

**TOWN PLANNING BOARD**

**Minutes of 393rd Meeting of the  
Metro Planning Committee held at 9:00 a.m. on 27.3.2009**

**Present**

Director of Planning  
Mrs. Ava S.Y. Ng

Chairperson

Mr. Nelson W.Y. Chan

Mr. Leslie H.C. Chen

Dr. Daniel B.M. To

Ms. Sylvia S.F. Yau

Mr. Raymond Y.M. Chan

Mr. Felix W. Fong

Ms. Starry W.K. Lee

Mr. K.Y. Leung

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

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

Assistant Director (Kowloon), Lands Department  
Ms. Olga W.H. Lam

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

Secretary

**Absent with Apologies**

Mr. Stanley Y.F. Wong

Vice-chairman

Professor N.K. Leung

Professor Bernard V.W.F. Lim

Mr. Walter K.L. Chan

Dr. Ellen Y.Y. Lau

Mr. Maurice W.M. Lee

Dr. Winnie S.M. Tang

Assistant Director(2), Home Affairs Department  
Mr. Andrew Y.T. Tsang

**In Attendance**

Assistant Director of Planning/Board  
Mr. Lau Sing

Chief Town Planner/Town Planning Board  
Ms. Christine K.C. Tse

Town Planner/Town Planning Board  
Mr. K.W. Ng

**Agenda Item 1**

Confirmation of the Draft Minutes of the 392nd MPC Meeting held on 13.3.2009

[Open Meeting]

1. The draft minutes of the 392nd MPC meeting held on 13.3.2009 were confirmed without amendment.

**Agenda Item 2**

Matters Arising

[Open Meeting]

- (a) New Town Planning Appeals Received

Town Planning Appeal No. 2 of 2009 (2/09)

Proposed House (New Territories Exempted House – Small House)  
in “Green Belt” zone,

Lots 392 S.A. and 393 in D.D. 28,

Lung Mei Village, Ting Kok Road, Tai Po

(Application No. A/NE-TK/258)

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Town Planning Appeal No. 3 of 2009 (3/09)

Proposed House (New Territories Exempted House – Small House)  
in “Green Belt” zone,

Lot 771 S.A in D.D. 28,

Lung Mei Village, Ting Kok Road, Tai Po

(Application No. A/NE-TK/263)

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2. The Secretary reported that two appeals against the decisions of the Town Planning Board (TPB) to reject on review the two applications each for a proposed New Territories Exempted House (Small House) in a “Green Belt” (“GB”) zone on the draft Ting Kok Outline Zoning Plan No. S/NE-TK/14 were received by the Town Planning Appeal Board (the Appeal Board) on 17.3.2009. Both applications were rejected by the TPB on

2.1.2009 for the reasons that the proposed development was not in line with the planning intention of the “GB” zone and there was insufficient information to justify a departure from the planning intention; and the application did not comply with the Town Planning Board Guidelines No. 10 in that it would involve clearance of natural vegetation and affect the existing natural landscape of the surrounding environment.

3. The hearing dates of the appeals were yet to be fixed. The Secretary would act on behalf of the TPB in dealing with the appeals in the usual manner.

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

(b) Town Planning Appeals Statistics

4. The Secretary reported that as at 27.3.2009, 23 cases were yet to be heard by the Appeal Board. Details of the appeal statistics were as follows :

Allowed	:	23
Dismissed	:	109
Abandoned/Withdrawn/Invalid	:	130
Yet to be Heard	:	23
<u>Decision Outstanding</u>	:	<u>1</u>
Total	:	286

**Hong Kong District**

**Agenda Item 3**

**Section 12A Application**

[Open Meeting (Presentation and Question Sessions only)]

Y/H3/3

Application for Amendments to the Approved Sai Ying Pun & Sheung Wan Outline Zoning Plan No. S/H3/22 (the OZP) and the Approved Land Development Corporation Peel Street/ Graham Street Development Scheme Plan No. S/H3/LDC4/2 (the DSP), to Rezone “Residential (Group A)”, “Commercial/Residential” (“C/R”) and Areas Shown as “Road” to “Other Specified Uses” annotated “Special Design Area” (“OU(SDA)”), to Reincorporate the Area Zoned “Comprehensive Development Area” (“CDA”) on the DSP into the OZP and to Amend the “CDA” Zoning to “OU(SDA)”, to Amend the “C/R” Zoning of a Number of Streets within the Application Site to “Other Specified Uses” annotated “Market Street” (“OU(MS)”), and to Incorporate Notes and Explanatory Statements into the OZP for the “OU(SDA)” and “OU(MS)” Zonings, an Area Generally Bounded by Aberdeen Street, Wellington Street, Cochrane Street, Lyndhurst Terrace, Hollywood Road, Old Bailey Street and Elgin Street in the Central District  
(MPC Paper No. Y/H3/3)

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5. The Secretary reported that the following Members had declared interests in this item :

Mrs. Ava S.Y. Ng	]	
as the Director of Planning	]	being non-executive Directors of
	]	Urban Renewal Authority (URA)
Mr. Walter K.L. Chan	]	
Ms. Olga W.H. Lam	]	being an assistant to the Director of
as the Assistant Director of	]	Lands who was an non-executive
Lands Department	]	Director of URA

Mr. Andrew Y.T. Tsang as the Assistant Director of Home Affairs	] being an assistant to the Director of Home Affairs who was an non-executive Director of URA
Mr. Maurice W.M. Lee	] being ex an ex-non-executive Director of URA (the term of office was ended on 30.11.2008)
Professor Bernard V.W.F. Lim	] having current business dealings with the URA

6. The Committee noted that Professor Bernard V.W.F. Lim, Mr. Walter K.L. Chan, Mr. Maurice W.M. Lee and Mr. Andrew Y.T. Tsang had tendered apologies for being unable to attend the meeting. The Secretary said that the Chairperson had declared an interest in the item, but the Vice-chairman had tendered apologies for being unable to attend the meeting. According to the Town Planning Board Procedure and Practice (the P&P), the Chairperson could continue to chair the meeting as a matter of necessity. Members agreed.

[Ms. Olga W.H. Lam left the meeting temporarily at this point].

#### Presentation and Question Sessions

7. The following representatives from the Planning Department (PlanD) and the Food and Environmental Hygiene Department (FEHD) were invited to the meeting at this point :

Ms. Brenda K.Y. Au - District Planning Officer/Hong Kong, PlanD (DPO/HK)  
Ms. Lily Y.M. Yam - Senior Town Planner/Hong Kong, PlanD (STP/HK)  
Mr. Leung Wing-hong - Chief Health Inspector, FEHD (CHI)

8. The following applicant's representatives were invited to the meeting at this point :

Mr. John Batten  
Ms. Katty Law  
Ms. Lim Li-lian  
Ms. Patsy Cheng

Mr. Amil Khan

Mr. Ian Brownlee

Ms. Anna Wong

9. The Chairperson extended a welcome to the applicant's representatives and the representatives from PlanD and FEHD. She explained that she had declared an interest in the item for being a non-executive Director of URA. However, since the Vice-chairman was not present at the meeting, she would chair the meeting out of necessity. She enquired if the applicant had any views.

