detailed in paragraph 6 of the Paper. As shown on Plans Z-2 and Z-5 of the Paper, the application site was situated on Pok Fu Lam Road and was currently occupied by the the Ebenezer School and Home for the Visually Impaired (6 storeys), the Old Age Home (4 storeys) and an ancillary structure (1

storey). It fell within the area of the Pok Fu Lam Moratorium. This area was predominantly residential in nature with 2 to 24-storey residential developments to the eastern side of Pok Fu Lam Road with Pok Fu Lam Country Park as the backdrop; and 3 to 4-storey buildings to the western side of the road. To the further south of the application site were the 25-storey Woodbury Court and the Baguio Villa ranging from 14 to 34 storeys, which were completed before the publication of the first Pok Fu Lam OZP in 1986. An area to the south of the application site was zoned “R(C)6” with restrictions on developments to a maximum of 12 storeys over 1 storey of carports. The maximum PR and site coverage were 2.1 and 17.5% respectively;

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

- (d) the planning intention for the area was detailed in paragraph 7 of the Paper. As set out in the Explanatory Statement of the OZP, it was the planning intention to keep developments on the seaward side along this part of Pok Fu Lam Road below the level of the road as far as possible to preserve public view and amenity and the general character of the area;
- (e) departmental comments were detailed in paragraph 8 of the Paper. The Transport Department (TD) objected to the application on grounds of possible adverse cumulative traffic impact and that the traffic impact assessment (TIA) failed to demonstrate that there would be no additional traffic generated. The Environmental Protection Department (EPD) did not support the application as the application site was basically unsuitable for residential development due to traffic noise. There was no practical mechanism to ensure that the proposed single aspect building design would be implemented. The Agriculture, Fisheries and Conservation Department (AFCD) raised concern that a total of 24 trees would be felled. No objection from other concerned Government departments was received;
- (f) a total of 11 public comments were received during the statutory publication period. One of them, comprising 106 standard letters from the

staff of the Ebenezer, supported the application; while another comment from an Eastern District Council member raised no objection. 5 public comments, one of which comprised 32 questionnaires, objected to the application and the remaining 4 comments expressed concerns. The objections and concerns were raised by the owners and management companies of the nearby residential buildings, two Southern District Council members, a green group and members of the public. The grounds of supporting and objecting to the application were detailed in paragraph 9.2 of the Paper. The District Officer (Southern) advised that two Southern District Council members objected to the application, two other members raised concern, and another had no objection but considered that the Government should retake the site for sale by public auction. The details of the local views were summarized in paragraph 8.1.14 of the Paper; and

- (g) the PlanD's view - the PlanD did not support the application for the reasons detailed in paragraph 10.1. of the Paper. The proposed development was considered not in line with the planning intention to keep developments on the seaward side of Pok Fu Lam Road below the road level. All three options would generate adverse visual impact. There were no strong justifications to merit the proposed rezoning. The application site was subject to traffic noise problem and there would be possible adverse cumulative traffic impact. The TD and EPD did not support the application. There was insufficient information to demonstrate that there would not be adverse landscape impact.

67. The Chairperson then invited the applicant's representatives to elaborate on the application.

68. Mr. Ian Brownlee said that the current application was submitted by one of the most worthwhile charitable organizations in Hong Kong and the decision on the application would determine the long-term ability of the Ebenezer to continuously provide its services.

69. After introducing the applicant's team, Mr. Ian Brownlee then explained the basic principles behind the application. He said that the Ebenezer School and Home for The

Visually Impaired had been operating at the application site for 95 years and it was no longer suitable to cater for the school's modern needs. The Ebenezer occupied two lots, one of which (i.e. RBL 136R.P.) related to this application and was under an unrestricted lease. This was the school's only asset which could be better utilized for the long-term benefit of the school. It was proposed that this lot be rezoned to "R(C)" which was similar to other residential site in the area. The other lot (RBL 1015) was currently occupied by the Ebenezer New Hope School and did not form part of the application.

70. Mr. Ian Brownlee said that the proposal would bring benefits and improve facilities for the visually impaired. As stated in paragraph 8.1.8 of the Paper, the Secretary for Education raised no objection to the application subject to the relocation of the school at the applicant's own costs. The Social Welfare Department (SWD) had no objection to the application provided that there should be a proper transitional plan to minimize impact on the service users and their families, and the application would not incur capital cost or additional subvention to the Government. Also, the Lands Department (LandsD) had no in-principle objection. There were also 106 letters submitted by those who knew best of what was required of Ebenezer's clients indicating support to the application.

71. Referring to EPD's comments in paragraph 8.1.7(a) of the Paper, Mr. Ian Brownlee said that the existing buildings were used for residential and educational purposes which were noise sensitive uses. However, the outdated building design could offer no mitigation against traffic noise. EPD's comments in effect pointed to the unsuitability of the application site for school use which should be in a quiet environment, and the need for an alternative building design to mitigation traffic noise.

72. Dr. Simon Leung gave an introduction of the Ebenezer which was started in 1897 by some German missionaries. Operation at the application site began in 1913 and the school had since become a well-recognized organization with community support. For all these years, the Ebenezer had provided quality services to the visually impaired. There were two schools, i.e. the Ebenezer School and the New Hope School, providing education to visually impaired children with normal intelligence and those who had mental and/or physical deficiencies respectively. They also run a child care center and a care and attention home for the elderly blind. Moreover, outreach services to homes of the visually impaired children, and continuous services to the alumni (including assistance in career, social and

family problems) were provided.

73. Dr. Simon Leung went on to make the following main points :

- (a) due to advanced medical services, general life expectancy had been extended. As visual problems were often related to old age, it was expected that the demand for the school's services would increase. Medical advancement also saved many premature babies, but very often they survived with different types of disabilities including brain damage and visual impairment. There was a need to relocate the Ebenezer to a new site meet these pressing demands;
- (b) more than 90% of the school's students and elderly resided in Kowloon and the New Territories. The school should be relocated to a location more easily accessible to them;
- (c) the character of the Pok Fu Lam area had significantly changed and the school was affected by traffic noise problem. On-site redevelopment of the school was considered difficult as the application site was elongated, constraining any redevelopment to be vertical. However, to cater for the visually impaired and wheelchair users, the school required a more horizontal layout;
- (d) the expectation of parents and students on the quality and variety of services provided had risen. However, the application site was not originally designed to cater for these needs. New facilities would be planned to fit the needs of modern society at a new site;
- (e) the funding of the Ebenezer depended on Government subsidies as well as donation which however was an unreliable income source. Government subsidies on special education had been reduced and the provision of services for the visually impaired had been affected. The proposal under application would provide a more stable and reliable source of income for the Ebenezer. All financial benefits from the proposed development

would be wholly used on education and rehabilitation services to benefit the visually impaired in Hong Kong;

- (f) there were a few thousands visually impaired children in Hong Kong. In China, about 800,000 of out of the 8 million visually impaired were school-aged children. Only about 30,000 of these children were able to go to school. In view of this, the Ebenezer would like to expand its services to China. 13 new projects were planned pending on sufficient resources available; and
- (g) compared with in-situ redevelopment, it was advantageous to relocate to a new site as the education and rehabilitation services could be continued during construction.

