

TOWN PLANNING BOARD

**Minutes of 313th Meeting of the
Metro Planning Committee held on 14.10.2005**

Present

Director of Planning
Mr. Bosco C.K. Fung

Chairman

Dr. Peter K.K. Wong

Vice-chairman

Dr. Alex S.K. Chan

Dr. Rebecca L.H. Chiu

Dr. Greg C.Y. Wong

Mr. Tony W.C. Tse

Mr. Nelson W.Y. Chan

Mr. Leslie H.C. Chen

Professor N.K. Leung

Mr. Daniel B.M. To

Mr. Stanley Y.F. Wong

Ms. Sylvia S.F. Yau

Assistant Commissioner for Transport (Urban),
Transport Department
Mr. Thomas Thumb

Assistant Director(2), Home Affairs Department

Ms. Margaret Hsia

Assistant Director (Environmental Assessment and Noise),
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

Mrs. Angelina P.L. Lee

Mr. K.G. McKinnell

Mr. S.L. Ng

Mr. Erwin A. Hardy

Professor Bernard V.W.F. Lim

In Attendance

Assistant Director of Planning/Board
Mr. P.Y. Tam

Chief Town Planner/Town Planning Board
Mr. C.T. Ling

Town Planner/Town Planning Board
Ms. Irene W.S. Lai

1. The Chairman welcomed Mr. James Merritt who had replaced Mr. A.K. Paton as the Assistant Director (Kowloon) of Lands Department, and Ms. Margaret Hsia who had replaced Mr. Patrick Li as the Assistant Director (2) of Home Affairs Department, to attend the Committee's meetings.

[Mr. Thomas Thumb arrived to join the meeting at this point.]

Agenda Item 1

Confirmation of the Draft Minutes of the 312th MPC Meeting held on 23.9.2005

[Open Meeting]

2. The draft minutes of the 312th MPC meeting held on 23.9.2005 were confirmed without amendments.

Agenda Item 2

Matters Arising

[Open Meeting]

(i) Town Planning Appeal Decision Received

Town Planning Appeal No. 24 of 2003
Proposed New Territories Exempted House (NTEH)
(Small House) in "Green Belt" and
"Village Type Development" Zones
Lot 4A in DD 230, Sheung Sze Wan, Sai Kung
(Application No. A/DPA/SK-CWBS/2)

3. The Secretary reported that the appeal was heard by the Town Planning Appeal Board (TPAB) on 27.6.2005 and 28.6.2005. It was allowed by TPAB on 3.10.2005. The appeal was against the decision of the Town Planning Board (the Board) to reject on review an application for a Small House at a site zoned "Green Belt" ("GB") (87%) and "Village Type Development" ("V") (13%) in Sheung Sze Wan, Sai Kung.

4. The Secretary said that the decision of the TPAB was tabled at the meeting for Members' reference. The appeal was allowed by TPAB mainly on the following grounds:

- (a) the proposed Small House development would not be in serious conflict with the planning intention of the "GB" zone. The proposed development would not involve extensive clearance of vegetation nor affect the existing natural landscape;
- (b) the area surrounding the appeal site was designated for Small House development. The proposed development would not have much adverse visual impact on the surrounding environment;
- (c) the proposed development would comply with some criteria under the interim criteria for assessing planning applications for New Territories Exempted House (NTEH)/Small House development in the New Territories (Interim Criteria); and
- (d) the approval would not set a bad precedent for similar applications as there were a number of special features in this case. The zone division line between the "V" and "GB" zones was drawn on some rather arbitrary basis and did not follow either the road or the contour of the landscape. The Appellant had made his application to the District Lands Office for building licence in 1996 before the publication of the DPA Plan in 2002.

5. The Chairman said that the decision of TPAB would have bearing on similar applications to be considered by the Board in future. To ensure that each application would be treated fairly and reasonably, the Chairman suggested the Secretariat to review the Interim Criteria in the light of TPAB's decision. Members agreed.

