

## **TOWN PLANNING BOARD**

### **Minutes of 366th Meeting of the Metro Planning Committee held at 9:00 a.m. on 18.1.2008**

#### **Present**

Director of Planning  
Mrs. Ava S.Y. Ng

Chairperson

Dr. Greg C.Y. Wong

Vice-chairman

Mr. Nelson W.Y. Chan

Mr. Leslie H.C. Chen

Professor N.K. Leung

Dr. Daniel B.M. To

Mr. Stanley Y.F. Wong

Ms. Sylvia S.F. Yau

Mr. Walter K.L. Chan

Ms. Maggie M.K. Chan

Ms. Starry W.K. Lee

Mr. K.Y. Leung

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

Assistant Director (Environmental Assessment),  
Environmental Protection Department  
Mr. C.W. Tse

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

Secretary

**Absent with Apologies**

Professor Bernard V.W.F. Lim

Mr. Raymond Y.M. Chan

Mr. Felix W. Fong

Professor Paul K.S. Lam

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

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

**In Attendance**

Assistant Director of Planning/Board  
Mr. Lau Sing

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

Town Planner/Town Planning Board  
Ms. Kathy C.L. Chan

**Agenda Item 1**

Confirmation of the Draft Minutes of the 364th MPC Meeting held on 4.1.2008

[Open Meeting]

1. The draft minutes of the 364th MPC meeting held on 4.1.2008 were confirmed without amendments.

**Agenda Item 2**

Matters Arising

[Open Meeting]

(a) Approval of Development Permission Area Plan

2. The Secretary reported that on 18.12.2007, the Chief Executive in Council approved the draft Sham Chung Development Permission Area (DPA) Plan under section 9(1)(a) of the Town Planning Ordinance. The approval of the DPA Plan would be notified in the Gazette on 25.1.2008.

[Ms. Sylvia S.F. Yau arrived to join the meeting at this point.]

(b) Proposed Amendments to Outline Zoning Plan

3. The Secretary reported that the Committee on 4.1.2008 agreed to the proposed amendments to the approved Kwun Tong (North) Outline Zoning Plan (OZP). In order to make clear the planning intention that areas with no development right such as garden lots, areas restricted for slope maintenance and access road purposes should not be taken into account in plot ratio calculation, a new paragraph 3.3 was proposed to be incorporated in the Explanatory Statement (ES) of the OZP as follows :

“3.3 Since the Plan is to show broad land use zoning, there would be cases that small strips of land not intended for building development purposes and carry no development right under the lease, such as the areas restricted for slope maintenance and access road purposes, are included in the residential zones. The general principle is that such areas should not be taken into account in

plot ratio calculation. Development within residential zones should be restricted to building lots carrying development right in order not to overload the road network in Kwun Tong (North) area.”

4. In response to a Member’s enquiry, the Secretary clarified that areas designated as drainage reserve could be included for plot ratio calculation. The Secretary said that the new paragraph 3.3 was a general clause intended to clarify that areas restricted for garden, slope maintenance and access road purposes should not be taken into account in plot ratio/site coverage calculation. This general clause had been/would be incorporated in the ES for all the OZPs when opportunity arose. Members agreed to the incorporation of the new paragraph 3.3 in the ES and that the further revised ES, together with other proposed amendments agreed by the Committee on 4.1.2008, were suitable for exhibition for public inspection under section 5 of the Town Planning Ordinance.

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

[Mr. P.C. Mok, Senior Town Planner/Tsuen Wan and West Kowloon (STP/TWK), was invited to the meeting at this point.]

### **Agenda Item 3**

[Open Meeting]

Proposed Amendments to the

Approved Shek Kip Mei Outline Zoning Plan No. S/K4/21

(MPC Paper No. 7/08)

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5. With the aid of a Powerpoint presentation, Mr. P.C. Mok, STP/TWK, presented the proposed amendments to the Shek Kip Mei Outline Zoning Plan (OZP) and covered the following main aspects as detailed in the Paper :

- (a) the proposed amendments to the OZP as detailed in paragraph 3 and Annex B of the Paper. The amendments involved the rezoning of the ex-Begonia Road Juvenile Home at 62 Begonia Road from “Government, Institution or

Community(3)” (“G/IC(3)”) to “Residential (Group C)10” (“R(C)10”) with development restrictions specified, i.e. a maximum plot ratio of 1.65, maximum site coverage of 55% and maximum building height of 46mPD; and the rezoning of a strip of slope at the east of Tai Hang Tung Estate from “G/IC(3)” to “Residential (Group A)” (“R(A)”) which was a technical amendment to tally the “R(A)” zoning boundary with the existing vesting order boundary;

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

- (b) the proposed amendments to the Notes of the OZP as detailed in paragraph 4 of the Paper to incorporate the Notes for the “R(C)10” zone and to amend the Chinese translation of ‘Flat’ use in various zones;
- (c) opportunity was taken to revise the Explanatory Statement of the OZP as detailed in Annex E of the Paper to reflect the latest status and planning circumstances of the OZP; and
- (d) no objection or adverse comment was received from relevant Government departments. The Sham Shui Po District Council would be consulted, subject to the Committee’s agreement to the proposed amendments, during the exhibition period of the draft OZP for public inspection under section 5 of the Town Planning Ordinance.

