

TOWN PLANNING BOARD

Minutes of 357th Meeting of the Metro Planning Committee held at 9:00 a.m. on 14.9.2007

Present

Director of Planning
Mrs. Ava S.Y. Ng

Chairperson

Dr. Greg C.Y. Wong

Vice-chairman

Mr. Nelson W.Y. Chan

Mr. Leslie H.C. Chen

Professor N.K. Leung

Professor Bernard V.W.F. Lim

Dr. Daniel B.M. To

Ms. Sylvia S.F. Yau

Ms. Starry W.K. Lee

Mr. K.Y. Leung

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

Assistant Director (Environmental Assessment),
Environmental Protection Department
Mr. Elvis W.K. Au

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

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

Secretary

Absent with Apologies

Mr. Stanley Y.F. Wong

Ms. Maggie M.K. Chan

Mr. Raymond Y.M. Chan

Mr. Walter K.L. Chan

Mr. Felix W. Fong

Professor Paul K.S. Lam

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

In Attendance

Assistant Director of Planning/Board
Mr. Lau Sing

Chief Town Planner/Town Planning Board
Miss Fiona S.Y. Lung

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

Agenda Item 1

Confirmation of the Draft Minutes of the 356th MPC Meeting held on 24.8.2007

[Open Meeting]

1. The draft minutes of the 356th MPC meeting held on 24.8.2007 were confirmed without amendments.

Agenda Item 2

Matters Arising

[Open Meeting]

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

- (a) Section 16 Application No. A/H24/10
Proposed Central Government Complex and
Legislative Council Complex at the Tamar Site

2. The Secretary reported that a section 16 application (No. A/H24/10) was submitted by the Gammon – Hip Hing Joint Venture on 6.8.2007 for the proposed Central Government Complex and Legislative Council Complex at the Tamar site, which was zoned “Government, Institution or Community (4)” and “Open Space” on the approved Central District (Extension) Outline Zoning Plan (OZP) No. S/H24/6. Due to the wide public concern on the development at the subject site, Members’ views were sought on whether the application should be submitted to the Town Planning Board (TPB) rather than the Committee for consideration. The Committee agreed that the application should be submitted to the TPB for consideration at its meeting to be held on 5.10.2007.

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

- (b) Judicial Review Application Relating to the
Draft Sai Ying Pun and Sheung Wan Outline Zoning Plan

3. The Secretary reported that on 10.9.2007, Heritage Hong Kong Limited filed an

application for leave for judicial review (JR) in respect of the TPB's decisions on 25.8.2006 of not upholding the Applicant's representation against the amendments to the Notes of the "Other Specified Uses" annotated "Historical Site Preserved for Cultural, Recreational and Commercial Uses" zone in respect of the Central Police Station Compound on the draft Sai Ying Pun and Sheung Wan OZP No. S/H3/21 and on 6.7.2007 of replacing the previous reasons for not upholding the representation to reflect more clearly the TPB's deliberation of the representation. A copy of the "Notice of Application for leave to apply for JR" had been tabled at the meeting for Members' reference. She said that Members would be briefed on the details of the JR case upon obtaining the legal advice.

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

(c) Town Planning Appeal Decisions Received

- (i) Town Planning Appeal No. 1 of 2005 (1/05)
Temporary Container Tractor/Trailer Park for a Period of 3 Years
in "Comprehensive Development Area (3)" zone,
Lot 1212ARP(Part) in DD 115 and Adjoining Government Land,
Chung Yip Road, Nam Sang Wai, Yuen Long
(Application No. A/YL-NSW/147)

- (ii) Town Planning Appeal No. 2 of 2005 (2/05)
Temporary Private Car Park for a Period of 3 Years
in "Comprehensive Development Area (3)" zone,
Lot 1212ARP(Part) in DD 115,
Chung Yip Road, Nam Sang Wai, Yuen Long
(Application No. A/YL-NSW/148)

4. The Secretary reported that the two captioned appeals were against the TPB's decisions to reject on review two applications for a temporary container tractor/trailer park (No. A/YL-NSW/147) and a temporary private car park (No. A/YL-NSW/148), both for a period of 3 years at sites zoned "Comprehensive Development Area (3)" ("CDA(3)") zone on the draft Nam Sang Wai OZP No. S/YL-NSW/5. The appeals were heard together by the Town Planning Appeal Board (TPAB) on 22.5.2007. On 31.7.2007, the TPAB allowed

Appeal No. 1/05 for the parking of lorries and container vehicles and Appeal No. 2/05 for the parking of private car or light vehicles not exceeding 5MT, both for a shorter period of 2 years with conditions, mainly on the following grounds:

