

**APPLICATION FOR AMENDMENT OF PLAN**  
**UNDER SECTION 12A OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. Y/TM/22**

- Applicant** : Mascot Enterprise Limited represented by Citiway Consultants Limited
- Plan** : Approved Tuen Mun Outline Zoning Plan (OZP) No. S/TM/35
- Site** : Lots 491(Part), 492(Part), 495RP(Part), 498RP, 500(Part), 501(Part), 502RP(Part), 503 and 717RP in D.D. 374 and adjoining Government Land, So Kwun Wat, Tuen Mun, New Territories
- Site Area** : About 984m<sup>2</sup> (including about 123m<sup>2</sup> of Government land (about 12.5%))
- Lease** : Block Government Lease (demised for agricultural use, about 767m<sup>2</sup>) except Lot 717RP (about 94m<sup>2</sup>) in D.D. 374 which is a building lot
- Zoning** : “Government, Institution or Community (1)” (“G/IC(1)”)   
*[For religious institution development; maximum gross floor area (GFA) of 2,825m<sup>2</sup>, maximum site coverage of 60% and maximum building height of 35mPD. Public open space of not less than 615m<sup>2</sup> should be provided at street level.]*
- Proposed Amendment** : To amend the Notes for “G/IC(1)” zone to facilitate Residential Care Homes for Elderly

**1. The Proposal**

- 1.1 On 12.2.2019, the applicant submitted an application for amendment to the Notes of the “G/IC(1)” zone on the approved Tuen Mun OZP No. S/TM/35 to facilitate an elderly centre development (**Plan Z-1a**). On 19.6.2019, the applicant amended the applied use to Residential Care Homes for Elderly (RCHE) at the application site (the Site) (about 984m<sup>2</sup>). RCHE is regarded as a ‘Social Welfare Facility’ which is currently a Column 2 use in “G/IC(1)” zone requiring planning permission from the Town Planning Board (the Board).
- 1.2 Since the development parameters of the current proposed RCHE would exceed the restrictions stipulated on the Notes, the applicant has submitted a s.12A application to amend the Notes of the “G/IC(1)” zone with ‘Social Welfare Facility’ in Column 1, development parameters of GFA of 4,812m<sup>2</sup>, site coverage

of 65%, building height of 9 storeys and plot ratio of 4.89; and to delete the requirement on provision of not less than 615m<sup>2</sup> of public open space at street level. The applicant has not proposed a new set of Notes for the “G/IC(1)” zone.

- 1.3 In support of the application, the applicant has submitted an indicative scheme. The indicative master layout plan, floor plans, section, landscape plans and photomontages submitted by the applicant are shown in **Drawings Z-1 to Z-16**. The proposed development parameters are as follows:

	<b>Indicative Proposal under current Application</b>
<b>Proposed development</b>	RCHE
<b>Site area:</b>	About 984m <sup>2</sup> (including about 123m <sup>2</sup> government land)
<b>Non-domestic GFA:</b>	About 4,812m <sup>2</sup>
<b>Plot ratio (PR):</b>	About 4.89
<b>Site coverage (SC):</b>	About 65%
<b>Number of block:</b>	1
<b>Total No. of Beds</b>	240 beds (1/F – 6/F, 40 beds on each floor)
<b>Building height (Main roof):</b>	40mPD / 35m
<b>Number of storeys:</b>	9 storeys excluding one basement level
<b>Car parking spaces:</b> Private Car: Ambulance:	9 (including 1 for the disabled) 2
<b>Loading and unloading bays:</b>	1
<b>Lay-bys:</b> Taxi/Private Car:	2
<b>Public open space:</b>	Nil

- 1.4 According to the indicative scheme, the main uses of the proposed RCHE by floors are as follows (**Drawings Z-1 to Z-7**):

<b>Main uses by floors:</b>	
B/F	Parking spaces and lay-bys
G/F	Kitchen, ambulance and light goods vehicle parking spaces and loading/unloading bay
1/F to 6/F	Bedrooms for elderly, activity area
7/F	Physiatrist Centre, clinic, treatment room, pharmacy, ancillary office, multi-function rooms and laboratory
8/F	Café, kitchen, roof garden
Roof	Lift machine room, roof garden

- 1.5 According to the applicant, the proposed RCHE will be privately operated and funded. It will provide 240 beds on 1/F to 6/F (i.e. 40 beds on each floor), a clinic with laboratory and pharmacy on 7/F to serve the RCHE exclusively and a café on 8/F to serve the visitors of the RCHE. According to the applicant, the facilities from G/F to 6/F will not exceed 24m from ground level (**Drawing Z-8**). About 50 staff will be employed. The visiting hours of the proposed RCHE will be from 11:00am to 3:00pm and 7:00pm to 9:00pm.

