

TOWN PLANNING BOARD

**Minutes of 328th Meeting of the
Metro Planning Committee held at 9:00 a.m. on 16.6.2006**

Present

Director of Planning
Mr. Bosco C.K. Fung

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

Mr. Stanley Y.F. Wong

Ms. Sylvia S.F. Yau

Mr. Walter K.L. Chan

Ms. Maggie M.K. Chan

Mr. Raymond Y.M. Chan

Professor Paul K.S. Lam

Ms. Starry W.K. Lee

Mr. K.Y. Leung

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

Principle Environmental Protection Officer (Metro Assessment),
Environmental Protection Department
Ms. Shirley Lee

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

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

Secretary

Absent with Apologies

Dr. Greg C.Y. Wong

Mr. Erwin A. Hardy

Mr. Felix W. Fong

Assistant Director(2)(Acting), Home Affairs Department
Miss Linda Law

In Attendance

Assistant Director of Planning/Board
Mr. Lau Sing

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

Town Planner/Town Planning Board
Mr. Tony Y.C. Wu

Agenda Item 1

Confirmation of the Draft Minutes of the 327th MPC Meeting held on 2.6.2006

[Open Meeting]

1. The draft minutes of the 327th MPC meeting held on 2.6.2006 were confirmed without amendments.

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

Agenda Item 2

Matters Arising

[Open Meeting]

- (i) Abandonment of Town Planning Appeal

Town Planning Appeal No. 7 of 2005 (7/05)

Temporary Refreshment Kiosk, Toilet and Seating Areas for a Period of 3 Years in “Coastal Protection Area” and “Comprehensive Development Area” zones, Lots 100 and 109 in DD 218, Shap Sz Heung, New Territories

(Application No. A/NE-SSH/38)

2. The Secretary reported that the subject appeal was received by the Town Planning Appeal Board (TPAB) on 29.3.2005 against the decision of the Town Planning Board on 4.2.2005 to reject on review an application (No. A/NE-SSH/38) for temporary refreshment kiosk, toilet and seating areas for a period of three years in the “Coastal Protection Area” and “Comprehensive Development Area” zones on the Shap Sz Heung Outline Zoning Plan. The appeal was abandoned by the appellant of his own accord and the abandonment was confirmed by the TPAB in accordance with Regulation 7(1) of the Town Planning (Appeals) Regulations on 7.6.2006.

(ii) Appeal Statistics

3. The Secretary said that as at 16.6.2006, 27 cases were yet to be heard by the TPAB. Details of the appeal statistics were as follows:

Allowed	:	16
Dismissed	:	83
Abandoned/Withdrawn/Invalid	:	115
Yet to be Heard	:	27
<u>Decision Outstanding</u>	:	<u>3</u>
Total	:	244

(iii) Planning Application No. A/K1/206 approved by the Committee on 11.11.2005

4. The Secretary said that this item involved a planning application submitted before the commencement of the Town Planning (Amendment) Ordinance 2004 and therefore, should not be open for public viewing. Members agreed that this item should be considered in closed meeting under Any Other Business.

Tsuen Wan and West Kowloon District

[Ms. Heidi Y.M. Chan, District Planning Officer/Tsuen Wan and West Kowloon (DPO/TWK), and Mr. P.C. Mok, Senior Town Planner/Tsuen Wan and West Kowloon (STP/TWK), were invited to the meeting at this point.]

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

Agenda Item 3

Section 12A Application

[Open Meeting (Presentation and Question Session only)]

Y/K1/1 Application for Amendment to the
Draft Tsim Sha Tsui Outline Zoning Plan No. S/K1/21
to include the Triangular Piece of Sea Area between New World Centre
and Avenue of Stars, Tsim Sha Tsui into the Planning Scheme Area
of the Outline Zoning Plan and to Zone the Application Site as “Open Space”
(MPC Paper No. Y/K1/1)

5. As the applicant had indicated that he would not attend the hearing, the Committee decided to proceed to consider the application in his absence.

