

MPC Paper No. A/H8/429
For Consideration by the
Metro Planning Committee
on 8.3.2019

**APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

APPLICATION NO. A/H8/429

<u>Applicant</u>	Mr. Kwan Man Fong and Ms. Pun Kwai Hing represented by Liu, Chan & Lam, Solicitors
<u>Premises</u>	G/F (Portion), North Point View Mansion, 54 Kai Yuen Street, Hong Kong
<u>Total Floor Area</u>	About 56 m ²
<u>Lease</u>	Inland Lot 2168 section A sub-section 6 & Ext. (a) Residential use only (b) Number of storeys and maximum roof-over area restrictions (c) Allowance of additional car port storey on G/F (d) Not less than 1 car per flat (e) Offensive trades clause
<u>Plan</u>	Approved North Point Outline Zoning Plan (OZP) No. S/H8/26
<u>Zoning</u>	“Comprehensive Development Area (2)” (“CDA(2)”) [Restricted to a maximum plot ratio (PR) of 8, and maximum building height (BH) of 130 metres above Principal Datum (mPD)]
<u>Application</u>	Proposed Shop and Services (Retail Shop)

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application premises located at G/F (Portion) of North Point View Mansion (the Premises), 54 Kai Yuen Street in North Point for ‘Shop and Services (Retail Shop)’ use (**Plan 1**). According to the Notes of the OZP for “CDA(2)” zone, ‘Shop and Services’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board).
- 1.2 The applicant proposes to convert the Premises which is currently used as a car repair workshop for a retail shop selling daily necessities including products for the elderly and stationary to serve the neighbourhood. The proposed opening hours of the shop is 9am to 7pm from Monday to Saturday and no operation on Sunday (**Appendix Ia**).
- 1.3 The floor plans of the Premises submitted by the applicant are at Drawings **A-1** to **A-2**.

1.4 In support of the application, the applicant has submitted the following documents:

- (a) Application form received on 15.1.2019 (Appendix I)
- (b) Applicant's letter dated 28.2.2019 (FI-1) providing responses to departmental comments and public comments (Appendix Ia)
- (c) Applicant's letter dated 1.3.2019 (FI-2) providing responses to departmental comments (Appendix Ib)

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in **Appendices I, Ia and Ib**. They can be summarised as follows:

- (a) there are only very few shops in Kai Yuen Street area which can satisfy the demand of the local residents. The proposed development will help stimulate retail activities in the area which will bring benefits to the residents and local community in general;
- (b) the demand for car parking space in the area has fallen. On the contrary, the aging population in the area generates a stronger demand for ordinary household goods and daily services;
- (c) the change of use from a car parking space into a shop for retail and services will not create any adverse effects to the building. The loading/unloading activities for the shop will be carried out immediately outside the entrance of the Premises. The goods will be unloaded from goods van within a few minutes. Large lorry will not be involved. No traffic impact on other people or fire services vehicles/ambulances will be caused; and
- (d) the Premises is currently used for making internal repair to vehicles. The existing use is the usage of the current tenant. The Premises will be leased to a new tenant for retail store. The store will operate from 9am to 7pm from Monday to Saturday to sell daily necessities to residents in the area. There will be no operation on Sundays. The daily necessities include stationery, diaper for elderly people and small items that elderly people need from time to time such as ointments and ordinary pre-packaged medication and health care products.

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

The applicant is the sole "current land owners" of G/F Block B in sub-section 6 of section of I.L. 2168 and the extension thereto. Detailed information would be deposited at the meeting for Members' inspection.

4. Town Planning Board Guidelines

The Town Planning Board Guidelines for Use/Development within “CDA” Zone (TPB PG-No. 18A) for “Submission of Master Layout Plan (MLP) under section 4A(2) of the Town Planning Ordinance” is not applicable to this application as according to the Guidelines, submission of MLP and supporting information including various detailed assessments is not required for an application for change of use in an existing building within a “CDA” zone (irrespective of whether building works are undertaken) before completion of comprehensive development in the “CDA” zone, unless it is considered necessary by relevant government departments.

5. Background

In 2005, the Premises was located in an area zoned “Residential (Group A)” (“R(A)”) on the then OZP No. S/H8/19. With imminent redevelopment pressure and proliferation of high rise development, a review on land use and building height of North Point OZP was conducted by the Planning Department (PlanD) and completed in 2007. In view of the traffic constraints at the Kai Yuen Street area and taking into account the findings of a traffic impact assessment, areas along Kai Yuen Street were rezoned to “CDA(2)” on 8.6.2007 with the stipulation of corresponding building height restriction under the then OZP S/H8/20. This was to facilitate comprehensive development of the area in order to secure the widening of the upper section of Kai Yuen Street for pedestrian safety and to cater for a redevelopment with a plot ratio of 8.

6. Previous Applications

- 6.1 The Premises falls within a larger area zoned “CDA(2)” which was the subject of two previous applications. Application No. A/H8/395 for a proposed comprehensive residential development with a total PR of 8 and maximum BHs of 123mPD and 130mPD for the eastern and western parts of the “CDA(2)” zone was approved with conditions by the Metro Planning Committee (the Committee) on 4.12.2009. The approved scheme was divided into two phases. Phase 1 (i.e. Fleur Pavilia) covers the eastern part of the “CDA(2)” zone has already been completed, and future phase includes the western part of the zone (i.e. covering the Premises) under multiple ownerships. According to the approved MLP, there is no retail provision in the proposed residential development.
- 6.2 Application No. A/H8/401 was for amendments to the approved MLP which was approved with conditions by the Committee on 12.2.2010. The major changes involved a minor relaxation of the BH restriction for the eastern part of the “CDA(2)” zone from 120mPD to 125.6mPD and revision to the boundary of Phase 1.
- 6.3 Details of the previous applications are at **Appendix II**.