6. Members had no question on the proposed amendments to the OZP.

7. After deliberation, the Committee decided to:

- (a) agree to the proposed amendments to the approved Shek Kip Mei OZP No. S/K4/21 and its Notes as set out in paragraphs 3 and 4 of the Paper;
- (b) agree that the draft Shek Kip Mei OZP No. S/K4/21A at Annex B (to be renumbered as S/K4/22 upon exhibition) and its Notes at Annex D of the Paper were suitable for exhibition for public inspection under section 5 of

the Town Planning Ordinance;

- (c) adopt the revised Explanatory Statement (ES) at Annex E of the Paper as an expression of the planning intentions and objectives of the Town Planning Board (the Board) for the various land use zonings of the OZP; and
- (d) agree that the revised ES was suitable for exhibition together with the draft Shek Kip Mei OZP No. S/K4/21A (to be renumbered as S/K4/22 upon exhibition) and issue under the name of the Board.

[The Chairperson thanked Mr. P.C. Mok, STP/TWK, for his attendance to answer Members' enquiries. Mr. Mok left the meeting at this point.]

[Mr. Louis K.H. Kau, STP/TWK, was invited to the meeting at this point.]

#### **Agenda Item 4**

##### **Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/K20/102            Proposed Alfresco Dining Facilities  
(Amendments to an Approved Master Layout Plan)  
in "Comprehensive Development Area" zone,  
Podium Roof Level, Union Square,  
Airport Railway Kowloon Station,  
1 Austin Road West,  
West Kowloon Reclamation  
(MPC Paper No. A/K20/102)

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8.            The application was submitted by the Mass Transit Railway Corporation Ltd. (MTRCL). Dr. Greg C.Y. Wong, previously a member of the Kowloon-Canton Railway Corporation (KCRC) Capital Projects Committee before the merge of MTRCL and KCRC in December 2007, asked whether he had to declare an interest in this item. He informed the

Committee that he had no business dealings with MTRCL and that the KCRC Capital Projects Committee no longer existed after the merger. Members considered that Dr. Wong had no direct interest on this application.

9. The Secretary reported that Mr. Anthony Loo, the Assistant Commissioner of Transport Department, being an alternate member for the Deputy Secretary for Transport and Housing (Transport)<sup>1</sup> who was a member of the Board of MTRCL, had declared an interest in this item.

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

#### Presentation and Question Sessions

10. 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 alfresco dining facilities (amendments to an approved Master Layout Plan (MLP));

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

- (c) departmental comments – no objection from concerned Government departments was received;
- (d) twenty-three public comments were received during the statutory publication period. Six of them raised strong objection to the application on the grounds of nuisance to local residents caused by customers, operation of the bars/restaurants and outdoor performance; additional management and maintenance fee to residents due to additional security measures; noise impact to local residents especially during night time; hygiene and safety problems, particularly from drunken customers; change to the original design of the podium from non-commercial open space to

commercial bars and restaurants without consultation. Twelve commenters supported the application for reasons that the proposal would provide a nice and high-class alfresco dining environment; liquor licences had been issued to restaurants in the shopping mall and alfresco dining facilities on the podium; the dining area was small in scale and at a distance from the residential flats; and nuisance could be overcome by good management of the shopping centre. Three commenters raised concerns on the nuisance, disturbance and safety problems to local residents and suggested that the management should ensure adequate manpower and effective measure in dealing with potential nuisances and the operation hour of the alfresco dining should be limited to 11 p.m. daily. The remaining two commenters suggested that the dining area should meet the requirements of relevant departments and provided with toilets and nursing rooms whereas the other one had no comment on the application;

- (e) the District Officer advised that three of the Vice-chairmen of Yau Tsim Mong (YTM) South Area Committee had no comment while the Chairman raised concerns on the impacts of the alfresco dining facilities on local residents;
- (f) the survey carried out by the management office of the shopping centre submitted by way of further information indicated that a majority of the respondents (more than half of them were local residents) agreed to the provision of restaurant with outdoor area at the open plaza; and
- (g) the Planning Department (PlanD)'s views – PlanD had no objection to the application for reasons as detailed in paragraph 11.1 of the Paper. The proposed alfresco dining facilities were in line with the planning intention of the “Comprehensive Development Area” zone which was for comprehensive residential and commercial development with the provision of open space and supporting facilities. The proposed dining area (i.e. 321m<sup>2</sup> out of the 1 761m<sup>2</sup> forming a Civic Square and earmarked for private open space on the MLP) was small in scale and compatible with its adjacent 2-storey pavilion structure which was permitted for restaurants