- (a) there would unlikely be any real or significant improvement on wetland restoration in the area for the next 2 years and hence allowing the proposed uses would not have any or any long-term impact on the planning intention of the current “Other Specified Uses” annotated “Comprehensive Development to include Wetland Restoration Area” zoning of the subject sites;
- (b) if the vehicles were not parked at the subject sites, they would probably be parking at other nearby car parks in the area. The resulting amount of traffic, and hence traffic noise, would more or less be the same. The concerns on the drainage and visual impacts of the proposed uses could be addressed by imposing suitable conditions;
- (c) the requirement of ecological impact assessment for temporary use within the Wetland Buffer Area was exempted under the TPB Guidelines No. 12B for “Application for Developments within Deep Bay Area under section 16 of the Town Planning Ordinance”, although it did not mean that the TPB should not consider any ecological impact of the proposed uses;
- (d) for Appeal No. 1/05, there were previous planning approvals for port back-up uses at the site, the local views were mixed and there were no real adverse departmental comments, other than that of the Director of Environmental Protection and Director of Planning;
- (e) there must be a reasonable demand for parking spaces in the area as the subject sites had been used for vehicle parking since 1996; and
- (f) there should be a realistic chance that the conditions imposed would be complied with having regard to the length of the permission period and the length of time allowed for satisfying the conditions.

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

- (iii) Town Planning Appeal No. 12 of 2005 (12/05)
Proposed House Development in “Green Belt” zone,
Various Lots and Adjoining Government Land in DD 233,
Ha Yeung, Sai Kung
(Application No. A/DPA/SK-CWBS/4)

5. The Secretary reported that the captioned appeal was against the TPB’s decision to reject an application (No. A/DPA/SK-CWBS/4) upon review for a proposed development of 5 houses of two storeys on a site zoned “Green Belt” (“GB”) on the approved Clear Water Bay Peninsula South OZP Plan No. S/SK-CWBS/2. The appeal was heard by the TPAB on 29.1.2007, 30.1.2007 and 6.3.2007. On 30.7.2007, the appeal was allowed by the TPAB with conditions mainly on the following grounds :

- (a) the proposed development would be a great improvement of the environment as a whole. There was also not much chance of any spreading of urban or sub-urban development as the subject site was surrounded by “Conservation Area” (“CA”) zone;
- (b) given the size and height of the proposed development as well as the landscape proposals, the proposed development would not affect the aesthetic harmony in the rural outlook of the whole area to the south-west of Clear Water Bay Road and unlikely bring about complaints from the nearby residents;
- (c) the planning intention of the “GB” zone was not lost by allowing the proposed development. The subject site, despite being zoned as “GB”, was at all times since the introduction of the first Development Permission Area (DPA) plan, neither covered by natural vegetation or any other natural features, and it could not serve the purpose of separating the Ha Yeung New Village zoned “Village Type Development” from land zoned for “CA” purpose. Although there was a general presumption against

development within the “GB” zone, house development was a column 2 use and permission would be allowed if considered appropriate;

- (d) the traffic impact of the proposed development would be less than that of the existing use of the land as car park accommodating about 100 private cars and goods vehicles; and
- (e) approving the proposed development would not set an undesirable precedent as every application for planning permission must be considered in the light of its own facts.

6. Noting the reasons for allowing Appeal No. 12/05, a Member raised concerns on the general implications on other planning applications arising from the TPAB’s decision. The Chairperson said that a paper would be prepared by the Secretariat for submission to the TPB for discussion in due course.

7. The Secretary said that a copy each of the Summary of Appeal and the TPAB’s decision for the three appeal cases had been sent to Members for reference.

(d) Appeal Statistics

8. The Secretary reported that as at 14.9.2007, 17 cases were yet to be heard by the TPAB and another 6 cases had already been heard with their decisions pending. Details of the appeal statistics were as follows:

Allowed	:	20
Dismissed	:	100
Abandoned/Withdrawn/Invalid	:	124
Yet to be Heard	:	17
Decision Outstanding	:	6
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Total	:	267

Hong Kong District

Agenda Item 3

Section 12A Application

[Open Meeting (Presentation and Question Sessions Only)]

Y/H7/3 Application for Amendment to the
Draft Wong Nai Chung Outline Zoning Plan No. S/H7/12
from “Green Belt” to “Residential (Group C)1”
or “Residential (Group C)11”,
Government Land Adjoining 12A and 12B Broadwood Road
(i.e. Inland Lot 2132), Happy Valley
(MPC Paper No. Y/H7/3)

9. The Secretary, living in the vicinity of the application site, declared an interest in this item. As her interest was remote, the Committee agreed that she could stay in the meeting.

Presentation and Question Sessions

10. Mr. Tom C.K. Yip, Senior Town Planner/Hong Kong (STP/HK), and the following applicant’s representatives were invited to the meeting at this point :

Ms. Keren Seddon

Ms. Alice Cheung

Mr. Ricky Leung

11. The Chairperson extended a welcome and explained the procedures of the hearing. Mr. Tom C.K. Yip, STP/HK, was then invited to brief Members on the background to the application. With the aid of a powerpoint presentation, Mr. Yip did so as detailed in the Paper and made the following main points :

(a) the applicant proposed to rezone a piece of Government land adjoining a residential lot (i.e. IL 2132) from “Green Belt” (“GB”) to “Residential

(Group C)1” (“R(C)1”) under Option 1 or to rezone both the Government land and the residential lot to “R(C)11” under Option 2 on the draft Wong Nai Chung Outline Zoning Plan (OZP) No. S/H7/12 for private garden use. The applicant’s proposals under Options 1 and 2 and the justifications were highlighted as per paragraphs 1 and 2 of the Paper;