7. Similar Applications

There is no similar application for shop and services (retail shop) within the “CDA(2)” zone in North Point OZP Planning Area.

8. **The Premises and its Surrounding Areas** (Plans A-1 and A-2 and photos on Plans A-3 to A-4)

8.1 The Premises is:

- (a) located on the G/F (portion) of a 7-storey building, North Point View Mansion at Kai Yuen Street on a upper platform of about 37mPD;
- (b) enclosed with partitions and currently used as a garage. According to approved building plan of the North Point View Mansion, the entire G/F is for carport; and
- (c) leading onto Kai Yuen Street which is a sub-standard and steep local road (1:6) with a carriageway width of about 5.5m.

8.2 The surrounding areas have the following characteristics:

- (a) to the north and west are groups of residential developments including the Fortune Building, Feiloon Terrance and King's Court;
- (b) to the east of Kai Yuen Street is Fleur Pavillia (a newly completed high-rise residential development without retail shop);
- (c) to the south are vegetated natural slopes zoned "Green Belt"; and
- (d) retail shops can be found nearby along Tanner Road and King's Road.

9. **Planning Intention**

The "CDA(2)" zone is intended for comprehensive development/redevelopment of the area primarily for residential uses. As the area within this zone is subject to traffic constraints due to the substandard conditions of the local road, suitable traffic and road improvement measures should be proposed and implemented upon development and/or redevelopment of the area. The zoning is to facilitate appropriate planning control over the development mix, scale, design and layout of development, taking account of the environmental, traffic, infrastructure and other constraints.

10. **Comments from the Relevant Government Departments**

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

Land Administration

10.1.1 Comments of the District Lands Officer/Hong Kong East, Lands Department (DLO/HKE, LandsD):

- (a) the Premises falls within the private lot I.L. 2168 s.A ss.6 & Ext. (the Lot) which is held under Government Lease of I.L. 2168

dated 30.8.1917 as extended and modified by Conditions of Extension and Modification No. 5710 dated 21.3.1957 under M/N UB354050. The relevant extracts of the above lease conditions are as follows:-

- (i) the building will comply with the following coverage limitation:

Height of Building	Max. roofed-over area
5 storeys	45% of lot area (including extension area)
6 storeys	40% of lot area (including extension area)
 - (ii) provision for car parking will be provided at a rate of not less than 1 car per flat. Car ports at Ground floor level will be permitted under the proposed building in addition to the number of storeys stated in (i) above;
 - (iii) the lot together with the extension area will be used for residential purpose only; and
 - (iv) offensive trades clause.
- (b) the proposed shop and services use will contravene the lease conditions (i) to (iii) above. If the proposed shop and services use includes general restaurant use, the above mentioned lease condition (iv) will also be contravened; and
- (c) if planning permission from the Board is given for the proposed use, the owner needs to apply to his office for modification of lease conditions to effect the approval. Given the modification involves modifying the development conditions of the lease governing the Lot and the subject Lot is now in multiple ownerships, a modification letter should be entered into with all legal owners of the property in these circumstances. However, there is no guarantee that such lease modification application will be approved and if approved by LandsD acting in its capacity as the landlord at its discretion, it will be subject to such terms and conditions, including, among others, payment of premium and fees, as imposed by LandsD.

Traffic Aspect

10.1.2 Comments of the Commissioner for Transport (C for T):

- (a) the applicant should demonstrate that the remaining parking spaces of subject development can still meet the requirements stipulated in the land lease after converting the concerned parking space into shop. The applicant should also ensure that loading/unloading activities would not cause adverse impact to the traffic at Kai Yuen Street; and
- (b) having reviewed the further information submitted by the applicant that the Premises is currently used for purpose other than car parking space and the traffic condition of Kai Yuen

Street, no comment on the application from traffic engineering point of view.

Building Aspect

10.1.3 Comments of the Chief Building Surveyor/Hong Kong East & Heritage, Buildings Department (CBS/HKE&H, BD):

- (a) the proposed shop and services (retail shop) at the ground floor should be accountable for gross floor area (GFA) calculation;
- (b) the domestic and non-domestic plot ratio (PR) calculations for the subject site should be re-assessed taking into account the GFA of the proposed shop and services (retail shop) under regulation 21 of Building (Planning) Regulations (B(P)R);
- (c) there should be structurally adequate for the existing structure affected by the proposed change in use;
- (d) there should be adequate provision of means of escape and fire resisting construction for the proposed shop and services (retail shop) so as to comply with the B(P)R 41(1) and Building (Construction) Regulation 90;
- (e) there should be adequate provision of access and facilities for persons with a disability for the proposed shop and services (retail shop) so as to comply with B(P)R 72; and
- (f) detailed checking for compliance with Buildings Ordinance will be made at building plan submission stage.

Fire Safety Aspect

10.1.4 Comments of the Director of Fire Services (D of FS):

- (a) no objection in-principle to the application subject to fire service installations and water supplies for firefighting being provided to his satisfaction; and
- (b) detailed fire services requirements will be formulated upon receipt of formal submission of general building plans.