[Ms. Sylvia S.F. Yau and Mr. Felix W. Fong arrived to join the meeting at this point.]

10. Noting that the Vice-chairman had tendered apologies and could not chair the meeting, and the Chairperson had to chair the meeting out of necessity, Mr. Ian Brownlee objected to this arrangement as the Chairperson, being the Director of Planning, was a non-executive Director of URA and hence the consideration of the subject application could be prejudiced. In response to the Chairperson's query on how the applicant would consider his case would be prejudiced, Mr. Brownlee said that the subject application site covered the URA H18 development scheme at Peel Street/Graham Street, and URA had submitted eight pages of comments to the Town Planning Board (the Board) objecting to the subject application. Mr. Brownlee said that he understood the Board's practice in the declaration of interest but for the sake of fairness, he considered that there was no reason why the meeting could not be deferred to a date when the Vice-chairman was available to chair the meeting.

11. As Members had no question to raise, the Chairperson told the applicant's representatives that the Committee would in their absence deliberate on their request. She requested the applicant's representatives and the representatives from PlanD and FEHD to leave the meeting for the time being. They all left the meeting temporarily at this point.

Deliberation Session

12. The Chairperson clarified that according to the P&P, in case both the Chairperson and the Vice-chairman needed to declare interests, as a matter of necessity, the Chairperson could continue to assume the chairmanship. For the subject application, as the Vice-chairman had tendered apologies for being unable to attend the meeting, the Chairperson could continue to chair the meeting subject to Members' agreement. However, it was noted that the applicant had raised objection to the arrangement. The Chairperson said that no matter how well she could maintain impartiality in the deliberation of the meeting, the applicant might still perceive that the decision would be biased. Since the applicant had requested to defer the consideration of the case, the Chairperson asked Members to consider if the request should be acceded to.

13. A Member considered that the request for deferment could be acceded to as the request was originated from the applicant. While sharing this Member's view, a Member asked if the decision would set a precedent for similar cases in future. Another Member further asked if the Board's established practice for the Chairperson to chair the meeting as a matter of necessity would be upset by the decision. The Secretary explained that the Secretariat had previously obtained legal advice to confirm the Board's practice to have the Chairperson continued to chair the meeting out of necessity was legally in order. She further explained that all planning applications should be considered by the Board within the time limit set out under the Town Planning Ordinance (the Ordinance), i.e. within three months after receipt of a section 12A application, so as to protect the applicant's interest in obtaining a timely decision. Under the current situation, the applicant's interest to obtain a timely decision was out of the main consideration as the deferral request was made by the applicant. Apart from the above, the Secretary said that two other factors would also need to be taken into account in considering the applicant's deferral request, including whether any third party interest would be affected if the request was acceded to, and whether the decision only applied to the specific circumstances of the subject application and would not set a precedent for others to follow.

14. Noting that the URA H18 development scheme area at Peel Street/Graham Street was included in the subject application site, the Chairperson said that URA was the major



party likely to be affected in the subject case. Notwithstanding, the Chairperson said that the planning permission obtained by URA for the H18 project would not be affected by the subject application. The Secretary said that as the request for deferment was made by the applicant and the subject application was only a section 12A application, there would be no change in the land use zoning affecting the land owners in the area if the consideration of the application was deferred, though the deferment might create some uncertainty psychologically.

15. A few Members noted the Board's practice to have the Chairperson chaired the meeting out of necessity. However, they were inclined to accede to the applicant's request for deferment so as to demonstrate the Board's positive response to the demand for a fair hearing to be seen and to avoid potential legal challenge. However, these Members considered that the request was based on the special circumstances of the case and should not set a precedent for other applications to follow in future.

16. Noting that the applicant's deferral request was only made at the meeting, a Member asked if it was done in accordance with the established practice. The Secretary replied that according to the Town Planning Board Guidelines No. 33, if a request for deferment was received before the issue of agenda of the meeting and the relevant paper on the application, a simple paper would be prepared by the Planning Department (PlanD) to seek the Board's agreement to the request. Should the request be received after the issue of the agenda, PlanD would report the case at the scheduled meeting. The Secretary further said that there were previous cases which the Board agreed to the deferral requests made by the applicants at the meetings. For the subject application, the applicant was not aware of the absence of the Vice-chairman until he attended the meeting. Normally, a request for deferment would normally be granted if no third party interest was affected and reasonable grounds were given.

17. A Member asked if Members would be allowed to elect Chairperson among themselves when both the Chairperson and the Vice-chairman had to declare interests. The Secretary explained that the Ordinance only contained provisions for the Chief Executive to appoint the Chairpersons of the Board and its two Planning Committees. Hence amendments to the Ordinance would be required to allow Members to elect a Chairperson

among themselves. This Member requested the Secretary to include the matter into consideration in the future amendments of the Ordinance.

18. In sum, Members agreed that the existing practice of the Board to have the Chairperson chairing a meeting in respect of a case which he/she had declared an interest as a matter of necessity was in order. Having considered that it was the applicant who made the request to defer the consideration of the application and there was no significant impact on third party interest, Members agreed to accede to the request for deferment based on the special circumstances of the case which should not set a precedent for other applications to follow.

19. The Chairperson then invited the applicant's representatives and the representatives from PlanD and FEHD back to the meeting at this point to inform them of the Board's decision. The representatives returned to the meeting and the remaining part of the meeting was conducted in open meeting.

20. The Chairperson informed both parties that the Committee had agreed to defer the consideration of the application. The Chairperson said that the Board's practice had clearly pointed out that the Chairperson could continue to chair the meeting out of necessity and this arrangement was legally in order. However, noting the applicant's perceived unfairness on the fact that the Chairperson, being the Director of Planning, was a non-executive Director of URA and URA was an objector to the subject application, the Committee agreed to defer the consideration of the application as requested by the applicant, on the understanding that no third party interest would be significantly affected. The application would be scheduled for consideration at the next meeting chaired by the Vice-chairman.

21. Mr. Ian Brownlee welcomed the Committee's decision. As regards the date of meeting for the consideration of the subject application, he said that some of the applicant's representatives would be out of Hong Kong in the next few weeks. He requested the Committee to allow him to contact the Secretariat to fix a convenient date for the meeting. Members agreed.

22. After further deliberation, the Committee decided to defer a decision on the application as request by the applicant. The Committee also agreed that the application would be submitted to the Committee for consideration on a date to be agreed with the applicant.

23. The Chairperson thanked the applicant's representatives and the representatives of PlanD and FEHD for attending the meeting. They all left the meeting at this point.

### **General**

[Ms. Brenda K.Y. Au, District Planning Officer/Hong Kong (DPO/HK), Mr. Eric C.K. Yue, District Planning Officer/Kowloon (DPO/K), Ms. Heidi Y.M. Chan, District Planning Officer/Tsuen Wan and West Kowloon (DPO/TWK), and Mrs. Alice K.F. Mak, Senior Town Planner/Metro Group (STP/MG), were invited to the meeting at this point.]