- (b) the previous section 12A application (No. Y/H7/2) rejected by the Committee on 19.1.2007 as well as the characteristics of the application site and its surrounding areas were summarised in paragraphs 4 and 6 of the Paper;
- (c) the comments from concerned Government departments were set out in paragraph 8 of the Paper. The District Lands Officer/Hong Kong East, Lands Department (DLO/HKE, LandsD) supported the application from land utilization point of view. The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) had reservation on the application as green belt should be protected as far as possible and even without the rezoning, the applicant could still maintain and improve the application site for private garden use under the short term tenancy (STT). The Chief Building Surveyor/Hong Kong East, Buildings Department (CBS/HKE, BD) cautioned about the possibility of transferring the plot ratio from the application site to the adjoining residential lot;
- (d) 17 public comments, mainly submitted by the residents and management office of the nearby residential developments including Villa Lotto and Villa Rocha, raising objection to the application were received during the statutory publication period. The commenters’ views were summarised in paragraph 9.2 of the Paper. The District Officer (Wan Chai) advised that there would not be strong local objection to the application, but the locals might be concerned about the tree preservation issue; and
- (e) the Planning Department (PlanD) did not support the application for the reasons as detailed in paragraph 10.1 of the Paper. The rezoning proposal under Option 1 was exactly the same as the previously rejected application

(No. Y/H7/2) and there was no change in the planning circumstances since then to justify a deviation from the Committee's previous decision. For Option 2, no strong justification had been provided to warrant a rezoning of the "GB" zone and approval of the application would set an undesirable precedent.

12. The Chairperson then invited the applicant's representatives to elaborate on the application. With the aid of a powerpoint presentation, Ms. Keren Seddon made the following main points :

- (a) the application site of about 130m² had been legitimately used as a private pleasure garden of the adjoining residential lot since 1976 under STT. In terms of the long planning history and physical reality, the application site and the adjoining residential lot formed a "single entity". It was the Town Planning Board (TPB)'s normal practice to rezone sites to reflect existing approved uses;
- (b) according to paragraph 5 of the covering Notes of the OZP, "boundaries between zones may be subject to minor alterations". Paragraph 3.3 of the Explanatory Statement (ES) of the OZP further stated that small strips of land not intended for building development purposes and carried no development right under the lease such as garden might be included in the residential zones and such areas would not be taken into account in plot ratio (PR) and site coverage (SC) calculations;
- (c) to address the Committee's previous concern on development intensity issue in the previously rejected application (No. Y/H7/2), the two options proposed under the current application would not allow any increase in development intensity as alleged in paragraphs 9.2, 10.1 and 10.3 of the Paper, and hence no adverse impacts on the infrastructural provisions in the area would be resulted;
- (d) under Option 1, the general principle that land not intended for building development purposes and carried no development right under the lease

would not be taken into account in PR and SC calculations as stated in paragraph 3.3 of the ES of the OZP would be followed and effected through the lease. Under Option 2, it was proposed to explicitly stated in the Notes of the OZP that the application site would be maintained as a non-building area for ancillary garden use and excluded from PR and SC calculations. Both options were common zoning mechanisms;

- (e) the adjoining residential lot had been cleared for redevelopment and construction work was underway. The application site was flat and the former landscape treatment had been cleared except for the existing trees. To extinguish the private garden use might result in dereliction of the application site;
- (f) at the Committte's meeting held on 19.1.2007, Mr. James Merritt, Assistant Director (Kowloon) of LandsD, had indicated that no specific landscape standard would be imposed under a STT;
- (g) a permanent land use arrangement would provide incentive for the applicant to undertake a high standard of landscape and environmental improvement at the application site. The landscape and amenity value of the adjacent Government land would also be improved as a public planning gain. Under the applicant's proposal, all the 5 existing trees within and adjacent the application site would be preserved, new trees would be planted and the current lack of ground cover condition would be remedied;
- (h) the application site, despite being zoned "GB", showed no characteristics of a "GB" area. While there was an extensive green buffer area in the surrounding area, the application site was the only known ancillary private garden in the "GB" zone and hence precedent effect should not be a concern. Every application should be considered on its own merits;
- (i) compared with the 24 public comments received on the previous s.12A application (No. Y/H7/2), the number of public comments, mainly from the local residents, raising objection to the current application had decreased to

17. The local concerns were, however, not related to the garden use in question, but rather on the adjoining residential development as illustrated in their grounds of objection. The Director of Agriculture, Fisheries and Conservation (DAFC) had pointed out that the rezoning proposal would not involve any loss of trees and hence there would not be any significant impact to the Black Kites as raised in the public comments; and

- (j) except PlanD, all concerned Government departments had no objection to the application. PlanD's concerns only reflected a desire for maintaining the status quo which could neither reflect the existing on ground situation nor help the LandsD to ensure sensible and efficient land administration. Approving the application would have an advantage of better overall land use control, and there would be no administrative burden and liabilities for the Government. Should the rezoning be agreed by the Committee, land exchange would be required and any Government requirements would be incorporated in the lease conditions.