Presentation and Question Session

6. Mr. P.C. Mok, STP/TWK, presented the application and made the following points:

The Application

- (a) the applicant proposed to include a triangular piece of sea area (the application site) between the New World Centre and Avenue of Stars in Tsim Sha Tsui into the Planning Scheme Area of the Tsim Sha Tsui Outline Zoning Plan (OZP) and to zone the application site as “Open Space” (“O”);

- (b) the applicant anticipated that the proposed “O” zone would contribute about 2,400m² of district open space (DOS) for Tsim Sha Tsui area, which could be allocated to the Leisure and Cultural Services Department as part of the Tsim Sha Tsui Promenade. As the proposed open space could be supported by trusses spanning over the existing water body, no supporting columns resting on the seabed would therefore be required. However, the

applicant did not provide any specific details of his proposal;

- (c) the applicant claimed that the proposed open space would not have adverse impact on the local infrastructures or pedestrian circulation, and there would not be implications under the Protection of Harbour Ordinance (PHO).

Departmental Comments

- (d) the Department of Justice advised that the applicant's proposal would unlikely breach the statutory principle for preservation and protection of the Victoria Harbour under the PHO. However, if the concern was whether people could gain access to the water there, it was a matter of usage of that area of water after it had been separated from the Harbour. That was a planning issue and concerned the planning merits of the proposal;
- (e) various Government departments including the Director of Leisure and Cultural Services, Director of Environmental Protection and Assistant Commissioner for Transport/Urban advised that more details from the applicant were required for assessing the feasibility and implications of the proposal;

Public Comments

- (f) Nine public comments were received during the statutory publication period. Two of the commenters, including a Member of Yau Tsim Mong District Council and the Avenue of Stars Management Limited (AOSML) supported the application. The AOSML also indicated that they would be prepared to consider taking on the design, construction and management responsibility of the proposed open space in a self-finance mode. The other commenters, including the Intercontinental Hong Kong Limited and six residents of the New World Apartments, objected to the application for

the reasons that the proposal did not satisfy the ‘overriding public need test’ for reclamation under the PHO, and the hosting of functions at the proposed open space would cause noise nuisance, traffic congestion and safety risk to the public;

Planning Department (PlanD)’s views

(g) PlanD considered that the applicant’s proposal was not incompatible with the surrounding land uses and was generally not in conflict with the Town Planning Board’s Vision and Goals for Victoria Harbour. However, PlanD did not support the application for the following reasons :

- with a future surplus of 21 ha of open space in the Yau Tsim Mong district, there was insufficient justification to provide additional open space by decking over the sea area;
- the uncovered water area at the application site was a special design feature of the New World development and provided a natural setback of the buildings from the waterfront promenade and the Harbour, integrating well with the promenade. There was insufficient design merits in the applicant’s proposal to justify the decking over of the site;
- in the absence of specific details, it was difficult to assess the feasibility and possible impacts of the applicant’s proposal; and
- approval of the application would set an undesirable precedent for similar applications in the area.

7. Members had the following questions on the application:

(a) whether any consideration had been given to the future uses of the application site and the other uncovered water bodies along the promenade in the design of the Tsim Sha Tsui Promenade;

- (b) whether the planned provision of 45ha of open space as mentioned in paragraph 10.2(a) of the Paper was located in vicinity of the application site, noting that there was an existing deficit of open space in Yau Tsim Mong district;
- (c) would the existing bus terminus at Tsim Sha Tsui Ferry Pier be converted to a public open space after relocation; and
- (d) whether the water flow beneath the site would be affected by the proposal.