### **Agenda Item 4**

[Open Meeting (Whole Session)]

Review of Sites Designated "Comprehensive Development Area"  
on Statutory Plans in the Metro Area for the Year 2008/2009  
(MPC Paper No. 9/09)

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### **Presentation and Question Sessions**

24. With the aid of a Powerpoint presentation, Mrs. Alice K.F. Mak, STP/MG, presented the review and covered the following aspects as detailed in the Paper :

- (a) in May 1999, the Town Planning Board agreed to review annually the "Comprehensive Development Area" ("CDA") sites that had been zoned on the statutory plans for more than three years. The purposes of the review were to consider the rezoning of suitable "CDA" sites to other appropriate zones and to monitor the progress of the "CDA" developments;

- (b) by the end of March 2009, there were a total of 42 “CDA” sites designated for more than three years in the Metro Area. The figure had excluded the “CDA” sites falling within the Development Scheme Plans prepared by the Urban Renewal Authority or the then Land Development Corporation. 21 out of these 42 sites had no approved Master Layout Plan (MLP) while the remaining 21 sites had approved MLPs;

“CDA” Sites with No Approved MLP

- (c) for the 21 sites with no approved MLP, 17 of them were proposed for retention for a number of reasons including the fact that the land was programmed for disposal, under planning studies/reviews, recorded with some progress on implementation, and/or with outstanding concerns such as traffic, environmental and visual impacts that needed to be addressed. The retention of their “CDA” designations was essential for providing guidance on proper development of these sites. Detailed justifications for the retention were given in Appendix I of the Paper;
- (d) as detailed in Appendix II of the Paper, the following four “CDA” sites with no approved MLP had potential for rezoning :-
- (i) the site located to the immediate west of the Mass Transit Railway Chai Wan Station (No. H36) including the existing Chai Wan Flatted Factory site and the adjoining open-air public transport terminus. The Housing Department had recently indicated not to pursue the redevelopment of the site for public housing in view of the air and noise pollution generated by the nearby industrial uses and road traffic;
  - (ii) the site at Forbes Street, Kennedy Town (No. H37) which was no longer required by the Hong Kong Housing Society for residential development. Since the alignment of the West Island Line (WIL)

running through the site as indicated on the Kennedy Town and Mount Davis Outline Zoning Plan was outdated, upon authorization of the WIL scheme later this year, zoning amendments to reflect the related changes in the land uses of the area affected, including the subject “CDA” site, would be made;

- (iii) the site in the southern part of Yau Tong Industrial Area (No. K38). In considering a previous rezoning request in February 2008 to rezone part of the “CDA” site, some Members of the Committee opined that Planning Department might consider subdividing the site into two or more smaller sites by taking into account the existing land ownership pattern so as to facilitate the early implementation of the redevelopment scheme; and
- (iv) the eastern portion of the area bounded by Sung Wong Toi Road, To Kwa Wan Road, Mok Cheong Street and Kowloon City Road (No. K40) which was currently occupied by six factory buildings and two Government, institution or community facilities. Given the large site area and the number of private lots and Government land involved, land assembly was an issue that impeded redevelopment. Consideration would be given to sub-dividing the site into smaller “CDA” sites;

“CDA” Sites with Approved MLPs

- (e) for the 21 “CDA” sites with approved MLPs, 15 of them were proposed for retention as they either had some progress for development or were at various stages of implementation. The retention of their “CDA” designations would ensure their proper implementation in accordance with the approved MLPs and approval conditions. Detailed justifications for the retention of these sites were given in Appendix III of the Paper; and

- (f) six “CDA” sites with approved MLPs were considered to have potential for rezoning. They included the completed hotel development at the junction of King Wah Road and Oil Street, North Point (No. H14B), the completed developments at the Airport Railway Hong Kong Station, Central (No. H20), the development at the Former Marine Police Headquarters site at Salisbury Road, Tsim Sha Tsui (No. K14) which was anticipated to be completed in the second quarter of 2009, the completed comprehensive residential and commercial development at Po Lun Street, Lai Chi Kok (known as Manhattan Hill) (No. K17), the completed comprehensive residential and commercial development at 500 Tung Chau Street, Cheung Sha Wan (known as The Sparkle) (No. K46), and the completed hotel development at TWIL 5 and Lot 429 in D.D. 399 in Ting Kau, Tsuen Wan (No. TW26). The justifications for rezoning of these sites were detailed in Appendix IV of the Paper.

[Ms. Olga W.H. Lam returned to join the meeting and Mr. Anthony Loo left the meeting temporarily at this point.]

25. In response to the Chairperson’s question on the way forward for the ten “CDA” sites with potential for rezoning, Mrs. Alice K.F. Mak, STP/MG, said that the Planning Department would examine in detail the appropriate zonings and development restrictions for these sites, and the proposed amendments to the relevant outline zoning plans would be submitted to the Committee for consideration before they were exhibited for public representations.

26. A Member asked if there was a timetable for the rezoning exercise. The Secretary said that Planning Department would carry out the review exercise with a view to submitting the rezoning proposals to the Committee for consideration progressively in the coming 12 months. She explained that not all the sites with potential for rezoning would be rezoned after the review as there might be other considerations needed to be taken into account.

Deliberation Session

27. After deliberation, the Committee decided :
- (a) to note the findings of the review of the sites designated “CDA” on statutory plans in the Metro Area for the Year 2008/2009;
  - (b) to agree to the retention of the “CDA” designation for the sites as mentioned in paragraphs 4.1.1 and 4.2.2 and detailed in Appendices I and III of the Paper; and
  - (c) to note the sites with potential for rezoning as mentioned in paragraphs 4.1.3 and 4.2.3 and detailed in Appendices II and IV of the Paper.
28. The Committee also noted that the details on the rezoning proposals of those “CDA” sites with potential for rezoning would be submitted to the Committee for consideration in due course.

[The Chairperson thanked Ms. Brenda K.Y. Au, DPO/HK, Mr. Eric C.K. Yue, DPO/K, Ms. Heidi Y.M. Chan, DPO/TWK, and Mrs. Alice K.F. Mak, STP/MG, for their attendance to answer Members’ enquires. They all left the meeting at this point.]

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

**Hong Kong District**

[Ms. Brenda K.Y. Au, District Planning Officer/Hong Kong (DPO/HK), and Messrs David C.M. Lam and Derek W.O. Cheung, Senior Town Planners/Hong Kong (STPs/HK), were invited to the meeting at this point.]