[Professor Bernard V.M.F. Lim arrived to join the meeting at this point.]

13. A Member enquired about the need to rezone the "GB" site to a residential zoning as the applicant could still use the site as a private garden and carry out improvement works under the STT. That Member asked whether the STT would be renewed if the application was not agreed by the Committee. Ms. Keren Seddon replied that the application site had been used as a private garden for the past 30 years under a STT which was renewed regularly. There should be no reason for the LandsD to extinguish the STT. However, allowing a permanent garden use at the application site through rezoning would provide the incentive for the applicant to undertake a high standard of dedicated landscape improvement proposed in the application. Besides, the adjacent sloping Government land was in poor condition without planting and ground cover, except for the existence of one tree. The landscape and amenity value of that land would also be improved to serve as a green buffer area between the application site and the adjacent "GB" zone.

14. Another Member asked about the reasons that caused the current poor condition of the application site, despite having been used as a private garden for over 30 years. In

reply, Ms. Keren Seddon said that the application site was already an outworn garden with overgrown grasses when the applicant bought the adjacent residential lot in 2006. The applicant had cleared the former landscape treatment and the overgrown grasses in the garden, trees were left intact. The applicant had no knowledge of the reasons that caused the poor site conditions.

15. In response to two Members' questions on the zoning history of the "GB" site and the means of controlling the implementation of landscape proposals if the application was approved, Mr. Tom C.K. Yip, STP/HK, replied that the application site had been zoned as "GB" since the first statutory plan for the area was gazetted in 1969. If the application was agreed by the Committee, the OZP would be amended to incorporate the rezoning proposal in accordance with the Town Planning Ordinance. Upon completion of the plan-making process, LandsD could then proceed with the necessary land exchange and incorporate a landscape clause under the lease conditions.

16. Noting Members' concern on the implementation of landscaping proposals, the Secretary said that the applicant could submit a section 16 planning application without resorting to the current rezoning application. In approving a planning application, approval conditions would then be imposed requiring the applicant to implement the landscape proposals. In response, Ms. Keren Seddon said that rezoning was considered a better option having regard to the more open and transparent process of allowing the public to submit representations on the amendments to OZP under the Town Planning Ordinance and the history of rejection of section 16 applications in "GB" zone. Upon rezoning, any Government requirements could still be incorporated in the lease conditions for compliance by the applicant. If the Committee wished to maintain control through the imposition of approval conditions, the applicant would be delighted to submit a section 16 planning application and comply with the approval conditions so imposed by the Committee.

17. A Member asked if the public could gain access to the application site and the adjacent "GB" area. Mr. Tom C.K. Yip, STP/HK, replied that the public had no access to the application site as it had been fenced off as shown in the powerpoint slides shown by the applicant's representatives at the meeting. Ms. Keren Seddon supplemented that there was no access to the application site, except through the adjoining residential lot owned by the applicant. Though not certain if the public could access the adjacent "GB" area, she said

that there was no public footpath leading to that area.

18. As the applicant's 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 applicant of the Committee's decision in due course. The Chairperson thanked the applicant's representatives and PlanD's representative for attending the meeting. They all left the meeting at this point.

Deliberation Session

19. Members had a detailed discussion and the points raised by individual Members were summarised as follows:

- (a) the applicant, being the holder of the STT, was responsible to upkeep the application site in good conditions. The existing condition of the application site was poor because the adjoining residential lot was undergoing redevelopment and the application site was pending reinstatement of its private garden use. With an area of about 130m² only, the cost of provision of landscape treatment at the application site should not be high. There was no reason to believe that the applicant would leave the application site in a poor condition upon completion of the adjoining residential development if the rezoning was not to be agreed by the Committee;
- (b) the applicant could submit a section 16 planning application for permanent private garden use at the application site. Notwithstanding the application site had been used as a private garden, the current "GB" zoning of the site was still appropriate. There was no need to rezone the application site from "GB" to a residential zoning; and
- (c) the application site had been designated as "GB" zone since the first statutory plan was prepared for the area. The application, which sought to turn the STT area into a residential zoning, was against the planning

intention of maintaining the “GB” zone, which was to conserve the natural environment and avoid encroachment of urban type developments. There was also concern on the precedent effect of approving the application.

20. The Secretary asked whether the applicant could apply for land exchange to incorporate the STT area into the adjoining residential lot and include it for PR calculation if the application site were to be rezoned to a residential zoning. Mr. James Merritt replied in the affirmative, though pointing out that the application site could be designated as a non-building area under the lease.

21. In response to a Member’s questions on whether the STT would be granted to the land owner of the adjoining residential lot and whether it was common to grant STT in “GB” zone, Mr. James Merritt said that it was not uncommon to grant land to the owner of the adjoining lot for private garden use under STT in the New Territories, but there were fewer cases on the Hong Kong Island.

22. Noting the long history of the application site being used as a private garden, a Member was sympathetic to this case, but had reservation of allowing private garden use in “GB” zone in general.