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

(ii) Town Planning Appeal Received

Town Planning Appeal No. 20 of 2005

Temporary Container Vehicle Park and Ancillary Repairing Activities

for a Period of 3 Years in “Undetermined” zone

Lots 105RP(Part), 106RP(Part), 107, 108(Part), 109, 110(Part),

111(Part), 112-116, 118, 119(Part), 120(Part), 124(Part), 127, 128 and 158(Part) and

Adjoining Government Land in DD 122, Ping Shan, Yuen Long

(Application No. A/YL-PS/207)

6. The Secretary reported that an appeal against the decision of the Town Planning Board (the Board) to reject on review an application for a temporary container vehicle park and ancillary repairing activities for a period of 3 years at a site zoned “Undetermined” (“U”) on the approved Ping Shan Outline Zoning Plan No. S/YL-PS/11 was received by the Town Planning Appeal Board (TPAB) on 30.9.2005. The hearing date of the appeal was yet to be fixed. The Secretariat would deal with this appeal on behalf of the Board in the usual manner.

(iii) Appeal Statistics

7. The Secretary reported that as at 14.10.2005, 23 cases were yet to be heard by the Town Planning Appeal Board. Details of the appeal statistics were as follows :

Allowed	:	14
Dismissed	:	81
Abandoned/Withdrawn/Invalid	:	111
Yet to be Heard	:	23
Decision Outstanding	:	1
<u>Total</u>	:	<u>230</u>

Kowloon District

[Mr. Raymond K.W. Lee, District Planning Officer/Kowloon (DPO/K), and Mr. K.S. Ng, Senior Town Planner/Kowloon (STP/K), were invited to the meeting at this point.]

Agenda Item 3

Section 16 Applications

[Open Meeting (Presentation and Question Session Only)]

- (i) A/K9/202 Proposed School (Tutorial School)
 in “Residential (Group A)” zone,
 Units A and B, 4/F, Chasegold Tower,
 100 and 102 Ma Tau Wai Road,
 Hung Hom
 (KIL 8478 and 8479)
 _____ (MPC Paper No. A/K9/202)

Presentation and Question Session

8. Mr. K.S. Ng, STP/K, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed tutorial school;
- (c) departmental comments – no adverse departmental comments were received.
- (d) one public comment – indicating no comment on the application. No local objection was received by the District Officer (Kowloon City); and
- (e) the Planning Department’s views – no objection to the proposed tutorial school as it was not incompatible with the other uses in the subject building and the surrounding developments, and adverse impact on the traffic, environment and infrastructure was not envisaged.

9. Members had no question on the application.

Deliberation Session

10. The Chairman remarked that the Committee had approved many similar applications in commercial buildings.

11. After deliberation, the Committee decided to approve the application, on the terms of the application as submitted to the Town Planning Board and subject to the condition that the provision of fire service installations for the proposed tutorial school to the satisfaction of the Director of Fire Services or of the Town Planning Board. The permission should be valid until 14.10.2009, 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.

[Open Meeting (Presentation and Question Session Only)]

(ii)	A/K9/204	Proposed School (Tutorial School) in “Residential (Group A)” zone, Unit C, 4/F, Yun Tat Commercial Building, 70, 72 and 74 Wuhu Street, Hung Hom (HHIL 342, 355 and 404) (MPC Paper No. A/K9/204)
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Presentation and Question Session

12. Mr. K.S. Ng, STP/K, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed tutorial school;
- (c) departmental comments – no adverse departmental comments were received;

- (d) no public comment was received. No local objection was received by the District Officer (Kowloon City); and
- (e) the Planning Department's views – no objection to the proposed tutorial school as it was not incompatible with the other uses in the subject building and the surrounding developments, and adverse impact on the traffic, environment and infrastructure was not envisaged.

13. Members had no question on the application.

Deliberation Session

14. After deliberation, the Committee decided to approve the application, on the terms of the application as submitted to the Town Planning Board and subject to the condition that the provision of fire service installations for the proposed tutorial school to the satisfaction of the Director of Fire Services or of the Town Planning Board. The permission should be valid until 14.10.2009, 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.

15. The Committee also agreed to advise the applicant to consult the Registration Section, Education and Manpower Bureau on school registration process under the Education Ordinance/Regulations.