8. In response to Members' questions, Ms. Heidi Y.M. Chan, DPO/TWK, made the following points:

- (a) the Tsim Sha Tsui Promenade was designed and implemented together with the adjacent New World development. The purpose of keeping a stretch of sea bodies uncovered was to provide a natural setback of the hotel blocks from the promenade and to serve as a special design feature of the development;
- (b) the planned provision of 45ha of open space was for the Yau Ma Tei, Tsim Sha Tsui and Mong Kok districts, with about 20ha of open space planned in the West Kowloon Cultural District. As far as Tsim Sha Tsui was concerned, the planned open space provision was sufficient to meet the demand in the district;
- (c) according to the Tsim Sha Tsui Promenade Beautification Project Phase 2 to be undertaken by the Architectural Services Department, the existing bus terminus at Tsim Sha Tsui Ferry Pier would be relocated and the site would be converted to a public open space which would integrate with the nearby cultural facilities to form a cultural and recreational hub. The project was scheduled for completion by 2008-09; and

- (d) if the applicant's proposal of supporting the open space with trusses spanning over the sea body was feasible, no foundation on the sea bed would be required and water flow beneath the application site should not be affected.

[Mr. Nelson W.Y. Chan arrived to join the meeting at this point.]

9. As Members had no further question to raise, the Chairman said that the Committee would proceed to deliberate on the application in closed meeting. The Chairman thanked Ms. Heidi Y.M. Chan and Mr. P.C. Mok for attending the meeting. Ms. Chan and Mr. Mok left the meeting at this point.

Deliberation Session

10. A Member asked whether building developments would be permitted in the "O" zone. The Chairman said that according to the Notes for the "O" zone, some developments might be allowed in the "O" zone subject to planning permission. The Secretary added that the Committee had previously approved an application for restaurant use in the "O" zone adjoining the New World Centre in 2002 (Application No. A/K1/183).

11. Another Member said that the proposal to deck over the sea body was in conflict with the public aspiration to have more water surface retained in the Harbour, as discussed at the Harbour Enhancement Committee on Wan Chai Development Phase II. In the absence of a specific proposal and commitment of concerned Government departments to take up the proposed open space, it was not certain that the applicant's proposal would increase the attractiveness, accessibility and vibrancy of the Harbour and bring about any planning gain that would outweigh the loss in water surface. For these reasons, this Member did not support the application.

12. A Member said that the existing promenade which was constructed in form of a bridge was a special design feature of the waterfront. The design concept might be affected if the sea body along the promenade was allowed to be decked over. This Member held an open view on the applicant's proposal but considered that detailed design of the proposed open space

with visual and environmental assessment was necessary before a decision could be made. In the absence of such information, it was premature to approve the application.

13. Referring to Plan Z-1 of the Paper, a Member was worried that approving the application would set a precedent for similar applications for decking over the stretch of sea bodies along the promenade to the west of the application site, leading to further reduction of water surface in the Harbour.

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

- (a) the water bodies at the subject site provided a natural setback of the buildings from the promenade and the Harbour and acted as a special design feature of the waterfront. There was insufficient merit to justify the decking over of the site;
- (b) there was no specific development proposal in the application to demonstrate how the “Open Space” zone would be implemented; and
- (c) the approval of the application would set an undesirable precedent on the other area with similar characteristics in the vicinity. It would result in the permanent loss of a stretch of sea body which provided a special design feature of the Tsim Sha Tsui waterfront.

[Ms. Heidi Y.M. Chan, DPO/TWK, and Mr. P.C. Mok, STP/TWK, returned to the meeting at this point.]

Agenda Item 4

[Open Meeting (whole agenda item)]

Proposed Amendments to the

Draft Cheung Sha Wan Outline Zoning Plan (OZP) No. S/K5/28

(MPC Paper No. 15/06)

Presentation and Question Session

15. Mr. P.C. Mok, STP/TWK, presented the proposed amendments to the OZP and covered the following aspects as detailed in the Paper:

- (a) pursuant to the decision of the Board on 6.1.2006 to endorse further refinements to the revised Master Schedule of Notes to Statutory Plans, amendments were proposed to the Notes for the “Residential (Group E)” and “Other Specified Uses” annotated “Business” zones by deleting the provisions for application for ‘Religious Institution’, ‘Educational Institution’ and ‘Place of Entertainment’ uses on the ground floor of an industrial/industrial-office building and ‘Training Centre’ use in such building due to fire safety concern and to avoid giving false expectation to applicants for such uses;
- (b) in considering the objections to 11 draft OZPs on 4.2.2005, the Board requested the Planning Department to separately review the “Open Space” (“O”) zones involving private land. If there was no intention to develop the concerned “O” sites as public open space, they should be rezoned to other more appropriate zoning. A review of the “O” zones in the Cheung Sha Wan area had been completed and it was recommended that the “O” zoning of the relevant sites should be retained for reasons detailed in paragraph 6 of the Paper; and
- (c) opportunity was taken to amend the Explanatory Statement of the OZP as detailed in Appendix I(b) of the Paper to reflect the proposed amendments to the Notes and the latest status and planning circumstances of the OZP.

16. A Member asked whether there was any planning standard for the provision of open space in term of area per person. The Secretary replied that according to the Hong Kong Planning Standards and Guidelines (HKPSG), there should be 1m² of district open space (DOS) and 1m² of local open space (LOS) per person.

17. Another Member asked whether the standard for open space provision was satisfied in the Cheung Sha Wan area. Ms. Heidi Y.M. Chan, DPO/TWK, replied that there was a deficit of about 18 ha of open space in Cheung Sha Wan area. The Sham Shui Po District Council constituency area would however have a surplus of 2.1 ha of open space upon full development.

18. The Chairman said that due to high population density and lack of suitable solution spaces, it was not always possible to meet the standard of open space provision in the old urban areas like Cheung Sha Wan. While the Government would take every opportunity to increase the provision, for example, by requiring the provision of public open space in redevelopment projects, the deficit would often need to be relieved by provisions in nearby areas. Members generally accepted such a pragmatic approach in relieving the local deficit in open space.

19. Mr. James Meritt asked whether the review of the “O” zones had proposed any rezoning of Government land to “O”. The Chairman said that the review involved only “O” zones on private land and Government land would not be affected.

Deliberation Session

20. After deliberation, the Committee decided to :

- (a) agree that the draft Cheung Sha Wan Outline Zoning Plan (OZP) No. S/K5/28A (to be renumbered as S/K5/29 upon exhibition) in Appendix I(c) and its revised Notes at Appendix I(a) of the Paper were suitable for exhibition for public inspection under section 7 of the Town Planning Ordinance; and
- (b) adopt the updated Explanatory Statement (ES) at Appendix I(b) of the Paper as an expression of the planning intentions and objectives of the Board for the various land use zonings of the draft Cheung Sha Wan OZP and the updated ES would be published together with the Plan under the name of the

Board.

Agenda Item 5

Section 16 Applications

[Open Meeting (Presentation and Question Session for only)]

- (i) A/K5/614 Shop and Services (Showroom)
in “Other Specified Uses” annotated “Business” zone,
Workshop 1, G/F, CRE Centre,
889 Cheung Sha Wan Road
(MPC Paper No. A/K5/614)
-

Presentation and Question Session

21. Mr. P.C. Mok, STP/TWK, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the shop and services (showroom) use;
- (c) departmental comments – no adverse comment from concerned Government departments was received;
- (d) no public comment was received during the statutory publication period and no local objection was received from the District Officer; and
- (e) the Planning Department (PlanD)’s views – the PlanD had no objection to the application for reasons as detailed in paragraph 11.1 of the Paper in that the subject use was in line with the planning intention of the “Other Specified Uses” annotated “Business” (“OU(B)”) zone and complied with the Town Planning Board Guidelines No. 22C for Development within the

“OU(B)” Zone, and relevant Government departments had no adverse comment on the application.

22. Members had no question on the application.

Deliberation Session

23. The Chairman remarked that the Director of Fire Services had no objection to the application subject to the implementation of appropriate fire services measures stated in paragraph 9.1.2 of the Paper.