23. The Chairperson concluded that while Members generally had no in-principle objection to allow the continuation of the private garden use at the application site, there was no need to rezone the application site from “GB” to a residential zoning. She suggested and Members agreed that the rejection reasons should be revised appropriately to reflect Members’ views.

24. After deliberation, the Committee decided not to agree to the application for amendment and the reasons were :

- (a) the planning intention of the “Green Belt” (“GB”) zone was primarily to conserve the existing natural environment and to safeguard the area from encroachment by urban type development. Notwithstanding the application site had long been used as a private garden, the current “GB” zoning of the site was still appropriate. The applicant had not provided

strong justification to warrant the rezoning of the application site to the proposed residential zonings;

- (b) there was no strong justification to support the proposed rezoning from “GB” to “Residential (Group C)1” which might result in a change of use and an increase in development intensity and generate adverse impacts on the surrounding area; and
- (c) the approval of the rezoning application would set an undesirable precedent for similar applications, the cumulative effect of which would jeopardize the planning intention of the “GB” zone.

[Mr. David C.M. Lam and Ms. Donna Y.P. Tam, STPs/HK, were invited to the meeting at this point.]

[Dr. Greg C.Y. Wong left the meeting temporarily at this point.]

Agenda Item 4

[Open Meeting (Presentation and Question Sessions Only)]

Further Consideration of Application No. A/H17/117

Proposed Minor Relaxation of Site Coverage from 25% to not more than 40%

in “Residential (Group C)3” zone,

38 Repulse Bay Road (RBL 380)

(MPC Paper No. A/H17/117B)

25. The Secretary reported that the application was submitted by a subsidiary of Sino Land Co. Ltd. (Sino). Dr. Greg C.Y. Wong, having current business dealings with Sino, declared an interest in this item. The Committee noted that Dr. Greg C.Y. Wong had already left the meeting.

Presentation and Question Sessions

26. 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 and the proposed minor relaxation of the site coverage (SC) restriction;
- (b) the concerns raised by the Committee at the meeting held on 25.5.2007 as summarised in paragraph 1.4 of the Paper, mainly in that the visual impact of the proposed development, particularly on the public views, and the legal issue raised in a public comment previously submitted on 2.5.2007 on the application, i.e. whether the visual impact of the proposed development on the commenter's property was a material consideration, should be addressed;
- (c) the further information (FI) submitted by the applicant on 25.7.2007 to address the Committee's concerns as set out in paragraph 1.6 of the Paper;
- (d) legal advice was sought with respect to the legal issue raised in the public comment mentioned in paragraph 26(b) above. The legal advice indicated that the commenter's interest in preserving the views of his property in a locality which the applicant had assessed for visual impact of the proposed development should be considered by the Town Planning Board (TPB) and the weight to be given in consideration was a matter for the TPB to decide;
- (e) departmental comments – while having no in-principle objection to the application and no adverse comment on the latest FI, the Chief Architect/Advisory and Statutory Compliance, Architectural Services Department (CA/ASC, ArchSD) pointed out that the floor to floor height for the carport/clubhouse level, 1/F and 2/F of the proposed development appeared to be on the high side. No other concerned Government departments had objection to or adverse comments on the latest FI;

- (f) 21 public comments, mainly from the owners/occupiers of the adjacent residential developments (i.e. Pinecrest and The Somerset) and those residing along Repulse Bay Road as well as a Southern District Council member, were received during the statutory publication period of the latest FI. They objected to the application for the reasons as summarized in paragraph 4.3 of the Paper; and
- (g) the Planning Department (PlanD)'s views – PlanD did not support the application for the reason as detailed in paragraphs 5.2 to 5.5 of the Paper in that the latest FI was considered not adequate to address the Committee's concerns raised at the meeting held on 25.5.2007. Regarding the possible adverse visual impacts on Pinecrest and The Somerset, the applicant had only submitted photomontages based the viewpoints from a particular unit on 1/F of The Somerset and a computer rendered image simulating the view from Pinecrest. The applicant had not provided any information to address the CA/ASC, ArchSD's concerns on the floor to floor height of the proposed development.

27. In response to the questions raised by the Chairperson and the Secretary, Mr. David C.M. Lam, STP/HK, made the following main points:

- (a) the overall building height of the proposed development as originally proposed was 69.85mPD, as indicated in the application form and planning statement attached at Appendices I and Ia of the MPC Paper No. A/H17/117A. However, the applicant had clarified that the overall building height had been reduced to 69.05mPD in the FI submitted on 17.5.2007, which was attached at Appendix 1f of the MPC Paper No. A/H17/117A. Some commenters might still make reference to the information in the original submission in submitting their comments on the latest FI;
- (b) referring to Drawing FA-2 of the Paper, the proposed development would be built on an existing platform that covered most of the application site with levels ranging from 51.45mPD to 52.2mPD; and

- (c) the proposed minor relaxation of SC restriction was intended to facilitate a terrace design of the proposed development. With reference to Drawing FA-5 of the Paper, three detached houses would still be developed at the application site at the current SC restriction of 25%.