- 1.6 The applicant indicates that with the junction improvement works for Castle Peak Road - So Kwun Wat/So Kwun Wat Road proposed under application No. Y/TM/16 for residential development to be implemented by another party (**Plan Z-1a**), as well as the widening of Castle Peak Road – Castle Peak Bay project to be implemented by the Highways Department, the proposed development would be feasible from traffic viewpoint and will not lead to adverse traffic impact to the surrounding road network.
- 1.7 All the 4 existing trees surveyed within the Site are proposed to be felled. To compensate the trees to be felled, a total of 23 new trees are proposed to be planted on various floors of the development. The overall landscape plan is in **Drawing Z-9**). The applicant proposes to delete the public open space on G/F which should be provided in the church development.
- 1.8 In view of the presence of a petrol filling station to the immediate north of the Site, the applicant has proposed to provide a fire safety buffer (as non-building area) with a radius of 12m from the underground fuel tank of the petrol filling station (**Drawings Z-1 and Z-3 and Plan Z-2**).
- 1.9 In support of the application, the applicant has submitted the following documents:
- (a) Application form received on 12.2.2019; **(Appendix I)**
  - (b) Planning statement received on 12.2.2019 with a landscape master plan with tree assessment (LMP), a traffic impact assessment (TIA), an environmental assessment (EA), a sewerage impact assessment (SIA) and photomontages; **(Appendix Ia)**
  - (c) Further Information (FI) received on 29.4.2019 providing responses to departmental comments with revised calculations for the TIA, revised EA and revised SIA;  
*[The FI was accepted but not exempted from publication and recounting requirements.]* **(Appendix Ib)**
  - (d) FI received on 19.6.2019 amending the proposal as RCHE, and providing revised G/F floor plan, revised EA, new drainage proposal, replacement pages of planning statement, SIA, landscape proposal, and responses to departmental comments;  
*[The FI was accepted but not exempted from publication and recounting requirements.]* **(Appendix Ic)**
  - (e) FI received on 21.6.2019 providing clarifications on the proposal, revised Master Layout Plan and layout plan of G/F; and  
*[The FI was accepted and exempted from publication and recounting requirements.]* **(Appendix Id)**

- (f) FI received on 8.8.2019 providing revised G/F floor plan and 1 to 6/F floor plan, revised photomontages showing the proposed development, and responses to departmental comments. **(Appendix Ie)**  
*[The FI was accepted and exempted from publication and recounting requirements.]*

1.10 The application was originally scheduled for consideration on 3.5.2019. At the request of the applicant, the Committee on 12.4.2019 agreed to defer a decision for two months and the application is scheduled for consideration by the Committee at this meeting.

## **2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in section 6 of the planning statement at **Appendix Ia**, the FIs at **Appendices Ib to Ie**. They can be summarised as follows:

- (a) The Site was approved under s.16 application No. A/TM/440 and s.12A application No. Y/TM/14 for religious institution. The Site is currently zoned "G/IC(1)" which implies the Site is suitable for "G/IC" use. As RCHE is one of the typical "G/IC" uses, the proposed development is considered compatible to the surrounding from land use viewpoint.
- (b) The PR of the "G/IC" zones on Government land has been increased to 5. The proposed PR at 4.89 should be considered acceptable by the Board. All technical assessment reports for the RCHE have already proofed that the proposed RCHE would not generate any infrastructural burden in the area. Approval of the application will not set any undesirable precedent to similar applications in the future.
- (c) The technical studies submitted in support of the subject application (including traffic impact assessment, environmental assessment, noise impact assessment, air quality impact assessment, sewerage impact assessment, drainage proposal and photomontages) consider that there will be no adverse impact to the surrounding arising from the proposed development at the Site.
- (d) 4 trees are proposed to be felled for the proposed RCHE. They are in poor condition and have low survival rate after transplanting. Tree compensation in the ratio of 1:1 within the RCHE is proposed. Sufficient landscape enhancement will be provided within the Site to soften the visual impact of the proposed development.
- (e) There is a surplus of open space provision in Tuen Mun. The existing provision of district open space in Tuen Mun has already over fulfilled the requirement/demand (1 person/1m<sup>2</sup>) for district open space. The proposed development only takes up 0.1% of the whole district open space site in the area, the loss of district open space is considered negligible for the current rezoning application. Also, Leisure and Cultural Services Department has no development programme for the district open space in vicinity of the Site.

- (f) As operations of church and RCHE are different in nature, it is not suitable to open G/F of the RCHE to public for open space use due to security reasons. The deletion of public open space on G/F as compared to the church development is to ensure the safety of elderly.
- (g) The land owner of the Site also owns portions of land (about 606m<sup>2</sup>) zoned "G/IC" in the immediate south of the Site. However, that area has been reserved for planned fire station cum ambulance depot. The Site is the only remaining land for the owner to develop the RCHE. The Board should approve the application with sympathetic consideration under such circumstances.
- (h) The population is expected to remain on an aging trend and the pace of population aging is projected to be accelerating in the coming 20 years. There will be a high demand for elderly homes.
- (i) The change of land use from church to RCHE at the site is due to the difficulties of fund raising and financing. The RCHE can be self-sustained financially. The church will find another alternative site for development.
- (j) No policy support for the proposed RCHE is required since the RCHE is privately owned.
- (k) The provision of fire safety buffer zone (as non-building area) with a radius of 12m between the underground fuel tank of the petrol filling station and the proposed RCHE could safeguard the elders from the risk of fire arising from the petrol filling station. The requirement of the Fire Services Department has been fulfilled.
- (l) The public car park proposed under the previous application (withdrawn by the applicant due to encroachment onto the site reserved for fire station) has been removed due to the reduction in site area. It is considered not fair for Transport Department to request car parking for public use in view of the small site area under the current application.

### **3. Compliance with the "Owner's Consent/Notification" Requirements**

The applicant is the "current land owner". Detailed information would be deposited at the meeting for Members' inspection.

### **4. Background**

- 4.1 On 6.9.2013, a s. 16 application for church development submitted by United Christian Faith Limited (UCF) (application No. A/TM/440) was approved by the Committee with conditions. The Applicant proposed to provide a landscape garden at G/F with 558m<sup>2</sup> which would be open for public use. In this regard, a planning condition on the design, implementation, maintenance and management of the public open space as proposed by the applicant to the satisfaction of the Director of Leisure and Cultural Services (DLCS) or of the Board was imposed. On 23.5.2014, a rezoning application No. Y/TM/14 submitted by the same applicant to rezone the Site from "Open Space" ("O") to "G/IC" to facilitate church development with public open space was agreed by the Committee. In the

rezoning application No. Y/TM/14, the applicant proposed to provide 615m<sup>2</sup> public open space as illustrated in the indicative scheme.