10.2 The following government departments have no objection to or no comment on the application:

- (a) Director of Environmental Protection;
- (b) Chief Highway Engineer/Hong Kong, Highways Department;
- (c) Chief Engineer/Construction, Water Supplies Department;
- (d) Chief Engineer/Hong Kong & Islands, Drainage Services Department (CE/HK&Is, DSD);
- (e) Director of Food and Environmental Hygiene;
- (f) Commissioner of Police; and

- (g) District Officer (Eastern), Home Affairs Department.

11. Public Comments Received During Statutory Publication Period

- 11.1 During the statutory publication periods of the application (ended on 15.2.2019), 64 public comments were received. Out of which, 15 opposing comments from a DC member (Mr Cheng Tat Hung), the chairperson of Hong Kong Island East District Branch of the Liberal Party (Ms. Pearl Tsang), Incorporated Owners (IOs) of 38-44 Kai Yuen Street, IOs Committee of Blocks A, B, C, D, E, E1 and F of the North Point View Mansion, IOs Committee of King's Court, a concerned group (北角繼園街重建關注組), a member of the Area Committee (North Point West), vice president of the District Fire Safety Committee (Eastern District) and other individuals; and 49 from individuals providing views with negative comments. A full set of the public comments received is at **Appendix III** for Members' reference.
- 11.2 The major grounds of the opposing public comments can be summarised as follows:
- (a) the proposed use is not in line with the planning intention of the "CDA(2)" zone and contravene the lease;
 - (b) the Premises is with illegal structures and illegal use;
 - (c) the conversion of carport to retail shop would reduce car parking space available in the area;
 - (d) there is inadequate technical assessment to support the planning application;
 - (e) the proposed loading/unloading space will block the existing right of way of the nearby development; and
 - (f) there is no demand for shop and services in the neighbourhood.

12. Planning Considerations and Assessments

- 12.1 The application is to seek planning permission to convert the Premises currently used as a car repair workshop for 'Shop and Services (Retail Shop)' use, which falls within an area zoned "CDA(2)". The "CDA(2)" zone is intended for comprehensive development/redevelopment of the area primarily for residential uses.
- 12.2 The Premises is located at the G/F of the North Point View Mansion. All buildings around the Premises are for residential purposes without any retail shop. It is generally a pure residential neighbourhood. The proposed shop is not in keeping with the residential character of the neighbourhood. Besides, retail shops can also be found along Tanner Road, Tsat Tsz Mui Road and King's Road. There is no strong planning justification for the proposed change of use within a pure residential neighbourhood. The approval of the application will

set an undesirable precedent. The cumulative impact of other similar applications will result in change of a pure residential neighbourhood.

- 12.3 There are public comments raising concerns on the land use, traffic, as well as environmental impact aspects, the assessments above and the comments from the relevant government departments in paragraph 10 above are relevant.

13. Planning Department's Views

- 13.1 Based on the assessment made in paragraph 12 above, and having taken into account the public comments mentioned in paragraph 11 above, PlanD does not support the application for the following reason:

there is no strong planning justification for the change of uses in the area which is primarily for residential uses. The approval of the application would set an undesirable precedent for other similar applications, the cumulative effect of approving such applications would result in change of a pure residential neighbourhood.

- 13.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until 8.3.2023, and after the said date, the permission shall cease to have effect unless prior to the said date either the development permitted is commenced or the permission is renewed. The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval Conditions

- (a) the submission and implementation of fire service installations and water supplies for fire-fighting proposals in the application premises before operation of the proposed use to the satisfaction of the Director of Fire Services or of the Town Planning Board; and
- (b) if the above planning condition (a) is not complied with, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice.

Advisory Clauses

The recommended advisory clauses are attached at **Appendix IV**.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 14.2 Should the Committee decide to approve the application, Members are invited to consider the approval conditions and advisory clauses to be attached to the permission, and the date when the validity of the permission should expire.

14.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

15. Attachments

Appendix I	Application form received on 15.1.2019
Appendix Ia	Applicant's letter dated 28.2.2019 (FI-1) providing responses to departmental comments and public comments
Appendix Ib	Applicant's letter dated 1.3.2019 (FI-2) providing responses to departmental comments
Appendix II	Previous applications within the application site
Appendix III	Public comments received during the statutory publication period
Appendix IV	Recommended advisory clauses
Drawing A-1	Block plan
Drawing A-2	G/F plan
Plan A-1	Location plan
Plan A-2	Site plan
Plans A-3 to A-4	Site photos

