

TOWN PLANNING BOARD

Minutes of 412th Meeting of the Metro Planning Committee held at 9:00 a.m. on 29.1.2010

Present

Director of Planning
Mrs. Ava S.Y. Ng

Chairperson

Mr. Stanley Y.F. Wong

Vice-chairman

Mr. Nelson W.Y. Chan

Mr. Leslie H.C. Chen

Professor N.K. Leung

Dr. Daniel B.M. To

Ms. Sylvia S.F. Yau

Mr. Walter K.L. Chan

Ms. Starry W.K. Lee

Mr. K.Y. Leung

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

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

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

Assistant Director/Kowloon, Lands Department
Ms. Olga Lam

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

Mr. Maurice W.M. Lee

Dr. Winnie S.M. Tang

In Attendance

Assistant Director of Planning/Board
Mr. Lau Sing

Chief Town Planner/Town Planning Board
Miss H.Y. Chu

Town Planner/Town Planning Board
Ms. Karina W.M. Mok

Agenda Item 1

Confirmation of the Draft Minutes of the 411th MPC Meeting Held on 15.1.2010

[Open Meeting]

1. The draft minutes of the 411th MPC meeting held on 15.1.2010 were confirmed without amendments.

Agenda Item 2

Matters Arising

[Open Meeting]

2. The Secretary reported that there were no matters arising from the last meeting.

Kowloon District

Agenda Item 3

Section 12A Application

[Open Meeting (Presentation and Question Sessions Only)]

Y/K9/5 Application for Amendment to the
Draft Hung Hom Outline Zoning Plan No. S/K9/23
from “Comprehensive Development Area (1)” to “Open Space”,
Government Land at the Junction of Hung Luen Road and Wa Shun Street,
Hung Hom (KIL11205)
(MPC Paper No. Y/K9/5)

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

3. The Secretary reported that the following Members had declared interests in this item:
 - Ms. Starry W.K. Lee’s spouse owned a flat at Whampoa Garden. She was also a member of the Kowloon City District Council (KCDC) which passed

a motion on 2.7.2009 requesting the Government to consider lowering the plot ratios (PRs) of the application site and the adjoining “Comprehensive Development Area (2)” (“CDA(2)”) site;

- Mr. Raymond Y.M. Chan owned a flat at Laguna Verde; and
- Mr. Maurice W.M. Lee owned a shop in Bulkeley Street.

4. The Committee noted that Mr. Raymond Y.M. Chan and Mr. Maurice W.M. Lee had tendered their apologies for being unable to attend the meeting whereas Ms. Starry W.K. Lee had not yet arrived at the meeting.

5. The Secretary also said that the application site was a land sale site. Ms. Olga Lam, being the representative of the Lands Department, had declared an interest in this item. Since the application was for an amendment to the Outline Zoning Plan (OZP) and related to plan-making process, Members agreed that in accordance with the Town Planning Board (TPB)’s established practice, Ms. Lam could be allowed to stay at the meeting.

Presentation and Question Sessions

6. The following representatives from the Planning Department (PlanD) were invited to the meeting at this point :

Mr. Eric C.K. Yue - District Planning Officer/Kowloon (DPO/K)
Mr. Vincent T.K. Lai - Senior Town Planner/Kowloon (STP/K)

7. The following applicants and their representatives were also invited to the meeting at this point :

Hon. Dr. Priscilla Leung
Mr. Lau Wai Wing
Mr. Cheung Yan Hong
Mr. Chan Chan Pui
Ms. Chan Chin Ha
Mr. Fung Yuk Yan

Mr. Kwan Wai Lung
Ms. Kwok Yuk Ying
Mr. Lee Sing Yip
Mr. Leung Kam Tong
Ms. Li Shau Lin, Sirwina
Ms. Lim Ik Hwa
Ms. Ma Wai Mui
Ms. Ng Mei Wah
Mr. Poon Tsang Wa
Ms. Wong King Chi
Ms. Wong Yim Lan

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

8. The Chairperson extended a welcome and explained the procedures of the hearing. Mr. Vincent T.K. Lai, STP/K, was then invited to brief Members on the background to the application. With the aid of a Powerpoint presentation, Mr. Lai presented the application as detailed in the Paper and made the following main points :

The Application

- (a) the applicants proposed to rezone the application site from “CDA(1)” to “Open Space” (“O”) on the draft Hung Hom OZP No. S/K9/23. According to the Notes of the OZP, the planning intention of the subject “CDA(1)” zone was for hotel, retail and public transport interchange (PTI) uses, and it was subject to development restrictions, including a maximum PR of 4.0, maximum site coverage of 80% (excluding basement(s)), maximum building height (BH) ranging from 75mPD to 15mPD, a stepped height profile descending towards the waterfront, and the provision of ancillary car parking in the basement;
- (b) the applicants had not provided any details on the design of the proposed “O” zone nor indicated where the proposed PTI should be provided. The applicants’ justifications were summarised in paragraph 2 of the Paper;

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

Departmental Comments

(c) the comments of the relevant Government bureau/departments were detailed in paragraph 9 of the Paper. The key comments were summarised below :

- the District Lands Officer/Kowloon West, Lands Department (DLO/KW, LandsD) objected to the application as it affected the delivery of suitable land supply for development by the real estate market and tourism industry;
- the Assistant Commissioner for Transport/Urban, Transport Department could not agree to the deletion of the proposed PTI from the application site unless the existing temporary open-air PTI adjacent to the Hung Hom ferry pier could be retained;
- the Commissioner for Tourism (C for Tourism) advised that the rezoning proposal might reduce the supply of land for hotel development in the territory. The current “CDA(1)” zoning for the application site should be retained and the applicants’ concerns on air ventilation and recreational uses could be addressed through the restrictive clauses in the planning brief and lease documents;
- the Chief Town Planner/Urban Design and Landscape, PlanD advised that while open space use was considered appropriate at the waterfront location from urban design perspective, the spatial distribution of open spaces in the locality and the balance between the development needs and provision of open spaces should not be overlooked in order to achieve an efficient use of scarce land resources. As a waterfront promenade and a large open space had already been planned adjacent to the application site, she had no strong view on keeping the site for comprehensive development; and

- the Director of Leisure and Cultural Services (DLCS) pointed out that if the existing PTI would not be relocated to the subject “CDA(1)” site, the land concerned could not be vacated for open space development. Moreover, there were plenty of open spaces provided in the vicinity of the application site;

Public Comments and Local Views

- (d) during the statutory publication period of the application, a total of 83 public comments were received, of which 81 supported the rezoning proposal, one objected to the application without providing reason and one expressed concern on land revenue implication;
- (e) the 81 comments supporting the proposal included 7 comments from the KCDC members and 6 comments from owners’ committees (including one letter enclosing 1,137 signatures from the Owners’ Committee of Phase 9, Whampoa Garden). The major grounds were that the future development at the subject “CDA(1)” site under the current PR and BH restrictions would block the important ventilation opening at Whampoa Garden and the adjoining area, generate wall and heat island effects, and block the visual linkage between the icon of the district (i.e. ‘The Whampoa’) and the harbour; the proposed “O” zone could address the inadequate provision of public open space and sports/community facilities in the area; there were already a lot of commercial, residential and student hostels developments in Hung Hom; and the proposed “O” zone could help providing a continuous waterfront promenade from Tsim Sha Tsui to Kwun Tong;
- (f) the District Officer (Kowloon City) advised that the KCDC passed a motion on 2.7.2009 urging the Government to further reduce the PR of the subject site as detailed in paragraph 9.1.8 of the Paper; and

PlanD’s views

- (g) PlanD did not support the application based on the assessment in paragraph 11 of the Paper which was summarised as follows :

- the current zoning and development restrictions for the subject site were based on the Hung Hom District Study (HHDS) under which an extensive public engagement exercise including brainstorming sessions, briefings and public forums had been conducted. Based on the HHDS’ recommendations and in response to the public aspiration for a better living environment, the development parameters for the application site had been amended by reducing the PR from 6.0 to 4.0, imposing site coverage restriction (maximum 80%) and tightening of building height restrictions (BHRs) from 40-75mPD to 15-75mPD. Hence, the planned uses and development parameters for the “CDA(1)” site had struck a balance between the public aspiration and development needs;
- the future developer was required to make reference to the planning and design requirements stipulated in the planning brief for the application site and submit a Master Layout Plan (MLP) in tandem with the necessary technical assessments, including visual impact assessment (VIA) and air ventilation assessment (AVA), for the consideration of the TPB. The MLP would also be published for public comments. The above could ensure that the future development on the application site would be in line with the planning intention and compatible with the surrounding developments;
- there were sufficient existing and planned open spaces in the Hung Hom district. According to the Hong Kong Planning Standards and Guidelines, the requirement and provision of local open space in 2021 would be 12.41 ha and 14.48 ha respectively (with a surplus of 2.07 ha), and that of district open space would be 46.4 ha and 72.4 ha respectively (with 26 ha above the standard);
- the new urban park proposed at the existing temporary PTI adjacent to Hung Hom Ferry Pier would be affected by the rezoning proposal as it was planned to relocate the temporary PTI to the subject “CDA(1)” site and then vacate the land for open space development. It should be noted that the new urban park was about 2.3 ha in area whereas the “CDA(1)”

site was only 1.6 ha in area;

- the AVA study of the HHDS had demonstrated that adverse air ventilation impacts to be caused by the proposed developments at the “CDA(1)” site would be very unlikely. The AVA study of the Hung Hom OZP Review had also revealed that the two air paths in the Hung Hom Bay Reclamation Area were along Hung Lok Road and Hung Hom South Road, which had long been reserved on the OZP as green corridors through the designation of a number of “O” zones along the roads from the waterfront to the hinterland. Moreover, two non-building areas (NBAs) of 30m and 10m wide in the adjoining “CDA(2)” site had been reserved to provide additional ventilation openings;
- the applicants alleged that the photomontage prepared by PlanD (Plan Z-7 of the Paper referred) visualising the proposed building of 75mPD at the application site was misleading as it appeared to be lower in height than Whampoa Garden of 52mPD. It should be noted that the photograph for the photomontage was taken at the roof garden of ‘The Whampoa’, which was the landmark building in the area and was publicly accessible. As the proposed hotel (75mPD) at the application site was at a greater distance from ‘The Whampoa’ than the nearby residential blocks (i.e. Blocks 1 and 6 in Phase 9 of Whampoa Garden), the proposed hotel would thus be visually lower in height than the residential blocks on the photomontage;
- the approved planning brief for the application site had imposed a stepped height profile control of 15mPD, 40mPD and 75mPD with the lowest height band facing the waterfront and along the visual corridor from ‘The Whampoa’. It should be noted that the BHR of 15mPD was for the provision of a podium block to cover the PTI, which would help minimise the potential visual impacts to the visual corridor, the adjoining open space and the waterfront promenade;
- to preserve the view from ‘The Whampoa’, the feasibility of providing a

sunken PTI had been examined with a view to lowering the height of the podium structure of 15mPD. The findings indicated that the overall visual benefit by adopting the sunken option as compared with the at-grade option was not significant. Moreover, the sunken option would involve additional land requirements and other technical problems which would impose constraints on the design of the adjoining open space and waterfront promenade and hence was not recommended;

- it was necessary to ensure that limited land resources could be utilised in a way that met the needs of the society, including economic development. In this regard, DLO/KW, LandsD and C for Tourism had raised their concerns on the rezoning proposal; and
- it was noted that most of the commenters supported the application. However, the planning of the Hung Hom waterfront sites had undergone a comprehensive public consultation exercise. In response to the public aspiration, various measures such as reduction of development intensity and site coverage as well as imposition of NBAs, had been incorporated in the Hung Hom OZP and the approved planning brief. The development needs and the public opinion had been duly considered and balanced during the planning process.

9. The Chairperson then invited the applicants to elaborate on the application. The Hon. Dr. Priscilla Leung, Mr. Lau Wai Wing and Mr. Cheung Yan Hong made the following main points :

Planning of Waterfront Sites

- (a) the reasons put forward by PlanD to reject the subject application were based on past studies completed several years ago, which had not taken into account the Government's latest policy directive to enhance the harbourfront areas;
- (b) the applicants had received many complaints from the residents in Kowloon West areas complaining that the allocation of the Government

resources was focused on the development of new Central harbourfront and the West Kowloon Cultural District. The planning of the waterfront area in Hung Hom, which also formed part of the harbourfront area, was overlooked by the Government. In this regard, the Hon. Dr. Priscilla Leung on 9.12.2009 proposed and the Legislative Council passed a motion requesting the Government to enhance the planning of waterfront sites in Kowloon and other districts so as to create favourable conditions for the implementation of the Kowloon waterfront promenade project;

- (c) to enhance the waterfront area in Hung Hom, the application site should be used for open space purpose rather than for hotel development and hence the site should be removed from the Application List. In connection with this, the Real Estate Developers Association of Hong Kong (REDA), in its submission to the Council for Sustainable Development on 1.12.2009, also proposed to remove certain Government land sale sites in urban areas from the Application List and rezone certain sale sites to “O”. The REDA’s submission had identified the application site for rezoning to “O”;

Air Ventilation Impact

- (d) a number of high-rise buildings recently developed in the area, including Harbour Front Horizon Hotel, Harbour View Horizon Hotel, Harbour Place, Harbour Grand Kowloon and Harbourfront Landmark, had blocked the wind corridors at the Hung Hom waterfront area. As a result, the only channel through which the sea breeze could reach the inland areas was between Blocks 5 and 6 in Phase 9 of Whampoa Garden (which was 43m wide) and the application site. If this channel was also blocked, it would not only affect the Hung Hom district, but also the inner areas such as Mongkok, Ho Man Tin, To Kwa Wan and Kowloon City;
- (e) Hung Hom South Road only provided a wind corridor for the easterly wind. If high-rise buildings were developed at the application site and the adjoining “CDA(2)” site, the westerly and south-westerly wind in the summer season would be blocked. The application site should therefore be rezoned to “O” to avoid blocking the westerly and south-westerly wind

in summer;

- (f) the inner areas of Hung Hom, such as at Wuhu Street, Tak Man Street and Baker Street, were densely built with insufficient open space. The air quality of this area was also very poor. Hence, the application site should not be developed into a 75mPD high building which would block the inflow of sea breeze;

Visual Impact

- (g) the residents of Whampoa Garden were very concerned about the changes to their living environment with the completion of the recent developments at the Hung Hom Reclamation Area. They strongly objected to the development of “wall-like” buildings at the waterfront area and requested to remove the subject site from the Application List. As shown on the additional information tabled by the applicants at the meeting, the recently completed Harbour Front Horizon Hotel (58mPD) had already blocked the visual/ventilation corridor along Hung Hom Road. If the application site was developed, it would block the present view from Shung King Street towards the Hong Kong Island. The photomontage prepared by PlanD was misleading as the proposed building of 75mPD at the application site was shown to be lower in height than Whampoa Garden of 52mPD;
- (h) as the residential blocks of Whampoa Garden were lower than all the newly completed buildings and future developments in the Hung Hom Reclamation Area, the adoption of stepped height profile for the Hung Hom Reclamation Area could not alleviate the adverse visual impacts caused to the residents;

Provision of Open Space

- (i) the DLCS’ statement that there were plenty of open spaces in the area was not agreed in view of the densely built environment and the poor air quality in the area;

KCDC’s Motion

- (j) the local residents had collected thousands of signatures requesting the Government to further reduce the PR of the application site from 4.0 to 2.0, like what the Government had done for the ex-North Point Estate site. The KCDC had also passed a motion on 2.7.2009 requesting the Government to consider lowering the PRs of the application site and the adjoining “CDA(2)” site;
- (k) the residents were disappointed that their request was not acceded to by the Government despite their strong objection and the KCDC’s motion;

Others

- (l) Hung Hom was a residential area. Two large hotels and the Harbourfront Landmark had already been completed, and there was no demand for more high-density hotel/commercial developments in the area. As there was no shortage of hotels in the Hung Hom district, the proposed use of the application site for open space purpose would not affect the tourism industry in Hong Kong; and
- (m) the existing PTI could be relocated to the adjacent “CDA(2)” site or “R(A)2” site, instead of to be incorporated in the application site.

10. A Member requested the applicants to clarify whether the subject application was for rezoning the site to “O”, or for lowering the PR of the future development on the site. The Hon. Dr. Priscilla Leung said that the applicants proposed to remove the “CDA(1)” site from the Application List and rezone it to “O”. However, she would like to inform the Committee about the request of the KCDC, i.e. the PR of the application site should be further reduced and future developments along the Hung Hom waterfront should not be taller than the existing buildings in the inner areas. In response to another question raised by this Member, the Hon. Dr. Leung said that to facilitate the open space development on the application site, the PTI to be provided thereon could be relocated to the adjacent “CDA(2)” site.

11. In response to a Member’s question, Mr. Eric C.K. Yue, DPO/K, said that a stepped height concept was adopted for developments in the Hung Hom Reclamation Area,

including the application site. The imposition of BHRs on the OZP had taken into account the existing heights of buildings in the reclamation area. The highest BHR in the reclamation area was 150mPD for the Royal Peninsula. The BHR then descended towards the waterfront at 105mPD for the Harbour Place, 100mPD for the “R(A)2” site, 75mPD (the highest point within the application site and the adjoining “CDA(2)” site) and finally the waterfront promenade. For the application site, the maximum BH of development would be 15mPD at the southeastern part in order to provide a podium to cover the proposed PTI, 40mPD in the southern part near the waterfront and 75mPD in its northern part. The BHRs designated for the application site would help retain the visual corridor from ‘The Whampoa’ to the waterfront.

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

12. In reply to a Member’s question on the provision of open space in the area, Mr. Eric C.K. Yue referred to Plan Z-5 of the Paper and said that the Wa Shun Street Sitting-out Area, together with the existing temporary PTI site, was planned to be developed into a new urban park of about 2.3 ha. The park would serve as a buffer between the application site and the residential buildings in Phase 9 of Whampoa Garden. With the provision of this open space and the stepped height concept adopted for the application site, the visual corridor from ‘The Whampoa’ to the waterfront could be kept. Mr. Yue continued to point out that according to the AVA study of the Hung Hom OZP Review, Hung Lok Road and Hung Hom South Road were identified as the air paths in the Hung Hom Bay Reclamation Area. They had been reserved on the OZP as green corridors by designating a number of “O” zones along the roads to enhance the air flow from the waterfront areas to the hinterland. The initial development of the Hung Hom waterfront promenade project would commence soon and be completed in early 2011. In response, Mr. Cheung Yan Hong said that the proposed 75mPD high hotel building on the site would definitely block the views of the residential buildings in Phase 9 of Whampoa Garden. Moreover, Hung Hom South Road could only allow the inflow of easterly wind but not southerly wind. Hence, the application site should be rezoned to “O” to address the adverse visual and air ventilation impacts. He further pointed out that the proposed “O” sites along Hung Lok Road were split into three plots of land by roads which was not desirable.