74. Dr. Simon Leung concluded his presentation by inviting the Committee to visit the school, which would facilitate a deeper understanding of its operation.

75. Mr. Ian Brownlee said that according to PlanD's presentation, the visual impact of the proposed development was a crucial consideration. He invited Mr. Chris Foot to address this point. Using plans and drawings extracted from the applicant's submissions, Mr. Chris Foot made the following main points :

- (a) most of Pok Fu Lam Road was a corridor enclosed with natural vegetation. However, at this part of the road, the existing school building at the application site was built right up to the road with little vegetation. It almost formed a tunnel effect. Looking at a broader context, there were clusters of high rise buildings within the visual corridors in the area;
- (b) the applicant was of great concern to minimize the visual impact of the proposed development as much as possible. With the existing school buildings removed, views would be opened up on Pok Fu Lam Road. Careful studies on the existing view corridors were undertaken and the building blocks were positioned to avoid blockage of views. Amongst the three proposed options, Option 1 with the two slim towers risen on a

podium at road level would minimize the visual impact of the development from Pok Fu Lam Road and maximize views from the road towards the landscape and coastal area in the west; and

- (c) referring to the Master Landscape Plan of Option 1, 80% out of 138 trees on the application site would be retained. In view of AFCD's comments, the plan had been reviewed and 5 more trees would be saved. Existing trees along the site boundary would be retained as a mitigation measure. The hard effect of the existing school building would be replaced by two towers set back from the road and views would be framed through a softer foliage of vegetation on the podium.

76. Mr. Ian Brownlee then concluded the applicant's presentation by addressing PlanD's rejection reasons. He made the following main points :

*No strong justification*

- (a) the existing "G/IC" zoning reflected the existing use. Should the Ebenezer school be relocated, there was no reason to maintain the zoning. There were practical reasons and long-term benefits for the school to relocate in continuing to provide services to the visually impaired. Once the relocation of the school was accepted as necessary, residential use should be considered the most appropriate use for the site given the character of the surrounding area;
- (b) there was support from bureaux and departments directly concerned with the services provided by the school and their comments should be given significant weight in the Committee's consideration;

*Not in line with planning intention and adverse visual impact*

- (c) the Explanatory Statement of the OZP stated that the "area had generally been developed as a residential area with mainly low-density development in the north and higher density development in the south". The proposed



residential development was consistent with the general planning intention of the area;

- (d) regarding the intention of keeping developments below the level of Pok Fu Lam Road, the existing situation should be taken into consideration. The only development on the same side of the road as the application site was Woodbury Court which already stood above the road level with 20 storeys above podium. The proposed development was not out of place with the existing situation;
- (e) the existing Ebenezer School was well above the road level blocking public view from the road. As shown in Figure 6 of Appendix Ia of the Paper, the proposed two towers would be above the road with podium parking below. This was consistent with the intention to open up public views from the road as well as through the space between the towers. The general development scale was also similar to others in the area;

Cumulative traffic impact

- (f) the Pok Fu Lam Moratorium did not apply to the current application as the application site was under unrestricted lease. Theoretically, it would therefore be possible to have a non-domestic development with a PR of 15, such as a hospital or educational institution, which would be a solid slab with no approval required from the Town Planning Board. The traffic impact of these kinds of uses would be much greater than the proposed residential development at a PR of 3. The TIA indicated that all assessed junctions in the area would operate with ample capacities even with the proposed residential development. The TD's comments were generalized and unsubstantiated;

[Professor N.K. Leung left the meeting temporarily at this point.]

Adverse traffic noise impact

- (g) the application site was affected by traffic noise and was unsuitable for the existing school and residential home use. All three options proposed would meet EPD's requirement for noise mitigation. The single aspect building with habitable rooms facing the sea and utility rooms facing the road was a sensible design for a high-quality residential development; and

[Dr. Daniel B.M. To left the meeting temporarily at this point.]

*Insufficient information on no adverse landscape impact*

- (h) the impact on vegetation within the application site had been minimized and no vegetation outside the site would be affected. As the Urban Design and Landscape Section of the PlanD had no comment on the application, it should not be a reason for rejection.

77. Mr. Ian Brownlee said that there were substantial reasons to support the relocation of the school. However, the relocation was not possible without the financial support from the redevelopment of the application site which was the school's only asset. While no financial support from the Government would be available, the proposal, which was compatible with the general planning intention for the area, was the way to finance the move and the long-term programmes.

78. Mr. Ian Brownlee concluded that the three options proposed had balanced the issues of public view through the site, minimizing visual impacts in terms of height and wall effect. They were all better than a huge slab of PR 15. In order to secure appropriate control over the redevelopment at the site, it was proposed that development restrictions of a PR of 3, a maximum building height of 30 storeys above carports and site coverage of not more than 11% be imposed. A further restriction prohibiting the construction of the podium level to rise above Pok Fu Lam Road might also be appropriate.

79. In response to a Member's enquiry on the development restrictions of the adjacent area zoned "R(C)6", Ms. Lily Y.M. Yam said that the area was restricted to a maximum PR of 2.1 and 12 storeys in addition to 1 storey of carports. Also, the maximum building height within the "R(C)6" zone should not exceed 137mPD which was the level of

Pok Fu Lam Road.

[Professor N.K. Leung returned to join the meeting at this point.]

80. The same Member then said that the applicant had offered valuable services to the Hong Kong community. However, unlike a property developer, it did not have to maximize the development potential. This Member enquired if the proposed development could be more compatible with that permitted in the “R(C)6” zone. In response, Mr. Ian Brownlee said that the existing development at the application site had a PR of 2 and was already protruding above the road level. Considering the site level with its platform, it was not possible to build below the level of Pok Fu Lam Road. In view of the existing 25-storey development of Woodbury Court and the developments on the other side of the road, the proposed development was compatible with its surroundings and was not exceptionally high. The proposed PR 3 was in fact based on the consideration in providing funding for the relocation and long-term financial security for the school’s operation.