and shops in the approved MLP. The reduction of private open space by 321m<sup>2</sup> (i.e. 0.6%) was considered acceptable as the remaining private open space (i.e. 5.63 ha) was still more than sufficient to meet the requirement (i.e. 1.3 ha) and, according to the Chief Town Planner/Urban Design and Landscape of Planning Department (PlanD), the proposed use would not affect any landscape planting as shown on the approved Landscape Master Plan. The proposed dining area was located closer to non-noise sensitive developments such as office and hotel/service apartments than the residential towers and was screened off from the nearby open space area on the podium by the 2-storey pavilion structure. The nearest residential cum hotel and service apartment development to its west (i.e. the Cullian, Harbour View Place and W Hotel) was about 30m away from the application premises. All other residential developments were at least 87m away. The noise impact assessment submitted by the applicant demonstrated no adverse impact, and the Director of Environmental Protection advised that noise emitted from isolated noisy events at the alfresco dining area was amenable to the Noise Control Ordinance. However, in order to address public concerns and minimise potential nuisance to local residents at night time, an approval condition restricting the operation hours of the alfresco dining facilities from 7 a.m. to 11 p.m. daily was recommended by PlanD. Regarding the local concerns on security and safety problems, the applicant indicated that adequate property management staff would be deployed to prevent nuisance caused to neighbouring developments, particularly the passage between the open plaza where outside dining area was located and the core part of the podium garden would be attended by security guards to direct restaurant patrons to the shopping centre/carpark via the escalator and lifts provided at the open plaza. It should also be noted that the children playground at the podium was about 130m away from the application premises, and the applicant confirmed that smoking would be strictly prohibited at the proposed dining area. Regarding the discussion of the Kowloon Station development at the YTM District Council in 2004 (as pointed out in some public comments), the applicant explained that the area occupied by the commercial pavilions was referred as a “Retail Zone”, which was a general

description reflecting the use of the commercial pavilions as part of the shopping centre. There was no clear indication at that time that eating place would not be provided at the commercial pavilions.

11. Members had no question on the application.

#### Deliberation Session

12. A Member questioned the need of providing dining areas on the podium since there were many restaurants in the shopping centre underneath. Another Member said that the commercial pavilion was occupied by several restaurants and bars with the issue of liquor licence. The current application applied to use the open area outside the restaurants as dining areas.

13. A Member, noting that the proposed alfresco dining facilities would occupy the shop-front areas at the open plaza, asked whether they would cause obstruction to the passageway. Mr. Louis K.H. Kau said that local residents did not need to go through the open plaza to gain access to residential buildings after coming out from the Airport Kowloon Station at the podium level. The open plaza would only be used by people visiting the office/hotel development (i.e. International Commercial Centre and Ritz-Carlton Hotel) which was located at the south-western corner of the podium away from the residential buildings.

14. A few Members raised concern on the potential nuisance brought to the local residents. A Member suggested to impose a more stringent control on the operation hours of the proposed use, say a shorter operation hour from Sunday to Thursday and extended to 11 p.m. on weekends in order to minimise potential noise impact to local residents. Another Member, however, was of the view that it would be too restrictive for the Town Planning Board to impose specific operation hours, which should be monitored and enforced by relevant departments. The Chairperson enquired whether there were any standards on the restriction of operation hours at night time. Mr. C.W. Tse, Assistant Director (Environmental Assessment) of Environmental Protection Department (EPD), said that, according to the Noise Control Ordinance, the carrying out of construction work was generally restricted from 7 a.m. to 7 p.m. unless a noise permit was obtained. Although

there was no restriction on the operation hours for restaurants under the said Ordinance, more stringent requirements would be applied to control noise after 11 p.m.. If there was noise nuisance caused by the operation of the alfresco dining facilities, the local residents could make complaints to the police or EPD.

15. While having no objection to the proposed use, most Members were concerned about the potential noise nuisance to local residents as mentioned in the public comments received. It was agreed that the proposed restriction on operation hours from 7 a.m. to 11 p.m. could help to address the noise nuisance, a Member was of the view that the approval should only be given on a temporary basis for three years so as to monitor the operation of the proposed use. This was agreed by all Members.

16. After deliberation, the Committee decided to approve the Master Layout Plan (MLP) and the application, under sections 4A and 16 of the Town Planning Ordinance, on a temporary basis for a period of 3 years until 18.1.2011, on the terms of the application as submitted to the Town Planning Board (TPB) and subject to the following conditions :

- (a) the operation hours of the proposed alfresco dining facilities should be restricted from 7 a.m. to 11 p.m. daily during the planning approval period;
- (b) the provision of fire service installations within 6 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the TPB by 18.7.2008;
- (c) if the above planning condition (a) was not complied with during the planning approval period, the approval hereby given should cease to have effect and should be revoked immediately without further notice; and
- (d) if the above planning condition (b) 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.

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

- (a) a temporary approval of three years was granted so as to monitor the operation of the proposed alfresco dining facilities and the fulfilment of relevant approval conditions;
- (b) the approval letter for the application would be attached to the approved MLP deposited in the Land Registry in accordance with section 4A(3) of the Town Planning Ordinance; and
- (c) to liaise with the local residents to address their concerns on the alfresco dining facilities to be provided on the podium level.

[Mr. Anthony Loo returned to join the meeting at this point.]

### **Agenda Item 5**

#### **Section 16A Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/K2/172-3            Application for Class B Amendments –  
Proposed Hotel (Guesthouse)  
in “Residential (Group A)” zone,  
279-283 Shanghai Street,  
Yau Ma Tei (KIL 9224RP and 10131RP)  
(MPC Paper No. A/K2/172-3)

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

18.            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) application for Class B amendments – proposed hotel (guesthouse);

- (c) departmental comments – no objection from concerned Government departments was received;
- (d) no local objection was received by the District Officer; and
- (e) the Planning Department (PlanD)'s views – PlanD did not support the application for reasons as detailed in paragraphs 9.1 to 9.3 of the Paper. According to the legal advice on the current application, the Town Planning Board (the Board) did not have the power to grant planning permission for a development which would result in a non-domestic building with a plot ratio (PR) exceeding the maximum permissible PR (i.e. 9.0) for non-domestic building in the “Residential (Group A)” zone. Although the proposed amendments under the current application would result in a non-domestic PR of 9.0, the Board did not have the power to grant planning permission to the current application which was based on an approved scheme (Application No. A/K2/172) not lawfully approved. The applicant should submit a fresh application if he intended to pursue the proposed hotel development at the site.