**Agenda Item 5**

**Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/H15/235                      Proposed Hotel  
   in “Other Specified Uses” annotated “Business (2)” zone,  
   39-43 Wong Chuk Hang Road, Aberdeen  
   (MPC Paper No. A/H15/235)

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**Presentation and Question Sessions**

29.            Mr. David C.M. Lam, STP/K, 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 – the Commissioner for Tourism supported the application as the proposed development would increase the number of hotel rooms, broaden the range of accommodation for visitors, and support the rapid development of convention and exhibition, tourism and hotel industries. Other concerned Government departments had no objection to or no adverse comments on the application;
- (d)    one public comment was received during the statutory publication period, supporting the application for the reason that the proposed hotel development would facilitate the tourism development in the Southern District and the economic development of Hong Kong; and
- (e)    the Planning Department (PlanD)’s views – PlanD had no objection to the application based on the assessment in paragraph 10 of the Paper in that the proposed hotel development was in line with the planning intention of the “Other Specified Uses” annotated “Business” (“OU(B)”) zone and



complied with the building height restriction of 140mPD for the subject “OU(B)2” sub-area covering the subject site. The proposed development would not result in adverse traffic and environmental impacts. In order to implement some relevant road widening proposals shown on the Outline Development Plan, it was recommended to impose an approval condition requiring the setting back of the site to provide footpaths of at least 3.5m and 3m wide along Wong Chuk Hang Road and Yip Kan Street respectively.

30. Members had no question on the application.

#### Deliberation Session

31. 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 27.3.2013, 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 design and provision of the internal transport facilities of the proposed development to the satisfaction of the Commissioner for Transport (C for T) or of the TPB;
- (b) the setting back of the proposed development by 3.5m along Wong Chuk Hang Road and by 3.0m along Yip Kan Street to the satisfaction of the C for T or of the TPB;
- (c) the submission of a revised sewerage impact assessment (SIA) to the satisfaction of the Director of Environmental Protection or of the TPB;
- (d) the implementation of the sewerage upgrading/connection works as identified in the SIA under approval condition (c), if any, to the satisfaction of the Director of Drainage Services or of the TPB;

- (e) the submission and implementation of a landscape proposal to the satisfaction of the Director of Planning or of the TPB; and
- (f) the provision of water supplies for fire fighting and fire service installations to the satisfaction of the Director of Fire Services or of the TPB.

32. The Committee also agreed to advise the applicant :

- (a) to note that the approval of the application did not imply that the proposed non-domestic plot ratio of the proposed hotel development and the proposed gross floor area (GFA) exemption for the 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 note the comments of the Chief Building Surveyor/Hong Kong West of Buildings Department in respect of the GFA calculation and exemptions, the void on G/F and the design of refuge floor;
- (c) to note the comments of the Director of Environmental Protection and the Chief Engineer/Hong Kong & Islands of Drainage Services Department in respect of the SIA;
- (d) to apply to the District Lands Officer/Hong Kong West and South of Lands Department for lease modification to permit the development; and
- (e) to note the comments of the Director of Fire Services regarding the compliance with Code of Practice for Means of Access for Firefighting and Rescue.

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

**Agenda Item 6**

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/H20/159                      Proposed Flat, Public Transport Terminus and Shop and Services  
(Proposed Amendments to an Approved Scheme)  
in “Comprehensive Development Area (1)” and “Open Space” zones,  
Former Bus Depot at 391 Chai Wan Road, a section of  
Sheung On Street and the Adjoining Bus Terminus, Chai Wan  
(MPC Paper No. A/H20/159)

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33.                      The Secretary said that Swire Properties Ltd. (SP) was involved in the proposed development under application. Mr. Raymond Y.M. Chan, who had current business dealings with SP, had declared an interest on this item. The Secretary further said that since the Planning, Works and Housing Committee of EDC had passed a motion against the proposed development, Dr. Daniel B.M. To should also declare an interest in this item as he was a member of EDC. The Committee noted that Mr. Chan had not yet arrived at the meeting.

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

Presentation and Question Sessions

34.                      Mr. Derek W.O. Cheung, STP/HK, said that a replacement page 5 of the Paper, rectifying a typo error in paragraph 2(f), had been tabled at the meeting for Members’ reference. With the aid of a Powerpoint presentation, Mr. Cheung then presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application, highlighting that the application site was the subject of a previous application (No. A/H20/119) for the same uses with a Master Layout Plan (MLP) approved by the Committee on 8.2.2002. Subsequently, two applications for extension of the validity period of the permission were approved on 10.12.2004 and 16.1.2008 respectively. The latest permission would be valid up to 8.2.2011;

- (b) the proposed comprehensive residential development with retail shops and a covered public transport terminus (PTT) in the portion of the site zoned “Comprehensive Development Area (1)” (“CDA(1)”), and a proposed public open space in the remaining portion of the site zoned “Open Space” (“O”). A comparison between the approved and current schemes were detailed in paragraphs 1.4 and 1.5 of the Paper;
  
- (c) departmental comments – the District Lands Officer/Hong Kong East of Lands Department considered that there was no justification to allow the developer to build over the PTT area and Sheung On Street or to utilize the development right of this area, unless it was the planning intention to do so. He also raised concern on the future management and maintenance responsibility of the proposed public facilities including the covered PTT, the decked-over portion of Sheung On Street and the public open space. The Chief Highway Engineer/Hong Kong of Highways Department commented that the applicant had not provided description on the nature and extent of modification works to be done to the existing road as a result of the proposed decking-over of Sheung On Street. The Assistant Commissioner for Transport/Urban of Transport Department did not support the application as the traffic impact assessment (TIA) was not satisfactory especially in the aspect of junction analysis. The Chief Building Surveyor/Hong Kong East and Heritage Unit of Buildings Department could not identify public interest to allow the podium to project over portion of public street and the current scheme might be disapproved for contravention of section 31(1) of the Buildings Ordinance at building plan submission stage. Also, the proposed podium structure was over 15m above ground level, which appeared to exceed the permitted non-domestic site coverage under section 20 of the Building (Planning) Regulations. The Director of Electrical and Mechanical Services (DEMS) did not support the application from a gas safety point of view since the applicant had not submitted a comprehensive Quantitative Risk Assessment to demonstrate that the risk posed by the liquefied petroleum gas filling

station and petrol filling station nearby did not exceed the Government Risk Guidelines. The Chief Town Planner/Urban Design and Landscape of Planning Department considered that although the proposed scheme had been modified to mitigate the wall effect of the previously approved scheme, the height and scale of the proposed development would have an overbearing effect on the area. Besides, the extensive ground coverage of the podium structure of more than 1ha was considered not desirable to the pedestrian level wind environment of the area. The Chief Architect/Advisory and Statutory Compliance of Architectural Services Department commented that the applicant could review whether the building heights could be further reduced or the height profile could further stepped down so that the development would be visually more compatible in scale with the surrounding buildings. He considered that the applicant might explore ways to improve the ventilation of the section of Sheung On Street under the podium. The District Officer (East) reported that the Eastern District Council (EDC) members had raised concern on the increase in traffic flow brought about by the proposed development, and opposed the design of the decking-over of Sheung On Street and the incompatible building height with the surroundings. A motion against the proposed development was passed in the EDC Planning, Works and Housing Committee's meeting on 12.11.2008. Other concerned Government departments had no objection to or no adverse comments on the application;