81. Mr. Glen Lau supplemented that along Pok Fu Lam Road, the view was very fine except at the application site where the existing buildings blocked the view. Considering that the site was elongated and that the existing buildings already reached a PR of 2, any redevelopment even at PR 2.1 would have to protrude above the road level.

[Dr. Daniel B.M. To returned to join the meeting at this point.]

82. A Member said that the applicant’s contribution to society throughout the years was respected. However, comments from the TD, EPD, and Buildings Department reflected that there were concerns on the proposal in various aspects. Also, the planning intention was to keep developments on the seaward side of Pok Fu Lam Road low in height with an open view. A balance had to be struck between the applicant’s need to redevelop and the concerns raised. This Member considered that all the three options, adopting the traditional design with podium below and residential towers above, would all impose adverse visual impact. It was important to reduce building mass on Pok Fu Lam Road and maintain an open view. Also, while single aspect buildings might be a solution to the traffic noise problem, it would cause ventilation problem. In view of the above, this Member enquired whether the applicant could reconsider the proposal by concentrating the development on the

seaward side, stepping down from Pok Fu Lam Road using the carpark as a buffer above the road; and whether the disposition of the building blocks could be changed to face south to address part of the traffic noise problem.

83. In response, Mr. Leo Barretto said that all the comments would be taken into consideration and balanced out in order to achieve a win-win situation. The proposal was the applicant's initial concept and a critical mass was required to provide financial support.

[Professor Bernard V.W.F. Lim left the meeting at this point.]

84. In response to a Member's enquiry on the construction date of the existing buildings, Dr. Simon Leung said that all the buildings used in 1913 had already been demolished. The Elderly Home which was currently vacant was constructed in 1950s; and the old and new wings of the Ebenezer School in 1962 and 1994 respectively. The New Hope School outside the application site was completed in 1978.

85. In response to a Member's earlier enquiry, Mr. Glen Lau said that the current proposal aimed to keep an open view and be more visually transparent by rising the tower blocks over a podium which was below the road level. In terms of creativity in design, the proposal was the most appropriate solution for the application site. The single aspect building design was completely fit to address the traffic noise problem. However, one could not achieve good ventilation and yet effectively screen off traffic noise at the same time.

86. Mr. Leo Barretto said that while it was understood that the Committee's decision was based on considerations on landscape, traffic and environmental and visual impacts etc., the Ebenezer's main concern was the quality of services provided to its students, children and elderly residents of this unique community. The current proposal had been in the cradle for more than 10 years. It was the applicant's objectives to be nearer to the homes of its students in the New Territories and to provide safer and better facilities. The application site on the busy Pok Fu Lam Road was no longer the ideal place for the course. It was also the school's objective to strengthen its services in China. All these could not be achieved with Government funding only. The proposal represented the chance for the Ebenezer to secure its future.

[Mr. Stanley W.F. Wong left the meeting at this point.]

87. As the applicant's representatives had no further points to make and Members had no further question to raise, the Chairperson informed them that the hearing procedures had been completed and the Committee would further deliberate on the application in their absence and inform the applicant of the Committee's decision in due course. The Chairperson thanked the applicant's representatives and PlanD's representative for attending the meeting. They all left the meeting at this point.

#### Deliberation Session

88. Members had a detailed discussion and the points raised were summarized as follows :

- (a) the applicant's contribution to offering practical assistance to the visually impaired was appreciated. The Committee was sympathetic with the applicant, particularly as funding was not stable and Government subsidies had been reduced. Also, it was understood that funding was required to support extended services in the Mainland;
- (b) While many other organizations in Hong Kong were providing services in China, they did not resort to a redevelopment approach. The applicant should also consider other approaches to solving their financial problems;
- (c) the proposed development was considered out of place in the Pok Fu Lam area. All the three options would cause adverse visual impacts with Options 1 and 2 destructing the view of the ridge of High West and Option 3 imposing a wall effect;
- (d) the decision of the Board should be based on planning considerations, rather than only solely on social welfare considerations. It was clear that various major issues, including urban design, traffic and environmental impacts were not yet addressed;

[Ms. Sylvia S.F. Yau and Mr. K.Y. Leung left the meeting at this point.]

89. In response to an enquiry from a Member, Miss Eliza Ma said that the lease was virtually an unrestricted lease. No lease modification would be required for the proposed development.

90. Another Member said that the “G/IC” zoning was probably to reflect the existing use. Unless this site was required for such facilities, there was no fundamental objection to rezone the application to “R(C)”. However, the set of development restrictions should be the same as that for the adjacent “R(C)6” zone. As such, the proposal could not be supported.

91. The Chairperson concluded that the current application was not supported. Members agreed.

92. After further deliberation, the Committee decided not to agree to the application for the following reasons :

- (a) there were no strong justifications in the submission to merit the rezoning of the application site to the proposed “Residential (Group C)” (“R(C)”) zoning;
- (b) the proposed development intensity in the submission was considered to be excessive;
- (c) the proposed “R(C)” zoning was not in line with the planning intention to keep developments on the seaward side of Pok Fu Lam Road below the level of Pok Fu Lam Road as far as possible in order to preserve public view and amenity and the general character of the area. It would also generate adverse visual impact on the surrounding areas;
- (d) the traffic impact assessment submitted could not demonstrate that no additional traffic would be generated from the rezoning proposal when compared with the existing school. The cumulative effect of approving such similar applications might result in adverse traffic impact on Pok Fu

Lam Road and other roads in Mid-Levels area;

- (e) the application site was subject to traffic noise impact and was not suitable for residential use from environmental point of view; and
- (f) there was insufficient information in the submission to demonstrate that the rezoning proposal would not result in adverse landscape impact at the application site.

[Messrs. Tom C.K. Yip and David C.M. Lam, Senior Town Planners/Hong Kong (STPs/HK), were invited to the meeting at this point.]

[Messrs. Walter K.L. Chan and Raymond Y.M. Chan left the meeting, and Mr. Elvis Au left the meeting temporarily at this point.]

### **Agenda Item 5**

#### **Section 16 Applications**

[Open Meeting (Presentation and Question Sessions Only)]

- (i) A/H8/384 Proposed Hotel  
in “Residential (Group A)” zone,  
11 – 15 Lin Fa Kung Street East, Causeway Bay  
(MPC Paper No. A/H8/384)
- 

93. Mr. Tom C.K. Yip, STP/HK, drew Members’ attention that replacement pages 4, 9, Appendix II and Plan A-1 of the Paper had been dispatched to Members and were tabled at the meeting.