- 4.2 Since the agreement to the rezoning application No. Y/TM/14 to facilitate the proposed church development on 23.5.2014, UCF also submitted applications to rezone the Site between November 2015 to April 2017 to facilitate other development proposals at the site, namely private primary school (applications No. Y/TM/17 and Y/TM/18) and elderly centre (application No. Y/TM/19). Y/TM/18 was rejected by the Committee on 9.12.2016 while Y/TM/17 and Y/TM/19 were withdrawn by UCF. Details on the previous applications are set out in paragraph 5 below.
- 4.3 On 3.11.2017, the draft Tuen Mun OZP No. S/TM/34 was exhibited under section 5 of the Town Planning Ordinance (the Ordinance). The rezoning of the Site from “O” to “G/IC(1)” to reflect the s.12A application No. Y/TM/14 for church development mentioned in para 4.1 above was one of the amendment items. After hearing the representations and comments in August and October 2018, the Board decided not to uphold the representations. The draft OZP was subsequently approved by the CE in C and the approved Tuen Mun OZP No. S/TM/35 was exhibited on 21.12.2018.
- 4.4 On 12.2.2019, the land owner, Mascot Enterprise Ltd. submitted the current application to amend the Notes of the “G/IC(1)” zone to facilitate the RCHE development.

## 5. Previous Applications

- 5.1 The Site is the subject of seven previous rezoning applications ( No. Z/TM/1, Y/TM/3, Y/TM/5, Y/TM/14, Y/TM/17, Y/TM/18 and Y/TM/19) and two s.16 applications (No. A/TM/394 and A/TM/440). The application site boundaries are shown in **Plan Z-1b**. Apart from application No. Z/TM/1, all previous applications are submitted by UCF. These previous applications are listed as follows and the details are in **Appendix II**.

<b>s.12A / s.16 Applications</b>			
<b>Application No.</b>	<b>Proposal (Applicant)</b>	<b>Site Area (m<sup>2</sup>) (about)</b>	<b>Decision</b>
Z/TM/1	Rezoning from “O” to “G/IC” for home for the elderly (Jatamaka Company Limited)	2,777	Rejected on 28.1.2000
A/TM/394	Proposed Church (UCF)	1,018	Withdrawn on 19.1.2010
Y/TM/3	Rezoning from “O” to “G/IC” for church development (UCF)	1,770	Rejected on 7.5.2010
Y/TM/5	Rezoning from “O” to “G/IC” for church development (UCF)	1,770	Withdrawn on 5.12.2012
A/TM/440	Proposed Church (UCF)	984	Approved with conditions on 6.9.2013

Y/TM/14	Rezoning from “O” to “G/IC” for church development (UCF)	984	Partially agreed on 23.5.2014
Y/TM/17	Rezoning from “O” to “G/IC” for private primary school (UCF)	984	Withdrawn on 21.3.2016
Y/TM/18	Rezoning from “O” to “G/IC” for private primary school (UCF)	984	Rejected on 9.12.2016
Y/TM/19	Rezoning from “O” to “G/IC” for elderly centre (UCF)	1,270	Withdrawn on 28.8.2018

- 5.2 Application No. Z/TM/1 submitted by a different applicant (Jatamaka Company Limited), was for rezoning a larger Site from “O” to “G/IC” for a home for the elderly which was rejected by the Committee on 28.1.2000 mainly on grounds of adverse environmental impacts. Afterwards, UCF submitted a s.16 application (No. A/TM/394) for proposed church with public open space which was withdrawn on 19.1.2010. On 7.5.2010, the Committee rejected a s.12A application (No. Y/TM/3) submitted by UCF for rezoning a larger site from “O” to “G/IC” to facilitate the church development. The Committee considered it premature to consider the application as the proposal would affect the layout plan in the area which involved the reservation of land for development of a fire station, a police station as well as open space. UCF subsequently submitted another application (Y/TM/5) to rezone the site to facilitate the church development and the application was withdrawn on 5.12.2012.
- 5.3 UCF submitted a s.16 application (A/TM/440) for proposed church with public open space and the application was approved by the Committee on 6.9.2013 with conditions. The Committee considered the concerns of DLCS and Chief Town Planner/Urban Design and Landscape, PlanD (CTP/UD&L, PlanD) that the proposed church under application No. A/TM/440 would excise the “O” zone into a linear and irregular shape thus affecting the development potential of the “O” zone but decided to approve the application on the condition that the applicant would be required to design, implement, maintain and manage the public open space under an approval condition amongst others.
- 5.4 On 6.1.2014, UCF submitted a s.12A application (No. Y/TM/14) for rezoning the same site as A/TM/440 to “G/IC” to facilitate church development with public open space based on a largely similar proposal. The applicant’s main justification for seeking the rezoning application shortly after approval of the s. 16 application (4 months later) was that the church needed to seek financial support from banks and other financial institutions as the s. 16 approval could not reflect the ultimate land value for the development of church. The application was partially agreed by the Committee on 23.5.2014. The Committee decided that the site should be rezoned to an appropriate “G/IC” sub-zone to restrict the site to allow only for church use and to include the building height, PR/GFA, site coverage and the amount of public open space to be provided in the Notes of the OZP in order to restrict the use and development parameters approved under the s.16 application (No. A/TM/440).
- 5.5 On 12.11.2015 and 18.5.2016, UCF submitted s.12A applications (No. Y/TM/17 and Y/TM/18) for rezoning the same site to facilitate private primary school

development and to remove the requirement to provide the public open space. Y/TM/17 was withdrawn by UCF on 21.3.2016 while No. Y/TM/18 was rejected by the Committee on 9.12.2016 mainly on grounds that the applicant failed to demonstrate that the site was suitable for accommodating a properly designed primary school and that the proposed school development would not cause adverse traffic impact on the surrounding areas.