[Open Meeting (Presentation and Question Session Only)]

- (iii) A/K14/479 Proposed Shop and Services
(Bank, Retail, Showroom, Supermarket, etc.),
in "Other Specified Uses" annotated "Business" zone,
Units A, B and C, G/F, Everest Industrial Centre,
396 Kwun Tong Road,
Kwun Tong

(MPC Paper No. A/K14/479)

Presentation and Question Session

16. Mr. K.S. Ng, STP/K, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed shop and service (retail, bank, showroom, supermarket, etc.) occupying Units A, B and C, with a total floor area of about 495m², on G/F of the subject industrial building; and 5 similar applications on G/F of the same building scheduled for consideration by the Committee on 28.10.2005 and 25.11.2005;
- (c) departmental comments – Fire Services Department (FSD) objected to the application as the aggregate floor areas for commercial use on G/F of the subject building had exceeded the acceptable amount of 460m² for buildings provided with sprinklers;
- (d) 3 public comments were received – two indicating support to the application with the remaining one indicating no comment. No local objection was received by the District Officer (Kwun Tong);
- (e) the Planning Department's views – the application was not supported in view of the fire safety concern raised by FSD.

17. Members raised the following comments/questions :

- (a) whether the shop and service use was already in operation albeit not meeting the fire safety criteria;
- (b) noting that FSD might not recommend approval of an application if the total commercial floor area exceeded or would exceed 460m², whether similar applications in the same building should be considered on a first-

come-first-served basis; and whether the other units on G/F of the subject building were owned by the same applicant;

- (c) the total floor area of the subject premises of 495m² did not substantially exceed the acceptable floor area criterion of 460m². How the criterion was derived; whether other factors had been considered by FSD; and whether the applicant was aware of FSD's criterion; and
- (d) it was stated in the Paper that the total floor area of the premises of about 495m² was subject to survey. Whether survey had been carried out to ascertain the actual total floor area.

18. Mr. Raymond K.W. Lee, DPO/K, responded as follows:

- (a) as shown on Plans A-4 and A-5 of the Paper, part of the subject premises (Units A and C) was already converted into a retail shop selling foodstuffs and commodities without planning permission. As stated in paragraph 5.1 of the Paper, although the Town Planning Board had approved a proposed retail use under Application No. A/K14/13 at Unit A in 1989, the approved retail use was confined to industry-related electrical equipment and components;
- (b) the Committee had considered many similar applications in the areas zoned "Other Specified Uses" annotated "Business" in Kwun Tong. The decisions of the Committee had generally been made having regard to departmental comments, in particular those of the FSD, on each individual case;
- (c) the units on G/F of the subject building were under different ownership. The applicant was one of the owners;
- (d) in general, FSD would accept an aggregate commercial floor area of 460m² and 230m² respectively for industrial buildings with and without fully equipped with sprinkler system. Such criteria were derived based on

FSD's fire-fighting experiences;

- (e) it was not sure whether the applicant was fully aware of FSD's criteria. Nevertheless, similar cases with aggregate commercial floor area exceeding 460m² were rejected in the past; and
- (f) the total floor area of the premises was provided by the applicant. According to the clarification letter and revised floor plan submitted by the applicant on 18.8.2005, the total saleable area of the premises was 495m² (Appendix Ia of the Paper). During site inspection, the District Planning Office would check whether the information provided was roughly in order.

19. A Member said that FSD should assess the fire risk based on the usable floor area on which inflammable goods could be stored, rather than the saleable floor area. The criteria of 230m² and 460m² for not fully-sprinklered and fully-sprinklered industrial buildings were metrication of 2,500 ft² and 5,000 ft² respectively. According to the applicant's submission (Drg. A2 at Appendix I), the total usable floor area of the subject premises was 448m² only, which was within the acceptable criterion of 460m².

20. The Vice-chairman said that the actual floor area of the subject premises should be checked and clarification from FSD on whether "usable" or "saleable" floor area should be used was required.

21. A Member said that it was possible for the applicant to adjust the applicant site boundary to meet FSD's floor area criterion. The Chairman said that the application should be assessed on the terms as submitted. Hypothetical scenario should not be considered.

Deliberation Session

22. A Member said that, while respecting FSD's expert advice on fire safety matters, the 460m² criterion appeared to be rather arbitrary. It was not sure how the actual operation of FSD would be affected if the applicant partitioned the subject premises with part of it used for storage purpose, while leaving the remaining part as a shop front without exceeding

FSD's floor area criterion. This Member also considered that fire safety criteria should be made known to the public.