- (d) a total of 14 public comments were received from nearby residents, Incorporated Owners of buildings in the vicinity, an environmental concern group and individuals during the statutory publication periods of the application and its further information. 13 of them objected to the application and the remaining one supported it. The major points of the objecting comments were related to the building mass of the proposed development and its adverse impacts on local traffic, environment, air ventilation and visual quality in the area; and

- (e) the Planning Department (PlanD)'s views – PlanD did not support the application based on the assessment in paragraph 11 of the Paper. Although planning permission was previously granted in 2002 for a proposed comprehensive development on the application site, the proposed amendments to the approved scheme proposed in the current application involved substantial changes in various aspects. Thus, the subject application should be considered as a fresh application and assessed with respect to the prevailing planning circumstances. Existing developments in the area were mainly medium-rise buildings with heights ranging from 49mPD to 93mPD. Being more than double the heights of these nearby buildings, the proposed development was considered incompatible with the developments in the surrounding area. The podium structure which spanned over Sheung On Street with extensive ground coverage was considered not desirable to the pedestrian level environment of the area. The submitted TIA report had not demonstrated that the proposed developer would not have adverse traffic impact on the area. A comprehensive Quantitative Risk Assessment report was not submitted by the applicant to demonstrate that the Government Risk Guidelines were not exceeded, and DEMS did not support the application from gas safety point of view.

35. Members had no question on the application.

#### Deliberation Session

36. A Member asked if the applicant could implement the approved scheme if the Committee rejected the subject application. The Chairperson replied that the applicant could implement the previously approved scheme which was valid until 8.2.2011, regardless of whether the subject application was approved or not. She further said that the subject application was regarded as a fresh section 16 application and hence should be considered based on the prevailing planning circumstances, though the planning history of the case was also one of the factors. The Chairman commented that while the number of residential blocks had been reduced to three, the proposed design was still considered unsatisfactory.

She also said that it was not acceptable in the present day practice to include the “O” zone and the portion of Sheung On Street into the calculation of plot ratio (PR) and gross floor area (GFA) for the proposed development. Ms. Brenda K.Y. Au, DPO/HK, explained that when the proposed development was approved in 2002, the total GFA was calculated based on a PR of 6 for the “CDA(1)” site (including the portion of Sheung On Street) and the adjacent “O” site. Under the current scheme, only the “CDA(1)” site (including the portion of Sheung On Street) was included in the PR calculation, resulting in a PR of 8.025. However, both the previous and current development schemes had the same amount of total GFA (i.e. 86,268m<sup>2</sup>) which was the maximum GFA stipulated under the Notes of the “CDA(1)” zone of the Chai Wan Outline Zoning Plan. In response to a Chairperson’s question on the site coverage of the residential blocks, Ms. Brenda K.Y. Au said that the applicant had not provided such information in the submission.

37. A Member asked if the two applications for extension of the validity period of the previous planning permissions had been submitted to the Committee for consideration. The Secretary explained that the extension of time for commencement of development was a Class B amendment to an approved development proposal, subject to the approval of the Town Planning Board (the Board) upon application made under section 16A(2) of the Town Planning Ordinance (the Ordinance). According to the Town Planning Board Guidelines No. 36, the Board had delegated its authority to the Director of Planning (D of Plan) to consider planning applications submitted under section 16A(2) of the Ordinance. However, for those applications considered unacceptable by concerned Government departments, they would still be submitted to the Board for consideration. The Secretary said that as EDC had raised objection to the previous proposal, the application for the extension of validity period should have been submitted to the Committee for approval.

38. A Member noted that according to the Board’s approval letter for the second application for extension of time as enclosed in Appendix Ia of the Paper, the concerned application was approved by D of Plan under the delegated authority of the Board. Ms. Brenda K.Y. Au clarified that the second application for extension of time was approved by D of Plan under the delegated authority of the Board and the last sentence in paragraph 4.2 of the Paper was not correct. Ms. Au said that in considering this second application, although the EDC and the local community had strong concerns on the proposed development scheme,

the same issue was also raised in processing the first application for extension of time in 2004. At that time, the Board noted that there was no significant change in the planning circumstances since the original approval and the Board should be mindful of the fact that an approval had been granted to the development and the Board had to act fairly and reasonably. Any reconsideration of an earlier approved scheme would not only create uncertainty, it might be subject to legal challenge. Ms. Au further said that the EDC Planning, Works and Housing Committee's motion against the proposed development scheme was passed in November 2008, which was about 10 months after the approval of the second application for extension.

39. Two Members enquired about the public consultation procedures for section 16 and section 16A(2) applications. One of them pointed out that the District Council members were not consulted on the section 16A(2) applications for extension of validity of previous permission, and the District Councils had seldom discussed these applications at their meetings. The Secretary explained that the consultation procedures for section 16 and section 16A(2) applications were different. The former was an application for a planning permission. The latter was an application for amendments to a previous permission which might include a condition requiring the approved development to commence within a certain time. The proposed extension of time for the commencement of the approved development was a Class B amendment to be processed under section 16A(2) of the Ordinance. For section 16 applications, the Board had established detailed statutory and administrative procedures on inviting public comments on each case, including publishing newspaper notices, posting site notice, uploading notice to the Board's website, sending notices to interested district council members and area committee chairmen, and sending notices to nearby residents' organizations within 100ft of the application site/premises. For section 16A(2) applications, as they only involved amendments to the approved development proposals, the legislative intention was to streamline the processing procedures. As such, there was no provision in the Ordinance requiring the Board to publish section 16A(2) applications. However, this did not mean that the Board should not take public comments into account in considering the applications. In this regard, the relevant District Officers had been requested to consult District Council members appropriately.

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



40. A Member asked if consideration should be given requiring certain 16A(2) applications for extension of time, involving large-scale developments or super-tall buildings, to be submitted for the Committee's consideration. The Chairperson said that the Town Planning Board Guidelines No. 36 had already set out the criteria for the submission of section 16A(2) applications to the Board for consideration. She opined that the applicant might have concern if the criteria were changed and hence a proper balance had to be struck. In order to further address Members' concerns on the public consultation of section 16A(2) applications, the Chairperson suggested liaising with the District Officers to consider how the consultation process could be further improved. Members agreed.

41. The Chairperson said that the current application should be considered as a fresh application in view of the substantial changes in various aspects. Members considered that the current proposal was not satisfactory in meeting present day community aspiration. They then went through the reasons for rejection suggested by PlanD in paragraph 12.1 of the Paper. For reason (a), the Chairperson said that the building height was considered excessive in the local context. The Secretary added that even when the current scheme was compared with the previously approved scheme, it could not be regarded as an improvement as there was an increase of 13.65m for the tallest tower.