Deliberation Session

28. A Member recalled that the Committee's main concern at the meeting held on 25.5.2007 was on the impact of the proposed minor relaxation of SC on the public views. In this respect, that Member concurred with the CA/ASC, ArchSD's comments as stated in paragraph 10.1.1 of the MPC Paper No. A/H17/117A in that the terrace design of the proposed development would face the seaward side only. According to the latest FI, the façade along Repulse Bay Road was still a blank wall design despite that additional landscape features would be provided. As such, the proposed SC relaxation would only benefit the residents of the proposed development, rather than the general public. While the visual impact on the residents of the nearby residential buildings would not be of crucial importance in considering the application, the impact on the views of the general public, particularly along Repulse Bay Road, should be duly taken care of.

29. Another Member shared the same views and commented that a building design of the proposed development at the current SC restriction of 25% should be prepared for comparison with that under the proposed SC restriction of 40%. Mr. David C.M. Lam said that the only information available in the submission was the photomontages prepared by the applicant showing the proposed development at SC of 25% and 40% at Figures 12 and 13 of the latest FI attached at F-Appendix IV of the Paper.

30. In response to a Member's question, the Secretary said that as early as 24.3.2000, the TPB agreed as a general guideline to relax, inter alia, the maximum domestic SC to 66.6% and 50% respectively for sites falling within the Residential Zone 2 ("R2") and "R3" Areas in the Metro and New Town Areas. The main intention of the SC relaxation was to provide greater design flexibility to cater for site constraint and innovative design. The agreed guideline served, however, only as a broad framework. Whether the SC for a specific area could be relaxed would need to be assessed on a plan by plan basis, having

regard to the site characteristics and other special considerations. The Notes of some OZPs had been amended to reflect the relaxation if considered appropriate upon review. With regard to the subject OZP, a blanket relaxation of the SC restriction was considered inappropriate as mature trees and natural landscaping features of high amenity value were found in many residential lots that fell within the “Residential (Group B)” (“R(B)”) and “R(C)” zones. Notwithstanding this, there was provision for planning applications for minor relaxation of the SC restriction under the Notes of the OZP. While there was no absolute guidelines on the extent of minor relaxation that would normally be accepted, the impacts of the proposed relaxation on the general environment was a material consideration. The TPB would consider each application on its individual merits. For the subject application, the proposed development would be built on an existing platform that covered most of the application site, and hence no tree felling would be involved. Similar applications had been approved by the TPB since 2000.

31. A Member noted that PlanD had no objection to the application at the Committee’s meeting held on 25.5.2007, but had changed its views to not supporting the application in this Paper. Mr. David C.M. Lam explained that PlanD had no objection to the application for the reasons given in paragraph 12.1 of the MPC Paper No. A/H17/117A, mainly in consideration that the proposed SC relaxation did not exceed the maximum permissible level of 50% under the general guideline as stated in paragraph 30 above, and would not have adverse visual or natural landscape impacts in the area. However, the latest FI submitted by the applicant was considered insufficient to address the concerns raised by the Committee on 25.5.2007 and hence the application was not supported by PlanD.

32. In response to the Chairperson’s enquiry on the proposed building setback from Repulse Bay Road, Mr. David C.M. Lam replied that there was no information at hand on the exact extent of building setback to be provided at the application site. However, as shown in Drawing FA-1 of the Paper, landscape features would be provided in front of the proposed detached houses along Repulse Bay Road, and thus there was no doubt that the buildings would be setback to make room for the landscape features.

33. Compared with the existing building height of 67.6mPD, a Member noted that the proposed development would only involve minor increase in the overall building height to 69.05mPD. Landscape features would also be provided along the façade facing Repulse

Bay Road to mitigate the visual impact. In response to the same Member's question, the Chairperson said that the subject "R(C)3" zoning was restricted to a maximum building height restriction of 3 storeys in addition to 1 storey of carports under the OZP or the height of the existing building, whichever was the greater. There was, however, no absolute building height restriction stipulated under the OZP.

34. Referring to Appendix III of the MPC Paper No. A/H17/117A, a Member noted that 18 similar applications for the relaxation of SC restriction for sites falling within the "R(C)" zone in the subject OZP had previously been approved by the Committee with conditions after the general guideline on the relaxation of SC restriction was agreed by the TPB in March 2000. The Secretary remarked that each application would be considered in the light of its own merits.

35. While noting the local objections against the proposed SC relaxation, Members agreed that the minor relaxation in SC was mainly to cater for design flexibility, hence the prime concern was whether there would be any adverse impacts arising from the proposed SC relaxation. In this respect, with or without the proposed relaxation, house development at a maximum building height of 3 storeys in addition to 1 storey of carports was always permitted under the subject "R(C)3" zoning. At that building height, the maximum plot ratio and SC permissible at the application site would be 0.75 and 25% respectively according to the Notes of the OZP. As the proposed development would be built on an existing platform that covered most of the application site, no tree felling would be involved and no natural landscape features would be affected. FI had been submitted by the applicant to address the Committee's concerns raised at the meeting held on 25.5.2007. Although a relaxed SC would induce a larger building footprint, the applicant had made efforts to revise and improve the design of the proposed development by providing additional landscape features along Repulse Bay Road. Other development parameters, including plot ratio and building height, of the proposed development were within the restrictions stipulated under the OZP.