- 5.6 On 7.4.2017, UCF submitted another s.12A application (No. Y/TM/19) for rezoning a larger site to facilitate an elderly centre development also with proposed deletion of the public open space. The application was later withdrawn on 28.8.2018.

## **6. Similar Application**

There is no similar application for amendment of Notes for “G/IC” or “G/IC(1)” zone to facilitate elderly centre or RCHE development within the Tuen Mun OZP area.

## **7. The Site and its Surrounding Areas** **(Plans Z-1a to Z-3 and photos on Plans Z-4a to Z-4c)**

7.1 The Site is:

- (a) vacant and paved. Trees are found at the western part of the Site (**Plan Z-3**);
- (b) about 110m south of the Tuen Mun Road/So Kwun Wat Road underpass (**Plans Z-2 and Z-3**); and
- (c) accessible via So Kwun Wat Road to its west (**Plans Z-2 and Z-3**).

7.2 The surrounding areas have the following characteristics (**Plans Z-2, Z-3, Z-4a to Z-4c**):

- (a) to its immediate north, a petrol filling station and a refuse collection point are found (**Plan Z-2**);
- (b) to its east are an open storage of construction materials and a car park. Further to its north-east is Tuen Mun Road;
- (c) to its west across So Kwun Wat Road are an electricity substation, a pumping station and two primary schools; and
- (d) to its south are vegetated area and an access road, further south across the road are vegetation and temporary uses including property agencies and open storage. Further to its south-west (about 100m away) is Aegean Coast which is a medium density residential development with commercial facilities (**Plan Z-3**).



## **8. Planning Intention**

The planning intention of the “G/IC(1)” zone is primarily to provide land for the development of a religious institution. Any development on land zoned “G/IC(1)” shall be compatible and blend in harmoniously with its surrounding environment. The zoning is to reflect the church development agreed by the Board (Application No. Y/TM/14) as mentioned in paragraph 4.1.

## **9. Comments from the Relevant Government Departments**

9.1 The following Government departments have been consulted and their views on the application are summarised as follows:

### **Land Administration**

9.1.1 Comments of the District Lands Officer/Tuen Mun, Lands Department (DLO/TM, LandsD):

- (a) The Site comprises 9 private lots, viz. Lots 491(part), 492(part), 495RP(part), 498RP, 500(part), 501(part), 502RP(part), 503 and 717RP in D.D. 374, and the adjoining Government land. Except for Lot 717RP, the remaining lots are all held under the Block Government lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government. The proposed development therefore contravenes the relevant lease conditions.
- (b) In the event that planning permission is given, the lot owner(s) have to apply to LandsD for an in-situ land exchange prior to any development on the Site. The proposal would only be considered upon the receipt of a formal application from the applicant. As the current proposal has also involved a parcel of Government land, the applicant should note that there is no guarantee that the Application, if received by LandsD, will be approved, and their comments are all reserved on such. As a related issue, the Application will be considered by LandsD acting in the capacity as the landlord at its sole discretion. In the event that the Application is approved, it will be subject to such terms and conditions as the Government shall deem fit to do so, including the charging of premium and administrative fees and such other conditions as may be imposed by LandsD.
- (c) Notwithstanding the above, the Government reserves the right to take any enforcement action against breach of the lease conditions and unauthorized occupation of Government Land.
- (d) With regard to the FI submitted on 29.4.2019 (**Appendix Ib**), it is noted that the applicant has in various responses to the departmental comments indicated that “detailed design/landscape proposal shall be submitted upon lease modification”. In this regard, he stresses that notwithstanding of planning permission is given, for any lease modification/land exchange application, there is no guarantee that approval will eventually be granted by

LandsD who is acting in the capacity as the landlord at its sole discretion. Each case has to be determined on individual merits upon application and if approved, will be subject to such terms and conditions as may be appropriate. Also, LandsD is not in the position to determine the proposed plot ratio for the Site, which should normally follow the plot ratio as set down in the approved OZP or planning approvals. In any event that the proposed plot ratio is in excess of the permitted plot ratio under the approved OZP/planning approvals in the application of lease modification/land exchange, the applicant must obtain the necessary planning approvals prior to any further proceeding of lease modification/land exchange.

### **Licensing**

#### 9.1.2 Comments of the Director of Social Welfare (DSW):

Her comments on the proposed RCHE from the licensing point of view are provided below:

- (a) The applicant is reminded that, for a RCHE license to be issued, the intended RCHE has to comply with the licensing requirements as stipulated in the Residential Care Homes (Elderly Persons) Ordinance, Cap. 459, its subsidiary legislation and the Code of Practice for Residential Care Homes (Elderly Persons) (CoP).
- (b) According to Section 20(1) of Residential Care Homes (Elderly Persons) Regulation (Cap. 459 Sub, Leg A), no part of a RCHE shall be situated at a height more than 24 m above the ground floor, measuring vertically from the ground of the building to the floor of the premises in which the RCHE is to be situated. For this proposed development involving a 9-storey cum 1 basement RCHE, the building height is 35 m with 7/F being built at 24m above the street level. The cafe, kitchen and roof garden on 8/F are situated at a height more than 24 m above the ground floor which did not comply with the height restriction requirement of RCHE. The applicant stated that the cafe is to serve visitors / families of the elderly. DSW points out that the cafe will not be included into the licensing boundary of the RCHE.
- (c) The clinic's area should not be included into the licensing boundary of the proposed RCHE regardless its target users as the monitoring of a clinic is outside SWD licensing office's regulatory regime. The applicant stated that the clinic will exclusively serve the RCHE. The applicant should be reminded to obtain relevant licenses from authorities concerned for the operation of clinic and cafe.
- (d) Dining / sitting area, laundry room, isolation rooms and office should be provided to the proposed RCHE. The minimum clear headroom under the false ceiling, if any, for the RCHE should not be less than 2.5 m. FI received on 19.6.2019 (**Appendix Ic**) indicates that a kitchen with an area of 50 square metres would be

provided on the ground floor of the building. The applicant should be reminded that a protected lobby should be provided between the lift lobby and the kitchen in accordance with Clause B9.1 of the Code of Practice for Fire Safety in Buildings 2011; and provision of a dumbwaiter shall be required as the dining areas are located on different floors from the kitchen according to the "Best Practice Guideline: Basic Provision Schedule for Basic Building Works Building Services Installation and Kitchen and Laundry Equipment Lists for RCHE".