13. In reply to the Chairperson’s question, Mr. Eric C.K. Yue said that an AVA

Study was carried out by consultants in 2008 for the Hung Hom OZP Review. According to the AVA report, which was a public document viewable at PlanD's website, the annual prevailing wind came from the east whereas the prevailing wind in the summer season came from the south. The study found that Hung Lok Road and Hung Hom South Road were the two wind corridors for bringing sea breeze from the waterfront to the inland areas, and confirmed that the "O" zones in that area could help enhance the air flow. The Hon. Dr. Priscilla Leung urged to remove the "CDA(1)" site from the Application List so that it would not be developed into high-rise building and blocked the inflow of sea breeze to the inland areas.

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

Deliberation Session

15. A Member said that the disposition of buildings within the "CDA(1)" site should be carefully designed so as to minimise the visual impact to nearby residents. The Chairperson said that a maximum site coverage of 80% had been stipulated in the Notes for the "CDA(1)" zone on the OZP to control the building mass with a planning brief to guide the preparation of MLP. Moreover, under the subject "CDA(1)" zoning, the future developer had to submit a MLP to be supported by various technical assessments for the consideration of the TPB. In response to another Member's query, the Chairperson said that the visual corridor from 'The Whampoa' to the waterfront was required to be preserved according to the requirements of the approved planning brief for the application site.

16. Regarding the applicants' request to lowering the PR of the application site, Members noted that the development parameters of the two "CDA" sites had been thoroughly considered by the TPB on 23.8.2008 when the representations on the Hung Hom OZP were heard. The Chairperson remarked that the development parameters were mainly based on the recommendations of the HHDS on which the local and public at large had been widely

consulted. The current development parameters were more stringent than those stipulated in the previous version of the OZP and had struck a balance between meeting the public aspiration for a better living environment and the development needs. She reminded the Committee that the subject of the s.12A application was to change the “CDA(1)” zoning to “O” rather than to lower the PR of the site. Members noted that the TPB would have sufficient control on the layout and design of the future development on the site through the submission of MLP as required under the “CDA” zoning. In addition, the planning brief for the “CDA(1)” site had set out detailed planning requirements and design guidelines which should be taken into account by future developers in preparing the MLP for the approval of the TPB.

17. In response to a Member’s query, the Secretary clarified that the revised PRs for the ex-North Point Estate site based on the gross site area and net site area were 3.22 and 5.63 respectively as agreed by the Committee on 10.7.2009. The applicants’ claim that the PR for the ex-North Point site was about 2.0 was incorrect. The PR for the subject “CDA(1)” site was lower than the PR of the ex-North Point Estate site based on the net site area.

18. A Member noted that there was no development programme for the three proposed “O” sites along Hung Lok Road and suggested that these sites should be developed into open space as early as possible so that a ‘green’ corridor could be created to tie in with the completion of the Hung Hom waterfront promenade project. The Chairperson said that the capital expenses for the implementation of the proposed “O” sites would be sought by the DLCS in accordance with the established resource allocation system, which was a matter for the relevant Government bureau/departments. The Chairperson suggested and Members agreed that the Secretariat should relay Members’ suggestion to DLCS for consideration.

19. In response to the Chairperson’s question, Mr. Anthony Loo of Transport Department said that re-provisioning of the existing temporary PTI to the application site was more preferable than the “CDA(2)” site as the application site was at a shorter distance from the nearby residential areas.

20. Members then went through the reasons for rejecting the application as stated in paragraph 12.1 of the Paper and agreed that they should be suitably amended to reflect Members’ views as expressed at the meeting. After further deliberation, the Committee

decided not to agree to the application for the following reasons :

- (a) the planning of Hung Hom waterfront sites including the subject “Comprehensive Development Area (1)” (“CDA(1)”) site had been thoroughly studied and widely consulted. It was considered that the “CDA(1)” zoning of the subject site was appropriate and had struck a balance between public aspirations and development needs;
- (b) the detailed planning and design requirements had been set out in the planning brief to guide the future development of the “CDA(1)” site to ensure that the development would be in line with the planning intention of the Outline Zoning Plan with no adverse environmental, visual and air ventilation impacts; and
- (c) the existing and planned provision of open spaces in the district were above the Hong Kong Planning Standards and Guidelines, and plenty of open spaces were also located in the close vicinity of the “CDA(1)” site. There were no strong justifications for rezoning the subject site to “Open Space”.

21. The Committee also agreed to request the Secretariat to relay Members’ suggestion to the Leisure and Cultural Services Department for consideration, i.e. the three proposed “O” sites along Hung Lok Road should be developed into open space as early as possible so that a ‘green’ corridor could be created and the timing of completion should preferably tie in with that for the Hung Hom waterfront promenade project.

[Professor N.K. Leung, Mr. Walter K.L. Chan, Mr. Nelson W.Y. Chan and Mr. C.W. Tse left the meeting temporarily at this point.]

Hong Kong District

Agenda Item 4

Section 12A Application

[Open Meeting (Presentation and Question Sessions Only)]

Y/H15/6 Application for Amendment to the Approved Aberdeen and Ap Lei Chau Outline Zoning Plan No. S/H15/24 from “Other Specified Uses” annotated “Aggregate/Cement Handling and Concrete Batching Area” to “Government, Institution or Community”,
23 Tin Wan Praya Road, Tin Wan
(MPC Paper No. Y/H15/6)

Presentation and Question Sessions

22. The following representatives from the Planning Department (PlanD) and the Development Bureau (DEVB) were invited to the meeting at this point :

Ms. Brenda K.Y. Au - District Planning Officer/Hong Kong (DPO/HK),
PlanD
Mr. David C.M. Lam - Senior Town Planner/Hong Kong (STP/HK), PlanD
Mr. Jonathan Leung - Chief Assistant Secretary (Works) (CAS/W), DEVB
Mr. Kwok Wing Cheong - Assistant Secretary (Works Policies), DEVB

23. The following applicants and their representatives were also invited to the meeting at this point :

Ms. Yeung Siu Bik
Mr. Leung Wai Hung
Mr. Lo Kin Hei
Ms. Li Shee Lin
Mr. Au Nok Hin
Mr. Chai Man Hon

24. The Chairperson extended a welcome and explained the procedures of the hearing. Mr. David C.M. Lam, STP/HK, stated that a petition against the use of the application site for concrete batching plant (CBP) purpose was launched by three Southern District Council (SDC) members. The petition letter was tabled at the meeting for Members' reference. With the aid of a Powerpoint presentation, Mr. Lam then briefed Members on the background to the application as detailed in the Paper :

[Professor N.K. Leung, Mr. Nelson W.Y. Chan and Mr. C.W. Tse returned to join the meeting at this point.]

The Application

- (a) the applicants proposed to rezone the application site from "Other Specified Uses" annotated "Aggregate/Cement Handling and Concrete Batching Area" to "Government, Institution or Community" ("G/IC") on the approved Aberdeen and Ap Lei Chau Outline Zoning Plan (OZP) No. S/H15/24 to facilitate the proposed development of an art design and exhibition centre thereat;
- (b) the applicants' proposals and justifications were summarised in paragraphs 1 and 2 of the Paper. The applicants proposed to develop the application site into a 'Container Land' for art activities; and
- (c) apart from the application site which constituted the Phase I development, the applicants had also contemplated Phase 2 development on the adjoining Town Gas gasholder site for restaurant, guest place and office uses, and Phase 3 development on a piece of Government land across Tin Wan Praya Road for a 8-storey hotel. Nevertheless, Phases 2 and 3 and the sites concerned were not the subject of the rezoning application.

25. Mr. Jonathan Leung, CAS/W, DEVB, made the following key points on the need to retain the CBP on Hong Kong Island :

- (a) Tin Wan CBP had been operating on the application site for over 20 years. Situated on the only site zoned for concrete batching on Hong Kong Island,

the CBP was the primary source of concrete supply for the Hong Kong Island;

- (b) many major infrastructure projects, including the Mass Transit Railway (MTR) West Island Line, MTR South Island Line, Harbour Area Treatment Scheme Stage II and Ocean Park Redevelopment, would be carried out on Hong Kong Island in the coming years. There was an urgent and huge concrete demand for the projects; and
- (c) concrete must be delivered to construction sites for use within a short time to ensure reliable quality. Without a CBP on Hong Kong Island, the supply would only be from Kowloon or the New Territories and the risk on concrete supply would be greatly increased. If the concrete supply was not adequate causing delay or interruption, the projects would suffer serious impact and losses. Moreover, long-haul transportation would increase the traffic impact on Hong Kong Island, Kowloon and road tunnels. It would also aggravate the adverse impact on air quality, drive up the price of concrete for Hong Kong Island, and increase the construction cost of the projects.

26. Mr. David C.M. Lam, STP/HK, then continued to brief Members on the application and made the following main points :

Departmental Comments

- (a) the departmental comments were summarised in paragraph 9 of the Paper. The key comments were as follows :
 - the Assistant Commissioner for Transport/Urban, Transport Department reserved his comments on the application as no traffic impact assessment for the proposed use was provided in the application. From the traffic engineering and road safety points of view, the use of the site for CBP was considered acceptable;
 - the Director of Electrical and Mechanical Services (DEMS) advised

that the site fell within the Consultation Zone of the Aberdeen Town Gas gasholder which was a Potentially Hazardous Installation (PHI). Any new development at the site needed to have a risk assessment to ensure that risks to the public were within acceptable limits;

- the Director of Leisure and Cultural Services advised that there was no plan to develop the site into an exhibition centre as proposed; and
- the Director of Environmental Protection (DEP) had no adverse comment on the rezoning proposal as the proposed art design/exhibition centre would likely be an indoor environment with appropriate measures to protect itself from potential nuisances arising from the nearby “Industrial” (“I”) and “G/IC” uses. As a general principle, CBPs should be sited as far away from the residential area as possible. The subject site was about 107m away from the nearest residential block and marginally met the minimum 100m buffer distance suggested in the Hong Kong Planning Standards and Guidelines (HKPSG). However, the viability of setting up a new CBP at the site would be subject to complying with all the requirements and obtaining the necessary Specified Process Licence under the Air Pollution Control Ordinance;

Public Comments and Local Views

(b) during the statutory publication period of the application, a total of 16 public comments were received and all of them objected to CBP use on the site. The public comments were highlighted in paragraph 10 of the Paper and summarized below :

- two commenters supported the rezoning and development proposal as the CBP use would affect the health of the local residents and pollute the environment, and the proposal could enhance the tourism development in the area;
- three commenters supported the rezoning to “G/IC” but had

reservation on or did not indicate support for the art design and exhibition centre proposal; and

- the remaining 11 commenters (including the 3 SDC members submitting the petition letter tabled at meeting) proposed to develop or rezone the site into an open space or for greening purpose. One of them objected to the application and considered that open space was a better option than the art use. Another commenter opined that using the site for greening purpose would be more beneficial to the public;
- (c) the Lands Department also conveyed a petition letter dated 8.1.2010 from three SDC members against the re-tendering of the application site for CBP use, which was attached at Appendix III of the Paper;
- (d) the District Officer (Southern) advised that SDC members were very concerned about the environmental pollution and adverse traffic impact caused by the then CBP. They had requested the Government to identify an alternative site for the CBP. When the DEVB informed SDC at its meeting on 12.11.2009 that the Government was not able to identify an alternative site and there was a plan to re-tender the site for concrete batching use, members expressed disappointment and requested the Government to continue searching for suitable alternative site as far as possible. SDC did not deliberate on the future land use of the site; and

Planning Department's views

- (e) PlanD did not support the application based on the assessment in paragraph 11 of the Paper which was summarised as follows :
- the application site was the only zoned site for CBP on Hong Kong Island. It had been zoned for such purpose since 1983. CBP operation on the site had been in place for over 20 years and the primary source of concrete supply for Hong Kong Island. There was a need to retain a CBP site on Hong Kong Island to meet the concrete demand arising from infrastructure development and the construction industry;

- PlanD had carried out three rounds of extensive site search to find a replacement site for Tin Wan CBP but no suitable replacement site could be identified mainly because of incompatibility with existing/planned uses, traffic concern, removal of extensive vegetation, and/or possible environmental/traffic nuisances to the residents along the transportation routes. PlanD had reported to SDC on the findings of the site search exercises and explained the reasons for not being able to identify a suitable replacement site;
- the nearest residential building (i.e. Wah Lai House of Wah Kwai Estate) was separated from the then CBP at a distance of about 107m which was in line with the HKPSG. A series of improvement measures had been identified to minimise the environmental, traffic and road safety impacts arising from the operation of the future CBP. The related requirements would be imposed in the short term tenancy (STT) of the application site for CBP purpose;
- the applicants claimed that the proposed use of the site for arts activities was to tally with the Aberdeen Tourism Project. It should be noted that the Aberdeen Tourism Project proposed in 2007 had previously put forward an idea of using the site for a coach holding/sitting out area in the long term, but not to develop it into a tourist attraction. As advised by the Commissioner for Tourism, the application site no longer fell within the scope of the Aberdeen Tourism Project which was refined in 2009;

[Mr. Walter K.L. Chan returned to join the meeting at this point.]

- the application site was adjoining a cluster of sites zoned and developed for industrial uses and utility installations, including a Town Gas gasholder, a preliminary sewage treatment works, ice plant/cold storage and an industrial building. Particularly, the Town Gas gasholder next to the site was a PHI. These existing facilities, except the preliminary

sewage treatment works, fell on private land. Developing the site for tourism related uses with the co-existence of the industrial uses and utility installations would create land use incompatibility and undesirable interface problems. Moreover, it would be extremely difficult to find suitable replacement sites for such facilities on Hong Kong Island or to relocate the private properties; and

- the applicants' proposal for an art design and exhibition centre was intended for a large number of visitors. Nevertheless, the application site was adjoining a PHI (Town Gas gasholder), and no risk assessment had been submitted to demonstrate the acceptability of the proposal in terms of the risk level. Furthermore, the applicant had not demonstrated that the proposed use would not have adverse traffic impact on the area.

27. The Chairperson then invited the applicants and their representatives to elaborate on the application.

28. Mr. Leung Wai Hung briefed Members on the main ideas of the proposed art design and exhibition centre as follows :

- (a) the proposal of using the application site for an art design and exhibition centre was to tally with the Government's policy of promoting creative industries in Hong Kong and to tally with the suggestion made in the Aberdeen Tourism Project to develop the application site for tourism related activities;
- (b) under the applicants' proposed development scheme to the area, there would be three phases. Phase 1 development which covered the application site would be used for the provision of art learning places, art forum, exhibition area, mini canteen and open space. Phase 2 development would be on the adjoining Town Gas gasholder site for restaurant, guest place and office uses. Phase 3 development would be on a piece of Government land across Tin Wan Praya Road for a 8-storey

hotel development;

- (c) in the Phase 1 development, there would be two blocks made of containers with a height of three to four storeys (about 7.5m to 10m) and a plot ratio of not exceeding 2.7. The proposed low-density and low-rise development would not have any adverse environmental impacts on the surrounding areas; and
- (d) apart from providing venues for art activities and for the gathering of artists and people who liked art, the proposed art design and exhibition centre would also generate employment opportunities for the community.

29. Ms. Yeung Siu Bik, Ms. Li Sheen Lin, Mr. Lo Kin Hei and Mr. Chai Man Hon made the following main points :

- (a) according to the China Town Gas, the Town Gas gasholder site was mainly used for office purpose. Hence, the comments of DEMS on the need for risk assessment were incorrect;
- (b) the CBP previously operating on the application site had caused road safety problems on Tin Wan Praya Road, which was the only road for vehicles to and from Wah Kwai Estate. Heavy vehicles reaching and leaving the CBP had left wet cement and pebbles on the road, making the road very slippery and unsafe. Despite that the section of Tin Wan Praya Road near the CBP had been paved with anti-skid dressing by the Highways Department, it had already been worn out after three years due to the frequent use by the heavy vehicles of the CBP. In this regard, complaints had been lodged by car and bus drivers using the road;
- (c) the criteria used by the Environmental Protection Department (EPD) in assessing the impact of suspended particulates caused by the operation of the CBP on the area were not up-to-date. By adopting the concentration targets set out under the World Health Organisation (WHO) for suspended particulates, the measured levels in eight months of the year had exceeded

the WHO's standard. The suspended particulates from the CBP would adversely affect the health of the residents;

- (d) it was a planning mistake to use the application site for CBP purpose as it was too close to residential developments and had caused serious environmental and road safety problems in the local residential neighbourhood. The Government should have considered relocating the CBP when developing Wah Kwai Estate and Ka Lung Court in the 1990's. It was totally unreasonable and unacceptable that the local residents had to bear with the severe problems caused by the CBP simply because the application site had been used for CBP for 20 years and that it was the Government's policy to have a CBP site on Hong Kong Island. To correct the planning mistake, an alternative site should be identified for the CBP and the application site should be used for other appropriate uses. In this regard, they supported the applicants' proposal of using the application site for art design and exhibition centre purpose with provision of open space;
- (e) it was doubtful as to why such a short time was required to transport concrete from a CBP to construction sites. Such requirement could be met if the concrete batching process was undertaken on construction sites. Relocating the CBP to outlying islands with the construction of a road connecting to Hong Kong Island should also be considered; and
- (f) the shortest distance between the application site and Wai Lai House should be measured from the southern-most corner of the building block of Wai Lai House, but not the corner adopted by PlanD as shown on Plan Z-2 of the Paper. The distance between the application site and the southern-most corner of Wah Lai House was only about 90m, which was less than the minimum separation distance of 100m set out in the HKPSG.

30. Members had the following questions on the application :

- (a) whether the adjoining Town Gas gasholder site was still used for gas

holding purpose;

- (b) whether PlanD had explored the possibility of relocating the CBP to the outlying islands;
- (c) whether the distance between the application site and the nearest residential block was less than 100m as suggested by the applicants' representatives;
- (d) whether the assessment criteria being used by EPD on suspended particulates were under review; and
- (e) what were the mitigation measures to minimise the environmental, traffic and road safety impacts arising from the operation of the future CBP.