**PLANNING DEPARTMENT
MARCH 2019**

Previous Planning Applications covering the Application Site

Approved Applications

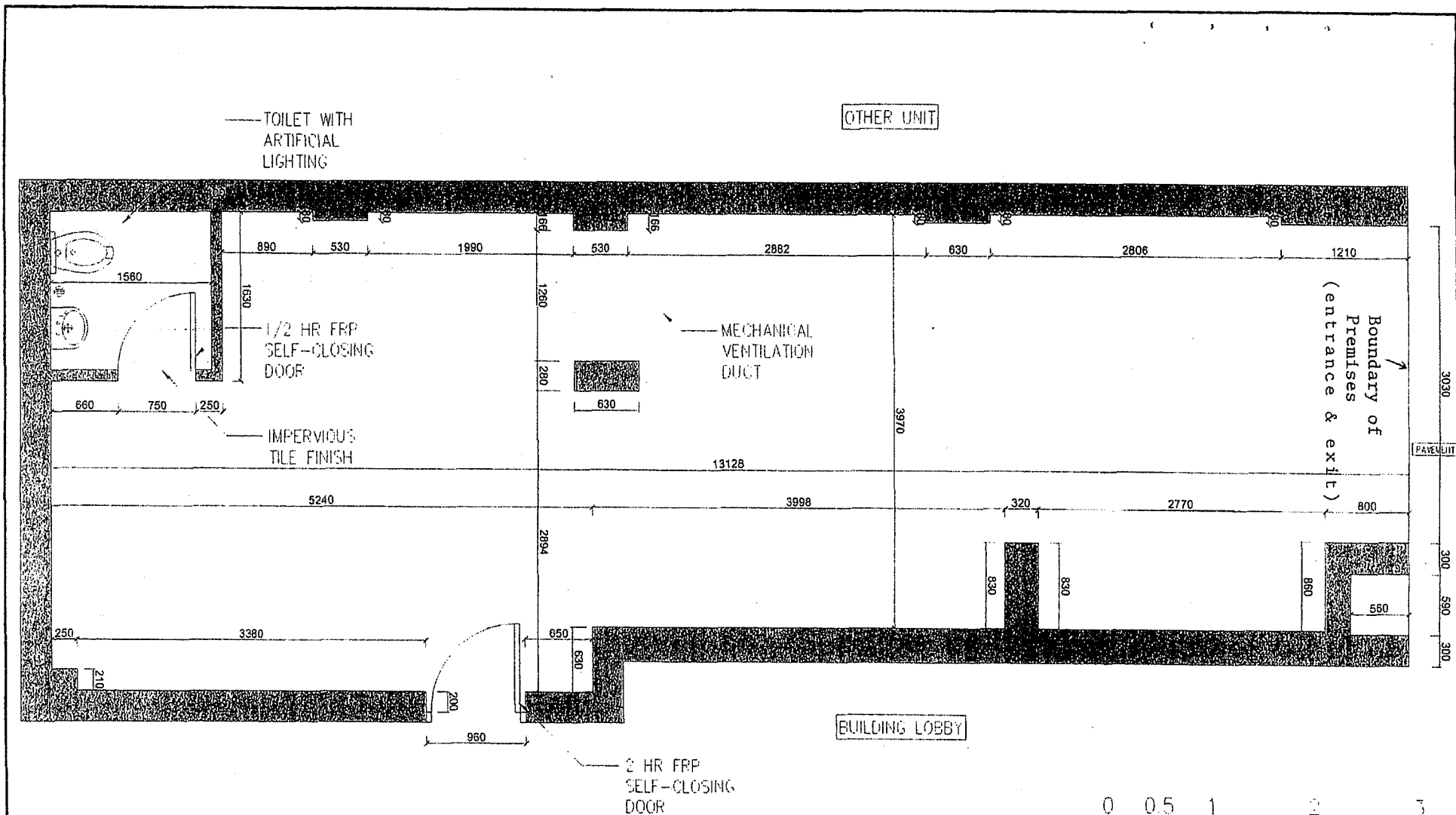
Application No.	Location	Proposed Uses/ Development	Date of Consideration	Approval Conditions
A/H8/395	Various sub-sections of sections Q,H,I,P and P of IL 5044, Various section lots of IL 2168 and IL 5044, MTR Lot No.1 R.P. and Government Land, Lower Kai Yuen Lane, Upper Kai Yuen Lane and Kai Yuen Street, North Point	Proposed Comprehensive Residential Development with Minor Relaxation in Building Height Restriction	4.12.2009	(a) to (i)
A/H8/401	Eastern Part : various sub-sections of sections Q,H,I,P and R of IL 5044; Western Part : various section lots of IL 2168 and IL5044, MTR Lot No. 1 R.P. and Government land, Upper Kai Yuen Lane, Lower Kai Yuen Lane and Kai Yuen Street, North Point, Hong Kong	Proposed Comprehensive Residential Development with Minor Relaxation in Building Height Restriction (Amendment to an Approved Master Layout Plan)	12.2.2010	(a), (b), (d) to (h), (j)

- (a) the submission and implementation of a revised MLP.
- (b) the submission and implementation of a revised Landscape Master Plan and a tree preservation proposal.
- (c) the design and provision of vehicular accesses, parking facilities, loading/unloading spaces and lay-bys for the proposed development.
- (d) the implementation of the road improvement proposal for Kai Yuen Street, including the widening of the upper section of Kai Yuen Street and the surrender of the private land covered by the widened Kai Yuen Street under Phase 1 development to the Government.
- (e) the provision of water supplies for firefighting and fire service installations.
- (f) the submission of a natural terrain hazard study for the future phases of the proposed development and implementation of the mitigation measures recommended therein.

- (g) the implementation of the sewerage upgrading works identified in the Sewage Impact Assessment.
- (h) no occupation of Phase 1 development was allowed before the completion of the proposed road improvement works in Phase 1 development.
- (i) the provision of a minimum 20m separation distance between the three blocks in the proposed Phase 1 development, and a minimum 5m separation distance between Block 3 of Phase I development and the innermost corner of the eastern lot boundary.
- (j) the design and provision of vehicular accesses, parking facilities, loading/unloading spaces, lay-bys and barrier-free pedestrian footpaths for the proposed development.