19. In response to a Member's questions, Mr. Louis K.H. Kau said that the legal advice for the current application was provided by the Department of Justice, it was not a judgement by the court. He also said that the previous approved schemes (i.e. Application Nos. A/K2/172 and A/K2/172-1 with PR of 10.49) were still valid.

#### Deliberation Session

20. The Secretary informed that there was a similar application (No. A/K9/206) at 83 Wuhu Street, Hung Hom for the proposed conversion of an existing commercial/office building for hotel use. The application was rejected by the Committee on 28.4.2006 for the reason that there was no provision for the Board to grant planning permission for the proposed hotel development, which had a non-domestic PR of 12.033 exceeding the maximum PR restriction for non-domestic building (i.e. 9.0) in the “R(A)” zone. An appeal lodged by the applicant was dismissed by the Town Planning Appeal Board (TPAB) on 31.7.2007. On 15.11.2007, the applicant instituted legal proceedings against the Board and

the TPAB's decisions by way of judicial review. The judicial review was yet to be heard. The recommendation in paragraph 9.3 of the Paper was based on the legal advice on the current application and the decision of TPAB on Application No. A/K9/206.

21. The Secretary further said that there were no provisions under the Town Planning Ordinance (the Ordinance) to revoke an approved planning application. While it might be possible to revoke a planning approval under the Interpretation and General Clauses Ordinance (Cap. 1), there was no such precedent case.

22. As there were a few similar cases, the Chairperson was of the view that the same approach should be adopted for all these applications. Since section 16(4) of the Ordinance specified that the Board might grant planning permission only to the extent shown or provided for or specified in the Outline Zoning Plan, there was no provision for the Board to grant planning permission to the current application.

23. After deliberation, the Committee decided to advise the applicant that there was no provision for the Town Planning Board to grant planning permission for the section 16A application for amendment to the approved development proposal which was based on an approved scheme not lawfully approved. If the proposed hotel development was to be pursued at the site, a fresh section 16 planning application would be required.

[The Chairperson thanked Mr. Louis K.H. Kau, STP/TWK, for his attendance to answer Members' enquiries. Mr. Kau left the meeting at this point.]

[Professor N.K. Leung and Ms. Maggie M.K. Chan left the meeting temporarily at this point.]

### **Kowloon District**

[Mr. C.C. Lau and Ms. Jessica H.F. Chu, Senior Town Planners/Kowloon (STPs/K), and Ms. Sally S.Y. Fong, Senior Town Planner/Sub-regional (STP/SR), were invited to the meeting at this point.]

**Agenda Item 6**

[Open Meeting]

Proposed Amendments to the

Approved Hung Hom Outline Zoning Plan No. S/K9/20

(MPC Paper No. 8/08)

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24. Ms. Starry W.K. Lee declared an interest in this item as she was a Member of the Kowloon City District Council (KCDC) and she owned a property in To Kwa Wan. Since the item was for the consideration of proposed amendments to an Outline Zoning Plan (OZP) and related to the plan-making process, Members agreed that in accordance with the Town Planning Board (the Board)'s established practice, Ms. Lee could remain in the meeting and participate in the discussion of the item.

25. With the aid of a Powerpoint presentation, Ms. Jessica H.F. Chu, STP/K, presented the proposed amendments to Hung Hom OZP and covered the following main aspects as detailed in the Paper :

- (a) the proposed amendments to the OZP as detailed in paragraph 4 and Annex II of the Paper. The amendments involved the rezoning of the "Comprehensive Development Area" ("CDA") site at Hung Luen Road to "CDA(1)" (eastern portion) and "CDA(2)" (western portion) respectively and imposition of plot ratio (PR) and building height restrictions on these two "CDA" sites; imposition of PR, site coverage and building height restrictions on the "Residential (Group A)2" ("R(A)2") site at Hung Luen Road and designation of 'Area A' within this "R(A)2" site with a building height restriction of 15mPD. The proposed amendments were to take forward the recommendations of the Hung Hom District Study (HHDS) which was presented to the Board for consideration on 7.9.2007 and 26.10.2007;

[Professor N.K. Leung and Ms. Maggie M.K. Chan returned to join the meeting at this point.]

- (b) the proposed amendments to the Notes of the OZP as detailed in paragraph 6 of the Paper to incorporate the planning intention and development

restrictions for the “CDA(1)”, “CDA(2)” and “R(A)2” sites;

- (c) opportunity was taken to revise the Explanatory Statement of the OZP as detailed in Annex IV of the Paper to reflect the latest development and planning circumstances of the OZP; and
- (d) no adverse comment was received from relevant Government departments. The KCDC would be consulted, subject to the Committee’s agreement to the proposed amendments, during the exhibition period of the draft OZP for public inspection under section 5 of the Town Planning Ordinance.

26. Ms. Jessica H.F. Chu said that a planning brief, setting out the planning parameters, requirements on varying height profile, view corridor, setback, open space provision for public enjoyment, landscaping, design integration with the adjoining waterfront promenade and basement car park, would be prepared to guide the future development of the “CDA” sites. The planning brief would also specify the requirement for the re-provisioning of public transport interchange in the “CDA(1)” site and the provision of a non-building area in the “CDA(2)” site. After consideration of representations and comments on representations received during the plan publication period, the planning brief would be submitted to the Committee for consideration and endorsement.