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

31. With the aid of a Powerpoint presentation, Mr. Jonathan Leung made the following main points in response to Members' questions in paragraphs 30(b) and (e) above :

- (a) in view of the relatively small size of the construction sites in Hong Kong and the possible adverse impacts on the surrounding areas, it was not suitable to carry out concrete batching process on construction sites. Instead, a number of CBPs had been set up on Hong Kong Island, Kowloon Peninsula and New Territories to provide a stable source of quality concrete. Maintaining a stable and reliable supply of quality concrete was important for the economic development of Hong Kong and in the interest of the wider general community;
- (b) concrete must be delivered to construction sites for use within a short time after production. As such, the CBP should be set up close to construction sites. Relocating the CBP to the outlying islands would incur longer time for transporting concrete via sea and land to construction sites. This would affect the timely supply and quality of the concrete; and

- (c) to address the concerns of SDC and local residents, a series of mitigation measures had been introduced to minimize the environmental, traffic and road safety impacts arising from the operation of the future CBP after consulting relevant experts and departments. To minimize the dust generated from the CBP, new type of sand barges with electrically-driven cover and enhanced sprinkler system and sand unloading system would be used. The CBP would be operated in enclosed structures, and enhanced wheel washing facilities to clean up vehicles before leaving the CBP would be provided. In previous CBP, there was only one air quality monitoring point in the site. To closely monitor the environmental impact of the future CBP, a total of five air quality monitoring points would be set up in the area. For traffic safety, electrical drop bar, control kiosk, flashing light, siren, warning signs, road humps would be installed at the site entrance and exit. Landscape enhancement works would also be provided. The operator of the CBP would be required to employ an independent environment team to oversee the implementation of various mitigation measures and a monitoring group comprising representatives of local residents and DC members would be set up to closely monitor the situation. The above mitigation measures would be stipulated in the conditions of the STT of the application site requiring the future operator of the CBP to implement the measures accordingly.

32. In response to Members' questions in paragraphs 30(a) to (d), Ms. Brenda K.Y. Au, DPO/HK, made the following points:

- (a) according to the information provided by DEMS, the Town Gas gasholder was still in use to meet the demand for gas during peak hours;
- (b) the outlying islands to and the coastal areas at the southern and south-eastern parts of Hong Kong Island were mostly unformed land and mainly planned for conservation purposes. Relocation of the CBP on these islands as proposed was therefore considered not suitable;
- (c) the southern-most corner of Wah Lai House still had a distance of about

100m from the application site, which could meet the minimum separation distance set out in the HKPSG; and

- (d) the air quality objectives of Hong Kong were under review by EPD. The review was still on-going and details on the revision of air quality objectives were not yet available. Nevertheless, to operate the future CBP on the application site, its operator had to meet the air quality objectives/requirements in accordance with the latest requirements under the law and obtain/renew the necessary Specified Process Licence (which needed to be renewed every two years) under the Air Pollution Control Ordinance.

[Mr. K.Y. Leung left the meeting temporarily at this point.]

33. In response to a Member's enquiry, Ms. Yeung Siu Bik stated that as there was no supporting information/data, it was not sure whether the proposed mitigation measures for the operation of CBP on the application site would be adequate and effective. Nevertheless, as mitigation measures would not solve the fundamental land use incompatibility problem, the CBP should be relocated from the residential development as far as possible. Mr. Lo Kin Hei stated that the application site should not be retained for CBP use as it was incompatible with the adjoining residential development. Mr. Chai Man Hon added that by making reference to Plan Z-1 of the Paper, the distance between the application site and the southern-most corner of Wah Lai House was only about 97.5m, which was less than the minimum buffer distance of 100m.

34. In response to a Member's enquiry, Mr. C.W. Tse, the Assistant Director (Environmental Assessment), EPD, said that air quality objectives were being reviewed and the public views would be sought on the implementation of the proposed revision of air quality objectives. Final details of the new air quality objectives and the time for their implementation were not available yet. At this stage, he did not know whether the future new air quality objectives would affect the pollution control requirements of the CBP on this site. In any case, the future CBP on the application site needed to comply with all statutory requirements and obtain the necessary Specified Process Licence under the Air Pollution Control Ordinance.

35. In response to a Member's enquiry, Ms. Brenda K.Y. Au said that a total of 47 possible sites had been considered in the last three rounds of extensive site search. However, after consultation with the concerned Government departments and careful consideration, none of them was found suitable due to reasons such as incompatibility with the existing/planned uses, environmental and traffic concerns, nuisances to the residents in the surrounding areas, extensive vegetation clearance, and adverse impacts on environmental sensitive areas. In this regard, it was unlikely that new possible sites could be found at this stage. Nevertheless, planning was an on-going process and the Government would continue to keep in view of the matter.

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

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

Deliberation Session

37. A Member did not support the rezoning application as the applicants did not submit any traffic impact assessment to illustrate that the proposed art design and exhibition center would not have adverse traffic impact on Tin Wan Praya Road. The applicant also did not submit any risk assessment in relation to the adjacent Town Gas gasholder which was a PHI. The Member added that a series of mitigation measures for the operation of the future CBP on the application site had already been established, it was important that the relevant Government departments should closely monitor the implementation of the mitigation measures by the CBP. The above views were shared by other Members.

38. Another Member stated that the need to retain a CBP on Hong Kong Island and the difficulties of finding a suitable replacement site were noted. To rezone another site for such use would equally face with objecting voices. However, the Government should not

ignore the concerns and comments of the local residents on the CBP and should continue to discuss with the local community on the latest progress and details of the CBP development. As regards the site search, the relevant Government departments should be more open-minded in considering all possible replacement sites and further examine whether it was feasible to relocate the CBP to the outlying islands. Another Member concurred that the application site was not the optimum location for the CBP and the Government should continue to identify a replacement site.

39. Regarding the separation distance between the CBP and the residential development, a Member stated that according to the Powerpoint presentation made by Mr. Jonathan Leung, the building structure of the CBP would be located in the inner part instead of the western edge of the application site. As such, the separation distance between the CBP structure and the nearest residential development should be more than 100m. In this connection, Ms. Olga Lam, the Assistant Director/Kowloon, Lands Department, informed Members that a 2m non-building area along the western boundary of the application site had been stipulated in the conditions of the STT for using the site as a CBP. In response to a Member's enquiry, Ms. Lam stated that the STT for the application site for concrete batching purposes had been tendered with tender closing date in January 2010.

40. After further discussions, the Chairman summed up that Members generally agreed that the rezoning application should not be supported as there was a need to retain the application site for CBP purpose to meet the demand of concrete by major infrastructure projects on Hong Kong Island in coming years, the technical problems of the proposed rezoning had not been addressed, and the rezoning of the application site for the purpose would create landuse incompatibility and undesirable interface problems with the adjacent uses along the waterfront. However, Members considered that the relevant Government departments should continue to identify a replacement site for CBP use in due course and closely monitor the implementation of the mitigation measures to minimize the environmental, traffic and road safety impacts arising from the operation of the future CBP.

41. Members then went through the reasons for rejecting the application as stated in paragraph 12.1 of the Paper and agreed that they should be suitably amended to reflect Members' views as expressed at the meeting. After further deliberation, the Committee decided not to agree to the application for the following reasons :

- (a) the application site was the only zoned site for concrete batching plant on Hong Kong Island. No replacement site was available if the site was rezoned for the proposed art design and exhibition purpose. There was a need to retain the site to cope with the demand for concrete for infrastructure development and construction projects on Hong Kong Island. The current zoning of the site was considered appropriate;
- (b) being located next to the Town Gas gasholder, rezoning the site for the purpose under application would create land use incompatibility and undesirable interface problems and there was no assessment to ensure that the proposed development would not be subject to unacceptable risk level; and
- (c) no traffic impact assessment had been submitted to demonstrate that the proposed art design and exhibition development would not be subject to adverse traffic impact.

[Dr. Daniel B.M. To and Mr. Andrew Tsang left the meeting whereas Ms. Sylvia S.F. Yau left the meeting temporarily at this point.]

Agenda Item 5

Section 12A Application

[Open Meeting (Presentation and Question Sessions Only)]

Y/H3/5 Application for Amendment to the
Approved Sai Ying Pun & Sheung Wan Outline Zoning Plan No. S/H3/22
and Approved Urban Renewal Authority Staunton Street/Wing Lee Street
Development Scheme Plan No. S/H3/URA1/2
from “Comprehensive Development Area” to
“Residential (Group C)”, 60-66 Staunton Street, 4-6 Chung Wo Lane
and Adjoining Government Land, Sheung Wan
(MPC Paper No. Y/H3/5A)

42. The Secretary said that as the application site was related to the development scheme of the Urban Renewal Authority (URA) at Staunton Street/Wing Lee Street, the following Members had declared their interests in this item :

- | | | |
|---|---|---|
| Mrs. Ava S.Y. Ng
as the Director of Planning | } | being the non-executive directors of the URA; |
| Mr. Walter K.L. Chan | } | |
| Mr. Maurice W.M. Lee | - | being a former non-executive director of the URA with the term of office ended on 30.11.2008; |
| Professor Bernard V.W.F. Lim | - | having current business dealings with the URA; |
| Mr. Nelson W.Y. Chan | - | being a Member of the Kwun Tong District Advisory Committee (DAC) of the URA; |
| Mr. Raymond Y.M. Chan | - | being a Member of the Home Purchase Allowance Appeals Committee and having current business dealings with Henderson Land Development Co. Ltd. who was the developer of the adjoining CentrePoint development; |
| Ms. Olga Lam
as the Assistant Director of the Lands Department | - | being an assistant to the Director of Lands who was a non-executive director of the URA; and |

Mr. Andrew Tsang - being an assistant to the Director of Home Affairs who was a non-executive director of the URA.
as the Assistant Director of the Home Affairs Department

43. The Committee noted that Mr. Maurice W.M. Lee, Professor Bernard V.W.F. Lim and Mr. Raymond Y.M. Chan had tendered their apologies for being unable to attend the meeting whereas Mr. Andrew Tsang had left the meeting. Mr. Nelson W.Y. Chan was allowed to stay at the meeting as the DAC to which he belonged was an advisory body to the URA and the area of work did not relate to the subject application. The interests of the other Members were considered direct and they should leave the meeting temporarily for the item. As the Chairperson had to withdraw from the meeting, the Committee agreed that the Vice-chairman should take over and chair the meeting in her stead. The Vice-chairman chaired the meeting at this point.

[Mrs. Ava S.Y. Ng, Mr. Walter K.L. Chan, Ms. Olga Lam and Mr. Leslie H.C. Chen left the meeting temporarily at this point.]

Presentation and Question Sessions

44. The following representatives from the Planning Department (PlanD) were invited to the meeting at this point :

Ms. Brenda K.Y. Au - District Planning Officer/Hong Kong (DPO/HK)
Mr. C.M. Li - Senior Town Planner/Hong Kong (STP/HK)

45. The following applicants and their representatives were also invited to the meeting at this point :

Mr. Ian Brownlee
Ms. Anna Wong
Mr. Dare Koslow
Mr. K.B. Eliget
Ms. Helen Lindman
Mr. David Tam

Mr. David Yan

Mr. Andrew Wong

Ms. Katty Law

46. The Vice-chairman extended a welcome and explained the procedures of the hearing. Ms. Brenda K.Y. Au, DPO/HK, was then invited to brief Members on the background to the application. Ms. Au said that the replacement of pages 1 and 4 of the Paper and an attachment to F-Appendix II of the Paper had been sent to Members and the applicants on 27.1.2010 and 28.1.2010 respectively. With the aid of a Powerpoint presentation, she then presented the item as detailed in the Paper and made the following main points :

[Ms. Sylvia S.F. Yau and Mr. Leslie H.C. Chen returned to join the meeting at this point.]

The Application

- (a) the URA Staunton Street/Wing Lee Street Development Scheme Plan (DSP) area comprised Sites A, B and C. The applicants, who were some of the property owners at Site C, proposed to rezone the application site covering Site C from “Comprehensive Development Area” (“CDA”) to “Residential (Group C)” (“R(C)”) with a maximum plot ratio (PR) of 5 and a maximum building height of 12 storeys on the approved Sai Ying Pun & Sheung Wan Outline Zoning Plan (OZP) No. S/H3/22 and the approved URA Staunton Street/Wing Lee Street DSP No. S/H3/URA1/2. The applicants indicated that the proposed “R(C)” zone could either remain in, or be excised from the DSP for incorporation into the OZP. The proposed rezoning would not affect the development proposed by the URA at Sites A and B of the DSP area. Site photos showing the existing conditions of the application site were displayed;

- (b) the subject s.12A application was considered by the Committee on 24.7.2009. The relevant extract of the minutes of the meeting held on 24.7.2009 was at F-Appendix II of the Paper. As highlighted in the minutes, while Members were generally sympathetic with the rehabilitation efforts of the applicants and some other owners on their properties, the

proposed rezoning of Site C from “CDA” to “R(C)” which would allow redevelopment of individual buildings for residential use as of right was not supported. As the existing buildings at Site C were not historic/graded buildings, the long-term planning intention of Site C should not be for preservation, and the existing buildings could be demolished in the long run. The long-term planning intention of Site C for comprehensive development/redevelopment should remain valid, but probably under a separate “CDA” zone and allowing renovation of the existing buildings prior to redevelopment. In light of the increasing public aspiration for lower development intensity and public concern on “wall-like” development, PlanD was requested to draw up a proposal on the basis of a separate “CDA” zone for the site with appropriate planning parameters. The relevant stakeholders, including the URA and the applicants, should be given the opportunity to comment on the proposal. Members were also concerned about the legal implications of the proposed approach as the URA had started to acquire properties since the approval of the subject DSP by the CE in C in 2007. After deliberation, the Committee decided to defer consideration of the application pending the written evidence by the applicants to support their claim on support from the other owners, submission of the proposal (hereafter referred to as the Alternative Development Proposal) to be worked out by PlanD for the separate “CDA” zoning for Site C, and the legal advice on the proposed approach;

Legal Advice on the Proposed Approach

- (c) as detailed in paragraph 2 of the Paper, legal advice on the approach proposed by the Committee was sought and summarised below :

Request for Preparation of the Alternative Development Proposal and Its Consideration in the Context of s.12A of the Town Planning Ordinance

- (i) it was considered that the Committee’s request for preparation of the Alternative Development Proposal was consistent with the general plan-making function of the Town Planning Board (TPB) under the Town Planning Ordinance (the Ordinance). Such request was, in effect, a request for information from the PlanD for the purpose of

finding an alternative to the proposed rezoning of Site C to “R(C)”. The Alternative Development Proposal, under which the suggested zoning for Site C was “CDA”, was inconsistent with the s.12A application, under which the proposed zoning for Site C was “R(C)”;

- (ii) under s.12A(23) of the Ordinance, the Committee was obliged to either to “accept, in whole or in part, the application” or “refuse the application”. The s.12A application must be considered on its own merits and its disposal should be de-linked from the consideration of the Alternative Development Proposal;
- (iii) if the s.12A application was accepted, there was then no need to pursue the Alternative Development Proposal any further. If the s.12A application was refused, the Committee could then consider, separately, whether or not the Alternative Development Proposal should be pursued. If the TPB/Committee decided to adopt the Alternative Development Proposal, it would have to follow the procedures for effecting amendments to the approved DSP under s.12(1)(b)(ii) and s.12(3) of the Ordinance;

Other Observations from the Legal Viewpoint

- (iv) the TPB put forward the amendment to the draft DSP to excise the CentrePoint from the DSP area in June 2007 and the DSP was approved by the Chief Executive in Council (CE in C) in October 2007. The approved DSP should therefore guide the exercise of powers by the TPB/Committee, including the consideration of the subject s.12A application;
- (v) the planning intention of the “CDA” zone, which was to “achieve environmental improvement through comprehensive redevelopment, restructuring the street pattern, promoting efficient land use and providing community facilities/public open space”, had not changed between the time the draft DSP was approved in October 2007 and now, and as considered by the Committee, the “long-term planning intention

of Site C for comprehensive development/redevelopment of this site should remain valid”;

- (vi) on 23.11.2007, the TPB endorsed the revised Planning Brief, which set out the planning parameters, urban design, engineering, infrastructural, heritage and related requirements for the preparation of a Master Layout Plan (MLP) by the URA encompassing Sites A, B and C; and
- (vii) in considering whether to accept the Alternative Development Proposal and proceed with the amendment of the DSP, it was relevant for the TPB/Committee to take into account the fact that the URA had, in reliance upon the approved DSP, started to acquire properties in Site C since the approval of the DSP in October 2007 and the implications such as the impact on the implementation of the approved DSP by the URA, whether the planning intention of Site C could be carried out, and whether public interest would be prejudiced;

Alternative Development Proposal for Site C

- (d) PlanD had worked out an Alternative Development Proposal for Site C based on the Committee’s view on 24.7.2009 that the long-term planning intention for Site C should not be for preservation, but for comprehensive development/redevelopment, and the existing buildings could be demolished in the long run. As a starting point, reference had been made to the development intensity for CDA in the Hong Kong Planning Standards and Guidelines (HKPSG) which stated that the maximum domestic PR for CDA was 6.5, higher domestic PR might be permitted having regard to local circumstances such as infrastructure capacity, and non-domestic PR component might be included in addition to the domestic PR. PlanD had studied different options ranging from pure domestic development with a PR of 5 to composite development with total PR up to 7;
- (e) while the infrastructure capacity in the area could sustain a higher PR at Site C, taking into account the latest intention of revitalising the Former

Police Married Quarters as well as the context of Site C set within the surrounding area in terms of land use, development intensity and building height, an Alternative Development Proposal with the following key features was recommended :

- (i) a composite commercial/residential building with a maximum total PR of 6.5, including a maximum non-domestic PR of 0.5, was proposed. This was lower than the recommended PR of 6.5 plus non-domestic component in the HKPSG for CDA sites. The maximum site coverage of the podium and residential tower would be 60% and 40% respectively;
- (ii) a maximum building height of 120mPD was proposed which would allow a medium-rise building with an absolute building height of about 70m or 20 storeys including a 2 to 3-storey podium. The podium could accommodate shop/eating place, entrance lobby, ancillary clubhouse/recreational facilities and podium garden, with 17 to 18 residential floors above;
- (iii) it was proposed to confine the building footprint to the portion of Site C fronting onto Staunton Street, with the provision of a public open space (POS) at the rear of Site C at Chung Wo Lane and a corner splay at the junction of Staunton Street and Aberdeen Street to facilitate pedestrian movement. Taking into account that the combined area of the existing sitting out area (about 40m²) and the Government land (about 60m²) adjoining 6 Chung Wo Lane was about 100m² and the proposed widening of Chung Wo Lane might take up part of the proposed POS, it was proposed that the POS at Site C should have an area of not less than 90m²; and
- (iv) it was proposed to improve and widen the section of Chung Wo Lane adjoining Site C from about 4m to 6m to improve the streetscape and public access to and visibility of the POS from Staunton Street. There would be no vehicle parking within Site C. Loading/unloading (L/UL)

activities would be carried out on-street at the proposed combined L/UL bay at Staunton Street for shared use with the adjacent CentrePoint development;