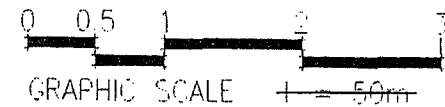
Advisory Clauses

- (a) to apply to District Lands Officer/Hong Kong East, Lands Department for lease modification for the proposed shop and services (retail shop) use;
- (b) to note the comments of the Chief Building Surveyor/Hong Kong East & Heritage that :
 - (i) the proposed shop and services (retail shop) at the ground floor should be accountable for gross floor area (GFA) calculation;
 - (ii) the domestic and non-domestic PR calculations for the subject site should be re-assessed taking into account the GFA of the proposed shop and services (retail shop) under regulation 21 of Building (Planning) Regulations (B(P)R);
 - (iii) there should be structurally adequate for the existing structure affected by the proposed change of use;
 - (iv) there should be adequate provision of means of escape for the proposed shop and services (retail shop) so as to comply with the B(P)R 41(1);
 - (v) there should be adequate provision of fire resisting construction for the proposed shop and services (retail shop) so as to comply with Building (Construction) Regulation 90;
 - (vi) there should be adequate provision of access and facilities for persons with a disability for the proposed shop and services (retail shop) so as to comply with B(P)R 72; and
 - (vii) detailed checking for compliance with Buildings Ordinance will be made at building plan submission stage.