#### **Presentation and Question Sessions**

94. Mr. Tom C.K. Yip then presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed hotel;
- (c) departmental comments – no objection from concerned Government departments was received;
- (d) two public comments were received during the statutory publication period. One comment expressed concern that reception of television signal by the adjacent development would be adversely affected by the proposed development. The other comment objected to the application mainly on the grounds that the application site was too small for hotel development, resemblance of a guesthouse or service apartment, and adverse traffic impact. The District Officer (Wan Chai) advised that while some locals did not support the application on traffic ground, some welcomed the proposal as it would bring more business opportunities to the district; and
- (e) the Planning Department (PlanD)'s views – the PlanD did not support the application for the reasons detailed in paragraph 10.1 of the Paper. The proposed hotel development with a plot ratio of 14.755 was considered incompatible and out of character in terms of building bulk and development intensity within the existing neighbourhood which was predominantly residential buildings with lower plot ratio. The application site was located at a narrow cul-de-sac which was not conducive to a hotel development. The Urban Design and Landscape Section of PlanD did not support the proposal. The approval of the application would set an undesirable precedent for similar applications bringing cumulative adverse impact to the general amenity of the area.

95. In response to a Member's enquiry on the development intensity of some existing buildings in the area, Mr. Tom C.K Yip referred Members to Plan A-4 of the Paper and said that the nearby Ming Sun Building on Lily Street had a plot ratio (PR) of 11.5. The building was constructed many years ago under the former 'volume' regulations, the PR exceeded that permitted under the prevailing Building (Planning) Regulations.



Deliberation Session

96. The Chairperson remarked that the proposed development with a PR of 15 appeared to be inappropriate in the subject neighbourhood. Mr. Anthony Loo said that although Lin Fa Kung Street East was narrow, traffic in the surrounding area was not busy. As only 48 guestrooms were proposed, the use of large buses would not be expected. As such, the Transport Department had no objection to the application.

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

- (a) the proposed hotel development with a plot ratio of 14.755, in a predominant residential neighbourhood, was considered incompatible with the adjoining residential developments in terms of building bulk and development intensity; and
- (b) the approval of the application would set an undesirable precedent for similar hotel developments within the residential neighbourhood, the cumulative effect of which would adversely affect the general amenity of the area.

[Open Meeting (Presentation and Question Sessions Only)]

- (ii) A/H15/226 Proposed Public Utility Pipeline (telecommunication lines) in “Green Belt” and “Coastal Protection Area” zones, Lee Nam Road, Ap Lei Chau  
(MPC Paper No. A/H15/226)
- 

Presentation and Question Sessions

98. The Committee noted that the applicant requested on 8.8.2007 for a deferment of the consideration of the application to allow more time to prepare additional information to address Government departments’ concerns.

Deliberation Session

99. After deliberation, the Committee decided to defer a decision on the application as requested by the applicant pending the submission of additional information from the applicant. The Committee also agreed that the application should be submitted to the Committee for consideration within two months from the date of receipt of additional information from the applicant. The Committee also agreed to advise the applicant that two months were allowed for preparation of the submission of the further information, and no further deferment would be granted unless under very special circumstances.

[Open Meeting (Presentation and Question Sessions Only)]

- (iii)        A/H17/119                      Minor Relaxation of Building Height Restriction for an Additional Level for Residents' Lifts and Lift Lobbies use in "Residential (Group C)3" zone, 37 Island Road, Deep Water Bay  
(MPC Paper No. A/H17/119)
- 

100. The Secretary said that the application was submitted by Chuang's Finance & Investments Ltd., which was a subsidiary company of Chuang's Holding Company (Chuang's). Dr. Greg C.Y. Wong, having current business dealings with Chuang's, had declared an interest in this item.

[Dr. Greg C.Y. Wong and Mr. Anthony Loo left the meeting temporarily at this point.]

Presentation and Question Sessions

101. Mr. David C.M. Lam, STP/HK, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed minor relaxation of building height restriction for an additional level for residents' lifts and lift lobbies use within a proposed residential development;

- (c) departmental comments – no objection from concerned Government departments was received;
- (d) two public comments were received during the statutory publication period, one of which had no objection to the application. The other public comment raised objection on the grounds of adverse visual, air ventilation, and environmental impacts, setting of undesirable precedent and that the proposed relaxation was not minor in nature; and
- (e) the Planning Department (PlanD)'s views – the PlanD did not support the application for the reasons detailed in paragraph 10.1 of the Paper. The proposal was not acceptable from the urban design point of view as the proposal involved a significantly raised platform to an extent that the lowest residential floors of the development would rise above the roofs of adjacent existing developments. This contravened the urban design principle of a gradation of height profile following the natural topography, causing adverse visual impact. There was insufficient information to demonstrate that there were design merits or technical requirements for a departure from the building height restriction. The approval of the application would set an undesirable precedent for similar applications resulting in cumulative adverse impact on the existing amenity and character of the area.

102. Members had no question on the application.

#### Deliberation Session

103. A Member said that the proposed concept of an unobstructed access should be encouraged. However, under the application, the concept was achieved by introducing an additional floor, resulting in a substantial increase in the overall building height. While other measures, including a reduction of the height of the car park could be considered, the current proposal showed no effort to lower the overall building height of the development. The application was hence not supported. Other Members shared the view.

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

- (a) there were insufficient design merits in the application to justify the proposed relaxation of the building height restriction;
- (b) the proposed development would contravene the urban design principle that developments should respect the natural topography by creating a gradation of building height profile that followed the natural topographical profile;
- (c) there was insufficient information in the application to demonstrate that the proposed development would not impose adverse visual impact on the surrounding area; and
- (d) the approval of the application would set an undesirable precedent for similar applications in the area, the cumulative effect of which would adversely affect the existing amenity and character of the area.

[The Chairperson thanked Messrs. Tom C.K. Yip and David C.M. Lam, STPs/HK, for their attendance to answer Members' enquires. Messrs. Yip and Lam left the meeting at this point.]

[Dr. Greg C.Y. Wong and Mr. Elvis Au returned to join the meeting at this point.]

### **Tsuen Wan and West Kowloon District**

[Messrs. Louis K.H. Kau and Edward P.L. Li, Senior Town Planners/Tsuen Wan and West Kowloon (STPs/TWK), were invited to the meeting at this point.]



Deliberation Session

107. After deliberation, the Committee decided to approve the application, on the terms of the application as submitted to the Town Planning Board (TPB). The permission should be valid until 24.8.2011, 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. The permission was subject to the condition on the submission of a sewerage impact assessment and implementation of the sewerage improvement and upgrading works identified therein to the satisfaction of the Director of Drainage Services or of the TPB.