24. After deliberation, the Committee decided to approve the application, on the terms of the application as submitted to the Town Planning Board (TPB). The permission was subject to the following conditions :

- (a) the submission and implementation of fire services installations in the subject premises within six months from the date of the planning approval to the satisfaction of the Director of Fire Services or of the TPB by 16.12.2006; and
- (b) if the above planning condition was not complied with by the specified date, the approval hereby given should cease to have effect and should on the same date be revoked without further notice.

25. The Committee also agreed to advise the applicant :

- (a) to apply to the District Lands Officer/Kowloon West, Lands Department for a temporary waiver to permit the applied use; and
- (b) to consult the Chief Building Surveyor/Kowloon, Buildings Department on the submission of building plans in respect of separation of the existing shop and services use from the industrial portion of the subject building by proper fire resistance construction and design and provision of means of escape.

[Open Meeting (Presentation and Question Session only)]

- (ii) A/TW/379 Proposed Columbarium, Shop and Services (Retail Shop only), Access Road and Taxi Rank for Religious Institution in “Government, Institution or Community (3)”, “Government, Institution or Community (1)” and “Green Belt” zones, Various Lots in DD 447 and Adjoining Government Land, Tsuen Wan
(MPC Paper No. A/TW/379B)
-

Presentation and Question Session

26. The Committee noted that the applicant had submitted further information to the Town Planning Board (the Board) in May and June 2006 but the response of Transport Department (TD) on the further information had not yet been received. The applicant wrote to the Board on 10.6.2006 indicating no objection to the deferment of the consideration of the application for one meeting to allow more time for the TD to consider its submission.

Deliberation Session

27. After deliberation, the Committee decided to defer a decision on the application pending the availability of departmental comments on the further information submitted by the applicant. The Committee also agreed that the application should be submitted to the Committee as soon as the departmental comments were received and in any case within two months from the date of receipt of latest further information from the applicant dated 9.6.2006.

[Open Meeting (Presentation and Question Session only)]

- (iii) A/TW/382 Proposed ‘Office’ and ‘Shop and Services’
in “Industrial” Zone,
72-76 Texaco Road, Tsuen Wan
(Lot No. 462 in DD 443)
(MPC Paper No. A/TW/382)
-

Presentation and Question Session

28. The Committee noted that the applicant requested on 30.5.2006 for a deferment of the consideration of the application to allow time for preparing further information to address the comments of concerned Government departments.

Deliberation Session

29. After deliberation, the Committee decided to defer a decision on the application as requested by the applicant pending the submission of further 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 further 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)]

- (iv) A/TW/383 Proposed 'Flat', 'Eating Place' and 'Shop and Services' in "Residential (Group E)" zone, 152-160 Kwok Shui Road (TWTL 410), Tsuen Wan (MPC Paper No. A/TW/383)
-

Presentation and Question Session

30. With the aid of a Powerpoint presentation, Ms. Heidi Y.M. Chan, DPO/TWK, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application, highlighting that the application site was the subject of three previous planning applications for commercial and residential development approved by the Committee in 2003, 2004 and 2005 respectively (Applications No. A/TW/315, 350 and 366). Application

No. A/TW/366 was for minor amendments to the approved scheme under Application No. A/TW/350;

- (b) the proposed commercial and residential development, highlighting the comparison between the current scheme and the previously approved scheme under Application No. A/TW/350 as shown in the table under paragraph 1.3 and Drawings No. A-7 and A-8 of the Paper. The major changes proposed in the current scheme included mainly a reduction in the site area and number of flats, increase in the number of residential blocks and a change in the disposition of the blocks, reduction in the number of existing trees to be felled, increase in the number of trees to be preserved, increase in the setback from the adjoining Ham Tin Tsuen and adoption of a stepped height design;
- (c) departmental comments – the Assistant Commissioner for Transport/New Territories (AC for T/NT) raised concerns on the provision of parking facilities for the disabled persons and vehicular ingress/egress, impact of traffic queuing on adjacent public road and encroachment of the swept paths of long vehicles onto adjacent lanes when turning. The Director of Environmental Protection (DEP) had no objection to the application and considered that no approval condition on the environmental aspects was required. Other concerned departments had no adverse comments on the application;
- (d) one public comment was received during the statutory publication period. The commenter requested that an existing path linking her banana farm located to the north of the application site to Fu Uk Road should be retained to facilitate her delivery of bananas to the market by hand-pull cart; and
- (e) the Planning Department (PlanD)'s views – the PlanD had no objection to the application for reasons as detailed in paragraph 11.1 of the Paper in that the proposed development was in line with the planning intention of the “Residential (Group E)” (“R(E)”) zone; the proposed plot ratio did not