42. After further deliberation, the Committee decided to reject the application for the following reasons :

- (a) the building heights of the proposed development were considered excessive in the local context and incompatible with the surrounding developments. There were insufficient planning and design merits to justify the proposed building heights in view of the adverse visual impact on the surrounding areas;
- (b) the podium structure of the proposed development was considered excessive in scale and undesirable to the pedestrian level environment of the area;

- (c) there was insufficient information in the traffic impact assessment report to demonstrate that the proposed development would not have any adverse traffic impact on the area; and
- (d) there was insufficient information in the submission to demonstrate that the risk posed by nearby liquefied petroleum gas filling station and petrol filling station to the proposed development did not exceed the Government Risk Guidelines.

[The Chairperson thanked Ms. Brenda K.Y. Au, DPO/HK, and Mr. Derek W.O. Cheung, STP/HK, for their attendance to answer Members' enquiries. Ms. Au and Mr. Cheung left the meeting at this point.]

[Dr. Daniel B.M. To and Mr. Raymond Y.M. Chan returned to join and arrived to join the meeting at this point respectively.]

### **Agenda Item 7**

#### **Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/H21/128                      Proposed Minor Relaxation of the Building Height Restriction  
for a Proposed Commercial/Office Development  
in "Commercial (2)" zone,  
Inland Lot Nos. 7737 and 8687 at 863-865 King's Road, Quarry Bay  
(MPC Paper No. A/H21/128)

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

43.            The Committee noted that the applicant on 9.3.2009 had requested for further deferment of the consideration of the application for two more months in order to allow additional time for the applicant to produce a development scheme that would balance the operational requirements, architectural design intention and the improvement to public realm.

### Deliberation Session

44. After deliberation, the Committee decided to further 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 further information, and no further deferment would be granted unless under very special circumstances.

### **Agenda Item 8**

#### Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/H24/13                      Proposed Development of  
the Red Cross Headquarters and Commercial Offices  
in “Government, Institution or Community (3)” zone,  
Junction of Lung Wui Road and Performing Arts Avenue  
(MPC Paper No. A/H24/13)

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#### Presentation and Question Sessions

45. The Secretary said that the application was submitted by Hong Kong Red Cross (HKRC) with AGC Design Ltd. (AGC) as one of the consultants. Both Professors N.K. Leung and Bernard V.W.F. Lim had declared interests in this item as Professor Leung was a Council Member of HKRC while Professor Lim had current business dealings with AGC. The Committee noted that both Professors Leung and Lim had tendered apologies for being unable to attend the meeting.

46. The Secretary said that the Committee on 19.9.2008 agreed to defer a decision on the application as suggested by Planning Department pending the completion of a site search for a more appropriate reprovisioning site for the Red Cross Headquarters and further discussion with the applicant on the suitability of the reprovisioning sites identified. In

November 2008, a site in West Kowloon was identified for the reprovisioning and it was considered acceptable to the applicant. The applicant had then applied for policy support which was being considered by the relevant bureaux. On 24.3.2009, the applicant wrote an email to Planning Department indicating that since it was still uncertain whether the identified reprovisioning site would be granted to HKRC, they would not withdraw the subject application for the time being, until the relevant policy support and approval had been obtained.

### Deliberation Session

47. After deliberation, the Committee decided to further defer a decision on the application pending the applicant's obtaining policy support and approval on the reprovisioning site.

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

### **Kowloon District**

[Mr. Eric C.K. Yue, District Planning Officer/Kowloon (DPO/K), Mr. Wilson W.S. Chan, Senior Town Planner/Kowloon (STP/K), and Ms. Caroline T.Y. Tang, Town Planner/Kowloon (TP/K), were invited to the meeting at this point.]

### **Agenda Item 9**

[Open Meeting (Whole Session)]

Proposed Development Parameters and Draft Revised Planning Brief  
for "Comprehensive Development Area" at Inverness Road  
on Draft Kowloon Tong Outline Zoning Plan No. S/K18/14  
(MPC Paper No. 10/09)

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Presentation and Question Sessions

48. With the aid of a Powerpoint presentation, Mr. Wilson W.S. Chan, STP/K, presented the following aspects as detailed in the Paper :

- (a) the subject “Comprehensive Development Area” (“CDA”) site was located at the eastern periphery of the Kowloon Tong area which was characterized by predominantly low to medium-rise and low-density developments. It was surrounded by two secondary schools and one primary school (under construction) to the north; Munsang College and some low-density residential developments along Inverness Road and Grampian Road to the south; Kowloon Tsai Park to the west; a proposed open space to the southeast; and public housing development under construction at Tung Tau and Chinese Christian Cemetery to the east;
- (b) in December 1997, the site was rezoned from “Government, Institution or Community” to “CDA” to facilitate a medium-density public housing development. In July 2002, a Planning Brief (PB) for the site was approved by the Committee to provide a framework to facilitate the preparation of Master Layout Plan (MLP) as required under the Notes of the OZP;
- (c) in February 2003, a MLP for public housing and school developments on the site was approved by the Committee, with two subsequent amendments approved in March 2004 and April 2005 respectively. According to the latest approved MLP, the proposed public housing and school developments would be located in the western and eastern portion of the “CDA” site respectively. The former comprised two 38-storey public rental housing blocks with a domestic plot ratio (PR) of 6 and a maximum building height of 145mPD. The latter included a 6-storey non-standard secondary school with a non-domestic PR of 2.45 and a building height of 47.61mPD;

- (d) the school portion of the site was subsequently developed into a school, namely HKICC Lee Shau Kee School of Creativity, which was completed in November 2007 ;
- (e) in mid-2008, the Committee on Housing Development agreed to return the residential portion of the “CDA” site to the Government for private residential development. In this regard, a revision of the PB to reflect the change of the proposed development from public housing to private residential was considered necessary;

Development Intensity

- (f) the existing PR restrictions under the draft Kowloon Tong OZP No. S/K18/14 for residential sites in the area range from 0.6 to 3. For consistency sake, a maximum domestic PR of 3 was proposed for the residential portion of the site to help preserve the character and unique townscape of the Kowloon Tong area;

Building Height

- (g) the heights of the surrounding developments ranged from 35.8mPD to 69.3mPD, or 3 storeys to 9 storeys. Given that the site formation levels of the residential portion of the site would range from 22.6mPD to 26mPD, it was estimated that a proposed residential development of PR 3 would result in three 13-storey domestic buildings with a maximum building height of about 67mPD. Such building height was considered appropriate as the proposed private residential development could be in harmony with the surrounding low to medium-rise development context. The visual compatibility of the local area could also be maintained;