108. The Committee also agreed to advise the applicant :

- (a) that the approval of the application did not imply the gross floor area exemption for hotel concession and back-of-house facilities would be granted by the Building Authority. The applicant should approach the Buildings Department direct to obtain the necessary approval;
- (b) to consult Chief Building Surveyor/Kowloon, Buildings Department on the building requirements for the proposed hotel; and
- (c) to consult Chief Officer/Licensing Authority, Home Affairs Department on the licensing requirements for the proposed hotel.

[Open Meeting (Presentation and Question Sessions Only)]

- (ii) A/K4/50 Proposed Educational Institution  
in “Residential (Group A)” zone,  
Portion of 5/F and 6/F, and the whole of 7/F and 8/F,  
Car Park Block, Nam Shan Estate  
(MPC Paper No. A/K4/50)
- 

109. The Secretary said that the application was submitted by the Hong Kong Housing Authority (HKHA) with the Housing Department (HD) as its executive arm. The following

Members had declared interests in this item :

- |   |   |
|---|---|
| Mrs. Ava Ng<br>as Director of Planning                              | - being a member of the Strategic Planning<br>Committee of the HKHA   |
| Miss Eliza Ma<br>as Assistant Director/Kowloon, Lands<br>Department | - being an assistant to the Director of Lands<br>who was a member of the HKHA   |
| Ms. Margaret Hsia<br>as Assistant Director, Home Affairs Department | - being an assistant to the Director of Home<br>Affairs who was a member of the Strategic<br>Planning Committee and the Subsidized<br>Housing Committee of the HKHA |
| Mr. Stanley Y.F. Wong   | - being a member of the HKHA  |
| Mr. Walter K.L. Chan  | - being a former member of the HKHA   |
| Dr. Greg C.Y. Wong  | - having current business dealings with the HD  |
| Professor Bernard V.W.F. Lim  | - having current business dealings with the<br>HD   |

110. The Committee noted that Professor Bernard V.W. F. Lim, Messrs. Stanley Y.F. Wong and Walter K.L. Chan had already left the meeting and Ms. Margaret Hsia had sent her apologies for not being able to attend the meeting. As both the Chairperson and Vice-chairman have to declare interests, the Committee agreed that the Chairperson could continue to assume the chairmanship out of necessity.

[Dr. Greg C.Y. Wong and Miss Eliza Ma left the meeting temporarily at this point.]

#### Presentation and Question Sessions

111. Mr. Edward P.L. Li, STP/TWK, drew Members' attention that a replacement page 10 of the Paper had been tabled at the meeting. He went on to present the application and he covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed educational institution;
- (c) departmental comments – highlighting that the Home Affairs Bureau (HAB) supported the application that the proposed arts institution together with the Jockey Club Creative Arts Centre being planned at the decommissioned Shek Kip Mei Flatted Factory would bring about a cluster effect and positively enhance the growth of an art belt in the district. The facilities would be conducive to the creation of a new cultural ambience in the local community. No objection from other concerned Government departments was received;
- (d) no public comment was received during the statutory publication period and no local objection was received by the District Officer; and
- (e) the Planning Department (PlanD)'s views – the PlanD had no objection to the application for the reasons detailed in paragraph 10.1 of the Paper.

112. A Member raised concern on the further reduction of car parking spaces and enquired about the usage rate of the car park. In response, Mr. Edward P.L. Li said that according to the applicant, the take-up rate of the monthly private car parking spaces in Nam Shan Estate by the residents of both Nam Shan and Tai Hang Tung Estates were persistently low, at about 30% from April 2004 to March 2007. With the current proposal, the number of parking spaces available would remain at 308 and would still meet the demand of 236 spaces.

113. In response to further enquiries from the same Member, Mr. Edward P.L. Li said that under the applications previously approved for conversion of surplus car parking spaces from ancillary car park to public vehicle park, residents would have priority to these parking spaces and the Transport Department would monitor the number to be converted. According to the applicant, there was still a surplus of 70% currently after spaces had been rented out as public vehicle park.



### Deliberation Session

114. A Member said that the population in the district of Nam Shan Estate was getting older and car ownership was low. As a result, the surplus of car parking spaces had become more significant. The proposal was considered a better utilization of resources. Another Member shared the view.

115. After deliberation, the Committee decided to approve the application, on the terms of the application as submitted to the Town Planning Board (TPB). The permission should be valid until 24.8.2011, 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. The permission was subject to the condition on the provision of fire service installations in the subject premises to the satisfaction of the Director of Fire Services or of the TPB.

[Open Meeting (Presentation and Question Sessions Only)]

- (iii) A/K20/99 Proposed Hotel (Amendments to an Approved Scheme)  
in “Residential (Group A)1” zone,  
G/F (Part) and UG/F (Part), Kowloon Inland Lot 11158,  
Hoi Fai Road, West Kowloon Reclamation  
(MPC Paper No. A/K20/99)
- 

116. The Secretary said that the application was submitted by Active Success Development Ltd. which was a subsidiary company of Sino Land Co. Ltd. (Sino). Dr. Greg C.Y. Wong, having current business dealings with Sino, declared an interest in this item. The Committee noted that Dr. Wong had refrained from joining the meeting.

### Presentation and Question Sessions

117. 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) the proposed hotel (amendments to an approved scheme);
- (c) departmental comments – highlighting that the Lands Department (LandsD) objected to the application as the proposed use would not be acceptable under the current lease conditions. However, the Commissioner for Tourism generally welcomed the provision of new hotel and guesthouse accommodation to cater for different market segments. No objection from other concerned Government departments was received;
- (d) ten public comments were received during the statutory publication period. Two of them objected to the application mainly on the grounds of adverse traffic and air ventilation impacts, adverse impact from the odour from New Yau Ma Tei Typhoon Shelter and potential social problem if the hotel was sold as service apartments later. One comment indicated no comment on the application, while the remaining seven expressed views on a nearby site not related to the current application; and
- (e) the Planning Department (PlanD)'s views – the PlanD had no objection to the application for the reasons detailed in paragraph 11.1 of the Paper in that the proposed hotel would be clearly separated from the residential and retail portion of the development with separate entrances. The proposed increase in the average room size was considered acceptable. The proposal would unlikely cause adverse impacts in terms of building, traffic and environmental aspects. Regarding the public comments, it was noted that concerned Government departments including the Buildings Department, Transport Department and Environmental Protection Department had no objection to or no comment on the application. The proposed hotel would be located within the existing podium of One SilverSea and would not lead to an increase in the existing building bulk. An approval condition was recommended to prevent an increase in building bulk resulting from an exemption of gross floor area for the hotel back-of-house. The objection from the LandsD was related to land matter and should be dealt with separately under the lease. The local concern of

the sale of hotel rooms as residential service apartments could also be further addressed in the lease modification stage.