- (f) in formulating the Alternative Development Proposal, PlanD had taken into account the following issues as detailed in paragraphs 3.3 to 3.8 of the Paper :

Land Use Compatibility

- (i) the URA had proposed to develop two residential blocks of 6 and 13 storeys on Sites A and B respectively. Bridges Street Market and 10-12 Wing Lee Street within Site A and 88-90 Staunton Street within Site B would be preserved for adaptive re-use, with the former for retail and community uses (e.g. a museum or photo display centre) and the latter two for commercial (retail) uses. Outside the DSP area, the surrounding area was predominately occupied by residential developments under the “Residential (Group A)” (“R(A)”) zoning with non-domestic uses on the ground floor. To the east of Site C along Staunton Street, the lower floors would be mainly used as shops and restaurants/cafes. To maintain the existing local character, it was proposed that retail/eating place use should be provided on the G/F of Site C fronting Staunton Street. This would enhance the vibrancy of the area extended from the Soho area to the east and complement the revitalisation and adaptive re-use of the Former Police Married Quarters for the promotion of creative industries;

Development Intensity/Building Height

- (ii) two high-rise, high-density private developments, Dawning Height (PR 8; 141.9mPD) and CentrePoint under construction (PR 10; 136.8mPD), were located between Sites B and C. Other high-rise private developments of similar intensities in the vicinity included CentreStage (PR 10.3; 162.6mPD), Casa Bella (PR 8.1; 181mPD), Albron Court (PR 10.1; 168.1mPD), Caine Tower (PR 7.9; 148.9mPD) and Kam Kin Mansion (PR 8.6; 155.9mPD). The

Former Police Married Quarters site had an existing PR of about 2.4 and a building height of 71.1mPD (Block A). The existing developments to the southeast along Staunton Street were low to medium-rise with PR from 3 to 5.3 and building height from 67.4mPD to 75.8mPD. They were under “R(A)” zoning on the OZP and subject to redevelopment up to a PR of 8 to 10 as permissible under the Building (Planning) Regulations, depending on the site classification. In determining the appropriate PR and building height of Site C, both the existing developments and the likelihood of redevelopment of the existing buildings should be taken into account;

- (iii) as shown in the building height profiles along Staunton Street and Aberdeen Street, the proposed medium-rise, medium-density development with a PR of 6.5 and a building height of 20 storeys (about 120mPD) at Site C was considered compatible with the development intensity and height of buildings in the surrounding area i.e. within the setting of the several high-rise, high-density developments in the immediate vicinity. The proposed development could function as a transition between the high-rise developments and some existing low to medium-rise buildings to the southeast as well as the blocks within the Former Police Married Quarters site. The proposed height and intensity of the Alternative Development Proposal as shown on a photomontage were also compatible with the Former Police Married Quarters buildings when viewed from Hollywood Road. It was considered that a PR of 6.5 and building height of 120mPD represented an optimal development at Site C, after taking the above considerations into account; and

Open Space Provision

- (iv) opportunity was taken to improve the existing sitting out area at Chung Wo Lane. A POS of not less than 90m² was proposed at the rear of Site C at Chung Wo Lane (revised from 80m² in the proposal passed to the URA and the applicants and the difference was mainly attributed to the proposed widening of Chung Wo Lane which would

take up part of the sitting out area). Lift along Staunton Street would be provided at the adjoining CentrePoint development to facilitate the public to access the proposed POS at the podium level of the CentrePoint. The proposed POS would be linked up with those POSs at Wa In Fong and CentrePoint, as well as in Sites A and B of the DSP area. In addition, private open space was proposed on the 1/F podium of Site C;

The URA's Comments on the Alternative Development Proposal

- (g) the URA on 13.8.2009 submitted a letter requesting for an opportunity to be heard when the Committee further considered the s.12A application. The URA's solicitors on 28.9.2009 submitted another letter to the TPB stating that, among others, a proper exercise of the TPB's power and discretion would be to allow the URA to attend and be heard in the s.12A application. On 28.12.2009, the Secretary of the TPB replied that s.12A(18) of the Ordinance provided that the applicant and/or his representatives were entitled to attend and to be heard at the relevant meeting held for the consideration of a s.12A application by the TPB. As the URA was not the applicant of the subject s.12A application, section 12A(18) had no application to the URA for the purpose;

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

- (h) as detailed in paragraph 4.2 of the Paper, the URA's solicitors submitted on 28.9.2009 a letter to the TPB, stating that the Committee's proposal for a separate "CDA" zoning for Site C was unlawful and amenable to judicial review (JR). The proposed separate "CDA" zoning was outside the TPB's statutory power and Wednesbury unreasonable. The original planning intention was to develop the area as a site comprising two physically separate portions, and hence it was Wednesbury unreasonable to suggest that the original planning intention was no longer tenable as there was little physical connection between Site C with Sites A and B. In considering the application, the Committee ought to treat the approved DSP as the default position and should not accede to any rezoning application without

good and sufficient reasons. The Committee should also take into account the impacts of the proposed amendments on the implementation of the DSP and the legitimate expectation of the URA, the tenants and owners of the DSP area who had sold their properties to the URA, as well as those who supported the URA's Development Scheme;

- (i) as detailed in paragraph 4.3 of the Paper, the URA on 7.12.2009 had provided comments on the Alternative Development Proposal. It pointed out that the TPB's proposal for a separate "CDA" zoning for Site C was subject to JR for the reasons as set out in its solicitors' letter dated 28.9.2009 which were still valid. In particular, the proposed excision of Site C from the DSP for the implementation of a comprehensive redevelopment by a third party was simply not implementable without the consent of all the owners (including the URA). A separate zoning for and excision of Site C would derail and substantially delay the implementation of the DSP as far as Sites A and B were concerned and would have wide implication on the overall urban redevelopment initiative. Without prejudice to the URA's stance and the above views and on the basis of reservation of its rights and interests, the URA had no objection in principle to the proposed maximum total PR of 6.5 for Site C and a maximum non-domestic PR of 0.5, having considered the CE's 2009 Policy Objective regarding the revitalization proposal for the Former Police Married Quarters site. Besides, it was presumed that if the non-domestic PR of 0.5 could not be fully utilised, the residual non-domestic PR could be optimised/utilised in the domestic portion, provided that the total PR did not exceed 6.5. It was also presumed that covered private open space within the site was gross floor area non-accountable, provided that the headroom was conducive to open space use;

The Applicants' Comments on the Alternative Development Proposal

- (j) the applicants' comments on the Alternative Development Proposal vide their letter dated 16.12.2009 were highlighted as per paragraph 4.4 of the Paper and summarised as follows :

- (i) the proposal had misinterpreted both the owners' intention in their application and the Committee's decision. In paragraph 25(i) of the minutes of the meeting held on 24.7.2009, Members were of the view that high-rise development at the site was incompatible with the character of the area given the intention of retaining and revitalising the Former Police Married Quarters site;
- (ii) PlanD's proposal to permit a 20-storey building with a PR of 6.5 was considered to be completely out of character with the applicants' intention as expressed at the hearing, the general feeling of the public and Members' views. A PR of 5 and building height of 12 storeys as proposed in the application were the maximum which would be acceptable;
- (iii) a specific planning intention should be provided for Site C relating to the character of the existing buildings and the Former Police Married Quarters site. To adopt a generalised approach from the HKPSG was considered insensitive and inappropriate;
- (iv) the applicants had expressed the importance of being able to retain the ownership of their own properties. As PlanD was unable to clarify if it was the intention to remove the applicants' properties from the DSP area, the applicants wished to reserve their position on the proposed use of the "CDA" zone as an alternative to their proposed "R(C)" zone; and
- (v) the applicants did not see the justification for the proposed POS of not less than 80m², unless it related to the existing sitting out area within Site C;

Support from Other Owners of Site C

- (k) of the total of 33 units within Site C, nine (2/F and 4/F of 60 Staunton Street, 1/F and 4/F of 62 Staunton Street and whole block of 64 Staunton Street) were owned by the applicants, while eight (G/F and cockloft, 1/F, 3/F and 5/F of 60 Staunton Street, G/F and cockloft, 2/F, 3/F and 5/F of 62

Staunton Street) were owned by URA. The remaining sixteen units (whole block at 66 Staunton Street and whole blocks at 4 and 6 Chung Wo Lane) were owned by three other owners; and

- (l) in their letter dated 16.12.2009, the applicants stated that they did not represent the other owners within Site C. The other owners had expressed their reluctance to agree in writing to something which was so uncertain. They also referred to the fact that they (except for one owner) were present at the meeting held on 24.7.2009 and their views were recorded in paragraph 18 of the minutes.

[Mr. K.Y. Leung left the meeting temporarily at this point.]

47. The Chairperson then invited the applicants and their representatives to elaborate on the application. With the aid of a Powerpoint presentation, Mr. Ian Brownlee made the following main points :

- (a) other than the URA, there were seven property owners within Site C. All four applicants of the subject application were property owners within Site C. Three of them, including Mr. Dare Koslow, Mr. K.B. Elliget and Ms. Helen Lindman, were present at the meeting. The representatives of the remaining three owners within Site C, including Mr. David Tam, Mr. David Yan and Mr. Andrew Wong, had also attended the meeting. During the consideration of the application on 24.7.2009, the Committee had requested the applicants to submit written evidence to support the claim on support from other owners within Site C. Although the other owners within Site C had expressed their reluctance to agree in writing to something which was so uncertain, the presence of their representatives at the meeting today indicated that they had mutual concerns that they did not want their properties to be taken by the URA;
- (b) renovation works had been carried out by some owners on the properties/buildings within Site C as shown on the photos which had been displayed at the meeting on 24.7.2009;

- (c) according to paragraph 25 of the minutes of the meeting held on 24.7.2009 at F-Appendix II of the Paper, it appeared that the Committee had accepted the view that there was nothing of such urgency to require the URA to come into Site C and commence forced purchase or resumption of the properties of those owners who did not want to sell their properties to the URA. Besides, the Committee considered that the original planning intention of Site C was no longer appropriate and was prepared to take a longer-term view to eventually have a comprehensive form of development of the site;
- (d) as pointed out in the letter dated 16.12.2009 at F-Appendix VIII of the Paper, the applicants were of the view that the building height at Site C should be reduced to 12 storeys and the PR be reduced to 5 in view of the relationship to the Former Police Married Quarters site on the opposite side of Staunton Street. Besides, there was no justification for the proposed widening of Chung Wo Lane at the expense of the development, nor for the need to provide a POS of not less than 90m² when there was already 80m² of Government land available for open space use;
- (e) the main issue for the applicants/owners was whether the boundary of the subject DSP would be amended so that the URA could not forcibly take ownership of the private properties. It was believed that it was the intention of the Committee by asking PlanD to prepare an Alternative Development Proposal based on a separate "CDA" zoning for Site C. If the boundary of the subject "CDA" zone was to be amended, it would be logical to also amend the boundary of the subject DSP;
- (f) in response to the URA's letter dated 7.12.2009 and its solicitors' letter dated 28.9.2009 which stated that the Committee's proposal for a separate "CDA" zoning for Site C was subject to JR, s.12A of the Ordinance allowed any person to apply to the TPB to amend a draft or approved statutory plan, including DSP. When deciding to propose an amendment to the statutory plan on the basis of a s.12A application, the TPB was not

making a final decision. It only proposed amendment to the statutory plan for public notification and consultation under s.7 of the Ordinance. That process provided the rights of submitting representation and hearing to people who had an interest in the proposed amendment to the statutory plan. That was the time when the URA could properly submit representation and be heard, rather than trying to be present for this hearing. In this regard, the Secretary of the TPB had rightly refused the URA's request to attend and be heard at the meeting of this s.12A application. While any TPB's decision could be judicially reviewed, not all would be accepted by the court. The TPB had not made any decision that was suitable for the court to review until it had completed the hearing process in relation to the proposed amendment to the statutory plan. Upon consideration of the representations, the TPB might wish to amend or even abandon the proposed amendment to the statutory plan as in the case of the "CDA" zone (Seaview Building) at Repulse Bay Beach;

- (g) the information in the letter of the URA's solicitors dated 28.9.2009 at F-Appendix IV of the Paper was inaccurate and misleading. Paragraph 1.2 of the letter suggested that by proposing an alternative to the proposed "R(C)" zoning, the Committee was altering or amending the nature of the subject s.12A application, and in doing so, it was acting outside its statutory powers. However, paragraph 7 of the applicants' supplementary planning statement at Appendix 1a of MPC Paper No. Y/H3/5 had stated that "Alternatively the Board could consider to amend the "CDA" zone within the DSP so that Site C is shown as "R(C)", or make any other amendment to either the OZP or DSP which will enable the private properties to remain with the existing owners". This had provided the Committee the flexibility to consider any alternative other than the proposed "R(C)" zoning. It was noted that the Department of Justice (DoJ) in providing its legal advice as mentioned in paragraph 2(c) of the Paper also had not considered the actual wordings of the applicants' proposal under the subject s.12A application. In this respect, it was considered by the applicants that the Alternative Development Proposal for Site C prepared by PlanD could be considered under the applicants' alternative to

the “R(C)” amendment;

- (h) regarding paragraph 1.3(a) of the letter of the URA’s solicitors dated 28.9.2009 about the physical separation of Site C from the other sites of the DSP area, the applicants had presented to the Committee on 24.7.2009 that with the removal of the CentrePoint site, Site C had no physical connection with Sites A and B of the DSP area and the Committee had accepted this as a reason of why the planning intention of the entire “CDA” zone was no longer tenable;
- (i) the paragraph reference mentioned in paragraph 1.3(b)(i) of the letter of the URA’s solicitors dated 28.9.2009 was wrong. It was recorded in paragraph 9(l)(vi), but not paragraph 25(a), of the minutes of the meeting held on 24.7.2009 that DoJ had advised that “the TPB should not have a presumption in favour of the URA’s development proposal and should consider the objections in the light of the evidence before it”;
- (j) the URA’s solicitors indicated in paragraph 1.3(b)(vi) of its letter dated 28.9.2009 that the Committee should not accede to any application to amend the approved DSP under s.12A of the Ordinance unless good and sufficient reasons were shown to justify the proposed amendments. The applicants on 24.7.2009 had presented to the Committee that the circumstances had changed to such an extent that the inclusion of Site C in the URA scheme was no longer warranted. As such, good and sufficient reasons and justifications had been provided by the applicants to amend the DSP with regard to Site C. Under the subject application, no change was proposed for Sites A and B of the DSP area and the URA could proceed with their scheme on those two sites;
- (k) the information quoted in paragraph 1.4(a) of the letter of the URA’s solicitors dated 28.9.2009 was not relevant to Site C, or not of a sufficient problem to warrant compulsory purchase of private properties. The needs to improve the building conditions and living environment in Site C were not present and pressing. Regarding the flats that the URA had acquired

in Site C as mentioned in paragraph 1.4(d) of the letter, there were many options that the URA could pursue to recover the investments it had made in these properties. As recorded in paragraph 11(d) of the minutes of the meeting held on 24.7.2009, the applicants had proposed that the URA could give the former owners the right of first refusal to buy the properties back. It could rehabilitate the buildings in conjunction with the applicants and sell any unclaimed flats in the open market and probably make a profit;

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

- (l) there was no reason why the Committee should not consider a revised planning intention for Site C based on the submitted information, particularly that the implementation of the proposed “CDA” zone could be done by the private sector and was not dependent on the URA through resumption of private properties. In fact, paragraph 25 of the minutes of the meeting held on 24.7.2009 indicated that the Committee had concluded that the original planning intention for Site C was no longer appropriate. The planning brief could also be amended as had been done by the Committee once before in relation to the CentrePoint development site;

- (m) neither DoJ and the URA’s solicitors had addressed the issue of public purpose. It was clear from both the development proposal put forward by the URA and the Alternative Development Proposal prepared by PlanD that the tests as to whether it was for a public purpose could not be met. As recorded in paragraph 11(b) of the minutes of the meeting held on 24.7.2009, Professor Roger Nissim had presented to the Committee that there were three criteria in considering an application for resumption of land under the Land Resumption Ordinance, including that (a) the land required was clearly for a public purpose; (b) whether there was no alternative which would not require the resumption of the land; and (c) the area of land to be resumed was the minimum area of land necessary to achieve the public purpose. Professor Roger Nissim was of the view that Site C failed to meet all three criteria as recorded in paragraph 11(c) of the minutes of the meeting held on 24.7.2009. A slide showing the four

constraints attached to the power to resume under the then Crown Lands Resumption Ordinance which had been presented to the Committee on 24.7.2009 was displayed again. It was clear that the public purpose must be a real one. The mere fact that the land fell within the boundary of the DSP could not be regarded as a public purpose;

- (n) in sum, there were changed circumstances and the inclusion of Site C within the development scheme of the URA was no longer justified from the planning point of view. The subject OZP had been referred back for amendment by the CE in C. It was therefore appropriate for the Committee to recommend amendment to the OZP as it considered appropriate; and
- (o) the URA still did not have an approved MLP for the subject DSP area. Without an approved MLP, the URA could not commence implementation of the scheme. It was noted that the URA had again asked for deferral of consideration of its MLP. This was a continued delay to its own implementation. The applicants of the subject s.12A application had submitted an alternative MLP under Application No. A/H3/388, approval of which would facilitate the URA to proceed with the implementation of Sites A and B of the DSP area.

[Ms. Helen Lindman left the meeting at this point.]

48. Noting that the applicants had not submitted written evidence to support their claim on support from the other owners of properties within Site C, a Member asked the representatives of the three other owners as to whether the three other owners supported the subject s.12A application.

49. Mr. David Yan made the following main points :

- (a) he was unwilling to sell the building at 4 Chung Wo Lane which was the ancestral property of his family. Although the building was old, he had the ability to carry out renovation or maintenance works for the building.

Fire safety was not a problem as the building was just two blocks (about 20 feet) away Staunton Street; and

- (b) his building was located in a prime location in the Soho area of the Central district. However, the price offered by the URA to acquire his building was so low that it was not sufficient for him to buy even a village house in the New Territories. Nevertheless, he acknowledged and supported the Government's efforts in urban renewal. He had no objection to the undertaking of urban renewal as the objective was to improve the living conditions of the area.

50. The Vice-chairman asked Mr. David Yan to clarify whether he was only concerned about the amount of acquisition price offered by the URA, or he objected to the redevelopment of the site by the URA. Mr. David Yan said that he had no objection to urban renewal which was to improve the living environment of the local neighbourhood. However, he was concerned about the unreasonably low acquisition price offered by the URA.