23. The Chairman considered it not appropriate for the Committee to make its own interpretation on how the 460m² criterion should be applied. The applicant's submissions, including the floor plans of the application premises and other units on the same floor, had been circulated to FSD which had examined the application in its totality. Due regard should be given to FSD's comments as stated in paragraph 9.1.3 of the Paper.

24. Another Member recalled that FSD had been invited to explain their criteria and fire safety requirements to the Committee before. Floor area was one of the considerations of FSD which should have assessed the subject application thoroughly. In view of FSD's objection, the application should be rejected. However, it was desirable to issue some guidelines to draw the attention of applicants that the aggregate commercial floor area was a key consideration in assessing applications for commercial use in industrial buildings.

25. Whilst agreeing that FSD's view should be respected, some Members raised the following concerns :

- (a) the aggregate commercial floor area as stated in paragraph 9.1.3 of the Paper was expressed in a general term. Further clarification from FSD should be sought on its meaning and whether it referred to "usable" or "saleable" floor area;
- (b) before making a decision on the subject application, the floor area issue should be clarified so as to avoid possible appeal or challenge from the applicant on procedural grounds; and
- (c) the decision on the subject application would have implications on whether the other 5 similar applications on the same floor could be approved.

26. After discussion, Members generally agreed to defer making a decision on the application pending FSD's clarification on the matters. A Member said that official records should also be checked or survey should be carried out to ascertain the actual size of the

application premises so as to facilitate the Committee to consider the application.

27. The Chairman said that representative from FSD should be invited to attend the next meeting when the subject application would be resubmitted to the Committee for consideration together with the other 4 similar applications on G/F of the same building.

28. In response to the questions of the Chairman and a Member, the Secretary advised that when considering a large number of applications for showroom use in Cheung Sha Wan recently, the Committee had given due regard to the 460m² criterion cumulatively.

29. After further deliberation, the Committee decided to defer making a decision on the application pending clarifications from the Fire Services Department on issue of aggregate commercial floor area and related matters.

30. The Committee also agreed to invite the Fire Services Department to send a representative to attend the next MPC meeting when the subject application was submitted for reconsideration by the Committee.

[The Chairman thanked Mr. Raymond K.W. Lee, DPO/K, and Mr. K.S. Ng, STP/K, for their attendance to answer Members' enquiries. Messrs. Lee and Ng left the meeting at this point.]

[Ms. Margaret Hsia left the meeting temporarily at this point.]

Tsuen Wan and West Kowloon District

[Mr. Michael C.T. Ma, 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 4

Section 12A Application

[Open Meeting (Presentation and Question Session Only)]

Z/TW/11 Application for Amendment to
Draft Tsuen Wan Outline Zoning Plan No. S/TW/21
from “Industrial” to “Other Specified Uses” zone,
150-164 Texaco Road,
Tsuen Wan
(Lot 285RP in DD 446)
(MPC Paper No. Z/TW/11)

Presentation and Question Session

31. The Chairman said that the applicant requested on 5.10.2005 for deferring the consideration of the application in order to allow more time for the applicant to prepare and submit supplementary information to address the outstanding technical issues.

Deliberation Session

32. 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 three months from the date of receipt of additional information from the applicant. The Committee also agreed to advise the applicant that two months were allowed for preparation of the submission of the further information, and no further deferment would be granted unless under very special circumstances.

Agenda Item 5

Section 16 Applications

[Open Meeting (Presentation and Question Session Only)]

- (i) A/K1/210 Proposed Place of Recreation, Sports or Culture
(Ancillary Facilities to Swimming Pool)
in “Open Space” and
“Government, Institution or Community” zones,
Kowloon Park,
Austin Road,
Tsim Sha Tsui

(MPC Paper No. A/K1/210)

33. Dr. Greg C.Y. Wong said that he had business dealings with the Architectural Services Department (ArchSD) which was the works department for the project under application. Noting that the application was submitted by the Director of Leisure and Cultural Services rather than ArchSD, the Committee allowed Dr. Wong to stay and participate in this item.

Presentation and Question Session

[Ms. Margaret Hsia returned to join the meeting during the presentation and question session.]