* Total floor area: about 56 sq. meters

ENLARGED PLAN

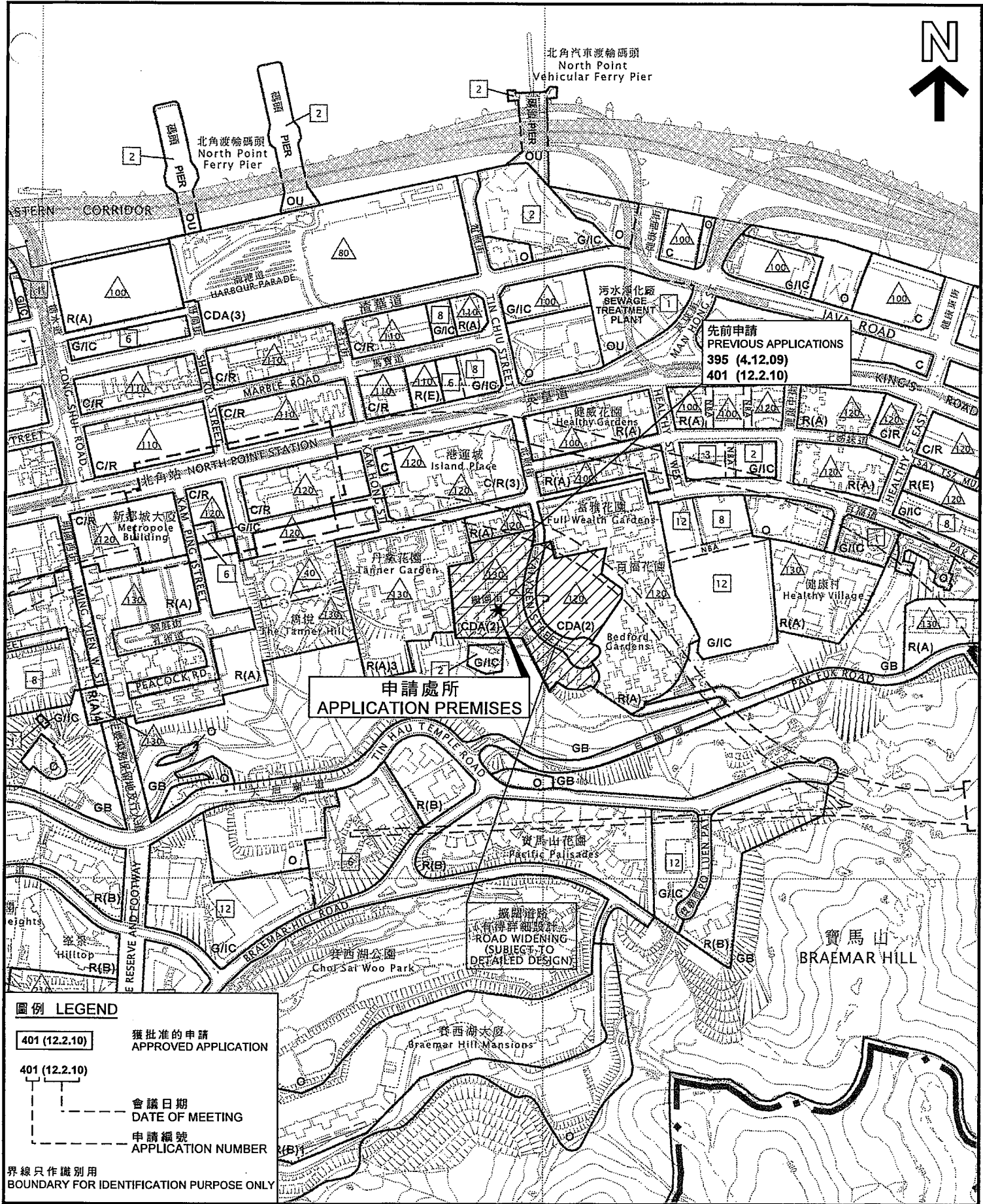


NOTE:
1. ALL DIMENSIONS ARE IN MM UNLESS OTHERWISE SPECIFIED

REV.	DESCRIPTION	DATE	DRAWN BY	TOWN PLANNING BOARD REF. NO.	ADDRESS	APPLICATION	DRAWING TITLE	JOB NO.	SCALE
0	SUBMISSION TO LANDS DEPARTMENT	06/04/16	JC	TPB/D/H8/200	GROUND FLOOR (CAR PORT) OF BLOCK B, NORTH POINT VIEW MANSION, NO. 54, KAI YUEN STREET, HONG KONG IN SUB-SECTION 6 OF SECTION A OF INLAND LOT NO. 2168 AND THE EXTENSION THERETO	APPLICATION FOR PERMISSION INVOLVING CHANGE OF USE WITHIN EXISTING BUILDING UNDER SECTION 16 OF TOWN PLANNING ORDINANCE (CAP.131)	ENLARGED PLAN	UCL-16001	1:500
				NAMES OF APPLICANTS KWAN MAN KWONG PUN KWAI HING				DRAWN BY LTI	DATE 15-04-2016
								DRAWING NO. 16001-LM03	REVISION 0

資料來源：由申請人提供
SOURCE : SUBMITTED BY THE APPLICANT

參考編號 REFERENCE No. A/H8/429	繪圖 DRAWING A-2
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申請處所
APPLICATION PREMISES

先前申請
PREVIOUS APPLICATIONS
395 (4.12.09)
401 (12.2.10)

擴闊海傍
ROAD WIDENING
(SUBJECT TO
DETAILED DESIGN)

圖例 LEGEND

401 (12.2.10) 獲批准的申請
APPROVED APPLICATION

401 (12.2.10) 會議日期
DATE OF MEETING

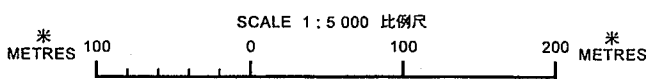
申請編號
APPLICATION NUMBER

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位置圖 LOCATION PLAN

本摘要圖於2019年2月19日擬備，
所根據的資料為於2017年8月15日
核准的分區計劃大綱圖編號S/H8/26
EXTRACT PLAN PREPARED ON 19.2.2019
BASED ON OUTLINE ZONING PLAN No.
S/H8/26 APPROVED ON 15.8.2017

擬議商店及服務行業（零售商店）
香港北角繼園街54號美景新廈地下（部份）
PROPOSED SHOP AND SERVICES (RETAIL SHOP)
G/F (PORTION), NORTH POINT VIEW MANSION,
54 KAI YUEN STREET, HONG KONG