51. Mr. David Tam made the following main points :

- (a) he was the representative of his father-in-law, who bought the building at 66 Staunton Street after the war. He and his father-in-law all along had no objection to redevelopment by the Government. However, he strongly objected to the ways adopted by the URA in acquiring the properties and the absurdly low acquisition price offered by the URA. For instance, an old owner, who owned a site of about 500 sq.ft. within the DSP area, was offered only about \$5 million by the URA to acquire his site. Given such a ridiculously low price, this owner was not willing to sell his site; and
- (b) the owners of the properties at the application site were just protecting their properties in accordance with the rights conferred by the Basic Law. If there was a need to revitalise the area, the owners themselves could undertake the rehabilitation works. He requested the Committee to relay their views as expressed at the meeting to the URA. The Vice-chairman

said that the minutes of the meeting would be relayed to the URA for information.

52. Mr. Andrew Wong made the following main points :

- (a) the building at 6 Chung Wo Lane was redeveloped by his grandfather after the war. It was redeveloped together with the building at 4 Chung Wo Lane. While he supported the revitalisation of old urban areas, he had concerns that the subject development scheme of the URA had been delayed for many years and the unreasonably low acquisition price offered by the URA;
- (b) during the acquisition process, the URA had assumed lesser floor area and number of families in the assessment of the acquisition price and Home Purchase Allowance respectively. Although the URA allowed individual owner to employ independent surveyor to assess the value of the property being acquired, the URA had refused to accept the value worked out by independent surveyor, which was about 100% higher than the acquisition price offered by the URA. This had wasted the time and resources of the owners; and
- (c) he hoped that there could be a clear intention as to whether Site C would remain in or be excised from the subject development scheme of the URA. If Site C was to be excluded from the development scheme, they could then decide whether to renovate the properties or rent out the vacant ones. If Site C was to remain within the development scheme, the acquisition offer should be reasonable to enable the affected families to find another suitable property in the area.

53. In response to the Vice-chairman's question on whether Mr. Andrew Wong supported the subject s.12A application for rezoning the site from "CDA" to "R(C)", Mr. Ian Brownlee said that Mr. Wong did not have a lot of background about the subject application. The principle of the three other owners at Site C was that they preferred their properties not to be part of the subject development scheme of the URA, be it "CDA" or "R(C)" zone.

Otherwise, the private market would not operate as there was always a threat that their properties would be resumed even if they did not agree with the acquisition price offered by the URA. The representatives of these three owners had also indicated at the meeting today that if their properties were taken out from the URA's development scheme, they would refurbish their properties themselves. Members cast doubt on whether Mr. Ian Brownlee's views could adequately represent the stance of the three other owners. In summarising the standpoint of Mr. David Yan, Mr. Andrew Wong and himself, Mr. David Tam said that they would like to represent themselves as individual owners of properties in Site C. If the compensation and tactics of the URA were good enough, they were willing to have a dialogue with the URA. Otherwise, they would like to join hands with their neighbours.

54. Mr. Dare Koslow said that he and some owners of properties at Site C had renovated their properties to a high standard, with which they had comfortable homes to live in. Some other owners were not willing to renovate their properties because their properties would be acquired by the URA and there was always a threat that they had to move out eventually. Mr. Dare Koslow continued to point out that the applicants were not interested in getting compensation from the URA. They would like to keep their buildings as low-rise buildings so that the character of the local neighbourhood could be preserved. They were not willing to give up the right of retaining their homes. If the Committee approved the application, it would set a good example for other owners to undertake rehabilitation/renovation works of their own properties.

55. Ms. Katty Law said that she was the convenor of the Central and Western Concern Group and had been living in the area for many years. As the application site and its surrounding areas had already been under the threat of excessive development, she considered that the "R(A)" zoning for the surrounding areas was no longer appropriate and should be reviewed. She appreciated that some property owners of the applications site had undertaken self-initiated renovation works of their properties, which had helped preserve the low-rise character of the local neighbourhood. She also pointed out that although the subject DSP had been approved, there were also changes in the circumstances of the area, people's mentality and the definition of dilapidation. The area, according to her, was not dilapidated and could be regenerated as demonstrated by the self-initiated renovation efforts of some owners in the area.

56. As a concluding remark, Mr. Dare Koslow said that the exclusion of Site C from the development scheme could allow the market force to operate and enable the three other owners to get a fairer valuation of their properties in selling them. Mr. Ian Brownlee said that the reason for the other owners of Site C not providing the written evidence requested by the Committee on 24.7.2009 was that they did not know what they were going to agree to. If the Committee decided to amend the zoning of the site or whatever it deemed appropriate, there would be a concrete proposal for the other owners at Site C, the URA and any other person to submit representations and present their own case before the TPB during the hearing process. Mr. David Tam said that he knew a lot of other owners at Sites A and B of the subject DSP who opined that that if Site C were to be excluded from the development scheme leaving only Sites A and B within the DSP, it would be better not to proceed with the implementation of the entire development scheme.

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

Deliberation Session

58. The Vice-chairman pointed out and Members noted that the applicants and their representatives argued that the Committee had already made some decisions or arrived at some conclusions at the meeting held on 24.7.2009 as stated in paragraphs 47(c), (e) and (h) above. However, as clearly recorded in the minutes of the meeting held on 24.7.2009, the decision of the Committee was to defer consideration of the application pending the written evidence by the applicants to support their claim on support from the other owners; submission of the proposal to be worked out by PlanD for the separate "CDA" zoning for Site C; and the legal advice on the proposed approach. It was not correct to say that the Committee had already made a decision on the planning intention for the site.

59. The Vice-chairman further pointed out and Members noted the followings :

- (a) DoJ had rendered legal advice on the approach proposed by the Committee and they were stated in paragraph 2 of the Paper. In particular, the subject s.12A application must be considered on its own merits and its disposal should be de-linked from the consideration of the PlanD's Alternative Development Proposal;
- (b) in considering the subject s.12A application, it was important to consider whether there was any change in circumstances since the approval of the DSP by the CE in C in October 2007 that warranted a change in the planning intention of the DSP area which included Site C;
- (c) since the approval of the DSP by the CE in C in October 2007, the URA had commenced implementation of the DSP and had acquired eight units out of the total 33 units within Site C;
- (d) apart from the URA who owned eight units, the applicants owned nine units and the three other owners owned 16 units within Site C. At the meeting today, the representatives of the three other owners at Site C had not raised objection to the current "CDA" zoning of the subject site nor indicated that they supported the subject s.12A application. They were mainly dissatisfied with the acquisition price offered by the URA; and
- (e) while several properties at Site C had been renovated, the other properties at the site were generally run down.

60. The Secretary said that DoJ had also reminded the Committee that in making any decision, it was relevant for the Committee to consider, among others, whether public interest would be prejudiced. In this regard, it should be noted that public money had been used by the URA to acquire properties in Site C since the approval of the DSP in October 2007 and the approval of the subject s.12A application would frustrate the implementation of the URA's development scheme.

61. In accordance with the legal advice sought, Members agreed to consider the subject s.12A application on its own merits and de-link it from the consideration of the

PlanD's Alternative Development Proposal. The discussions on the subject s.12A application were summarized below :

- (a) Members noted that as advised by DoJ, the TPB had put forward the amendment to the draft DSP to excise the CentrePoint site from the DSP area in June 2007 and the DSP was approved by the CE in C in October 2007. The approved DSP should therefore guide the exercise of powers by the TPB/Committee including the consideration of the s.12A application by the applicants;

- (b) when the TPB agreed to excise the CentrePoint site from the subject DSP in June 2007, the TPB was aware that Site C would have little physical linkage with Sites A and B. Notwithstanding, the TPB considered that the planning intention of the revised DSP area, which included Site C, for comprehensive redevelopment was still tenable. Subsequently, the TPB had submitted the DSP to the CE in C for approval and further in November 2007 had endorsed the revised Planning Brief for the preparation of a MLP by the URA encompassing Sites A, B and C. Since the approval of the DSP by the CE in C in October 2007, there was no change in circumstances that warranted a change in the planning intention of the DSP area which included Site C. The planning intention of the subject "CDA" zone which was to achieve environmental improvement through comprehensive redevelopment, restructuring the street pattern, promoting efficient land use and providing community facilities/public open space was still valid;

- (c) while one Member did not have comments on the subject application, the other Members considered that the proposed "R(C)" zoning for the site could not be supported. The proposed "R(C)" zoning would allow redevelopment of individual buildings for residential use as of right, thereby defeating the planning intention of the DSP area to bring about environmental improvement through comprehensive redevelopment, restructuring the street pattern, promoting efficient land use and providing community facilities/public open space. There was also no mechanism

under the proposed “R(C)” zoning to ensure that the existing buildings would be retained and renovated as suggested by the applicants;

- (d) the existing buildings were not historical/graded buildings per se and hence the long-term planning intention for Site C should not be for preservation. Moreover, the proposed “R(C)” zoning could not achieve the objective of preservation at Site C;
- (e) regarding the applicants’ claim on support from the other owners of properties within Site C, Members noted that the applicants had not solicited strong support from the three other owners of properties within Site C (other than the URA) as they had previously claimed. The three other owners had not provided their written support to the applicants’ proposal as per the Committee’s request. Furthermore, at the meeting today, their representatives had not raised objection to the redevelopment of the site by the URA per se. Their main concern was about the acquisition price offered by the URA;
- (f) a Member expressed the view that if the subject s.12A application was to be approved by the Committee, this would set a bad precedent for others, who were not satisfied with the acquisition price offered by the URA, to submit s.12A application to the TPB for excluding their properties from the DSP of the URA. This would also render the implementation of urban renewal impossible as it was not uncommon to have owners of properties objecting to the acquisition price offered by the URA. Another Member shared the same view;
- (g) the public interest would be jeopardized as the URA had, based on the approved DSP, already acquired eight units within Site C with a view to achieving comprehensive redevelopment; and
- (h) other than the applicants, the property owners within Site C included the URA and the three other owners. In light of the information in sub-paragraphs (e) and (g) above, Members considered that the

implementability of the applicants' proposal to retain and rehabilitate the existing buildings within Site C by way of the proposed "R(C)" zoning was doubtful.

62. In light of the above, Members agreed that the subject s.12A application could not be supported. Members then went through the reasons for rejection as stated in paragraph 13.1 of F-Appendix I of the Paper and agreed that they should be suitably amended to reflect Members' views as expressed at the meeting.

63. While the concern on the URA's acquisition price as raised by the representatives of the three other owners was outside the jurisdiction of the TPB, Members noted that the representatives had not indicated the exact amount offered by the URA in acquiring their properties. There was also doubt on whether the acquisition price was unreasonably low given that the URA had already acquired eight properties within Site C. In addition, the URA allowed the affected owners to employ independent surveyor to assess the value of their properties. Nevertheless, a Member was sympathetic with the owners in that the redevelopment scheme by the URA had been delayed for a long time. There might be a considerable difference between the acquisition price offered to the owners and the current price of property in the market. Hence, the owners might not be able to purchase a replacement property with the URA's acquisition price. Another Member said that instead of acquiring properties for urban renewal, the URA should consider undertaking urban renewal in co-operation with the owners/residents. This could solicit wider support from the affected owners/residents in urban renewal project while maintaining the original character of the area.

64. The Secretary said that the URA would determine the acquisition offer in accordance with its established acquisition policy and the Urban Renewal Strategy (URS). The Development Bureau was currently undertaking the review of the URS on which the TPB Members were briefed on 12.6.2009. Members' views about the general urban renewal matters could be relayed to the Development Bureau for consideration. Members agreed.

65. Members then had a discussion on how to pursue the Alternative Development Proposal worked out by PlanD and agreed not to pursue it at this stage.

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

- (a) the Development Scheme Plan (DSP) had been approved by the Chief Executive in Council. Since then, there had been no change in circumstances that warranted a change in the planning intention for the DSP area. The proposed “Residential (Group C)” (“R(C)”) zoning of the application site, which would allow piecemeal development, would defeat the planning intention of the DSP area to bring about environmental improvement through comprehensive redevelopment, restructuring the street pattern, promoting efficient land use and providing community facilities/public open space; and
- (b) as the Urban Renewal Authority (URA) had already acquired eight units on the application site and some owners within the application site had no objection to the redevelopment of the site by the URA per se, the implementability of the applicants’ proposal to retain and rehabilitate the existing buildings within the application site by way of the proposed “R(C)” zoning was doubtful.

[Ms. Starry W.K. Lee left the meeting whereas Mr. Nelson W.Y. Chan and Ms. Sylvia S.F. Yau left the meeting temporarily at this point.]

Agenda Item 6

Section 16 Application

[Open Meeting]

A/H3/387

Proposed Comprehensive Residential and Commercial Development with the Provision of Government, Institution or Community Facilities and Public Open Space (Master Layout Plan Submission) in “Comprehensive Development Area” zone, the Site of the Urban Renewal Authority Development Scheme at Staunton Street/Wing Lee Street, Sheung Wan
(MPC Paper No. A/H3/387A)

67. The Secretary said that as the application was submitted by the Urban Renewal Authority (URA) in relation to its development scheme at Staunton Street/Wing Lee Street and AGC Design Ltd. was a Consultant for the application, the following Members had declared their interests in this item :

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|--|---|---|
| Mrs. Ava S.Y. Ng
as the Director of Planning | } | being the non-executive directors of the URA; |
| Mr. Walter K.L. Chan | } | |
| Mr. Maurice W.M. Lee | - | being a former non-executive director of the URA with the term of office ended on 30.11.2008; |
| Professor Bernard V.W.F. Lim | - | having current business dealings with the URA and AGC Design Ltd.; |
| Mr. Nelson W.Y. Chan | - | being a Member of the Kwun Tong District Advisory Committee of the URA; |
| Mr. Raymond Y.M. Chan | - | being a Member of the Home Purchase Allowance Appeals Committee and having current business dealings with Henderson Land Development Co. Ltd. who was the developer of CentrePoint development adjoining to Site C of the subject DSP area; |
| Ms. Olga Lam
as the Assistant Director of the | - | being an assistant to the Director of Lands who was a non-executive |

Lands Department	director of the URA; and
Mr. Andrew Tsang as the Assistant Director of the Home Affairs Department	- being an assistant to the Director of Home Affairs who was a non-executive director of the URA.

68. In addition, the Secretary said that the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) had submitted a comment on the application. As such, Ms. Starry W.K. Lee and Mr. Felix W. Fong, being members of the Central Committee of DAB, had declared their interests in this item.

69. The Committee noted that Mr. Maurice W.M. Lee, Professor Bernard V.W.F. Lim, Mr. Raymond Y.M. Chan and Mr. Felix W. Fong had tendered their apologies for being unable to attend the meeting. While Ms. Starry W.K. Lee and Mr. Andrew Tsang had left the meeting, Mrs. Ava S.Y. Ng, Mr. Walter K.L. Chan, Mr. Nelson W.Y. Chan and Ms. Olga Lam had left the meeting temporarily. As the Chairperson had withdrawn from the meeting, the Committee agreed that the Vice-chairman should continue to chair the meeting in her stead.

70. The Committee noted that the applicant on 12.1.2010 requested for deferment of the consideration of the application for one month in order to allow time for revising the development parameters of Site C to take account of the proposal prepared by the Planning Department under Application No. Y/H3/5.

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

[Mr. Nelson W.Y. Chan and Ms. Sylvia S.F. Yau returned to join the meeting at this point.]

[Ms. Brenda K.Y. Au, District Planning Officer/Hong Kong (DPO/HK), and Mr. C.M. Li, Senior Town Planner/Hong Kong (STP/HK), were invited to the meeting at this point.]

Agenda Item 7

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/H3/388 Proposed Comprehensive Residential and Commercial Development with the Provision of Government, Institution or Community Facilities and Public Open Space in “Comprehensive Development Area” zone, 60-66 and 88-90 Staunton Street, 4-6 Chung Wo Lane, 8 and 13 Wa In Fong East, 2-10 and 16 Wa In Fong West, 2-10 and 17-19 Shing Wong Street, 1-12 Wing Lee Street, Bridges Street Market and Refuse Collection Point and Adjoining Government Land, Sheung Wan
(MPC Paper No. A/H3/388A)

72. The Secretary said that as the application site was related to the development scheme of the Urban Renewal Authority (URA) at Staunton Street/Wing Lee Street, the following Members had declared their interests in this item :

Mrs. Ava S.Y. Ng as the Director of Planning	}	being the non-executive directors of the URA;
Mr. Walter K.L. Chan	}	
Mr. Maurice W.M. Lee	-	being a former non-executive director of the URA with the term of office ended on 30.11.2008;
Professor Bernard V.W.F. Lim	-	having current business dealings with the URA;
Mr. Nelson W.Y. Chan	-	being a Member of the Kwun Tong District Advisory Committee (DAC) of the URA;
Mr. Raymond Y.M. Chan	-	being a Member of the Home Purchase Allowance Appeals Committee and

having current business dealings with Henderson Land Development Co. Ltd. who was the developer of CentrePoint development adjoining to Site C of the subject DSP area;

- | | | |
|---|---|---|
| Ms. Olga Lam
as the Assistant Director of the
Lands Department | - | being an assistant to the Director of Lands who was a non-executive director of the URA; and |
| Mr. Andrew Tsang
as the Assistant Director of the
Home Affairs Department | - | being an assistant to the Director of Home Affairs who was a non-executive director of the URA. |

73. The Committee noted that Mr. Maurice W.M. Lee, Professor Bernard V.W.F. Lim and Mr. Raymond Y.M. Chan had tendered their apologies for being unable to attend the meeting. While Mr. Andrew Tsang had left the meeting, Mrs. Ava S.Y. Ng, Mr. Walter K.L. Chan and Ms. Olga Lam had left the meeting temporarily since Agenda Item 5. The Committee agreed that Mr. Nelson W.Y. Chan could be allowed to stay at the meeting as the DAC to which he belonged was an advisory body to the URA and the area of work did not relate to the subject application. As the Chairperson had withdrawn from the meeting, the Committee agreed that the Vice-chairman should continue to chair the meeting in her stead.