Site Planning and Urban Design

- (h) there were two secondary schools adjoining the residential portion of the site (i.e. HKICC Lee Shau Kee School of Creativity to the east within the “CDA” site, and Munsang College to southwest outside the “CDA” site). In order to provide a better visual amenity for the two schools, a minimum of 10m wide setback would be provided along the east and southwest boundaries of the proposed residential development in form of a non-building area (NBA). These NBAs would provide an opportunity for the developer to provide tree planting or landscaping to complement with the proposed local open space to the southeast as well as the overall green amenity of the area. The proposed residential development would also be required to set back from the site boundary along Inverness Road by not less than 4.5m in form of a NBA so as to enable the provision of amenity planting strips and improve the streetscape;
- (i) the provision of basement to accommodate car parking facilities, plant rooms and other ancillary facilities would be encouraged to minimize the building bulk above ground;
- (j) podium design should be avoided so as to enhance air ventilation performance at street level. The proposed provision of NBAs would also enhance air ventilation performance of the proposed development and the adjacent areas, contributing to a better pedestrian level ventilation environment;

Heritage

- (k) there was a 2-storey historical stone house within the proposed local open space to the southeast of the subject site. The stone house was the only structure remained in the Ho Kar Yuen area which was possibly built between 1953 and 1957. In this regard, the overall setting of the immediate environ should be respected as far as practicable. The

Antiquities and Monuments Office of Leisure and Cultural Services Department had already requested that no disturbance should be made to the stone house during the construction of the proposed development;

- (l) the draft revised PB, based on the proposed development parameters, was shown at Annex 1 of the Paper. Apart from the submission of MLP, any proposed residential development on the “CDA” site should be supported by relevant technical assessments, including traffic impact assessment, environmental assessment, and drainage and sewerage impact assessments; and
- (m) subject to the Committee’s agreement, the Kowloon City District Council (KCDC) would be consulted on the draft revised PB. Any views collected would be reported to the Committee for consideration prior to promulgation of the revised PB.

49. A Member asked if the maximum building height for the subject “CDA” site could be reduced, noting that the existing developments in the area were predominantly low-rise in character. This Member said that the recently-built HKICC Lee Shau Kee School of Creativity in the school portion of the “CDA” site and Holy Family Canossian College to the north of the site had already made the built environment more crowded than before, especially when viewed from the Kowloon Tsai Park. This Member was concerned that the 13-storey proposed development in the residential portion of the site would further worsen the situation and had reservation on the effectiveness of the proposed NBAs in improving the local wind environment.

50. In response, Mr. Eric C.K. Yue, DPO/K, explained that Planning Department had taken into account the existing low to medium-rise townscape and stepped height concept in the area in determining the maximum building height restriction of 13 storeys for the subject “CDA” site. The height restriction was consistent with that of many other residential sites in the Kowloon Tong area. The NBAs proposed along the eastern, southwestern and northern boundaries of the site already amounted to 40% of the site area and hence it would be difficult to maintain the width of these NBAs, if the building height restriction was further



reduced. Besides, the proposed maximum building height restriction of 67mPD was still 2.3m lower than the existing building height of Holy Family Canossian College to the north. By referring Members to Plan 5 of the Paper, Mr. Yue explained that the existing Carpenter Road Park, the proposed open space at Junction Road, and the proposed 10m wide NBA along the southwestern boundary of the subject “CDA” site would form a visual corridor in the area.

51. In response to a Member’s query on the next step forward, the Chairperson explained that the KCDC would be consulted on the draft revised PB once it was agreed by the Committee and the views collected would be reported to the Committee for consideration prior to promulgation of the revised PB.

52. Referring to Plan 5 of the Paper, a Member noted that there were some discrepancies between the zoning boundaries and the existing building/road boundaries on the Plan. This Member asked if such discrepancies would affect the calculation of development intensity of the site. Mr. Eric C.K. Yue replied that the discrepancies were only minor boundary mismatch which appeared when the small-scale outline zoning plan (OZP) was enlarged. The Secretary explained that there might be some discrepancies between the zoning boundaries and the base plan when the OZPs were converted from paper plans into digital format, especially when the OZPs were small-scale plan of 1:5,000, 1:7,500 or 1:10,000. In view of that, a provision had already been made in the covering Notes of all OZPs to allow minor zoning boundary adjustments. The Secretary said that Planning Department would from time to time propose amendments to the OZPs to rectify the discrepancies, if necessary. The Chairperson added that the exact area of the subject “CDA” site should be subject to detailed survey conducted by Lands Department at the stage of preparing for the land grant. Since the PB would prescribe a PR for the site, the total gross floor area permissible on the site would be calculated based on the exact site area after the detailed survey by the Lands Department.

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

53. The Chairperson said that there was already a reduction in the maximum PR of the residential portion of the subject “CDA” site by 50% from 6 to 3. As regards the view of a Member to reduce the maximum building height of 13 storeys, she said that the building height was consistent with the building restriction in Kowloon Tong. She suggested keeping the development parameters as contained in the draft revised PB for consultation with the KCDC and the Committee would consider the views collected from the KCDC before making the final decision. Members agreed.

Deliberation Session

54. After deliberation, the Committee decided :

- (a) to endorse the proposed development parameters for the residential portion of the subject “CDA” site;
- (b) to endorse the draft revised PB for the subject “CDA” site as shown at Annex 1 of the Paper; and
- (c) to agree that the draft revised PB was suitable for consultation with the Kowloon City District Council. Views collected would be reported to the Committee for consideration prior to promulgation of the revised PB.

[The Chairperson thanked Mr. Eric C.K. Yue, DPO/K, Mr. Wilson W.S. Chan, STP/K, and Ms. Caroline T.Y. Tang, TP/K, for their attendance to answer Members’ enquiries. They left the meeting at this point.]

[Ms. Annie K.W. To and Miss Helen L.M. So, Senior Town Planners/Kowloon (STPs/K), were invited to the meeting at this point.]

**Agenda Item 10**

**Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/K11/192                      Proposed Shop and Services  
in “Other Specified Uses” annotated “Business” zone,  
Unit E7, G/F, Wah Hing Industrial Mansions,  
36 Tai Yau Street and 21 - 25 Tseuk Luk Street, San Po Kong  
(MPC Paper No. A/K11/192)

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**Presentation and Question Sessions**

55.            Ms. 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 shop and services use;
- (c) departmental comments – concerned Government departments had no objection to or no adverse comments on the application;
- (d) no public comment was received during the statutory publication period and no local objection/view was received by the District Officer (Wong Tai Sin); and
- (e) the Planning Department (PlanD)’s views – PlanD had no objection to the application based on the assessment in paragraph 11 of the Paper in that the proposed use was considered generally in line with the planning intention of the “Other Specified Uses” annotated “Business” zone and complied with the Town Planning Board Guidelines No. 22D. It would not be expected to induce significant adverse fire safety, traffic, environmental and infrastructural impacts to the uses/developments within the subject building and the adjacent area. Relevant Government departments had no

adverse comments on the application.

56. Members had no question on the application.

Deliberation Session

57. 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 27.3.2011, 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) the submission and implementation of fire safety measures, including the provision of a means of escape completely separated from the industrial portion 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 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.