- (e) Regarding the applicant's response in **Appendix Ib**, since the proposed RCHE is a private one which will not incur any capital or recurrent financial implication to the Government, she from service perspective has no comment on the applicant's supplementary information provided that the design and construction of the proposed RCHE shall comply with all relevant licensing and statutory requirements.
- (f) It is not preferable to set an age limit (65-95) for RCHE according to para. 2.3 of the planning statement.

### **Traffic**

#### 9.1.3 Comments of the Commissioner for Transport (C for T):

Having considered that DSW has no adverse comment on the arrangement and provision of loading/unloading and car parking spaces. C for T has no objection in principle to the application.

#### 9.1.4 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) The proposed access arrangement and the TIA should be commented and approved by Transport Department (TD).
- (b) If the above access arrangement is agreed by TD, the applicant should construct a run in/out at the access point at So Kwun Wat Road in accordance with the latest version of Highways Standard Drawing No. H1113 and H1114, or H5133, H5134 and H5135, whichever set is appropriate to match with the existing adjacent pavement.
- (c) The emergency vehicular access should be commented by Director of Fire Services or TD.
- (d) If any highway features are affected, proposal to deal with the affected features shall be submitted for their agreement.
- (e) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

9.1.5 Comments of the Chief Engineer 3/Major Works, Highways Department (CE3/MW, HyD):

The “Agreement No. CE51/2016(HY) Route 11 (between North Lantau and Yuen Long) – Feasibility Study (FS)” for the Route 11 project has commenced. The Authorized Person of the private development should be reminded to liaise closely with his department for any interfacing issues.

**Environment**

9.1.6 Comments of the Director of Environmental Protection (DEP):

- (a) According to the SIA, the sewage from the proposed development will be collected and discharged to the existing government sewerage network which has sufficient capacity to cater for the sewerage generated from the proposed development. He has no comment on the SIA.
- (b) According to the EA, the Site is subject to road traffic noise from Tuen Mun Road and So Kwun Wat Road and fixed noise from the container lorry parking area. With adopting single aspect design such that the openings for ventilation would be facing away from the noise source located west and south to the development and implementation of the proposed mitigation measures, including 22.1m solid sound barrier wall with sound proof material (**Drawing Z-1**), no adverse noise impact is anticipated. Provided that the applicant is required to submit revised Noise Impact Assessment (NIA) report under land title document to demonstrate the compliance with the noise criteria with HKPSG and implement the proposed noise mitigation measures, he has no further comment on the NIA.
- (c) Detailed comments of DEP are in **Appendix III** for the applicant to address on the future NIA submission when the actual MLP/GBP has been developed.

9.1.7 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

He has no adverse comment on the revised SIA and the drainage proposal in the submitted FI (**Appendix Ic**) from public drainage and sewerage viewpoints. Detailed comment is in **Appendix III**

**Urban Design and Visual Impact**

9.1.8 Comments of the Chief Town Planner/Urban Design & Landscape, Planning Department (CTP/UD&L, PlanD):

She has reservation from urban design and visual impact point of view.

Urban Design Aspect

- (a) The plot ratio is proposed to be increased from 2.87 under previous applications (for church) to 4.89 under the current

application (for RCHE). The applicant puts emphasis on benefits of the proposed elderly centre to residents only through the provisions of sufficient facilities and clean, spacious and comfortable environment to justify the proposed intensification of development density through increased GFA and plot ratio (PR). However, there is no discussion on how these provisions are related to increased GFA and PR, how the loss of small public open space would be addressed and what the design merits would be. The applicant fails to demonstrate why the targeted number of beds (i.e. 240 beds) is necessarily required through the increased PR of 4.89.

- (b) The current scheme is apparently inferior to the previous schemes under the application Nos. A/TM/440 and Y/TM/14 (for church development) in which a portion of public open space and a pedestrian access to its nearby district open space were proposed to serve the local community. As such, it is undesirable from urban design perspective if the connectivity and integrated design of the future open space would be defeated.
- (c) The applicant proposed a solid sound barrier wall of 22.1m in height from ground which provides noise screening to the surrounding noise sources. Such sound absorption treatment should be ensured to be aesthetically pleasant.

#### Visual Impact Assessment (VIA)

- (d) The VIA should be directed towards predicting and judging of the magnitude and significance of the effects that new development may have on visual amenities. The latest photomontages submitted in the FI of 8.8.2019 could not adequately assess the visual implications of the proposed development. The photomontages could only be served as graphic illustrations but it fails to accompany with any discussions on magnitude and significance of effects of the proposed development. Noting the scale of the proposed development, the applicant is required to prepare a proper and full VIA to assess the implications as she has repeatedly asked for.
- (e) The applicant should elaborate the effectiveness and implementation of vertical greenings proposed in the submitted photomontages as shown in the supplementary statement.