36. Members, however, considered that there was further scope to improve the design of the proposed development for the benefits of the general public, for example by reducing the overall building height of the proposed development, providing further building setback and additional landscape treatment, and applying the terrace design concept to the façade

facing Repulse Bay Road, etc. The Chairperson suggested and Members agreed to impose an approval condition to require the applicant to improve the building design. Members also agreed that the commenters should be duly informed of the planning considerations taken by the Committee in arriving at a decision on the application.

37. 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 14.9.2011, and after the said date, the permission should cease to have effect unless before the said date, the development permitted was commenced or the permission was renewed. The permission was subject to the following conditions:

- (a) the submission and implementation of a building design proposal to further improve the design of the proposed development, particularly for the façade facing Repulse Bay Road, to the satisfaction of the Director of Planning or of the TPB;
- (b) the submission and implementation of a landscape proposal to the satisfaction of the Director of Planning or of the TPB; and
- (c) the provision of water supply for fire fighting and fire service installations to the satisfaction of the Director of Fire Services or of the TPB.

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

- (a) to apply to the District Lands Officer/Hong Kong West and South, Lands Department (DLO/HKW&S, LandsD) for lease modification to permit the relaxation of site coverage and to liaise with him regarding the use of stilted structures;
- (b) to note the comments of the DLO/HKW&S, LandsD regarding the SC of the existing platform/stilted structures, the floor height of the carport level and the need for agreement of concerned Government departments on the provision of the proposed facilities on the strip of Government land outside the lot;

- (c) to note the comments of the Director of Fire Services regarding the compliance of Code of Practice for Means of Access for Firefighting and Rescue;
- (d) to note the comments of the Chief Architect/Advisory and Statutory Compliance, Architectural Services Department on the design of façade of the proposed development facing Repulse Bay Road;
- (e) to note the comments of the Chief Highway Engineer/Hong Kong, Highways Department on the proposed planting outside the lot and on the existing footpath; and
- (f) to note the comments of the Head (Geotechnical Engineering Office), Civil Engineering and Development Department regarding the requirement to study/investigate the existing slopes and/or retaining walls within or in the vicinity of the site that could affect or be affected by the proposed development.

39. The Committee requested the Secretariat to duly inform the commenters the planning considerations taken by the Committee in deciding to approve the application with conditions.

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

Agenda Item 5

Section 16 Applications

[Open Meeting (Presentation and Question Sessions Only)]

- (i) A/H3/377 Proposed Office, Shop and Services and Eating Place in “Residential (Group A)” zone, 20-26 Staunton Street, Central (MPC Paper No. A/H3/377A)
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40. The application was submitted by two subsidiaries of Sino Land Co. Ltd. (Sino). Dr. Greg C.Y. Wong, having current business dealings with Sino, declared an interest in this item. As the applicant had requested the Committee to defer consideration of the application and discussion of and determination on this item was not necessary, the Committee agreed that Dr. Wong could stay in the meeting.

Presentation and Question Sessions

41. The Committee noted that on 12.9.2007, the applicant's representative requested a deferment of the consideration of the application to allow time to prepare further information to address the concerns of the Transport Department. The further information would be submitted within 2 weeks from 12.9.2007. The criteria for deferment as set out in the Town Planning Board Guidelines No. 33 on "Deferment of Decision on Representations, Comments, Further Representations and Applications made under the Town Planning Ordinance" were met.

Deliberation Session

42. 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 two weeks from 12.9.2007 were allowed for preparation of the submission of the further information, and no further deferment would be granted unless under very special circumstances.

[Open Meeting (Presentation and Question Sessions Only)]

- (ii) A/H5/362 Proposed Eating Place/Shop and Services
in "Open Space" zone,
28/F and 29/F, 196-206 Queen's Road East, Wan Chai
(MPC Paper No. A/H5/362)
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43. The Secretary reported that the application was submitted by a subsidiary of Hopewell Holdings Ltd. (Hopewell). Mr. Felix W. Fong, having current business dealings with Hopewell, declared an interest in this item. The Committee noted that Mr. Felix W. Fong had tendered apologies for not being able to attend the meeting.

Presentation and Question Sessions

44. Ms. Donna Y.P. Tam, 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/shop and services uses;
- (c) departmental comments – the Assistant Commissioner for Transport/Urban, Transport Department (AC for T/U, TD) had no objection to the application, subject to the satisfactory arrangement on the transportation of goods. Other concerned Government departments had no objection to or adverse comments on the application;
- (d) two public comments were received during the statutory publication period. One of them supported and the other had no objection to the application; and
- (e) the Planning Department (PlanD)'s views – PlanD had no objection to the application for the reasons as detailed in paragraph 11.1 of the Paper. Previous planning approvals had been given for the subject commercial/office development and the subsequent in-situ conversion of parts of the same building from office to eating place/shop and services uses. The proposed uses under application were not incompatible with the retail and office uses in the same building and would not have adverse impacts on the surrounding area. The applicant had confirmed that the tenants of the proposed retail/eatery facilities would use the two

loading/unloading bays provided at the adjacent Hopewell Centre.