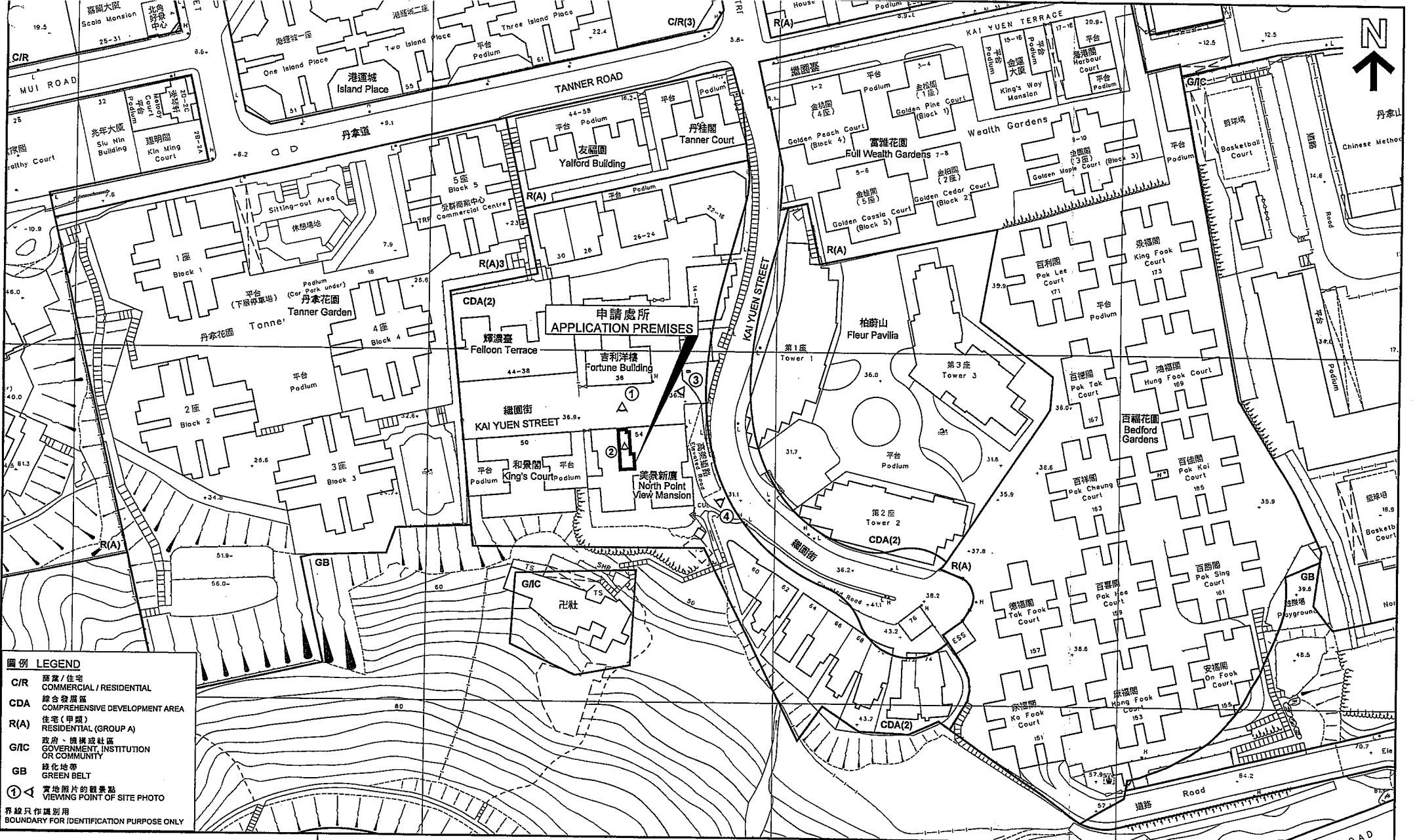


規劃署
PLANNING
DEPARTMENT



參考編號
REFERENCE No.
A/H8/429

圖 PLAN
A - 1

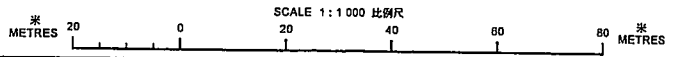


- 圖例 LEGEND**
- C/R 商業 / 住宅
COMMERCIAL / RESIDENTIAL
 - CDA 綜合發展區
COMPREHENSIVE DEVELOPMENT AREA
 - R(A) 住宅 (甲類)
RESIDENTIAL (GROUP A)
 - G/I/C 政府、機構或社區
GOVERNMENT, INSTITUTION
OR COMMUNITY
 - GB 綠化地帶
GREEN BELT
 - ① 實地照片的觀景點
VIEWING POINT OF SITE PHOTO
- 界線只作識別用
BOUNDARY FOR IDENTIFICATION PURPOSE ONLY

平面圖 SITE PLAN

本摘要圖於2019年3月5日擬備，
所根據的資料為測量圖編號
11-SE-1D、2C、6B及7A
EXTRACT PLAN PREPARED ON 5.3.2019
BASED ON SURVEY SHEETS No.
11-SE-1D, 2C, 6B & 7A

擬議商店及服務行業 (零售商店)
香港北角繼園街54號美景新廈地下 (部分)
PROPOSED SHOP AND SERVICES (RETAIL SHOP)
G/F (PORTION), NORTH POINT VIEW MANSION,
54 KAI YUEN STREET, HONG KONG



規劃署
PLANNING DEPARTMENT



參考編號
REFERENCE No.
A/H/429

圖 PLAN
A - 2



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實地照片 SITE PHOTO

本圖於2019年2月19日擬備，
所根據的資料為攝於
2019年1月25日的實地照片
PLAN PREPARED ON 19.2.2019
BASED ON SITE PHOTOS
TAKEN ON 25.1.2019

擬議商店及服務行業（零售商店）
香港北角繼園街54號美景新廈地下（部分）
PROPOSED SHOP AND SERVICES (RETAIL SHOP)
G/F (PORTION), NORTH POINT VIEW MANSION,
54 KAI YUEN STREET, HONG KONG

規劃署
PLANNING
DEPARTMENT



參考編號
REFERENCE No.

A/H8/429

圖 PLAN

A - 3

3



4



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實地照片 SITE PHOTO

擬議商店及服務行業（零售商店）
香港北角繼園街54號美景新廈地下（部分）
PROPOSED SHOP AND SERVICES (RETAIL SHOP)
G/F (PORTION), NORTH POINT VIEW MANSION,
54 KAI YUEN STREET, HONG KONG

規劃署
PLANNING
DEPARTMENT



參考編號
REFERENCE No.
A/H8/429

圖 PLAN
A - 4

本圖於2019年2月19日擬備，
所根據的資料為攝於
2019年1月25日的實地照片
PLAN PREPARED ON 19.2.2019
BASED ON SITE PHOTOS
TAKEN ON 25.1.2019

Extract From Minutes Of 623th MPC Meeting Held On 8.3.2019

Agenda Item 7

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/H8/429 Proposed Shop and Services (Retail Shop) in “Comprehensive Development Area (2)” Zone, G/F (Portion), North Point View Mansion, 54 Kai Yuen Street, Hong Kong

(MPC Paper No. A/H8/429)

44. The Secretary reported that the application was submitted by Mr Kwan Man Fong and Liu, Chan and Lam, Solicitors (LCL) was the consultant of the applicant. The application site was located in North Point. The following Members had declared interests on the item :

Mr Alex T.H. Lai - his firm having current business dealings with Mr Kwan Man Fong and LCL;

Mr Stephen H.B. Yau - owning a flat in North Point; and

Mr Thomas O.S. Ho - owning a flat at Braemar Hill Mansion in North Point.

45. The Committee noted that Mr Thomas O.S. Ho had tendered an apology for being unable to attend the meeting. As Mr Alex T.H. Lai had no involvement in the application and the property owned by Mr Stephen H.B. Yau had no direct view of the application site, the Committee agreed that they could stay in the meeting.

46. The Secretary reported that Mr Cheng Tat Hung, a District Council (DC) member, had submitted a letter prior to the meeting objecting to the application. The Committee noted that the content of the letter was the same as a written submission made by Mr Cheng within the statutory publication period and had been incorporated in the Paper.