### Landscape

#### 9.1.9 Comments of CTP/UD&L, PlanD:

She has reservation on the application from the landscape planning point of view. Her comments on landscape planning are as follows:

#### Public Open Space Provision

- (a) According to the Notes of the OZP, a public open space of not less than 615m<sup>2</sup> should be provided at street level for the “G/IC(1)” zone. However, such provision will no longer be

available should the proposed amendment to facilitate the RCHE be approved by the Board which will result in loss of public open space.

Existing Trees

- (b) With reference to the Tree Assessment Schedule, 4 nos. of existing trees, including 3 nos. of trees with DBH over 1m, are all proposed to be removed. However, according to the site visit conducted by her office on 7.3.2019, there should be 6 nos. of existing trees, including 3 nos. of trees with DBH of 1-2m, which are much bigger than the sizes stated in the submission. Hence, due to the discrepancies between the submitted information and the actual site conditions, the impacts on the existing landscape resources cannot be reasonably ascertained.

Landscape Proposal

- (c) According to the landscape proposal, large trees with 150mm to 200mm trunk diameter are proposed to be planted. However, the proposed planting space for tree planting on both podium and roof levels are too small for sustainable and healthy tree growth. Besides, it is noted that 2m of crown spread is specified for these large trees, which means substantial pruning will be required and this will damage the tree form and structure as well as initiate decay in both trunk and branches. In short, the current planting proposal is considered impractical and cannot mitigate the overall impact on the existing landscape resources.
- (d) With regard to the FIs submitted on 19.6.2019 and 8.8.2019 (**Appendices Ic and Ie**), although the applicant attempted to revise the planting proposal with 23 nos. of trees, there is still no solid revision of building layout to address her previous concerns on omission of public open space and discrepancies on tree survey. Besides, the practicality of the planting proposal was not demonstrated and sustainable tree planting is still in doubt. In addition, She noted that the newly proposed vertical greening shown in photomontages of **Appendix Ie** was not reflected in relevant landscape drawings and the applicant is requested to clarify with supporting details.

**Building Matters**

- 9.1.10 Comments of the Chief Architect/Central Management Division 2, Architectural Services Department (CA/CMD2, ArchSD):

He has no further comment on the application having considered that the applicant has satisfactorily responded to his concern on the design of the proposed emergency vehicular access.

- 9.1.11 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

He has no comment on the application for amendment to the Notes under the Building Ordinance. Detailed comments will be made at the building plan submission stage. Other comments are in **Appendix III**.

### **Fire Safety**

#### 9.1.12 Comments of the Director of Fire Services (D of FS):

- (a) He has no objection in principle to the proposal subject to water supplies for firefighting and fire service installation being provided to the satisfaction of Director of Fire Services as well as the statutory height restriction as stipulated in Section 20 of Residential Care Homes (Elderly Persons) Regulation, Cap 459A being observed.
- (b) From fire safety point of view, a minimum separation distance of 12m as stipulated in Chapter 4 of Design, Construction, Modification, Maintenance and Decommissioning of filling stations published by the Association of Petroleum and Explosives Administration (APEA) and Energy Institute (EI), London, is advised to be maintained between the existing PFS and the proposed RCHE, measuring from the existing fill points of the existing PFS. The safety distance of 12m has taken into account the off-site risk of proposed RCHE imposed by the existing PFS, the layout of filling points for underground storage tank, daily operation of PFS as well as the advice from APEA and EI, London. FSD notes that according to the submission, a separation distance of 12m could be maintained between the proposed building and the existing fill points of the existing PFS.
- (c) Detailed fire safety requirements will be formulated upon receipt of formal submission of general building plans and referral from relevant licensing authority.
- (d) The EVA provision in the site shall comply with the standard as stipulated in Section 6, Part D of the Code of Practice for Fire Safety in Buildings 2011 under the Building (Planning) Regulation 41D which is administered by the BD.

### **Open Space Provision**

#### 9.1.13 Comments of the Director of Leisure and Cultural Services (DLCS):

The Site falls within an area zoned “G/IC(1)” on the OZP. The proposed Site for the RCHE will shape the east of the Site, which is currently zoned “O” on the OZP, into a linear and irregular piece of land, and will hinder the potential for the development of open space facilities therein. Currently she has no plan on the development of the “O” site to the east of the Site. Meanwhile, the provision of public open space in Tuen Mun District has already exceeded recommendation of the Hong Kong Planning Standards and Guidelines (HKPSG).

### **Nature Conservation**

#### 9.1.14 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

- (a) It is noted that the Site is the same as the previous applications No. Y/TM/14, Y/TM/18 and A/TM/440 which is located in disturbed area and is mainly surrounded by roads and other developed uses. According to the Existing Tree Schedule enclosed in Appendix 11 of the planning statement (**Appendix Ia**), 4 nos. of large and mature trees were found within the Site and all of them are proposed to be felled. Compensation planting of trees has been proposed.
- (b) The presence of large and mature trees within the Site has been raised by CTP/UD&L, PlanD in previous applications. He believes the Board should have taken into consideration of various factors including tree preservation before approving the previous proposals. In this regard, he has no comments on the current application.

### **District Officer's Comments**

#### 9.1.15 Comments of the District Officer (Tuen Mun), Home Affairs Department (DO/TM, HAD):

- (a) She has distributed consultation letters to the locals concerned and understands that they would provide their comments (if any) to the Board direct.
- (b) It is understood that Tuen Mun District Council (TMDC) member of the subject constituency expressed concerns on compliance of the proposed RCHE at the Site with relevant building restrictions on RCHE. Without possessing necessary technical knowledge, she trusts that relevant technical departments would be in a better position to advise the application.
- (c) From district perspective, it is envisaged that TMDC members of the subject and neighbouring constituencies, Tuen Mun Rural Committee and locals living in the vicinity would likely have reservation on the application with regard to their concerns on the existing congested traffic conditions and insufficient supporting facilities (such as community facilities) in the area. As revealed in the past TMDC discussions, TMDC members requested the Government to expedite the proposed traffic improvement works (especially the widening works of Castle Peak Road – Castle Peak Bay section). On the understanding that the Site is in close proximity to a string of existing/planned housing departments in Tuen Mun East, the concerned TMDC members and locals would likely perceive that the proposed development would have adverse traffic impacts to the area.