27. With the aid of a physical model, Members were briefed on the proposed development schemes for the “CDA(1)”, “CDA(2)” and “R(A)2” sites at Hung Luen Road to achieve a gradation concept with building height restrictions stepping down from the Royal Peninsula towards the Harbour Place to the Hung Luen Road sites and then to the promenade at the waterfront.

[Mr. Leslie H.C. Chen arrived to join the meeting at this point.]

28. A Member, by referring to the physical model and Plan Z-1B of the Paper, noted that both the “CDA(2)” and “R(A)2” sites were each occupied by a 15m-high podium with full site coverage. As the Notes for the “CDA(2)” site specified that the site was intended for podium-free retail use and car-parking provision should be accommodated in basement, this Member sought clarification on the planning intention behind this site and said that the



retail use should be able to be accommodated on the ground floor and/or first floor of the tower blocks without having large podium structure. Ms. Sally S.Y. Fong, STP/SR, explained that the development concept for the “CDA(2)” site was to avoid a large podium covering the whole site. As seen from the aerial perspective, the proposed development scheme for the “CDA(2)” site comprised four separate office blocks with retail use of a slightly larger footprint on the lower floors. Ms. Fong pointed out that, with the provision of covered walkway between the blocks, it would appear that there was a large podium covering the whole site. She further said that the development scheme was only an indicative proposal by the consultants of HHDS. The detailed design requirements would be specified in the planning brief to be prepared for the “CDA” sites. In response to this Member’s question, Ms. Jessica H.F. Chu said that the planning intention for the “CDA(2)” site was a kind of ‘no single podium’ development. This Member suggested that the term ‘podium-free retail’ in the Notes for the “CDA(2)” site should be suitably revised to clearly reflect the planning intention to avoid a single podium for the whole development.

29. This Member also noted that the Notes for the “R(A)2” site specified a maximum non-domestic PR of 0.5 and that the car-parking provision be accommodated in basement as far as possible. However, Plan Z-1B of the Paper indicated a podium of 15mPD in height with full site coverage which should be able to accommodate the car-parking spaces instead of a basement car park. In response to the Chairperson’s enquiry about the planning intention for the “R(A)2” site, Ms. Jessica H.F. Chu said that, according to the consultant of HHDS, the podium structure was required to accommodate the elevated walkway linkages extending from that currently provided at Harbour Place and Royal Peninsula to the waterfront. To minimize the height of the podium, car-parking facilities were encouraged to be provided in basement. Noting the planning intention, the Secretary said that the phrase “with car-parking provision accommodated as far as possible in basement” under the Notes for the “R(A)2” site would not be precise enough and suggested the Notes be amended to put it beyond doubt that car-parking facilities should be accommodated in basement. The Secretary also suggested that the term ‘podium-free retail’ in the Notes for the “CDA(2)” site should be amended as per the discussion above. Members agreed.

30. In response to a Member’s query, Ms. Jessica H.F. Chu said that the requirement to provide view corridors would be clearly stated in the planning brief for the “CDA” sites which would also include other requirements such as setback, non-building area and open

space provision etc. The draft planning brief would be submitted to the Committee for consideration before consultation with KCDC and the Harbourfront Enhancement Committee.

31. After deliberation, the Committee decided to :

- (a) agree that, subject to the refinements to the Notes of the OZP as agreed in paragraph 29 above, the draft Hung Hom OZP No. S/K9/20A at Annex II (to be renumbered as S/K9/21 upon exhibition) and its Notes at Annex III of the Paper were suitable for exhibition for public inspection under section 5 of the Town Planning Ordinance;
- (b) adopt the revised Explanatory Statement (ES) at Annex IV of the Paper as an expression of the planning intentions and objectives of the Town Planning Board (the Board) for the various land use zonings of the OZP; and
- (c) agree that the revised ES was suitable for exhibition together with the draft Hung Hom OZP No. S/K9/20A (to be renumbered as S/K9/21 upon exhibition) and issued under the name of the Board.

[The Chairperson thanked Ms. Jessica H.F. Chu, STP/K, and Ms. Sally S.Y. Fong, STP/SR, for their attendance to answer Members' enquiries. Ms. Chu and Ms. Fong left the meeting at this point.]

**Agenda Item 7**

**Section 16 Applications**

[Open Meeting (Presentation and Question Sessions Only)]

- (i) A/K13/230 Proposed Shop and Services  
in “Other Specified Uses” annotated “Business” zone,  
Workshop No. 2 and Yard, G/F,  
Kenning Industrial Building,  
19 Wang Hoi Road,  
Kowloon Bay  
(MPC Paper No. A/K13/230)
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Presentation and Question Sessions

32. 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 shop and services;
- (c) departmental comments – no objection from concerned Government departments was received;
- (d) one public comment was received during the statutory publication period indicating no objection to the application, but suggested that Government departments should conduct assessment on the infrastructure such as drainage, traffic, pedestrian flow and hygienic conditions of the area; and
- (e) the Planning Department (PlanD)’s views – PlanD had no objection to the application for reasons as detailed in paragraph 11.1 of the Paper. The proposed use complied with the Town Planning Board Guidelines for Development within “Other Specified Uses” (“OU”) annotated “Business” Zone in that it would not generate significant adverse impacts on developments within the subject building and the adjacent areas. It was also in line with the planning intention of the “OU(Business)” zone which allowed greater flexibility in the use of existing industrial or

industrial-office buildings provided that the proposed use would not induce adverse fire safety and environmental impacts. Regarding the public comment, it was noted that the proposed use would not induce significant adverse fire safety, traffic, environmental and infrastructural impacts to the uses within the subject building and the adjacent area.