Presentation and Question Sessions

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

- (a) background to the application;
- (b) the proposed comprehensive residential and commercial development with government, institution or community (GIC) facilities and public open space (POS). As an alternative to the URA's proposal under Application No. A/H3/387, the applicants proposed to retain the existing buildings at Site C for commercial/residential uses and the existing ownership status of properties thereat, except that a temporary structure located to the south-east of 6 Chung Wo Lane was proposed to be demolished for open space development. There was no change to the development proposed

by the URA for Sites A and B whereas the proposed temporary refuse collection point (RCP) at Bridges Street was proposed to be retained in its present location at Site A, or reprovisioned through the expansion of the Gage Street RCP or at other location;

- (c) the departmental comments were highlighted as per paragraph 9 of F-Appendix I of the Paper. While having no comment on the application from land resumption point of view, the Chief Estate Surveyor/Urban Renewal, Lands Department (CES/UR, LandsD) advised that it was doubtful whether the applicants' proposal to retain, refurbish and renovate the existing buildings at Site C was binding to all owners. The Chief Building Surveyor/Hong Kong East & Heritage Unit, Buildings Department (CBS/HKE & HU, BD) had no in principle objection to the application, but advised that the number of storeys and approved uses of the existing buildings at Site C as given in the applicants' submission did not tally with his records and the approved building plans as stated in paragraph 9.1.3 (b) of the Paper. The Assistant Commissioner for Transport/Urban, Transport Department (AC for T/U, TD) advised that the application would affect the provision of lay-by and wider footpath as indicated in the URA's development proposal;
- (d) a total of 33 comments were received during the statutory publication period with 29 supporting, 1 opposing and 3 providing comments on the application :
- the supporting comments were submitted by members of the public and the Central & Western Concern Group. The major grounds were that the legal rights of the private property owners to retain the ownership of their properties should be respected; as the existing buildings at Site C were generally in good condition and some flats had been renovated to modern standard, it was not justified to demolish them to make way for a 28-storey building as proposed by the URA; this would also unnecessarily remove the self-initiated urban renewal process which should be respected and adopted as a preferred mode of urban regeneration; rehabilitating

structurally sound buildings was a sustainable approach to urban renewal and a more environmental friendly option than the URA's demolition scheme; the existing low-rise buildings were compatible with the Former Police Married Quarters and the wider neighbourhood of Soho and Sheung Wan whereas the high-rise development proposed by the URA at Site C would kill the harmony and create wall effect; retaining the existing buildings at Site C would not aggravate traffic congestion and cause deterioration to the environment; and the proposal could retain the Central District Thirty Block Kai Fong Yu Lan Association in its present location and a mature 6-storey high wall tree behind Staunton Street. The Central & Western Concern Group also indicated that the applicants' proposal for Site C was supported but its proposal for Sites A and B on the basis of the URA's scheme was not supported as the existing 'tong lau' on Wing Lee Street should be preserved, the Development Scheme Plan (DSP) area should remain low-rise, and because of the slope instability problem in the area;

- a commenter who was a member of the public opposed the application as renovation of the existing buildings on Staunton Street would encourage the expansion of the Soho area, leading to gentrification of the area and in turn driving out activities with local/traditional characteristics. Such approach did not help improve the overall environment of the area;
- a Central and Western District Council (C&WDC) member and a member of the public provided comments on the application. They mainly expressed the view that the owners and the public hoped to retain the tenement buildings which were part of Hong Kong's cultural heritage. The Mid-levels area was congested and could not accommodate more high-rise developments which would create traffic congestion and adversely affect the environment, air flow, sunlight penetration and people's health; and
- the URA had also provided comments on the application. It mainly pointed out that the planning intention of the subject "Comprehensive

Development Area” (“CDA”) zone had been in the public realm since the draft DSP was first gazetted in July 2003. The applicants who purchased their properties in 2007 and 2008 should be aware of the planning intention of the site. Upon approval of the DSP by the Chief Executive in Council (CE in C), the URA was bound to implement the development scheme in full, in accordance with the intention of the approved DSP. If the URA stopped to acquire the remaining interests at Site C, the URA would be exposed to the risk of judicial review by stakeholders. Approving the application would set an undesirable precedent for all other DSPs. The URA had been acquiring properties falling within the DSP and the offers for eligible owners were well above open market value. It would be a waste of public resources if the URA was to renovate the acquired properties and resell them at market value lower than the acquisition cost. The URA had undertaken a heritage assessment under Application No. A/H3/387. All buildings which possessed heritage/urban design merits had been proposed for preservation in the URA’s scheme. No buildings at Site C possessed historical nor architectural value for preservation. The URA would only consider acquiring and conserving buildings with outstanding conservation/heritage value. The applicants had not proposed any mechanism nor means to ensure that the other property owners were agreeable to their proposed approach. The implementability of the Master Layout Plan (MLP) proposed by the applicants was thus questionable. Retaining the existing buildings at Site C in-situ would forgo the opportunity of providing a public lay-by, pavement widening at Staunton Street fronting Site C and a corner splay at the junction of Aberdeen Street and Staunton Street;

- (e) during the statutory publication period of the further information, three comments were received from the URA, the owner of a flat at Site C and a member of the public. The URA’s comments were in relation to the legal advice it had sought on the preliminary legal points raised by the applicants as stated in paragraph 10.3 of F-Appendix I of the Paper. The other two commenters mainly expressed that private property rights should be respected and the URA should not insist on its proposal which was objected

by the local residents;

- (f) according to the District Officer (Central & Western), the C&WDC had discussed the URA's proposal (not the proposed development under application). While no unanimous decision was reached, some members expressed views relating to the subject application, including the possibility of retaining the RCP in-situ or finding suitable re-provisioning site; possible collaboration between the URA and the property owners at Site C on preservation of the character of tenement buildings; and possible adverse visual effect caused by the URA's proposed development at Site C; and

- (g) the Planning Department (PlanD)'s views – PlanD maintained its views of not supporting the application based on the assessment in paragraph 12 of F-Appendix I of the Paper. Given the generally poor environmental conditions within the DSP area, the planning intention of the subject “CDA” zone was to achieve environmental improvement in the area through comprehensive redevelopment, restructuring the street pattern, promoting efficient land use and providing community facilities/public open space. While the draft DSP was later amended by excising the area currently occupied by Centrepont, the above planning intention for the current DSP area remained unchanged. Specifically, Site C was generally in poor environmental and hygienic conditions with existing buildings having defective external wall and dilapidated illegal extensions, although renovation works had been carried out by the owners of some premises within the site. If the existing buildings at Site C were to be retained, some lots would remain inaccessible by fire engines and the poor environmental and hygienic conditions could not be improved. Such piecemeal redevelopment was not in line with the planning intention of the “CDA” zone. Although the applicants had tried to justify that their proposal was basically a refurbishment scheme which would not generate additional traffic, sewerage and other demand for public facilities, the absence of technical assessments did not comply with the statutory requirements set out in the Notes for the “CDA” zone. Of the total of 33 units within Site C, nine were owned by the applicants, eight were owned

by the URA and sixteen by other owners. The applicants had not proposed any mechanism/means to ensure that the other owners not involved in the application were agreeable to the applicants' proposed approach. Given that the URA had also acquired some units within Site C with a view to achieving comprehensive redevelopment of the DSP and that they would only consider acquiring and conserving buildings with outstanding conservation/heritage value, the implementability of the applicants' proposal to retain and rehabilitate the existing buildings at Site C was doubtful. The applicants had proposed to retain the existing buildings at Site and to allow a maximum building height of 7 storeys. Dawning Height and the CentrePoint (under construction) to the west of Site C as well as the developments to the south-west had building heights ranging from 34-37 storeys. There was no strong justification to restrict the building height of Site C to 7 storeys, which could not accommodate the permissible plot ratio for the site under the Outline Zoning Plan. The boundary of the DSP was duly delineated based on a number of factors, including building conditions, building age, building height and the environmental conditions. The Town Planning Board did not rely on information on financial viability of the URA scheme in reaching a decision on the DSP boundary. There was also a legitimate expectation from other owners, including the URA, for implementation of the development scheme in full in accordance with the planning intention of the approved DSP. Besides, the applicants' proposal of retaining the existing RCP at Site A was not desirable as it was not compatible with the intention of providing Dr. Sun Yat-sen commemorative facility and the merit of opening up Shing Wong Street, which was currently blocked by the existing RCP, would be foregone. As for the suggestion of re-provisioning the RCP through the expansion of the Gage Street RCP or at other locations, it was still subject to further discussions among the concerned parties.

75. Members had no question on the application.

76. Members noted that Application No. Y/H3/5 submitted by the same applicants was not agreed by the Committee as considered earlier at the meeting under Agenda Item 5. As for the subject application to retain the existing buildings at Site C for commercial/residential uses, Members agreed that it could not be supported on three counts, not in line with the planning intention for comprehensive development, lack of technical assessment and doubtful implementability. Members then went through the reasons for rejection as stated in paragraph 2.1 of the Paper and considered that they were appropriate.

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

- (a) the proposed development was not in line with the planning intention of the “Comprehensive Development Area” (“CDA”) zone to bring about environmental improvement through comprehensive redevelopment, restructuring the street pattern, promoting efficient land use and providing community facilities/public open space;
- (b) no technical assessments had been submitted as part of the Master Layout Plan submission in accordance with the requirements of the Notes of the “CDA” zone; and
- (c) the implementability of the proposed development was doubtful.

[The Chairperson thanked Ms. Brenda K.Y. Au, DPO/HK, and Mr. C.M. Li, STP/HK, for their attendance to answer Members’ enquiries. They left the meeting at this point.]

[Mrs. Ava S.Y. Ng and Mr. Walter K.L. Chan returned to join the meeting at this point.]

Agenda Item 8

Section 16 Application

[Open Meeting]

A/H11/95 Proposed Minor Relaxation of Building Height Restriction
in “Residential (Group A)” zone, 16 -18 Bonham Road, Hong Kong
(MPC Paper No. A/H11/95)

78. The Secretary said that the application was submitted by Queen Cheers Development Ltd. Ms. Olga Lam had declared an interest in this item as her spouse had current business dealings with the applicant in relation to the application site. The Committee noted that Ms. Lam had already left the meeting temporarily.

79. The Committee noted that a total of 263 representations were received on the draft Mid-levels West Outline Zoning Plan (OZP) No. S/H11/14 which was exhibited on 20.3.2008 for public inspection under section 5 of the Town Planning Ordinance. One of the representations was submitted by the applicant’s representative against the imposition of the building height restriction of 160mPD in respect of 12-30 Bonham Road covering the application site. The representer proposed to relax the building height restriction of the representation site from 160mPD to 180mPD. There were nine other adverse representations objecting to the building height restrictions incorporated in the OZP, which were also relevant to the application site. After giving consideration to all representations on 31.10.2008, the Town Planning Board (TPB) decided not to uphold the above representations, but agreed to amend the Notes for the “Residential (Group C)8” zone to partially meet a representation not related to the subject site. The proposed amendment was confirmed by the TPB on 2.1.2009 to form part of the OZP. Besides, in relation to two judicial review (JR) applications, the Court granted stay orders on the submission of the OZP to the Chief Executive in Council (CE in C) for approval. The two JR applications were subsequently withdrawn and the stay orders were lifted by the Court. The TPB was informed on 14.8.2009 that the draft OZP was suitable for submission to the CE in C for approval. The draft OZP was submitted to the CE in C for consideration and a decision had yet to be made. According to the TPB 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 application should be deferred if the

application site was subject to outstanding adverse representation yet to be considered by the CE in C. As such, it was recommended to defer a decision on the application, taking into account that the building height restriction of the application site was the subject of outstanding adverse representations, and the draft OZP and the representations were yet to be considered by the CE in C.

80. After deliberation, the Committee decided to defer a decision on the application. The Committee also agreed that the application should be submitted to the Committee for consideration upon the final decision of the Chief Executive in Council on the draft Mid-levels West Outline Zoning Plan and the representations.

[Ms. Brenda K.Y. Au, District Planning Officer/Hong Kong (DPO/HK), and Mr. Ernest C.M. Fung, Senior Town Planner/Hong Kong (STP/HK), were invited to the meeting at this point.]

Agenda Item 9

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/H5/386 Proposed Hotel in “Residential (Group A)” zone,
43-63 Tai Yuen Street and 242-246 Queen’s Road East, Wan Chai
(MPC Paper No. A/H5/386)

Presentation and Question Sessions

81. Mr. Ernest C.M. Fung, STP/HK, 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 – concerned Government bureau/departments had no objection to or adverse comments on the application;

- (d) one public comment raising objection to the application was received during the statutory publication period. The commenter pointed out that the residents in the area were concerned about the serious traffic problems on Queen's Road East, Tai Yuen Street, Spring Garden Lane and McGregor Street. The proposed hotel with some 200 rooms would attract a lot of traffic, but the application lacked any real solution for the traffic problems. Besides, the proposed rectangular building would block air flow and traffic between Tai Yuen Street and McGregor Street, which were narrow and not suitable for heavy traffic and large vehicles. The proposed hotel would also cause conflict between pedestrian and vehicular traffic in the area. As compared to the previous schemes, the modifications made to the proposed hotel development under the current application were insufficient to address the adverse traffic impact created by the proposed hotel;
- (e) the District Officer (Wan Chai) advised that while most of the locals consulted had no comment on the application, some had expressed concern on the inadequacy of loading space and were worried that tourist coaches waiting outside the proposed hotel would cause traffic jam; and
- (f) the Planning Department (PlanD)'s views – PlanD had no objection to the application based on the assessment in paragraph 10 of the Paper. The application site was located in an area with a mixture of commercial and commercial/residential developments and the proposed hotel was considered compatible with the surrounding land uses in terms of land use. The proposed 27-storey (112.6mPD) hotel at a plot ratio of 12 plus bonus plot ratio of 0.253 was also considered compatible with the developments in the area in terms of development intensity. As compared with the previously approved scheme (No. A/H5/378), the proposed site coverage, plot ratio and building height of the proposed hotel development in terms of number of storeys and mPD remained unchanged. The current application mainly involved changes in the design, disposition and layout of the proposed hotel with an additional basement floor cum sunken plaza,

reduction in the number of guestrooms from not more than 201 to 130-160, and corresponding increase in the average room size. Additional run-in and run-out for the taxi/coach lay-bys would be provided. The applicant's claim for bonus plot ratio of 0.253 resulting from the proposed surrendering for corner splay and dedication for footpath widening as well as the proposed exemption of back-of-house facilities from gross floor area calculation would be subject to the approval of the Building Authority at building plan submission stage. Previous application (No. A/H5/383) was rejected by the Committee mainly for the reason that the proposed hotel development with a plot ratio of 13.317 was considered not compatible with the development intensity within the "Residential (Group A)" zone. As compared with the rejected scheme, there were a reduction of plot ratio from not more than 13.317 to not more than 12.253, and a reduction in building height from 122.8mPD to 112.6mPD in the current application. The applicant would maintain a sunken plaza on the basement and set back of the building from Queen's Road East. Regarding the public comment on the possible traffic impact of the proposed hotel, there was a reduction of hotel rooms from not more than 201 to 130-160 rooms in the current application and the Assistant Commissioner for Transport/Urban, Transport Department had no objection to the application. As regards the concern on blocking of air flow, the Chief Town Planner/Urban Design and Landscape, PlanD opined that a rectangular building form for the proposed hotel was inevitable due to the development constraint imposed by the linear geometry of the site. Nevertheless, there would be a building separation between the proposed hotel and the proposed residential development under the Urban Renewal Authority's Project H15 to allow air flow between Tai Yuen Street and McGregor Street.

82. Members had no question on the application.

Deliberation Session

83. A Member opined that it might be difficult to provide landscape treatment at the site due to the development constraint imposed by the linear geometry of the application site.

As such, this Member asked if vertical greening could be provided for the proposed hotel. Ms. Brenda K.Y. Au, DPO/HK, said that approval condition (e) requiring the applicant to submit and implement a landscape proposal had been recommended in paragraph 11.2(e) of the Paper. If the Committee decided to approve the application, the applicant would be requested to include vertical greening as part of the landscaping to be provided for the site as required under approval condition (e).

84. 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 should be valid until 29.1.2014, 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 implementation of the proposed sewerage upgrading works as identified in the submitted Sewerage Impact Assessment to the satisfaction of the Director of Drainage Services or of the TPB;
- (b) the design and provision of access, internal transport facilities and junction improvement, as proposed by the applicant, to the satisfaction of the Commissioner for Transport or of the TPB;
- (c) the widening of footpath along Queen's Road East, Tai Yuen Street and McGregor Street and the provision of corner splays at the junctions of Queen's Road East/Tai Yuen Street and Queen's Road East/McGregor Street, as proposed by the applicant, to the satisfaction of the Commissioner for Transport or of the TPB;
- (d) the provision of fire service installations to the satisfaction of the Director of Fire Services or of the TPB; and
- (e) the submission and implementation of a landscape proposal to the satisfaction of the Director of Planning or of the TPB.

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

- (a) the approval of the application did not imply that the non-domestic plot ratio of the proposed hotel development, the proposed gross floor area exemption for back-of-house facilities and bonus plot ratio for the surrendering for corner splay and dedication for footpath widening would be granted by the Building Authority. The applicant should approach the Buildings Department direct to obtain the necessary approval. In addition, if hotel concessions, in particular the non-domestic plot ratio of the development and bonus plot ratio, were not granted by the Building Authority and major changes to the current scheme were required, a fresh application to the TPB might be required;
- (b) to apply to the District Lands Officer/Hong Kong East, Lands Department for a licence if there was any proposed use (e.g. restaurant) contravening the non-offensive trades clause as contained in the relevant leases;
- (c) the arrangement on emergency vehicular access should comply with Part VI of the Code of Practice for Means of Access for Firefighting and Rescue; and
- (d) to note the comments of the Chief Officer (Licensing Authority), Home Affairs Department regarding the application under the Hotel and Guesthouse Accommodation Ordinance.

[The Chairperson thanked Ms. Brenda K.Y. Au, DPO/HK, and Mr. Ernest C.M. Fung, STP/HK, for their attendance to answer Members' enquiries. They left the meeting at this point.]

[Ms. Olga Lam returned to join the meeting at this point.]

[Mr. David C.M. Lam, Senior Town Planner/Hong Kong (STP/HK), was invited to the meeting at this point.]