118. Members had no question on the application.

#### Deliberation Session

119. A Member said that compared with the previously rejected scheme, the current application was considered an improvement.

120. After deliberation, the Committee decided to approve the application, on the terms of the application as submitted to the Town Planning Board (TPB). The permission should be valid until 24.8.2011, 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. The permission was subject to the following conditions :

- (a) no increase in non-domestic gross floor area of the proposed development due to the granting of back-of-house gross floor area in relation to the hotel development would be allowed;
- (b) the provision of fire service installations to the satisfaction of the Director of the Fire Services or of the TPB; and
- (c) the submission of a sewerage impact assessment and the implementation of the mitigation measures identified therein to the satisfaction of the Director of Drainage Services or of the TPB.

121. The Committee also agreed to advise the applicant :

- (a) that the approval of the application did not imply that necessary approvals would be given by any Government department. The applicant should approach the relevant Government departments direct for any necessary approvals; and

- (b) to consult the Chief Officer/Licensing Authority, Home Affairs Department on the licensing requirements for the proposed hotel development.

[Dr. Greg C.Y. Wong and Mr. Anthony Loo returned to join the meeting at this point.]

[Open Meeting (Presentation and Question Sessions Only)]

- (iv) A/KC/330 Shop and Services (Retail of Stationery)  
in “Industrial” zone,  
Workshop A2 (Portion), G/F, Gold King Industrial  
Building, 35-41 Tai Lin Pai Road, Kwai Chung  
(MPC Paper No. A/KC/330)
- 

#### Presentation and Question Sessions

122. Mr. Edward P.L. Li, STP/TWK, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the applied shop and services use (retail of stationery);
- (c) departmental comments – no objection from concerned Government departments, including the Fire Services Department, was received;
- (d) one public comment objecting the application was received during the statutory publication period. The comment was submitted by the registered owners of the external walls of the subject industrial building. The grounds of objection were that the structure of the external wall should not be altered without the owners’ consent and the opening up of the frontage on Tai Lin Pai Road would cause an increase in vehicular and pedestrian traffic; and
- (e) the Planning Department (PlanD)’s views – the PlanD had no objection to the application for the reasons detailed in paragraph 11.1 of the Paper that

the applied use was of small scale and was not incompatible with the other uses within the subject industrial building and the surrounding area. Regarding the public comment, the concern was a building matter and the Buildings Department had no objection to the application.

123. Members had no question on the application.

#### Deliberation Session

124. 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 following conditions :

- (a) the submission and implementation of fire service installations in the subject premises within 6 months from the date of the planning approval to the satisfaction of the Director of Fire Services or of the TPB by 24.3.2008; 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.

125. The Committee also agreed to advise the applicant :

- (a) that prior planning permission should have been obtained before commencing the applied use at the application premises;
- (b) to apply to the District Lands Officer/Tsuen Wan and Kwai Tsing, Lands Department for a temporary wavier to permit the applied use;
- (c) to consult the Chief Building Surveyor/New Territories West, Buildings Department on the submission of building plans for any non-exempted building works; and

- (d) to comply with the requirements of fire resisting construction as stipulated in the Code of Practice for Fire Resisting Construction administered by the Buildings Department.

[Open Meeting (Presentation and Question Sessions Only)]

- (v) A/KC/331 Proposed Bicycle Motocross (BMX) Park Development with Ancillary Facilities in “Open Space” zone, Lower Platform of Gin Drinkers Bay Landfill, Area 37, Kwai Chung  
(MPC Paper No. A/KC/331)
- 

#### Presentation and Question Sessions

126. Mr. Edward P.L. Li, STP/TWK, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed bicycle motocross (BMX) park development within ancillary facilities;
- (c) departmental comments – highlighting that shortly before the meeting, further comments from the Transport Department (TD) was received and tabled at the meeting for reference. According to the latest comment, the TD did not support the application on the grounds that the proposed BMX park would generate and attract large amount of cycling trips in an industrial area where there was no cycle track network at present. There was no submission on the practical management measures to effectively and realistically resolve the potential safety problems arising from the proposal. On the other hand, the Leisure and Cultural Services Department (LCSD) advised that the proposed use was in line with the Government policy of developing public recreational facilities or restored landfill sites. No objection from other concerned Government

departments was received;

- (d) no public comment was received during the statutory publication period and no local objection was received by the District Officer; and
- (e) the Planning Department (PlanD)'s views – the PlanD had no objection to the application for the reasons detailed in paragraph 10.1 of the Paper that the proposed development would provide a specialized recreational facility to meet territorial needs. The proposed active recreational use was generally in line with the planning intention of the “Open Space” (“O”) zone and represented a better utilization of the site. The LCSD supported the application. The proposed use would unlikely generate significant impacts on the surrounding area.

127. Members then raised questions on the application which were summarized as follows :

- (a) whether the late comments from the TD had been relayed to the applicant. If not, whether the consideration of such late comments by the Committee was unfair to the applicant and procedurally incorrect;
- (b) whether the BMX could be used on the street; and
- (c) as the application site was located in close proximity to the Tsing Kwai Highway, whether there would be environmental problem for the proposed active recreational use.

128. In response, Mr. Edward P.L. Li made the following main points :

- (a) the comments from the TD were only received in the evening of the day before the meeting. There was no opportunity to circulate the comments to the applicant and other Government departments;
- (b) the BMX was a kind of bicycles with smaller wheels and was mainly for

performing different moves, including jumps and manoeuvring around or over obstacles which could not be done on the street. According to the applicant, the proposed development was mainly to provide training and competition grounds for the BMX. However, the applicant also suggested that the park would be opened to the public in the evenings and during weekends at a charge to optimise the use of the facilities; and

- (c) the application site was zoned “O” as part of the Kwai Chung Park. Although it was located close to the Tsing Kwai Highway, it was not directly under the highway and there were slopes and vegetation in between.

129. The Secretary supplemented that there was no requirement under the Town Planning Ordinance to send departmental comments to the applicants. It was the general practice, however, that comments would be sent to the applicants upon their request. Nonetheless, comments made by official Members and Government representatives during the Committee meetings would still be taken into account by the Committee, and would be recorded in the confirmed minutes. If the applicants considered that their cases were rejected based on unfair comments, they could apply for a review of the Committee’s decision under s.17 of the Town Planning Ordinance.