33. Members had no question on the application.

#### Deliberation Session

34. 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 18.1.2010, and after the said date, the permission should cease to have effect unless before the said date, the development permitted was commenced or the permission was renewed. The permission was subject to the following conditions :

- (a) the submission and implementation of fire safety measures, including the provision of a means of escape completely separating the subject premises from the industrial portion of the building and fire service installations in the subject premises to the satisfaction of the Director of Fire Services or of the TPB before the operation of the use; and
- (b) if the above planning condition was not complied with before the operation of the use, the approval hereby given should cease to have effect and should on the same date be revoked without further notice.

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

- (a) apply to the District Lands Officer/Kowloon East, Lands Department for a temporary waiver;
- (b) comply with the requirements as stipulated in the Code of Practice for Fire Resisting Construction;

- (c) appoint an Authorized Person to submit building plans for the proposed change in use to demonstrate compliance with the Buildings Ordinance, in particular, the provision of access and facilities for persons with a disability in accordance with Building (Planning) Regulation 72 and Design Manual: Barrier Free Access 1997; and
- (d) observe road restriction requirements when loading/unloading activities took place.

[Open Meeting (Presentation and Question Sessions Only)]

(ii)           A/K14/557           Proposed Shop and Services  
in “Other Specified Uses” annotated “Business” zone,  
Factory B on G/F,  
Lucky (Kwun Tong) Industrial Building  
(also known as The Grande Building),  
398-402 Kwun Tong Road,  
Kwun Tong  

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 (MPC Paper No. A/K14/557)

(iii)           A/K14/558           Proposed Shop and Services  
in “Other Specified Uses” annotated “Business” zone,  
Factory A on G/F,  
Lucky (Kwun Tong) Industrial Building  
(also known as The Grande Building),  
398-402 Kwun Tong Road,  
Kwun Tong  

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 (MPC Paper No. A/K14/558)

Presentation and Question Sessions

36.           Noting that Applications No. A/K14/557 and 558 were similar in nature and the application premises were located on the same floor of the subject building, the Committee agreed to consider the two applications together.

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

37. Mr. C.C. Lau, STP/K, presented the two applications and covered the following aspects as detailed in the Papers :

- (a) background to the applications;
- (b) the proposed shop and services at each of the application premises;
- (c) departmental comments – no objection from concerned Government departments was received. The Director of Fire Services advised that although the aggregate commercial floor area of the two applications would slightly exceed the tolerable limit of 460m<sup>2</sup> on the ground floor of the subject industrial building, both of the applications were considered acceptable having considered various factors including location and usage of the application premises, layout of the premises and the subject industrial building, nearby occupancies, means of escape, provision of fire service installations and fire resisting construction, etc.;
- (d) two public comments were received during the statutory publication period indicating support to Application No. A/K14/557 whereas one public comment was received indicating support to Application No. A/K14/558; and
- (e) the Planning Department (PlanD)'s views – PlanD had no objection to the applications for reasons as detailed in paragraph 11.1 of the Papers. The proposed use under each application complied with Town Planning Board (TPB) Guidelines No. 22D in that it would not generate significant adverse impacts on developments within the subject building and the adjacent areas. It was also in line with the planning intention of the “Other Specified Uses” annotated “Business” zone which allowed greater flexibility in the use of existing industrial or industrial-office buildings provided that the proposed use would not induce adverse fire safety and environmental impacts.

38. Noting that both application premises were the subject of previous approved applications (Nos. A/K14/510 and 511) for the same use submitted by the same applicant, the Chairperson asked about the reasons for the applicant to submit the current applications. Mr. C.C. Lau said that Application Nos. A/K14/510 and 511 were subject to an approval condition requiring the submission and implementation of fire safety measures by 29.3.2007. Extension of the time limit for compliance for six months to 29.9.2007 was approved. However, the applicant had failed to comply with the approval condition by 29.9.2007, the planning permissions for Application Nos. A/K14/510 and 511 had therefore been revoked. As such, the applicant had to seek planning permission again for the proposed use under the current applications.

39. The Chairperson enquired whether there were any particular problems for the applicant to comply with the approval condition under the previous approved applications. With reference to paragraph 2 of the Papers, Mr. C.C. Lau said that the applicant claimed that he had submitted applications to the Lands Department (LandsD) for lease modification upon approval of the previous planning applications. As the lease modification applications were still under consideration by LandsD, implementation of the proposed development at both application premises could not proceed and the approval condition could not be complied with.

40. In response to a Member's concern on the possibility of undue delay by the applicant to comply with the approval condition under the current applications, Mr. C.C. Lau said that an approval condition requiring the submission and implementation of fire safety measures before the operation of the proposed use and a revocation clause were recommended for both applications. The Secretary supplemented that the proposed shop and services use on the ground floor of the subject industrial building fell within the 460m<sup>2</sup> criterion under the TPB Guidelines No. 22D which would be considered on a first-come-first-serve basis. As such, it could be possible that the 460m<sup>2</sup> for aggregate commercial floor space limit could be taken up by other applications if the current applications, if approved, were revoked again due to non-compliance with approval condition.