Agenda Item 10

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/H19/60 Proposed Eating Place and Shop and Services
 in “Residential (Group A)3” zone,
 Portions of 1/F to 4/F, Stanley Plaza, Stanley

 (MPC Paper No. A/H19/60)

Presentation and Question Sessions

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

- (a) background to the application;

- (b) the proposed eating place and shop and services uses at portions of 1/F to 4/F of Stanley Plaza, an existing shopping centre;

- (c) departmental comments – concerned Government departments had no objection to or adverse comments on the application;

- (d) a total of 17 public comments were received during the statutory publication period. 14 commenters objected to the application and the major grounds were that the proposal would reduce the supporting facilities to meet the daily needs of the residents and take away leisure areas. One of them also commented that the recently completed renovation works undertaken by the applicant were in poor condition. For the other three commenters, one suggested the applicant to keep at least a bank to provide counter services; another indicated that the consultation period of 3 weeks was not enough and requested to extend the consultation period for another 60 days; and the other one considered it unacceptable not to inform the Incorporated Owners of Lung Tak Court direct of the application for the reason that the housing development fell outside 100 feet from the

boundary of the application premises; 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. The application premises were an integral part of Stanley Plaza, which was zoned partly “Commercial(1)” (“C(1)”) and partly “Residential (Group A)3” (“R(A)3”) on the approved Stanley Outline Zoning Plan (OZP) No. S/H19/10. According to the OZP, ‘eating place’ and ‘shop and services’ uses were always permitted in the “C(1)” zone and on the ground floor of the “R(A)3” zone. The application premises were those portions falling within the “R(A)3” zone. To reflect the actual boundary of Stanley Plaza, PlanD would propose amendment to the OZP to rationalize the boundary of the “C(1)” zone when opportunity arose. Stanley Plaza was a purpose-built shopping centre. The application was mainly to allow the flexibility of reshuffling eating place and shop and services uses within the existing shopping centre. This would not change the nature of use of the building nor increase the building bulk. As such, the proposal would unlikely cause adverse impacts on the surrounding areas. Regarding the public comments, the applicant indicated that the conversion scheme for Stanley Plaza would provide more eating place and shop and services uses to better meet the demand of the local community and tourists. The application would not involve removal of leisure or amenity facilities. As regarded the consultation period and arrangement, the 3-week period for public comments was a statutory time limit under the Town Planning Ordinance. In accordance with the Town Planning Board Guidelines No. 30 on ‘Publication of Applications for Amendment of Plan, Planning Permission and Review and Submission of Comments on Various Applications under the Town Planning Ordinance’, the notice about an application would be sent to the Owners’ Corporation(s) or other committee(s) of the buildings within 100 feet from the boundary of the application site. For the subject application, Lung Tak Court fell outside the “100 feet” boundary. Nevertheless, the notice of the application had been sent to the Stanley Area Committee and the interested Members of the Southern District Council. Site notices had also been posted on each floor

of Stanley Plaza for public information.

87. Members had no question on the application.

Deliberation Session

88. 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 29.1.2014, 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 a drainage proposal to the satisfaction of the Director of Drainage Services or of the TPB; and
- (b) the provision of fire service installations to the satisfaction of the Director of Fire Services or of the TPB.

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

- (a) to note the comments of the Director of Housing regarding the need for lease modification in case that additional gross floor area would be incurred, the commencement of work until the approval of Deed of Mutual Covenant, liaison with the Housing Authority on the management and maintenance cost of the Estate Road, and consultation with the local residents' organisations; and
- (b) to resolve any land issues relating to the development with the Housing Authority of the application premises.

[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.]

[Mr. Tom C.K. Yip, Senior Town Planner/Hong Kong (STP/HK), was invited to the meeting at this point.]

Agenda Item 11

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/H8/399 Proposed Minor Relaxation of Building Height Restrictions
for a Proposed Elderly Housing Development
in “Residential (Group A)” zone, 2-4 Tanner Road, North Point
(MPC Paper No. A/H8/399)

90. The Secretary said that the application was submitted by Hong Kong Housing Society (HKHS). Professor Bernard V.W.F. Lim, being engaged in a research project with HKHS, had declared an interest in this item. The Committee noted that Professor Lim had tendered an apology for being unable to attend the meeting. In addition, the following Members had declared their interests in this item :

Mrs. Ava S.Y. Ng as the Director of Planning	- being an ex-officio member of the Supervisory Board of HKHS;
Mr. Walter K.L. Chan	- being a member of the Executive Committee of HKHS; and
Ms. Olga Lam as the Assistant Director of the Lands Department	- being an assistant to the Director of Lands who was an ex-officio member of the Supervisory Board of HKHS.

91. The Committee considered that the interests of Mrs. Ng, Mr. Chan and Ms. Lam were direct and they should leave the meeting temporarily for the item. As the Chairperson had to withdraw from the meeting, the Committee agreed that the Vice-chairman should take over and chair the meeting in her stead. The Vice-chairman chaired the meeting at this point.

[Mrs. Ava S.Y. Ng, Mr. Walter K.L. Chan and Ms. Olga Lam left the meeting temporarily at this point.]

Presentation and Question Sessions

92. Mr. Tom C.K. Yip, STP/HK, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed minor relaxation of the overall building height (BH) restriction of the application site from 130mPD to 138mPD and the BH restriction of the 8m-wide wind corridor within the site from 40mPD to 44mPD to facilitate a proposed elderly housing development. According to the applicant, the proposed relaxation of the overall BH restriction was to increase the provision of elderly flats from 493 to 560 and to achieve a more desirable floor-to-floor height of 4.26m for the residential care home for the elderly (RCHE) in the proposed development, whereas the proposed relaxation of the BH of the wind corridor was to enable the provision of a glazed canopy above the podium to enable safe and convenient circulation of the elderly. According to the Notes of the relevant Outline Zoning Plan (OZP), the proposed elderly housing development, which was considered as ‘Residential Institution’ use, and other uses in the development were always permitted within the subject “Residential (Group (A))” “(R(A))” zone;
- (c) the departmental comments were highlighted as per paragraph 9 of the Paper. The Secretary for Transport and Housing (STH) supported the proposed development for the provision of integrated elderly flats as well as health care and related supporting facilities under one roof, the provision of a greater number of elderly flats in the project and HKHS’ proposal which might achieve that goal. While having no objection to the proposed minor relaxation of the BH restriction of the 8m-wide wind corridor, the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) commented that there was no design merit to justify the proposed minor relaxation of the overall BH restriction of the site and,

from the landscape point of view, there were no particular merits to support the proposed BH relaxation. The Assistant Commissioner for Transport/Urban, Transport Department (AC for T/U, TD) had no adverse comments on the application. Taking into account the applicant's justifications and that the proposed development was well served by public transport facilities, he was prepared to accept the provision of three visitor parking spaces per block (i.e. a total of 9 spaces), instead of 13 spaces as proposed by the applicant. Should the application be approved by the Committee, it was recommended to impose an approval condition on the design and provision of parking facilities. The exact provision could be addressed at the implementation stage;

- (d) during the statutory publication period, a total of 81 public comments raising objection to the application were received from an Eastern District Council member, management company and owners' corporations of the residential developments nearby and in the Braemar Hill area as well as members of the public. The major grounds were that all persons who would be likely affected by the proposed development, instead of just those living in buildings within 100m, should be consulted; it was improper to confine "any person affected" under s.6 of the Town Planning Ordinance (the Ordinance) to the population within 100m from the application site; minor relaxation of the BH restriction under Application No. A/H8/395 was not supported by the Committee; the proposed development did not comply with the BH restrictions; the application would re-open the Chief Executive in Council (CE in C)'s decision on the BH restrictions on the North Point OZP; there was no ground to accede to the application which, if approved, would set an undesirable precedent; the proposed development would create wall effect, block views, increase the traffic along Tanner Road, and affect the air ventilation and living environment in the area; the traffic generated by the proposed development would create air and noise pollution as well as hygiene problem; there might be escape problem for the elderly in case of fire and electricity failure under the proposed BHs; and seeking a good floor-to-floor height for the elderly at the expense of the people living in the neighbourhood was not fair; 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 which were summarised below :

Elderly Housing Policy

- when seeking the CE in C's in-principle approval to lease modification of the site for the development of an elderly housing project in 2008, HKHS indicated that it planned to produce about 700 elderly flats with a total gross floor area (GFA) of about 51,000m². Under the approved building plans based on the BH restrictions of 130mPD and 40mPD on the OZP, only 493 elderly flats and a total GFA of 46,371m² could be achieved. The proposed minor relaxation of BH restriction would allow the additional provision of 67 elderly flats to meet the demand for elderly housing, and was supported by STH;

Proposed Minor Relaxation of the BH Restrictions

- the minor relaxation clause under the Notes for the "R(A)" zone was to provide incentive for developments/redevelopments with design merits/planning gains and to allow for relaxation necessitated by site circumstances and constraints. Each application would be considered on its own merits based on the criteria as detailed in paragraph 8.2 of the Paper, including whether the site was subject to site constraints and whether it could provide better streetscape/good quality street level public urban space. For the subject application, the site was subject to a number of development constraints, including the sloping terrain, non-building area, water main reserve and the foundations already laid down which restricted the building footprint. Due to the above constraints and the BH restrictions of 130mPD and 40mPD, only 493 elderly flats could be provided under the approved building plans. The proposed minor relaxation of the overall BH restriction to 138mPD would allow the additional provision of 67 elderly flats, the addition of which was supported by STH in full. Besides, the applicant had proposed to surrender portion of the lot occupied by an existing footpath and provide

landscaping along the western façade of the podium of the proposed development to enhance the visual amenity along the footpath;

- while justifications for the proposed minor relaxation of BH restrictions were not based on design merits, the Chief Architect/Advisory & Statutory Compliance, Architectural Services Department had no adverse comments on the application. Moreover, consideration should be given to the overall community benefit in terms of the provision of more elderly flats and the severe development constraints of the site, which had been acknowledged by the Town Planning Board (TPB) during the consideration of the further representation submitted by HKHS in relation to the subject site in 2008. The proposed minor relaxation of the overall BH restriction would also allow a more desirable floor-to-floor height of 4.26m for the RCHE, instead of 3.45m under the approved building plans. On balance, sympathetic consideration could be given to the proposed minor relaxation of the overall BH restriction of the site from 130mPD to 138mPD;
- the BH restriction of 40mPD over the 8m-wide wind corridor was to facilitate air ventilation through the site. The proposed minor relaxation of the BH to 44mPD was to provide a canopy which would be in the form of a lightweight structure open on all sides and, as demonstrated in the air ventilation assessment (AVA) submitted by the applicant, was not expected to have significant adverse ventilation impact;
- regarding AC for T/U, TD's comment on the number of visitor parking spaces, it was recommended to impose an approval condition on the design and provision of parking facilities as stated in paragraph 12.2(c) of the Paper. It was also recommended in paragraph 12.2(d) of the Paper to impose another approval condition requiring the applicant to submit and implement tree preservation and landscape proposals with a minimum greening ratio of 20% based on the net site area;

Public Comments

- regarding the commenters' concern on the lack of consultation with the residents of buildings outside the 100m radius of the application site, the subject application was published for three weeks for public comments in accordance with the requirements of the Ordinance and the TPB Guidelines No. 30 on 'Publication of Applications for Amendment of Plan, Planning Permission and Review and Submission of Comments on Various Applications under the Town Planning Ordinance'. During the publication period, the notice of the application was published once a week in the newspapers; uploaded to TPB's website; posted on the application site and at the TPB Secretariat, the Planning Enquiry Counters of PlanD and the Eastern District Office; as well as sent to the relevant District Council members and the owners' corporations of buildings within 100 feet (instead of 100m as mentioned by some commenters) of the site. A banner was also mounted to a roadside railing in the locality of the site. The notification of the application was not confined to buildings within the 100 feet radius of the application site. According to s.16(2F) of the Ordinance, any person might submit comments on the application within the three-week publication period. The reference to 'any affected person' made by the commenters was related to s.6 of the pre-amended Ordinance and was not relevant to the subject application; and

- regarding the commenters' concern on whether the BH relaxation would be in conflict with the BH restrictions approved by the CE in C, there was provision for minor relaxation of the BH restrictions under the Notes of the approved OZP. For the concern on precedent effect, the site was subject to severe site constraints and could offer community benefits in terms of promotion of elderly care. Besides, the circumstances of the subject application were different from those of Application No. A/H8/395 referred to in the public comments. Regarding the visual and air ventilation concerns, the visual issue had been responded to in paragraphs 11.3 to 11.5 of the Paper whereas the AVA submitted by the applicant had demonstrated that the proposed development would not cause adverse air ventilation impact as compared with the OZP compliant scheme.

Regarding the environmental and traffic concerns, the Director of Environmental Protection and AC for T/U, TD had no adverse comments on the proposed development. Regarding the concern on the escape of the elderly in case of fire and electricity failure, the compliance with the fire safety and means of escape requirements under the Buildings Ordinance was subject to the checking of the Fire Services Department and Buildings Department at building plan submission stage.

93. In response to Members' questions, Mr. Tom C.K. Yip said that there was an increase in ageing population in Hong Kong, particularly in the Eastern District. To meet such trend, HKHS had already implemented two elderly housing schemes at Jordan Valley and Tseung Kwan O. The proposed elderly housing development at the subject site could cater for the housing needs of the elders in the territory, particularly those living on the Hong Kong Island. When seeking the CE in C's in-principle approval to modify the lease of the subject site for the development of an elderly housing project in 2008, HKHS indicated that it planned to produce about 700 elderly flats on the application site. In estimating the number of elderly flats to be produced, HKHS had taken into account factors such as the development potential and constraints of the site. However, details of the proposed elderly housing scheme, including the number of flats to be produced, have to be further studied and reviewed at detailed design stage in consultation with the relevant Government departments.

Deliberation Session

94. A Member asked why CTP/UD&L, PlanD had no objection to the proposed BH relaxation if she considered that there were no design merits to justify the proposed relaxation. For background information, the Secretary said that the minor relaxation clause was incorporated into the Notes of the OZP mainly to serve two purposes. The first one was to provide incentive for developments/redevelopments with planning and design merits e.g. site amalgamation to achieve better urban design and local area improvements, widening of footpath for better pedestrian circulation, and provision of separation between buildings to enhance air and visual permeability, etc. The second purpose of the minor relaxation clause was to cater for cases with site constraints so that the permissible development intensity of the site under the OZP could be achieved upon application for minor relaxation of the BH restrictions. The criteria were set out in the Explanatory Statement of the OZP. As for the

subject application, Mr. Tom C.K. Yip said that CTP/UD&L, PlanD had no objection to the proposed minor relaxation of the BH restriction of the 8-m wide wind corridor from 40mPD to 44mPD because the proposed canopy would be in the form of a lightweight structure on all sides and was not expected to have significant adverse ventilation impact. She also advised that from the urban design point of view, there were no design merits to justify the proposed minor relaxation of the overall BH restriction of the site from 130mPD to 138mPD. Nevertheless, PlanD had taken into account all relevant considerations in assessing the application, including the severe site constraints as stated in paragraph 11.4 of the Paper, the overall community benefit in terms of the provision of more elderly flats, and the provision of a more desirable floor-to-floor height for the proposed RCHE. It was considered that on balance, sympathetic consideration could be given to the proposed minor relaxation of the overall BH restriction of the site from 130mPD to 138mPD.

95. In response to a Member's enquiry, Mr. Tom C.K. Yip said that the applicant's proposed relaxation of BH restriction from 130mPD to 138mPD was to accommodate the increase the provision of elderly flats from 493 to 560 (i.e. an additional provision of 67 flats) and to achieve a more desirable floor to floor height of 4.26m, instead of 3.45m for the RCHE under the approved building plans. The applicant did not apply to increase the floor-to-floor height of the elderly flats. Mr. Tom C.K. Yip continued to point out that with an increase in floor-to-floor height for the proposed RCHE, the ventilation and natural lighting could be enhanced. The proposed increase in height was supported by the Director of Social Welfare.

96. 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 should be valid until 29.1.2014, 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 a residential care home for the elderly with a day care centre for the elderly in the proposed development to the satisfaction of the Director of Social Welfare or of the TPB;
- (b) the surrender of the private land covered by the existing footpath along the

western boundary of the application site, as proposed by the applicant, to the satisfaction of the Commissioner for Transport or of the TPB;

- (c) the design and provision of vehicular accesses, parking facilities, loading/unloading spaces and lay-bys for the proposed development to the satisfaction of the Commissioner for Transport or of the TPB; and
- (d) the submission and implementation of a tree preservation and landscape proposal, with a minimum greening ratio of 20% based on the net site area, to the satisfaction of the Director of Planning or of the TPB.

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

- (a) to note the comments of the District Lands Officer/Hong Kong East, Lands Department as detailed in paragraph 9.1.4 of the Paper regarding the land exchange application for the proposed development; and
- (b) to note the comments of the Director of Fire Services as detailed in paragraph 9.1.11 of the Paper regarding the requirement that the proposed residential care home for the elderly should comply with the Code of Practice for Residential Care Homes (Elderly Persons).

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

[Mrs. Ava S.Y. Ng, Mr. Walter K.L. Chan and Ms. Olga Lam returned to join the meeting whereas Mr. Stanley Y.F. Wong and Mr. Leslie H.C. Chen left the meeting at this point.]

Agenda Item 12

Section 16 Application

[Open Meeting]

A/H21/132 Proposed Office Development and Minor Relaxation of
Non-building Area Restriction
(Amendment to an Approved Master Layout Plan)
in “Comprehensive Development Area” zone,
Taikoo Place, 979 King’s Road, Quarry Bay
(MPC Paper No. A/H21/132)

98. The Secretary said that the application was submitted by Taikoo Place Holdings Ltd. which was a subsidiary of Swire Properties Ltd. Mr. Raymond Y.M. Chan, having current business dealings with Swire Properties Ltd., had declared an interest in this item. The Committee noted that Mr. Raymond Y.M. Chan had tendered an apology for being unable to attend the meeting.

99. The Committee noted that a total of 296 objections were received on the draft Quarry Bay Outline Zoning Plan (OZP) No. S/H21/25 which was exhibited on 25.7.2008 for public inspection under section 7 of the pre-amended Town Planning Ordinance (pre-amended Ordinance). Among them, 170 objections opposed the building height restrictions in general and asked for more stringent building height restrictions for the application site, among others. In addition, one objection (No. 296) was against all the amendments and requested for general relaxation/deletion of the building height and non-building area restrictions. Another objection (No. 293) was submitted by the applicant of the subject application to request for relaxation of the building height restrictions and deletion of the non-building area restriction for the subject “Comprehensive Development Area” (“CDA”) zone. After giving further consideration to the objections on 15.5.2009, the Town Planning Board (TPB) decided to propose, among other amendments, amendments to partially meet Objections No. 293 and 296 as detailed in paragraph 1.2 of the Paper. No further objection to the proposed amendments was received. Subsequently, the draft Quarry Bay OZP No. S/H21/26 and S/H21/27, incorporating amendments which were not related to the subject “CDA” site, were exhibited on 27.2.2009 and 10.9.2009 respectively. The TPB had completed the relevant hearing procedures. The OZP and the unwithdrawn objections

would be submitted to the Chief Executive in Council (CE in C) for approval in due course. According to the TPB 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 application should be deferred if the application site was subject to outstanding adverse representation yet to be considered by the CE in C and the substance of representation was relevant to the application. This principle should also be applied to sites which were subject to objections submitted under the pre-amended Ordinance. As such, it was recommended to defer a decision on the application, taking into account that the building height and non-building area restrictions for the “CDA” site were the subject of 172 objections with substance relevant to the application, and the draft OZP and the unwithdrawn objections were yet to be submitted to and considered by the CE in C.

100. After deliberation, the Committee decided to defer a decision on the application. The Committee also agreed that the application should be submitted to the Committee for consideration upon the final decision of the Chief Executive in Council on the draft Quarry Bay Outline Zoning Plan and the objections.