58. The Committee also agreed to advise the applicant :

- (a) to apply to the District Lands Officer/Kowloon East of Lands Department for a temporary waiver or lease modification;
- (b) to appoint an Authorized Person to submit building plans for the proposed change in use to demonstrate compliance with the requirements under the Buildings Ordinance regarding the provision of adequate sanitary fitments, access and facilities for the disabled persons and fire-resisting separation from the adjoining premises;

- (c) to comply with the requirements as stipulated in the Code of Practice for Fire Resisting Construction; and
- (d) to consult Food and Environmental Hygiene Department regarding food licence for operation of food business under the Food Business Regulation.

**Agenda Item 11**

**Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/K13/238                      Shop and Services  
in “Other Specified Uses” annotated “Business” zone,  
Unit No. 3, G/F, Metro Centre, 32 Lam Hing Street, Kowloon Bay  
(MPC Paper No. A/K13/238)

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59.                      The Secretary said that the application was submitted by a subsidiary of Sino Land Co. Ltd. (SL). Messrs Raymond Y.M. Chan and Felix W. Fong, who had current business dealings with SL, had declared interests on this item.

[Mr. Raymond Y.M. Chan left the meeting temporarily at this point, and Mr. Felix W. Fong left the meeting at this point.]

**Presentation and Question Sessions**

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

- (a) background to the application, highlighting that a previous planning permission for an estate agency office at Unit 3A and a bank at Unit 3B was revoked by the Town Planning Board on 2.1.2009 due to non-compliance with the approval condition requiring the submission and implementation of fire safety measures before operation of the use;

- (b) the proposed shop and services use;
- (c) departmental comments – concerned Government departments had no objection to or no adverse comments on the application;
- (d) no public comment was received during the statutory publication period and no local objection/view was received by the District Officer (Kwun Tong); and
- (e) the Planning Department (PlanD)’s views – PlanD had no objection to the application based on the assessment in paragraph 11 of the Paper in that the proposed shop and services use was considered generally in line with the planning intention of the “Other Specified Uses” annotated “Business” zone and complied with the Town Planning Board Guidelines No. 22D. It would not generate significant impacts on fire safety aspect and car parking provision in the existing building. Concerned Government departments had no objection to the application, and no public or local objection had been received against the application. Although the previous planning permission was revoked due to non-compliance with approval condition, the applicant had explained that he was not familiar with the procedures for fulfilment of approval conditions and he had submitted the fire service installation plans to the Director of Fire Services for record purpose instead of submitting building plans to the Building Authority. In this regard, a shorter compliance period was recommended in order to closely monitor the implementation of the condition.

61. Members had no question on the application.

#### Deliberation Session

62. 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 was subject to the following conditions :

- (a) the submission and implementation of fire safety measures, including the provision of a means of escape completely separated from the industrial portion and fire service installations in the subject premises within three months from the date of the approval to the satisfaction of the Director of Fire Services or of the TPB by 27.6.2009; and
- (b) if the above 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.

63. The Committee also agreed to advise the applicant :

- (a) to note that a shorter compliance period was granted in order to monitor the fulfillment of the approval condition;
- (b) to ensure that the change of use was complying with the Buildings Ordinance, in particular, provision of two hours fire resisting separation wall between the application premises and the remaining portion of the existing building on the G/F in accordance with paragraph 8.1 of the Code of Practice for Fire Resisting Construction 1996 and the Building (Construction) Regulation 90; and
- (c) to observe road restriction requirements in force when all loading/unloading activities were taking place.

[The Chairperson thanked Ms. Annie K.W. To, STP/K, for her attendance to answer Members' enquires. Ms. To left the meeting at this point.]

[Mr. Raymond Y.M. Chan returned to join the meeting at this point.]

**Agenda Item 12**

**Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/K15/88                      Religious Institution (Church)  
in “Residential (Group A)” zone,  
G32, Yau Tong Centre, Tower 2, 2-4 Ka Wing Street, Yau Tong  
(MPC Paper No. A/K15/88)

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**Presentation and Question Sessions**

64.            With the aid of a Powerpoint presentation, Miss Helen L.M. So, STP/K, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed religious institution (church);
- (c) departmental comments – concerned Government departments had no objection to or no adverse comments on the application;
- (d) one public comment was received during the statutory publication period. The commenter raised questions on whether the applied use would be in breach of the relevant Deed of Mutual Covenant (DMC) and whether the Town Planning Board had any power to change the DMC; whether a new church was needed when there was an existing one at Ka Wing Street; and whether the Government departments noted the change of urban planning in the area in view of the removal of bank, cinema and bowling alley from the subject estate; and
- (e) the Planning Department (PlanD)’s views – PlanD had no objection to the application based on the assessment in paragraph 11 of the Paper in that the proposed use was considered compatible with the other non-domestic uses within the subject building and not incompatible with the surrounding land



uses. Access to the application premises was via an existing entrance through a public lane between Towers 1 and 2 of the subject estate which was separated from the entrance lobby of the residential tower above. As such, it was unlikely that the proposed use would cause nuisance to the residents. Concerned Government departments had no objection or adverse comments on the application. It was noted that church use was not a restricted use in the DMC. The removal of the bank, cinema and bowling alley was a commercial decision of the market.

65. A Member asked if any concession had been given to the previous uses for cinema and bowling alley in the subject estate by the Government. Miss Helen L.M. So, STP/K, replied that according to the land lease, the application premises was designated for 'Shop (Bank)' purpose according to the relevant Master Plan, but the bank had moved out in 2000. She had no information at hand on the amount of premium paid for the bank use.

66. In response to another Member's enquiry on the DMC restrictions, Miss Helen L.M. So explained that the DMC was not a relevant planning consideration for the subject application. Instead, Members would need to consider if the proposed use was compatible with the surrounding area in the "Residential (Group A)" zone.

#### Deliberation Session

67. Noting that the DMC should fall outside the jurisdiction of the Town Planning Board, a Member said that there was no need for the Committee to respond to such matter as raised by a the public commenter.

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

- (a) the submission and implementation of fire service installations in the application premises, within six months from the date of the approval to the satisfaction of the Director of Fire Services or of the TPB by 27.9.2009;

and

- (b) if the above 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.

69. The Committee also agreed to advise the applicant to 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 means of escape and the provision of access and facilities for persons with a disability.

[The Chairperson thanked Ms. Helen L.M. So, STP/K, for her attendance to answer Members' enquires. Ms. So left the meeting at this point.]

### **Agenda Item 13**

#### **Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/K22/4                      Proposed Flat and Houses with Ancillary Pier (Landing Steps)  
in "Commercial (2)" zone,  
1-5 Kai Hing Road, Kowloon Bay  
(New Kowloon Inland Lot Nos. 5805, 5806 and 5982)  
(MPC Paper No. A/K22/4)

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

70. The Committee noted that the applicant on 5.3.2009 had requested for further deferment of the consideration of the application for two months in order to allow more time for the applicant to review the building intensity and built form of the proposed development so as to address the concerns of Government departments.

Deliberation Session

71. After deliberation, the Committee decided to further 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 further information, and no further deferment would be granted unless under very special circumstances.

**Agenda Item 14**

Any Other Business

72. There being no other business, the meeting was closed at 11:30 a.m..