Deliberation Session

41. After deliberation, the Committee decided to approve the applications, on the terms of the applications as submitted to the Town Planning Board (TPB). The permissions should be valid until 18.1.2010, and after the said date, the permissions should cease to have effect unless before the said date, the developments permitted were commenced or the permissions were renewed. The permissions were subject to the following conditions :

- (a) the submission and implementation of fire safety measures, including the provision of a means of escape completely separating the subject premises from the industrial portion of the building and fire service installations in the subject premises to the satisfaction of the Director of Fire Services or of the TPB before operation of the use; and
- (b) if the above planning condition was not complied with before operation of the use, the approval hereby given should cease to have effect and should on the same date be revoked without further notice.

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

- (a) comply with the requirements as stipulated in the Code of Practice for Fire Resisting Construction;
- (b) appoint an Authorized Person to submit building plans for the proposed change in use to demonstrate compliance with the Buildings Ordinance, in particular the provision of access and facilities for persons with a disability under Building (Planning) Regulation 72 and Design Manual: Barrier Free Access 1997;
- (c) exercise extreme care when working in the vicinity of existing drains and sewers in order not to disturb, interfere with or damage the drains and sewers. Any blockage or damage to the said works due to the applicant's activities in the area should be made good at his/her own cost to the satisfaction of the Director of Drainage Services; and



- (d) strictly follow regulatory restrictions when loading/unloading activities took place to avoid interfering with the mainstream traffic (How Ming Street and Kwun Tong Road) in particular when they were under the cumulative effects of nearby roadside activities.

[Ms. Starry W.K. Lee returned to join the meeting at this point.]

[Open Meeting (Presentation and Question Sessions Only)]

- (iv) A/K18/248 Proposed Eating Place (Restaurant)  
in “Residential (Group C)4” zone,  
6 Cambridge Road,  
Kowloon Tong (NKIL 4926)  
(MPC Paper No. A/K18/248)
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43. 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 eating place (restaurant);
- (c) departmental comments – the District Lands Officer/Kowloon East, Lands Department objected to the application as the proposed restaurant was not permitted under the existing lease conditions of the subject lot which was among the lots carved out of the Kowloon Tsai Garden Estate. It was the LandsD’s policy, in relation to the Kowloon Tsai Garden Estate, not to accede to any request for lease modification for change in the user restriction stipulated under the existing lease. The Chief Architect/Advisory and Statutory Compliance, Architectural Services Department advised that there was insufficient information in the submission to assess the visual impact of the proposed restaurant;
- (d) 41 public comments were received during the statutory publication period

raising objection to the application mainly on grounds of incompatibility with the surrounding residential uses, adverse traffic impacts, as well as environmental, hygiene, nuisance and security problems; and

- (e) the Planning Department (PlanD)'s views – PlanD did not support the application for the reasons as detailed in paragraph 10.1 of the Paper. There was insufficient information to demonstrate that the proposed restaurant was compatible with the surrounding low-density residential developments, no nuisances would be caused to nearby residents, and no adverse visual impact would be generated. There were also no proposed mitigation measures to address the potential hygiene, security and environmental problems. Four similar applications were all rejected by the Committee or by the Town Planning Board upon review for the reasons given in Appendix II of the Paper. Approval of the application would set an undesirable precedent for similar applications in the residential area.

44. In response to the Chairperson's questions, Mr. C.C. Lau said that the four rejected similar applications were for restaurant or fast food shop uses within the "Residential (Group C)" zone in Kowloon Tong area. The application site was previously occupied for shop use, which was permitted under the Occupation Permit issued by the Buildings Department for the subject building. At present, the subject building was largely vacant and under renovation.

#### Deliberation Session

45. The Chairperson remarked that the proposed restaurant was not compatible with the surrounding low-density residential uses.

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

- (a) the proposed restaurant was incompatible with the neighbouring/adjoining low-density residential uses;

- (b) there was insufficient information in the submission to demonstrate that the proposed restaurant would not have adverse visual impacts on the subject site and the surrounding areas; and
- (c) approval of the application would set an undesirable precedent for other similar applications in the same residential area. The cumulative effect of approval of similar applications would change the character of the area.

[Open Meeting (Presentation and Question Sessions Only)]

- (v) A/K18/249 Proposed School (Kindergarten)  
in “Residential (Group C)1” zone,  
51 Cumberland Road,  
Kowloon Tong (NKIL 745)  
(MPC Paper No. A/K18/249)
- 

47. 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 school (kindergarten);
- (c) departmental comments – no objection from concerned Government departments was received;
- (d) six public comments were received during the statutory publication period indicating support to the application on the grounds that the proposed kindergarten was compatible with surrounding land uses and could help address insufficient school placements in Kowloon Tong; and
- (e) the Planning Department (PlanD)’s views – PlanD had no objection to the application for reasons as detailed in paragraph 11.1 of the Paper. The application complied with Town Planning Board Guidelines No. 23 in that

the proposed kindergarten was not incompatible with the surrounding residential area in which various schools and childcare centres were located. No adverse impacts on the environment and infrastructure provisions of the area were anticipated. Matters relating to building structure, fire safety and internal layout could be dealt with during the school registration stage.