45. Members had no question on the application.

Deliberation Session

46. 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 14.9.2011, and after the said date, the permission should cease to have effect unless before the said date, the development permitted was commenced or the permission was renewed. The permission was subject to the condition that the provision of water supplies for fire fighting and fire service installations to the satisfaction of the Director of Fire Services or of the TPB.

47. The Committee also agreed to advise the applicant :

- (a) to ensure that the tenants of the retail/eatery facilities within the subject building would adopt the loading/unloading arrangement through daily operation/management of the subject building as suggested by the applicant; and
- (b) to notify the tenants that loading/unloading activities at the adjacent roads, i.e. Queen's Road East and Spring Garden Lane, would not be permitted in view of the prevailing traffic condition.

[The Chairperson thanked Mr. David C.M. Lam and Ms. Donna Y.P. Tam, STPs/HK, for their attendance to answer Members' enquiries. Mr. Lam and Ms. Tam left the meeting at this point.]

Tsuen Wan and West Kowloon District

[Ms. Heidi Y.M. Chan, District Planning Officer/Tsuen Wan and West Kowloon (DPO/TWK), and Mr. Louis K.H. Kau, Senior Town Planner/Tsuen Wan and West Kowloon

(STP/TWK), were invited to the meeting at this point.]

Agenda Item 6

[Open Meeting (Presentation and Question Sessions Only)]

Further Consideration of Application No. A/K3/497

Proposed Hotel

in “Residential (Group A)” zone,

Shop C on G/F and 1/F to 3/F, Tung Shing Mansion,

950-954 Canton Road, Mong Kok (KILs 8691, 8757 and 8758)

(MPC Paper No. A/K3/497A)

Presentation and Question Sessions

48. Mr. Louis K.H. Kau, STP/TWK, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application, the proposed hotel use, and the concerns on access arrangement of the application premises previously raised by the Committee at the meeting held on 27.7.2007;
- (b) the further information submitted by the applicant on 10.8.2007 and 15.8.2007 to address the Committee’s concerns, highlighting that the proposed hotel would be served by an internal staircase, different from the two existing staircases that served the domestic portion of the subject building. The two existing staircases, being the common area of the subject building, would only be used by the proposed hotel in case of emergency. Panic bolt alarm door lock and CCTV system would also be provided to avoid unauthorized access between the proposed hotel and the domestic portion of the subject building;
- (c) departmental comments – concerned Government departments had no objection to or adverse comments on the further information submitted by

the applicant; and

- (d) the Planning Department (PlanD)'s views – PlanD had no objection to the application for the reasons as detailed in paragraph 4.1 of the Paper. In response to the Committee's concerns, the applicant had submitted further information to illustrate that the access to the proposed hotel was completely separated from the domestic portion of the subject building. The proposed hotel was considered not incompatible with the surrounding land uses, which were predominantly tenement buildings with the ground floor for shop use, and had no adverse traffic and drainage impacts.

49. In response to the Chairperson's enquiry on the entrance point to the residential development, Mr. Louis Kau said that the entrance was at Soy Street. With the aid of the photos in Plan FA-3 of the Paper, he further illustrated the access arrangement to the proposed hotel, which was separated from the domestic portion.

50. Noting that a public comment from the Owners' Incorporation of the subject building raising objection to the application had previously been received, a Member asked whether the Owners' Incorporation had been consulted on the further information submitted by the applicant. Ms. Heidi Y.M. Chan, DPO/TWK, replied that the further information, which was to clarify the Committee's concern on the access arrangement of the proposed hotel, was exempted from the publication requirement, but was deposited in the Planning Enquiry Counters for public information.

Deliberation Session

51. 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 14.9.2011, and after the said date, the permission should cease to have effect unless before the said date, the development permitted was commenced or the permission was renewed. The permission was subject to the following conditions :

- (a) the provision of water supplies for fire fighting and fire service installations to the satisfaction of the Director of the Fire Services or of the TPB; and

- (b) the provision of a security alarm system at the emergency exits of the proposed hotel to ensure that the office of the proposed hotel would be alerted when the exits were opened so as to prevent unnecessary access to the other parts of the subject building to the satisfaction of the Director of Planning or of the TPB.

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

- (a) to consult the Chief Building Surveyor/Kowloon, Buildings Department on the provision of a fireman's lift and facilities for persons with disability in accordance with the Building (Planning) Regulation;
- (b) the approval of the application did not imply the gross floor area exemption for hotel concession and back-of-house facilities would be granted by the Building Authority. The applicant should approach the Buildings Department direct to obtain the necessary approval; and
- (c) to consult the Chief Officer/Licensing Authority of Home Affairs Department on the licensing requirements for the proposed hotel at the application premises.

[The Chairperson thanked Ms. Heidi Y.M. Chan, DPO/TWK, and Mr. Louis K.H. Kau, STP/TWK, for their attendance to answer Members' enquiries. Ms. Chan and Mr. Kau left the meeting at this point.]

Agenda Item 7

Any Other Business

53. There being no other business, the meeting was closed at 11:15 a.m.