Presentation and Question Sessions

47. With the aid of a PowerPoint presentation, Mr Ng Tak Wah, STP/HK, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed shop and services (retail shop);
- (c) departmental comments – departmental comments were set out in paragraph 9 of the Paper. The Lands Department pointed out the lease allowed the subject lot be used for residential purpose only and the proposed use would contravene the lease conditions, while the Commissioner for Transport reminded that car parking spaces should meet the lease requirements. Concerned government departments had no objection to or no adverse comment on the application;
- (d) during the first three weeks of the statutory publication period, 64 public comments from a DC member, the chairperson of Hong Kong Island East District Branch of the Liberal Party, Incorporated Owners, a concern group, a member of the Area Committee, vice president of the District Fire Safety Committee, and other individuals were received. Amongst them, 15 opposed the application while the remaining providing views with negative comments. Major views were set out in paragraph 10 of the Paper; and
- (e) the Planning Department (PlanD)'s views – PlanD did not support the application based on the assessment made in paragraph 12 of the Paper. The proposed shop was not in keeping with the residential character of the neighbourhood. There was no strong planning justification for the proposed change of use within a pure residential neighbourhood. The

approval of the application would set an undesirable precedent. The cumulative impact of approving other similar applications would result in change of a pure residential neighbourhood. Regarding the adverse public comments, comments of concerned departments and the planning assessments above were relevant.

[Mr Alex T.H. Lai left the meeting at this point.]

48. In response to a Member's enquiry, Mr Ng Tak Wah, STP/HK, said that the suspected car repair workshop at the premises had not obtained planning permission nor lease modification approval. As regard the structural changes, i.e. installation of ventilators and doors, on the premises, the Buildings Department had taken enforcement action and a statutory order for compliance had been issued to the owner.

Deliberation Session

49. After deliberation, the Committee decided to reject the application. The reasons was :

“ there is no strong planning justification for the change of use in the area which is primarily for residential use. The approval of the application would set an undesirable precedent for other similar applications, the cumulative effect of approving such applications would result in change of a pure residential neighbourhood.”

城市規劃委員會

香港北角渣華道三百三十三號
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TOWN PLANNING BOARD

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電 話 Tel: 2231 4810

來函檔號 Your Reference:

By Post & Fax (2780 5911)

覆函請註明本會檔號

In reply please quote this ref.: TPB/A/H8/429

22 March 2019

Liu, Chan and Lam, Solicitors
Room 1606-1611, CMB Wing Lung Bank Centre
636 Nathan Road
Mongkok, Kowloon

Dear Sir/Madam,

**Proposed Shop and Services (Retail Shop) in “Comprehensive Development Area (2)”
Zone, G/F (Portion), North Point View Mansion, 54 Kai Yuen Street, Hong Kong**

I refer to my letter to you dated 6.3.2019.

After giving consideration to the application, the Town Planning Board (TPB) decided to reject the application and the reason is :

- there is no strong planning justification for the change of use in the area which is primarily for residential use. The approval of the application will set an undesirable precedent for other similar applications, the cumulative effect of approving such applications will result in change of a pure residential neighbourhood.

A copy of the TPB Paper in respect of the application (except the supplementary planning statement/technical report(s), if any) and the relevant extract of minutes of the TPB meeting held on 8.3.2019 are enclosed herewith for your reference.

Under section 17(1) of the Town Planning Ordinance, an applicant aggrieved by a decision of the TPB may apply to the TPB for a review of the decision. If you wish to seek a review, you should inform me within 21 days from the date of this letter (on or before 12.4.2019). I will then contact you to arrange a hearing before the TPB which you and/or your authorized representative will be invited to attend. The TPB is required to consider a review application within three months of receipt of the application for review. Please note that any review application will be published for three weeks for public comments.

Under the Town Planning Ordinance, the TPB can only reconsider at the review hearing the original application in the light of further written and/or oral representations. Should you decide at this stage to materially modify the original proposal, such proposal should be submitted to the TPB in the form of a fresh application under section 16 of the Town Planning Ordinance.

If you wish to seek further clarifications/information on matters relating to the above decision, please feel free to contact Mr. Ng Tak Wah of Hong Kong District Planning Office at 2231 4935.

Yours faithfully,



(Raymond KAN)
for Secretary, Town Planning Board

Advisory Clauses

- (a) to apply to District Lands Officer/Hong Kong East, Lands Department for lease modification for the proposed shop and services (retail shop) use;
- (b) to note the comments of the Chief Building Surveyor/Hong Kong East & Heritage that :
 - (i) the proposed shop and services (retail shop) at the ground floor should be accountable for gross floor area (GFA) calculation;
 - (ii) the domestic and non-domestic PR calculations for the subject site should be re-assessed taking into account the GFA of the proposed shop and services (retail shop) under regulation 21 of Building (Planning) Regulations (B(P)R);
 - (iii) there should be structurally adequate for the existing structure affected by the proposed change of use;
 - (iv) there should be adequate provision of means of escape for the proposed shop and services (retail shop) so as to comply with the B(P)R 41(1);
 - (v) there should be adequate provision of fire resisting construction for the proposed shop and services (retail shop) so as to comply with Building (Construction) Regulation 90;
 - (vi) there should be adequate provision of access and facilities for persons with a disability for the proposed shop and services (retail shop) so as to comply with B(P)R 72; and
 - (vii) detailed checking for compliance with Buildings Ordinance will be made at building plan submission stage.