48. In response to the Chairperson's enquiry, Mr. C.C. Lau said that the existing 2-storey vacant building on the application site was under demolition for redevelopment.

#### Deliberation Session

49. 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 18.1.2012, 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) the provision of fire service installations to the satisfaction of the Director of Fire Services or of the TPB;
- (b) the design and implementation of a new vehicular access to the satisfaction of the Commissioner for Transport or of the TPB;
- (c) the submission and implementation of a tree preservation scheme and a landscape proposal to the satisfaction of the Director of Planning or of the TPB; and
- (d) the submission of quarterly tree monitoring progress reports to the satisfaction of the Director of Planning or of the TPB.

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

- (a) note that approval of the application did not imply any compliance with the Buildings Ordinance and Regulations. The applicant should approach the

Buildings Department direct to obtain the necessary approval;

- (b) consult the Registration Section of the Education Bureau on school registration process under the Education Ordinance and Regulations;
- (c) consult the Secretary for Education on the design and layout of classrooms;
- (d) reduce the proposed overall building height, for example by reducing the 5.25m floor-to-floor height of ground floor;
- (e) follow the Environment Chapter of the Hong Kong Planning Standards and Guidelines in designing the development with facades of noise sensitive uses, like classrooms, facing away from the railway as far as practicable, and providing acoustic insulation for classrooms which might be affected by the noise from the East Rail; and
- (f) resolve any land issues relating to the development with the concerned owner(s) of the application site.

[The Chairperson thanked Mr. C.C. Lau, STP/K, for his attendance to answer Members' enquiries. Mr. Lau left the meeting at this point.]

**Hong Kong District**

**Agenda Item 8**

Section 12A Application

[Open Meeting (Presentation and Question Sessions Only)]

Y/H4/2                      Application for Amendment to the  
Approved Central District Outline Zoning Plan No. S/H4/12  
from area shown as 'Road' to "Government, Institution or Community"  
with 'Religious Institution' use under Column 1 of the Notes; or  
"Other Specified Uses" annotated "Synagogue and Open Space for  
Public Use" with 'Religious Institution' use under Column 2 of the  
Notes; or "Open Space" with 'Religious Institution' use under  
Column 2 of the Notes,  
Land between Cotton Tree Drive and Kennedy Road Peak Tram Station,  
Central  
(MPC Paper No. Y/H4/2A)

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Presentation and Question Sessions

51.                      The Committee noted that the applicant requested on 11.12.2007 for a deferment of the consideration of the application for two months to allow time to liaise with the Landscape Unit of Planning Department on outstanding technical issues and to conduct consultation with the Central and Western District Council when it reconvened its meetings.

Deliberation Session

52.                      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 agreed that the application should be submitted to the Committee for consideration within three 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)]

- (ii) A/H25/8 Proposed Hotel, Place of Recreation, Sports and Culture (Art Venue), and Exhibition and Convention Hall in “Open Space”, “Other Specified Uses” (“OU”) annotated “Leisure and Entertainment Complex and Elevated Walkway” and “OU” annotated “Elevated Walkway” zones and area shown as ‘Road’,  
Ex-A-King Slipway Site (Remaining Portion of IL 8407) and Adjoining Government Land,  
Causeway Bay  
(MPC Paper No. A/H25/8)
- 

55. The Secretary reported that Wharf Estates Development Ltd., a subsidiary of Wharf (Holdings) Ltd., was one of the applicants for the application. Dr. Greg C.Y. Wong, having current business dealings with Wharf (Holdings) Ltd., had declared an interest in this item. As the Planning Department (PlanD) had requested the Committee to defer consideration of the application and discussion of and determination on this item was not necessary, Members agreed that he could remain in the meeting. The Committee noted that Dr. Wong had already temporarily left the meeting.

56. Dr. Daniel B.M. To declared an interest in this item for being a Member of the Eastern District Council which had been consulted on the application. The Committee considered that his interest was indirect and agreed that he could remain in the meeting during the discussion of the item.

#### Presentation and Question Sessions

57. The Secretary reported that the application site was the subject of four objections against the draft Wan Chai North Outline Zoning Plan (OZP) No. S/H25/1 gazetted under section 5 of the pre-amended Town Planning Ordinance on 19.4.2002. It was also related to a further objection against the proposed amendments to the draft Wan Chai North OZP gazetted under section 6(7) of the pre-amended Ordinance on 27.7.2007. As the draft Wan Chai North OZP, the objections and further objection were yet to be submitted to the Chief Executive in Council (CE in C) for approval, consideration of the subject application would



pre-empt the decision of the CE in C. According to Town Planning Board Guidelines No. 33 on Deferment of Decision on Representations, Comments, Further Representations and Applications made under the Town Planning Ordinance, a decision on a section 16 planning application would be deferred if the zoning of the subject site was still subject to outstanding objections and further objection yet to be submitted to the CE in C for consideration and the substance of the objections and further objection was relevant to the subject application. As such, PlanD recommended deferment of the consideration of the subject application pending the CE in C's decision on the objections and further objection.

### Deliberation Session

58. After deliberation, the Committee decided to defer a decision on the application pending the Chief Executive in Council's decision on the objections and further objection in respect of the draft Wan Chai North Outline Zoning Plan.

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

### **Agenda Item 10**

#### Any Other Business

[Closed Meeting]