#### 9.2 The following Government departments have no comment on/no objection to the application:

- (a) Commissioner of Police;
- (b) Director of Food and Environmental Hygiene;



- (c) Director of Electrical and Mechanical Services;
- (d) Executive Secretary (Antiquities and Monuments), Development Bureau;
- (e) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD);
- (f) Head of Geotechnical Engineering Office, Civil Engineering and Development Department; and
- (g) Chief Engineer/Construction, Water Supplies Department.

## 10. **Public Comments Received During Statutory Publication Periods**

10.1 The application and the subsequent further information (**Appendices Ia to Ic**) were published for public inspection on 22.2.2019, 10.5.2019 and 5.7.2019 respectively. A total of **10** public comments were received during the publication periods and a summary of the public comments received are as follows:

<b>Public Inspection Periods</b>	<b>Object</b>	<b>Support</b>	<b>Neutral</b>	<b>Comments received</b>
22.2.2019 – 15.3.2019	2	0	0	2
10.5.2019 – 31.5.2019	5	0	1	6
5.7.2019 – 26.7.2019	2	0	0	2
<b>Total</b>	<b>9</b>	<b>0</b>	<b>1</b>	<b>10</b>

10.2 Those objecting to the application include owners' corporations/owners' committees of Aegean Coast, a TMDC member and members of the public (**Appendix IV-1 to 10**). The objecting grounds are summarised below:

- (a) there will be clashes of lifestyles between the elderly and the residents in the surrounding areas;
- (b) With the completion of large-scale residential developments along Castle Peak Road, traffic induced by the proposal would worsen the traffic congestion problem .
- (c) Insufficient transportation facilities in the area and inadequate car parking spaces within the proposed development would cause inconvenience to the visitors of the proposed RCHE and residents in the surrounding areas;
- (d) there is deficiency in GIC, recreational facilities and open space in So Kwun Wat. "Single site, multiple use" model should be pursued and the Site should be developed into multi-purpose complex for library, clinics, market, recreational and retail facilities or open space;
- (e) the applicant submitted various applications for different kinds of development in the past and the applicant's real intention is in doubt; and
- (f) the applicant does not have experience nor ability to operate an RCHE.

10.3 The TMDC member objects to the application based on the grounds that the Site is next to an existing petrol filling station and the Site may be subject to air and noise pollution; and that the proposed height of the RCHE would contravene the restriction under the Residential Care Homes (Elderly Persons) Regulation. The TMDC member also attached her objection to a previous application No. Y/TM/19, which was withdrawn by the applicant on 28.8.2018 (**Appendix IV-2, 8 and 10**).

10.4 One comment from a member of the public (**Appendix IV-6**) indicates that while she supports the provision of elderly care facilities, it should not be provided at the

expense of open space. She suggests that future monitoring should be in place since the applicant's real intention is in doubt. The applicant seems to be trying to maximise the commercial potential in the development. She also attached her objection to a previous application No. Y/TM/19.

## 11. Planning Considerations and Assessments

11.1 The current application is for amending the Notes of the "G/IC(1)" zone on the approved Tuen Mun Outline Zoning Plan No. S/TM/35 to facilitate a RCHE development. In the indicative scheme, there will be a total of 240 beds in the RCHE (on 1 to 6 floors), physiatrist centre, clinic, treatment room, pharmacy, laboratory, multi-function rooms and café on 7<sup>th</sup> and 8<sup>th</sup> floors and no public open space will be provided. The proposed development parameters for the RCHE are GFA of 4,812m<sup>2</sup> (i.e. a plot ratio of 4.89), site coverage of 65% and building height of 9 storeys (excluding basement)/40mPD which exceed the development restrictions stipulated on the Notes. Hence, the applicant has submitted a s.12A application to amend the Notes to put 'Social Welfare Facility' in Column 1, to increase the development intensity and to waive the requirement on provision of not less than 615m<sup>2</sup> of public open space at street level.

11.2 The Site was the subject of a previous s.12A application (No. Y/TM/14) to facilitate church development with public open space submitted by UCF, which was partially agreed by the Committee on 23.5.2014. The subject "G/IC(1)" zone for church development with public open space of not less than 615m<sup>2</sup> and subject to maximum GFA of 2,825m<sup>2</sup>, building height of 35mPD and site coverage of 60% was an amendment item of the draft Tuen Mun OZP exhibited under section 5 of the Ordinance on 3.11.2017 and the draft OZP was approved on 11.12.2018.

### Site Suitability

11.3 The Site is in close proximity to G/IC uses including an electricity substation, a pumping station and primary schools to its west across So Kwun Wat Road. The proposed use is considered not incompatible with its surroundings. The Site adjoins an existing PFS to its north. According to D of FS, based on the applicant's submission, a separation distance of 12m could be maintained between the proposed building boundary and the existing fill points of the adjoining PFS. Based on the indicative scheme, C for T has no objection from traffic engineering point of view and DEP does not anticipate any insurmountable environmental impacts subject to the submission of a revised NIA at land grant stage. DSW has no objection to the application but points out that the facilities (including clinic, pharmacy, physiatrist centre, café etc.) on 7<sup>th</sup> and 8<sup>th</sup> floors which are above 24m in height should not be included into the licensing boundary of the RCHE.