34. 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;
- (b) the proposed place of recreation, sports and culture, involving the construction of a 2-storey extension building to the existing indoor swimming pool of the Kowloon Park Swimming Pool and Sports Complex to accommodate supporting facilities for the hosting of the 2009 East Asian Games;
- (c) departmental comments – the District Lands Officer/Kowloon West (DLO/KW) considered the proposal acceptable if the maximum 5% built over area requirement under the respective Government Land Allocation

was not exceeded.

- (d) one public comment from a Yau Tsim Mong District Councillor indicating support to the application was received. No local objection was received by the District Officer (Yau Tsim Mong); and
- (e) the Planning Department's views – no objection to the application as the proposed ancillary facilities, which were essential to meet the requirements for holding international aquatic events, were compatible with the other existing uses of the Kowloon Park; the proposed built form was compatible with its surrounding environment; the proposed extension would only take up a small portion (about 248m²) of the “Open Space” (“O”) zone within the Kowloon Park compound; and the main east-west pedestrian circulation through the piazza would not be affected. As regards the concern of DLO/KW, the built over area of the “O” zone in Kowloon Park (including the proposed extension building) was about 2.36%.

35. Referring to Plan A-3 of the Paper, a Member enquired whether existing trees would be affected and whether compensatory planting would be provided. In response, Mr. Louis K.H. Kau said that there was only a wall at the site and no existing vegetation would be affected.

Deliberation Session

36. The application was generally supported by Members.

37. After deliberation, the Committee decided to approve the application, on the terms of the application as submitted to the Town Planning Board and subject to the condition that the provision of fire service installation to the satisfaction of the Director of Fire Services or of the Town Planning Board. The permission should be valid until 14.10.2009, 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.

[Open Meeting (Presentation and Question Session Only)]

- (ii) A/K3/470 Shop and Services
(Plumbing and Electrical Engineering Shop/Retail Shop)
in “Residential (Group E)” zone,
Space on G/F, Cheung Fat Industrial Building,
64-76 Larch Street,
Mong Kok
(KIL 6306, 7644, 7645, 7646, 7647, 7648 and 7649)
(MPC Paper No. A/K3/470)
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Presentation and Question Session

38. The Chairman said that the applicant requested on 28.9.2005 for deferring the consideration of the application in order to allow more time for the applicant to address the departmental comments.

Deliberation Session

39. 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 months 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 Session Only)]

- (iii) A/KC/313 Shop and Services (Retail Shop)
in “Other Specified Uses” annotated “Business” zone,
Units D, E and F, G/F, Ching Cheong Industrial Building,
1-7 Kwai Cheong Road,
Kwai Chung
(KCTL 121)
(MPC Paper No. A/KC/313)
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Presentation and Question Session

40. 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;
- (b) the proposed retail shop;
- (c) departmental comments – no adverse departmental comments were received;
- (d) no public comment was received. No local objection was received by the District Officer (Kwai Tsing); and
- (e) the Planning Department’s views – no objection to the application as it was generally in line with the planning intention of the “Other Specified Uses” annotated “Business” zone; and the applied use was small in scale and not incompatible with the adjacent uses along Tai Lin Pai Road.

41. Members had no question on the application.

Deliberation Session

42. A Member noted that the aggregate commercial floor area which had been approved in the subject industrial building had not been provided in the Paper. Referring to paragraph 5 of the Paper, Mr. Michael C.T. Ma, DPO/TWK, said that only one similar application (No. A/KC/299) for a small real estate agency at Unit A1 on G/F of the building had been approved. The aggregate commercial floor area did not exceed the floor area criteria of the Fire Services Department (FSD).

43. The Chairman pointed out that FSD had no objection to the application. In view of the fire safety concern as raised in Application No. A/K14/479 which was considered by the Committee at the same meeting, Planning Department should include the approved commercial floor area of the industrial building to facilitate the Committee's deliberation of similar applications in future.

44. After deliberation, the Committee decided to approve the application, on the terms of the application as submitted to the Town Planning Board and subject to the following conditions :

- (a) the design and provision of loading/unloading arrangements within the subject building to the satisfaction of the Commissioner for Transport or of the Town Planning Board; and
- (b) the provision of fire services installation to the satisfaction of the Director of Fire Services or of the Town Planning Board.

(Chairman)

Metro Planning Committee