130. The Chairperson referred Members to paragraph 4.2.3 of Appendix Ia of the Paper that according to the applicant, the park would actually be open to the public during evenings and weekends. Based on comments from the TD, one of the important considerations was how the users would travel to and from the park and whether there would be safety problems. In reply, Mr. Edward P.L. Li said that car parking spaces would be provided at the development. However, no information had been submitted regarding how the cyclists and the public could gain access to the park.

#### Deliberation Session

131. Mr. Anthony Loo explained that the application site was located in an industrial area with traffic comprising heavy goods vehicles and there were no bicycle tracks provided in the Kwai Tsing and Tsuen Wan districts. If bicycles were used on these roads, there



would be serious safety problem. Recently, there had been various fatal accidents involving bicycles on highways and the TD was very concerned about the issue. There was no submission on the management of access to and from the proposed park. This concern had already been raised earlier by the TD as stated in paragraph 8.1.3(c) that it was hazardous for the public to cycle to and from the BMX park on the public roads in the vicinity. As there did not appear to be a solution to resolve this basic issue, the TD had to highlight the seriousness of the matter and raise objection to the application upon further consideration.

132. A Member supported the TD's view that safety of the BMX park users should be of utmost importance. While there was no objection to a bicycle park at the application site, this Member was concerned that the proposal would keep a large part of an area zoned "O" for very specialized and restricted use. Rather, it should be more open to the general public. The applicant should be requested to address this concern.

133. A Member said that the application site was currently underutilized. The proposal was a more efficient use of resources and such activities would be beneficial to the local community.

134. Mr. Elvis Au said that it was unclear how the park would be operated in terms of access to and from it. In view of TD's concerns on safety and management, it was proposed that the applicant be requested to submit more information, including how the participants would access the park, or whether bicycles would be rented on site, to address TD's concerns. Other Members agreed that more information was required to ensure that the safety issue was addressed.

135. The Chairperson concluded that the consideration of the application should be deferred. The applicant should be requested to submit further information on measures to safeguard the safety of the park users, in particular when they traveled to and from the park. The applicant was also requested to address the concern on whether part of the site could be open for use by the general public.

136. The Secretary said that the District Planning Office should review PlanD's view, taking into account the applicant's additional information, TD's comments, location of the application site and Members' concern on the general provision of public open space in the

area.

137. After deliberation, the Committee decided to defer a decision on the application pending the submission of additional information from the applicant to address the Members' and TD's concerns on measures to safeguard the safety of the park users, in particular when they traveled to and from the park. The applicant was also requested to address the concern on whether part of the site could be open for use by the general public. The Committee agreed that the application should be submitted to the Committee for consideration within two months from the date of receipt of additional information from the applicant. The Committee also agreed to advise the applicant that two months were allowed for preparation of the submission of the further information.

[Mr. Anthony Loo left the meeting at this point.]

[Open Meeting (Presentation and Question Sessions Only)]

(vi) A/TW/395 Proposed Hotel and Public Vehicle Park (excluding container vehicle)  
in "Residential (Group A)" zone,  
118 Chuen Lung Street, Tsuen Wan (TWTL 320)  
(MPC Paper No. A/TW/395)

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#### Presentation and Question Sessions

138. The Committee noted that the applicant requested on 7.8.2007 for a deferment of the consideration of the application to allow more time to prepare further information to address Government departments' comments.

#### Deliberation Session

139. After deliberation, the Committee decided to defer a decision on the application as requested by the applicant pending the submission of additional information from the applicant. The Committee also agreed that the application should be submitted to the Committee for consideration within two months from the date of receipt of additional information from the applicant. The Committee also agreed to advise the applicant that two



- (d) five public comments were received during the statutory publication period. One comment indicated support to the application but expressed concerns on sewage disposal, water supply, fire safety and hygiene. Another comment expressed concerns on local traffic impact, while another clarified that there was no car parking spaces provided within the subject building. The remaining two comments objected to the application and the grounds of objection were mainly adverse traffic impact, disturbing noise, non-provision of fire fighting equipment, and blockage of the drainage system of the development; and
- (e) the Planning Department (PlanD)'s views – the PlanD had no objection to the application for the reasons detailed in paragraph 10.1 of the Paper as the proposed use was not incompatible with the uses within the subject building and surrounding area. The proposed school was small in scale with separate access. Regarding the public comments, it was noted that concerned Government departments, including the Transport Department, Fire Services Department, Environmental Protection Department and Drainage Services Department, had no objection to the application.

141. Members had no question on the application.

#### Deliberation Session

142. After deliberation, the Committee decided to approve the application, on the terms of the application as submitted to the Town Planning Board (TPB). The permission should be valid until 24.8.2011, 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. The permission was subject to the condition on the provision of fire service installations to the satisfaction of the Director of Fire Services or of the TPB.

143. The Committee also agreed to advise the applicant :

- (a) to consult the Registration Section, Education Bureau on school registration

process under the Education Ordinance and Regulations;

- (b) that the approval of the application did not imply any compliance with the Buildings Ordinance and Regulations. The applicant should approach the Chief Building Surveyor/Kowloon, Buildings Department direct to obtain the necessary approval;
- (c) to follow Chapter 9 of the Hong Kong Planning Standards and Guidelines (HKPSG) in providing practicable noise mitigation measures as far as practicable, and/or as a “last-resort” measure providing acoustic insulation in form of well gasketed windows as per Appendix 4.4 in Chapter 9 of HKPSG and air-conditioning, to abate the excessive road traffic noise disturbance on the affected classrooms of the proposed tutorial school; and
- (d) to resolve any land issues relating to the development with the concerned owners of the subject building.

[Open Meeting (Presentation and Question Sessions Only)]

- (ii) A/K9/217 Proposed Hotel (guesthouse)  
in “Residential (Group A)” zone,  
88-102 (even number) Wuhu Street, Hung Hom  
(MPC Paper No. A/K9/217)
- 

#### Presentation and Question Sessions

144. Mr. C.C. Lau, STP/K, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed guesthouse use;
- (c) departmental comments – no objection from concerned Government departments was received;

- (d) a total of three public comments not supporting the application were received during the statutory publication periods of the application and further information. The grounds of objection were mainly on land use incompatibility, adverse environmental, traffic and public safety impacts, wall effect leading to adverse impacts on sunlight and air ventilation; and
- (e) the Planning Department (PlanD)'s views – the PlanD had no objection to the application for the reasons detailed in paragraph 10.1 of the Paper in that there were already two hotels operating in the area and the proposed use was considered not incompatible with the surrounding developments. Adverse traffic, environmental and infrastructural impacts were not expected. Regarding the local concerns, relevant Government departments including the Transport Department, Environmental Protection Department and the Commissioner of Police did not raise objection to the application.