### Open Space Provision and Landscaping

11.4 The previous planning application (No. A/TM/440) for the proposed church development had specified the provision of public open space of 558m<sup>2</sup> while the rezoning application (No. Y/TM/14) proposed in the indicative scheme to increase the public open space by 57m<sup>2</sup> to 615m<sup>2</sup> within the development and had made provision for public access through the Site to the "O" zone located to the east and southeast of the Site (**Plan Z-2**). The applicant's proposal to construct, maintain and manage the public open space was an important planning consideration in support of the two applications, bearing in mind that the Site was originally zoned "O" on the OZP. In comparison, the current proposed RCHE

development is inferior to the proposed church development as no public open space within the Site and no public access to the open space reserved for future development on the east and southeast will be provided. In this regard, CTP/UD&L, PlanD has reservation on the application due to the impact on accessibility and connectivity to the remaining “O” zone, although DLCS has indicated that currently they have no plan on the development of the open space concerned.

- 11.5 The applicant proposes to fell all existing trees on the site with compensatory planting. However, CTP/UD&L, PlanD has concerns on the practicality and sustainability of the planting proposal submitted by the applicant to compensate for the tree loss. She has reservation on the application from landscape planning point of view.

#### Visual Impact

- 11.6 Regarding the proposed increase in GFA and BH, the applicant has submitted written justifications and photomontages to argue that the proposed building height is comparable with the surrounding buildings and no adverse visual impact is anticipated. CTP/UD&L, PlanD comments that the applicant failed to demonstrate the magnitude and significance of the effects that the new development may have on visual amenities, and should elaborate the effectiveness and implementation of vertical greenings proposed in photomontages. The applicant also fails to provide a proper and full VIA to assess the implications of the proposed development.

#### Implementation Programme

- 11.7 In support of the current application, the applicant indicated that the reason for pursuing RCHE instead of church is due to difficulties of fund raising and financing for the church, while the RCHE can be self-sustained financially. As set out in paragraph 5.4 above on previous applications, UCF’s main justification for seeking the rezoning application (No. Y/TM/14) shortly after approval of the s. 16 application (No. A/TM/440) (4 months later) was that the church needed to seek financial support from banks and other financial institutions as the s. 16 approval could not reflect the ultimate land value for the development of church. According to relevant departments’ record, since the granting of planning approval for church development in 2013/2014, no building plan nor land exchange application for the church development has ever been submitted. Instead, UCF has submitted various applications for private primary school and elderly centre, which were either rejected by the Committee or withdrawn by UCF. For the current application, there is no detailed information on development programme, fund raising or financial arrangements and implementation agents for the RCHE. Hence, there is insufficient information to support the prospect of implementation of the proposed RCHE.

#### Public Comments

- 11.8 A total of 10 public comments were received during the publication periods, including 9 objections and one commenter expressing concern. The grounds of the public comments are stated in paragraphs 10.2 to 10.4 above. Comments from relevant Government departments in paragraph 9 and the planning considerations and assessments as mentioned in the above paragraphs are relevant.

## **12. Planning Department's Views**

12.1 Based on the assessments made in paragraph 11 above and having taken into account the public comments mentioned in paragraph 10, the Planning Department does not support the application for the following reasons:

- (a) the proposed amendments to the Notes of the "G/IC(1)" zone to facilitate the proposed RCHE development without the provision of public open space were not acceptable;
- (b) the applicant fails to demonstrate that the proposed amendments to the Notes to facilitate RCHE development will not cause unacceptable visual and landscape impact on the surrounding areas; and
- (c) the applicant fails to demonstrate the prospect of implementation of the proposed RCHE.

12.2 Should the Committee decide to agree or partially agree to the application, the proposed amendment to the Tuen Mun OZP would be submitted to the Committee for approval prior to gazetting under section 5 of the Town Planning Ordinance.

## **13. Decision Sought**

13.1 The Committee is invited to consider the application and decide whether to agree, partially agree, or not to agree to the application.

13.2 Should the Committee decide not to agree to the application, Members are invited to advise what reason(s) for the decision should be given to the applicant.

## **14. Attachments**

<b>Appendix I</b>	Application form received on 12.2.2019
<b>Appendix Ia</b>	Planning statement received on 12.2.2019 with a LMP, a TIA, an EA, a SIA and photomontages
<b>Appendix Ib</b>	Applicant's letter received on 29.4.2019 providing responses to departmental comments with revised calculations for the TIA, revised EA and revised SIA
<b>Appendix Ic</b>	Applicant's letter received on 19.6.2019 amending the proposal as RCHE, and providing revised G/F floor plan, revised EA, new drainage proposal, replacement pages of planning statement, SIA, landscape proposal, and responses to departmental comments
<b>Appendix Id</b>	Applicant's letter received on 21.6.2019 providing clarifications on the proposal, revised Master Layout Plan and layout plan of G/F
<b>Appendix Ie</b>	Applicant's letter received on 8.8.2019 providing revised G/F floor plan and 1 to 6/F floor plan, revised

photomontages showing the proposed development, and responses to departmental comments

<b>Appendix II</b>	Previous Applications
<b>Appendix III</b>	Detailed departmental comments on the application
<b>Appendix IV-1 to 10</b>	Public comments received during the statutory publication periods
<b>Drawings Z-1 to Z-16</b>	Master layout plan, floor plans, section plan, landscape master plan and photomontages
<b>Plan Z-1a</b>	Location plan
<b>Plan Z-1b</b>	Site Plan (with previous applications)
<b>Plan Z-2</b>	Site plan (with site photos viewing points)
<b>Plan Z-3</b>	Aerial photo
<b>Plans Z-4a to Z-4c</b>	Site photos

**PLANNING DEPARTMENT  
SEPTEMBER 2019**