Tsuen Wan and West Kowloon District

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

Agenda Item 13

[Open Meeting]

Proposed Amendments to the Draft Tsim Sha Tsui Outline Zoning Plan No. S/K1/24
(MPC Paper No. 1/10)

101. The Secretary said that a replacement for page 2 of the Paper had been sent to Members on 27.1.2010 for consideration.

102. Mr. C.K. Soh, STP/TWK, presented the proposed amendments to the draft Tsim Sha Tsui OZP No. S/K1/24 as detailed in the Paper and covered the following main points:

- (a) as detailed in paragraph 3 and Attachment II of the Paper, it was proposed to rezone a piece of land to the southeast of East Ocean Centre in Tsim Sha Tsui East from 'Road' (Pedestrian Precinct/Street) to "Open Space" to better reflect the existing open space use which formed part of a larger open space (i.e. Centenary Garden). Besides, as the construction works of the Kowloon Southern Link (KSL) had been completed, it was proposed to delete the annotation on the OZP indicating its authorization by the Chief Executive in Council under the Railways Ordinance and to incorporate the updated alignment of the KSL into the OZP;
- (b) as detailed in paragraph 4 and Attachment III of the Paper, it was proposed to amend the Notes for the "Residential (Group A)" and "Residential (Group B)" zones to clarify that in determining the maximum plot ratio/gross floor area of development/redevelopment proposal within the two zones, the exemption of the caretakers' quarters from the plot ratio/gross floor area calculation was only applicable in domestic building or domestic part of the building;
- (c) as detailed in paragraph 5 and Attachment IV of the Paper, opportunity was taken to revise the Explanatory Statement (ES) of the OZP to take into account the proposed amendments and to reflect the latest planning circumstances;
- (d) the concerned Government departments had no objection to or no adverse comments on the proposed amendments; and
- (e) as the proposed rezoning of the site to reflect the existing open space use did not involve any new development proposal and the proposed amendments to the Notes were technical in nature, it was considered that prior public consultation was not necessary. The Yau Tsim Mong District Council would be notified on the proposed amendments, if agreed by the Committee, during the exhibition period of the draft Tsim Sha Tsui OZP No. S/K1/25 under section 7 of the Town Planning Ordinance (the

Ordinance). The publication of the amendments to the OZP for public inspection under section 7 of the Ordinance would be a statutory channel to solicit public views.

103. Members had no question on the proposed amendments.

104. After deliberation, the Committee decided to:

- (a) agree to the proposed amendments to the draft Tsim Sha Tsui OZP No. S/K1/24 and that the Amendment Plan No. S/K1/24A (to be renumbered as S/K1/25 upon gazetting) at Attachment II and its Notes at Attachment III of the Paper were suitable for exhibition under section 7 of the Ordinance; and
- (b) agree to adopt the revised ES at Attachment IV of the Paper as an expression of the planning intentions and objectives of the Town Planning Board (TPB) for the various land use zonings of the OZP, and that the revised ES was suitable for exhibition together with the OZP and its Notes under the name of the TPB.

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

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

Agenda Item 14

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/TY/106 Temporary Asphalt Plant for a Period of 3 Years
in "Industrial" zone, Tsing Yi Town Lot 108 RP (Part), Tsing Yi
(MPC Paper No. A/TY/106A)

105. The Secretary said that the application was submitted by the Hong Kong United Dockyards Ltd., which was a joint venture of Hutchison Whampoa Ltd. (HWL) and Swire Pacific Ltd. (SPL). Mr. Felix W. Fong and Mr. Raymond Y.M. Chan, having current business dealings with HWL and SPL respectively, had declared their interests in this item. The Committee noted that Mr. Felix W. Fong and Mr. Raymond Y.M. Chan had tendered their apologies for being unable to attend the meeting.

Presentation and Question Sessions

106. Mr. Y.S. Lee, STP/TWK, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the temporary asphalt plant for a period of 3 years;
- (c) departmental comments – in view that the present traffic conditions at Sai Tso Wan Road including its junction with Tsing Yi Road was tolerable and it was envisaged that this would remain stable in the short to medium terms, the Assistant Commissioner for Transport/New Territories, Transport Department (AC for T/NT, TD) had no objection to the application from the traffic management point of view subject to the conditions that no queuing on public roads in the vicinity of the application site resulting from the operation of the asphalt plant would be allowed; not less than 6 mixers/asphalt delivery vehicles buffer queuing spaces would be provided within the development near the ingress to minimize the possibility of queuing on Sai Tso Wan Road; a continuous footpath of not less than 2m would be provided on at least one side of the internal road of the lot to enhance traffic safety; the width of the internal road for two-way traffic would not be less than 6.75m with localized widening at bends; and standard internal run-around facilities would be provided within the development for the vehicles permitted to use the site. While having no objection to the application from the landscape point of view, the Chief Town Planner/Urban Design and Landscape, Planning Department

(CTP/UD&L, PlanD) commented that landscape planting should be proposed along the perimeter of the site to provide screening and greening effect. The Director of Fire Services (D of FS) also had no objection in principle to the application subject to the provision of emergency vehicular access, water supply for fire fighting and fire service installations to his satisfaction;

- (d) during the statutory publication period, three public comments from two members of the public and a Kwai Tsing District Council Member were received raising objection to the application on environmental, traffic and health grounds; and
- (e) the Planning Department (PlanD)'s views – PlanD considered that the temporary asphalt plant could be tolerated for a period of 3 years based on the assessment in paragraph 11 of the Paper. The site fell within an “Industrial” (“I”) zone and was situated in an established special industrial area in west Tsing Yi. To the south-east of the site were other industrial-related operations including shipyards, oil depots, works sites, warehouses, open vehicle parks and container-related uses. The temporary asphalt plant was considered not incompatible with the surrounding industrial-related developments. Relevant Government departments had no adverse comments on the application. There was also no objection from the landscape point of view. The landscape and technical concerns of CTP/UD&L, PlanD, AC for T/NT, TD, and D of FS in relation to landscape planting, pedestrian/traffic safety and fire safety could be addressed by imposing relevant approval conditions as recommended in paragraphs 12.2(a) to (g) of the Paper. Regarding the public comments on the possible environmental, traffic and health impacts of the proposed development, the site was located at the relatively remote part of the Tsing Yi west industrial area. The range of high hills at the central part of Tsing Yi Island could effectively serve as a buffer to screen off the potential environmental impacts and disturbances to the residential areas in the north-eastern part of Tsing Yi. Besides, the Director of Environmental Protection, AC for T/NT, TD and the Director of Health had

no objection to the application from the environmental, traffic and health points of view.

107. Members had no question on the application.

Deliberation Session

108. After deliberation, the Committee decided to approve the application on a temporary basis for a period of 3 years up to 29.1.2013, on the terms of the application as submitted to the Town Planning Board (TPB) and subject to the following conditions :

- (a) no queuing on public roads in the vicinity of the application site resulting from the operation of the asphalt plant should be allowed at any time during the planning approval period;
- (b) the submission of landscape proposal within 6 months from the date of planning approval to the satisfaction of the Director of Planning or of the TPB by 29.7.2010;
- (c) in relation to (b) above, the implementation of the approved landscape proposal within 9 months from the date of planning approval to the satisfaction of the Director of Planning or of the TPB by 29.10.2010;
- (d) the submission of footpath, internal road, internal run-around facilities and vehicles buffer queuing spaces proposals within 6 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the TPB by 29.7.2010;
- (e) in relation to (d) above, the implementation of footpath, internal road, internal run-around facilities and vehicles buffer queuing spaces proposals within 9 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the TPB by 29.10.2010;
- (f) the submission of emergency vehicular access, water supply for fire

fighting and fire service installations proposals within 6 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the TPB by 29.7.2010;

- (g) in relation to (f) above, the implementation of emergency vehicular access, water supply for fire fighting and fire service installations proposals within 9 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the TPB by 29.10.2010;
- (h) 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
- (i) if any of the above planning conditions (b), (c), (d), (e), (f) or (g) 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.

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

- (a) prior planning permission should have been obtained before commencing the applied use at the application site;
- (b) to note the comments of the District Lands Officer/Tsuen Wan and Kwai Tsing, Lands Department that the owner of TYTL 108 RP should apply for a separate temporary waiver for the asphalt plant. The temporary waiver application would be subject to comments from the relevant bureau and/or departments. There was no guarantee that the application would be approved. If the temporary waiver application was approved, it would be subject to fees and conditions as imposed;
- (c) to note the comments of the Director of Environmental Protection that the applicant should contact the Regional West Group, Environmental Compliance Division for the Specified Process Licence requirements;

- (d) to note the comments of the Director of Fire Services that detailed fire safety requirement would be formulated upon receipt of the formal submission of general building plans; and
- (e) to note the comments of the Director of Electrical and Mechanical Services that the applicant should approach the electricity supplier for the requisition of cable plans to find out whether there was any underground cable (and/or overhead line) within or in the vicinity of the application site. If there was underground cable (and/or overhead line) within or in the vicinity of the application site, the applicant and/or his contractors should liaise with the electricity supplier and, if necessary, ask the electricity supplier to divert the underground cable (and/or overhead line) away from the vicinity of the proposed structure prior to establishing any structure within the application site. The 'Code of Practice on Working near Electricity Supply Lines' established under the Electricity Supply Lines (Protection) Regulation should be observed by the applicant and his contractors when carrying out works in the vicinity of the electricity supply lines.

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

Kowloon District

[Miss Annie K.W. To, Senior Town Planner/Kowloon (STP/K), was invited to the meeting at this point.]

Agenda Item 15

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/K13/250 Proposed Hotel in “Other Specified Uses” annotated “Business” zone,
8 Wang Kwong Road, Kowloon Bay
(MPC Paper No. A/K13/250)

110. The Secretary said that the application was submitted by a subsidiary of Henderson Land Development Co. Ltd. (Henderson). Mr. Raymond Y.M. Chan, having current business dealings with Henderson, had declared an interest in this item. The Committee noted that Mr. Chan had tendered an apology for being unable to attend the meeting.

Presentation and Question Sessions

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

- (a) background to the application;
- (b) the proposed hotel through in-situ conversion of an existing industrial building;
- (c) departmental comments – concerned Government bureau/departments had no objection to or adverse comments on the application;
- (d) no public comment was received during the statutory publication period and no local objection 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. The proposed hotel use was considered generally in line with the planning

intention of the “Other Specified Uses” annotated “Business” (“OU(B)”) zone. Within this zone, development or redevelopment/conversion of the whole buildings for commercial and clean industrial uses were encouraged. The Committee had so far approved eight applications for hotel developments in the Kowloon Bay Business Area, including the three previous approvals (No. A/K13/164, 173 and 241) at the application site. The proposed hotel use compiled with the Town Planning Board Guidelines No. 22D for ‘Development within “OU(B)” Zone’ in that it was not incompatible with the surrounding developments which comprised mainly commercial/office buildings and a recreation ground. As central air-conditioning system would be installed in the proposed hotel, it was unlikely that the proposed development would be susceptible to adverse air and noise impacts. Relevant Governments had no objection to the application and thus no adverse impacts on traffic, environment, drainage and sewerage in the area were anticipated.

112. Members had no question on the application.

Deliberation Session

113. 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 29.1.2014, 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 of a traffic impact assessment and implementation of road improvement works identified therein to the satisfaction of the Commissioner for Transport or of the TPB;
- (b) the design and provision of parking facilities, loading/unloading spaces, laybys, vehicular access and internal ramps/driveways for the proposed development to the satisfaction of the Commissioner for Transport of the TPB; and

- (c) the design and provision of water supply for firefighting and fire service installations to the satisfaction of the Director of Fire Services or of the TPB.

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

- (a) to liaise with the District Lands Officer/Kowloon East, Lands Department for lease modification;
- (b) to note the comments of the Director of Fire Services that the arrangement on emergency vehicular access should comply with Part VI of the Code of Practice for Means of Access for Firefighting and Rescue which was administered by the Buildings Department;
- (c) to note the comments of the Chief Building Surveyor/Kowloon, Buildings Department that subject to compliance with the criteria under the Practice Notes for Authorized Persons and Registered Structural Engineers (PNAP) 111, the application for hotel concession under the Building (Planning) Regulation 23A would be considered upon the formal submission of building plans;
- (d) to appoint an Authorized Person to submit building plans for the proposed alteration works to demonstrate compliance with the Buildings Ordinance, in particular natural lighting and ventilation for the proposed guest room use under Building (Planning) Regulations 30 as well as the provision of access and facilities for persons with a disability under Building (Planning) Regulations 72 and Design Manual: Barrier Free Access 2008; and
- (e) to provide landscape planting in the proposed development.

Agenda Item 16

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/K13/251 Shop and Services
 in “Other Specified Uses” annotated “Business” zone,
 Unit No. 3 (Portion), G/F, Kowloon Bay Industrial Centre,
 15 Wang Hoi Road, Kowloon Bay
 (MPC Paper No. A/K13/251)

Presentation and Question Sessions

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

- (a) background to the application;
- (b) the shop and services use on the ground floor of an existing industrial building;
- (c) departmental comments – concerned Government departments, including the Director of Fire Services (D of FS), had no objection to or adverse comments on the application;
- (d) no public comment was received during the statutory publication period and no local objection 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. The shop and services use at the application premises was considered generally in line with the planning intention of the “Other Specified Uses” annotated “Business” (“OU(B)”) zone. Similar applications for shop and services use had been approved at the other ground floor workshop units in the

Kowloon Bay Business Area. The shop and services use also complied with the Town Planning Board Guidelines No. 22D for 'Development within "OU(B)" Zone' in that it was not incompatible with the other uses within the same building and would not induce significant adverse fire safety, traffic, environmental and infrastructural impacts to the developments within the subject building and the adjacent area. Although the aggregate commercial floor area of 467.145m² (including the application premises) on the ground floor of the subject building had slightly exceeded the maximum permissible limit of 460m² by 7.145m² (1.55%), D of FS had no objection to the application. Other relevant Government departments also had no objection to or adverse comments on the application. The last two planning approvals (No. A/K13/216 and 236) for shop and services use at the application premises had been revoked by the Committee on 20.10.2008 and 23.7.2009 respectively due to non-compliance with the approval condition on the submission and implementation of fire safety measures. The office records of PlanD indicated that the implementation of fire safety measures was held up by the provision of a disabled ramp within the application premises. There was also a change in the ownership of the application premises. In the current application, the applicant, who was the new owner, indicated that as it was technically not feasible to provide a disabled ramp within the application premises, he would relocate the ramp to the rear of the shop and revise the proposal to meet the requirements of the Fire Services Department as far as possible. Nevertheless, as planning permission for shop and services use at the application premises had been revoked twice due to non-compliance of approval condition, should the Committee decide to approve the application, it was recommended to advise the applicant that if the approval conditions were not complied with again resulting in revocation of the planning permission, sympathetic consideration would not be given by the Committee to any further application.

116. Members had no question on the application.

117. 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 6 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the TPB by 29.7.2010; and
- (b) if the above planning condition was not complied with by the specified date, the approval hereby given should cease to have effect and should on the same date be revoked without further notice.

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

- (a) to apply to the District Lands Officer/Kowloon East, Lands Department for a temporary waiver or lease modification;
- (b) to ensure that any proposed foul drainage connection from the application premises should be made towards the building's terminal foul manhole and that proper grease trap/tank should be provided for use by the application premises to satisfy the current requirements of the Environmental Protection Department/Food and Environmental Hygiene Department (FEHD), if any part of the application premises was to be used as food operator;
- (c) to consult FEHD regarding the food licence for operation of food business under Food Business Regulations;
- (d) to observe the road restriction requirements in force when all loading/unloading activities were taking place; and

- (e) should the approval conditions were not complied with again resulting in the revocation of the planning permission, sympathetic consideration would not be given by the Committee to any further application.

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

[Mr. Silas K.M. Liu, Senior Town Planner/Kowloon (STP/K), was invited to the meeting at this point.]

Agenda Item 17

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/K14/606 Proposed Shop and Services (Bank/Fast Food Shop/Electrical Shop/
Local Provision Store/Showroom)
in "Other Specified Uses" annotated "Business" zone,
Workshops Q and R, G/F, Everest Industrial Centre,
396 Kwun Tong Road, Kwun Tong
(MPC Paper No. A/K14/606)

Presentation and Question Sessions

119. Mr. Silas K.M. Liu, 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 (bank/fast food shop/electrical shop/local provision store/showroom) uses on the ground floor of an existing industrial building;
- (c) departmental comments – concerned Government departments, including

the Director of Fire Services, had no objection to or adverse comments on the application;

- (d) during the statutory publication period, one public comment expressing support to the application was received; 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. The proposed shop and services (bank/fast food shop/electrical shop/local provision store/showroom) uses at the application premises were considered generally in line with the planning intention of the “Other Specified Uses” annotated “Business” (“OU(B)”) zone. Application No. A/K14/522 for shop and services (showroom) use at Workshop Q and Application No. A/K14/491 for shop and services (fast food shop) use at Workshop R had previously been approved with conditions by the Committee. The proposed shop and services uses under the subject application complied with the Town Planning Board Guidelines No. 22D for ‘Development within “OU(B)” Zone’ in that they would not induce adverse fire safety, traffic, environmental and infrastructural impacts to the developments within the subject building and the adjacent areas. Relevant Government departments also had no objection to or adverse comments on the application.

120. Members had no question on the application.

Deliberation Session

121. 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 29.1.2012, 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 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 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.

122. The Committee also agreed to advise the applicants of the following :

- (a) to apply to the District Lands Officer/Kowloon East for lease modification or a temporary waiver for the proposed shop and services (bank/fast food shop/electrical shop/local provision store/showroom) uses at the application premises;
- (b) to comply with the requirements as stipulated in the Code of Practice for Fire Resisting Construction;
- (c) to appoint an Authorized Person to submit building plans for the change of use/alteration works to demonstrate compliance with the Buildings Ordinance;
- (d) to approach the Director of Food and Environmental Hygiene for application for food licence;
- (e) to note the comments of the Director of Fire Services that the proposed fast food shop use should only be licensed and operated as 'food factory' or 'factory canteen'; a fast food shop licensed and operated as a 'general restaurant' or 'light refreshment restaurant' would not be accepted; and the proposed showroom use should be used in connection with the main industrial use; and
- (f) to ensure that any proposed foul drainage connection from the proposed

shop should be made towards the building's terminal foul manhole and that proper grease trap/tank should be provided for use by the said shop to satisfy the current requirements of the Environmental Protection Department/Food and Environmental Hygiene Department, if any part of the shop was to be used for food processing.

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

Agenda Item 18

Any Other Business

[Closed Meeting]

123. The minutes of this item were recorded under separate confidential cover.
124. There being no other business, the meeting was closed at 2:40 p.m..