145. Members had no question on the application.

#### Deliberation Session

146. After deliberation, the Committee decided to approve the application, on the terms of the application as submitted to the Town Planning Board (TPB). The permission should be valid until 24.8.2011, 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. The permission was subject to the condition on the provision of water supplies for firefighting and fire service installations to the satisfaction of the Director of Fire Services or of the TPB.

147. The Committee also agreed to advise the applicant :

- (a) that the approval of the application did not imply that the gross floor area exemption for back-of-house facilities included in the application would be granted by the Building Authority. The applicant should approach the

Buildings Department direct to obtain the necessary approval;

- (b) to consult the District Lands Officer/Kowloon West, Lands Department about the lease matter of the proposed development; and
- (c) to consult the Office of the Licensing Authority of Home Affairs Department on the licensing requirements for a hotel.

[Open Meeting (Presentation and Question Sessions Only)]

- (iii) A/K10/220 Proposed Social Welfare Facility  
(Residential Care Home for the Elderly)  
in “Residential (Group E)” zone,  
18 Chi Kiang Street, Ma Tau Kok  
(MPC Paper No. A/K10/220)
- 

Presentation and Question Sessions

148. Miss Annie K.W. To, STP/K, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed social welfare facility (residential care home for the elderly)(RCHE);
- (c) departmental comments – highlighting that the Environmental Protection Department (EPD) did not support the application as there was no information to demonstrate that the proposed RCHE, which was a piecemeal development for sensitive uses within an industrial area, would not be subject to adverse traffic noise and vehicle emission impacts exceeding the Hong Kong Planning Standards and Guidelines, and adverse industrial noise and air quality impacts. There was no information on the location of fresh air intakes and it failed to demonstrate how the proposed use of mechanical ventilation and artificial lighting could reduce noise

impacts and improve air quality. The reliance on approval conditions to address EPD's concerns was not agreeable. No objection from other concerned Government departments was received;

- (d) no public comment was received during the statutory publication period and no local objection was received by the District Officer; and
- (e) the Planning Department (PlanD)'s views – the PlanD did not support the application for the reasons detailed in paragraph 11.2 of the Paper that the application site was located in an industrial area surrounded by industrial uses on three sides. The proposed sensitive uses were considered incompatible with the current industrial uses in the surrounding. There was insufficient information to demonstrate that the proposed use would not be subject to adverse environmental impacts, including traffic and industrial noise, and vehicle emission. The EPD did not support the application.

149. In response to a Member's enquiry, Miss Annie K.W. To confirmed that the application site was previously rezoned from "Industrial" to "Residential (Group E)" ("R(E)").

150. The same Member then referred to Plans A-1 and A-2 of the Paper and pointed out that the application site was actually next to an area zoned "Residential (Group A)", showing that the area was under transformation. The operation of the existing industrial buildings nearby should be clarified. In response, Miss Annie K.W. To said that Gee Chang Industrial Building and other industrial buildings adjoining the application site were mostly used for office and storage. However, there were still some manufacturing activities in operation.

151. A Member said that the planning intention of the "R(E)" zone was to phase out existing industrial uses through redevelopment or conversion for residential use on application to the Town Planning Board. In this case, the application site faced Sunrise Villa and Hoi Sham Park across the road. It was enquired why it was considered inappropriate for RCHE use and whether there were stricter requirements for RCHE in terms



of mitigation against noise and air pollution as compared to residential developments. Referring Members to Appendix III of the Paper, Miss Annie K.W. To replied affirmatively that the requirements for an RCHE as stated in the Code of Practice for Residential Care Homes (Elderly Persons) were more stringent than a conventional residential development. For example, on heating, light and ventilation of an RCHE, it was required that natural lighting and ventilation should be provided. The application site, located at the junction of Yuk Yat Street and Chi Kong Street, was susceptible to traffic noise and it was bounded by existing industrial buildings. Although the applicant had proposed to use mechanical ventilation and artificial lighting in trying to resolve traffic, noise and air quality problems, the Social Welfare Department advised that the mechanical provisions should only be used to supplement natural ventilation and lighting but not to replace them. With industrial buildings on its sides, the location of fresh air in-takes for the RCHE was important. However, no information was provided and there was no technical assessment on the impacts on the elderly residents. The EPD did not support the application.

#### Deliberation Session

152. The Chairperson said that the points of environmental compatibility and a lack of technical assessments were raised. The Secretary added that given the planning intention of the “R(E)” zoning, which was to phase out existing industrial uses for residential use and there was a need to avoid any industrial/residential interface problem, the environmental problems should be addressed properly before approval could be given.

153. A Member agreed that there was insufficient assessment to address the environmental problems and the EPD had made fair comments. However, the proposal represented a good opportunity for a wholesale conversion of an industrial building in an area under transformation. The proposed use should not be rejected in principle. Another Member shared the view and said that the RCHE use was a good concept for development within “R(E)” zones and should be supported. Nonetheless, the applicant should submit further information to address EPD’s concerns.

[Dr. Daniel B.M. To left the meeting at this point.]

154. Mr. Elvis Au said that the “R(E)” zone was set with an expectation of proper



- (a) background to the application;
- (b) the applied shop and services use (fast food shop);
- (c) departmental comments – no objection from concerned Government department was received;
- (d) no public comment was received during the statutory publication period and no local objection was received by the District Officer; and
- (e) the Planning Department (PlanD)'s views – the PlanD had no objection to the application for the reasons detailed in paragraph 11.1 of the Paper.

158. Members had no question on the application.

#### Deliberation Session

159. 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 following conditions :

- (a) the submission and implementation of fire safety measures, including fire service installations in the subject premises, within 6 months from the date of approval to the satisfaction of the Director of Fire Services or of the TPB by 24.2.2008; 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.

160. The Committee also agreed to advise the applicant to :

- (a) apply to the District Lands Officer/Kowloon East, Lands Department for a temporary waiver;



[The Chairperson thanked Mr. C.C. Lau and Miss Annie K.W. To, STPs/K, for their attendance to answer Members' enquires. Mr. Lau and Miss To left the meeting at this point.]

**Agenda Item 8**

**Any Other Business**

163. There being no other business, the meeting was closed at 2:20 p.m..