exceed the relevant restrictions; and the current scheme had various design merits comparing with the previously approved scheme, including the adoption of a stepped height design, increase in the setback from Ham Tin Tsuen, adoption of a single aspect design to better address the industrial/residential interface issues along Fu Uk Road, less tree felling and more trees to be preserved. The concerns of the AC for T/NT could be addressed through the imposition of appropriate approval conditions. Although the DEP considered that no approval condition on the environmental aspect was necessary, the PlanD recommended that a condition of implementation of environmental mitigation measures should be imposed to ensure that the mitigation measures proposed in the scheme would be duly implemented. Regarding the public comment, the District Lands Officer/Tsuen Wan and Kwai Tsing (DLO/TW&KT) advised that the path mentioned in (d) above was not a proper access and the request for its retention was rejected when processing the land exchange for the site. To resolve the commenter's concern, the PlanD suggested that the applicant should be advised to liaise with her direct.

31. A Member asked whether it was possible to retain a linkage between the areas to the north and south of the application site. Referring to Plan A-2 of the Paper, Ms. Heidi Y.M. Chan said that an existing pedestrian link between Kwok Shui Road and the slopes to the north of the application site was available via the steps to the west of the site. This pedestrian link would not be affected by the proposed development as it fell outside the application site.

32. In response to a Member's enquiry on the size of the commenter's banana farm, Ms. Heidi Y.M. Chan said that there was no information at hand regarding the size and production scale of the farm. The difficulty encountered by the commenter in delivering her products by hand-pull cart via steps would apply to both pedestrian links as they both comprised steps.

33. Ms. Shirley Lee said that environmental assessment of the proposed development, including hazard assessment in relation to the Tsuen Wan Water Treatment Works (WTW), had been carried out in the previous applications, and the findings of the assessment had been

accepted by the DEP. Since the current scheme would generate less population, no additional environmental or hazard impact would be envisaged and hence no planning condition on the environmental or hazard aspects would be required. Furthermore, any hazard mitigation measures, if necessary, should be implemented in the WTW rather than the proposed development. In response, Ms. Heidi Y.M Chan said that the planning condition recommended in paragraph 11.6(a) of the Paper would ensure that the environmental and hazard mitigation measures as recommended in the applicant's environmental assessment would be duly implemented. The same condition had also been imposed in the previous planning approvals.

Deliberation Session

34. The Chairman said that one of the major concerns for development in the "R(E)" zone was how to address the environmental issues, in particular the potential industrial/residential interface problems. The applicant had demonstrated in its environmental assessment that the proposed development, with appropriate environmental mitigation measures, would be acceptable. To ensure that the mitigation measures recommended in the applicant's assessment were duly implemented, it was not unreasonable to impose a relevant condition in the planning approval.

35. In response to a Member's enquiry, Ms. Heidi Y.M. Chan clarified that the commenter's banana farm was located on the slopes to the north of the application site but there was difficulty in delineating the boundary of the farm on site due to topographical constraints. The path that the commenter requested to retain in fact trespassed onto the applicant's land and was created by the commenter without authorization. The DLO/TW&KT, in processing the land exchange of the subject lot, had already issued a warning letter to the commenter advising her to discontinue the unauthorized usage of land.

36. Referring to Drawing A-1 of the Paper, a Member said that the juxtaposition of the proposed residential blocks would create wall effect and affect the air ventilation in the area. The impact was particularly significant on the residents in Ham Tin Tsuen and the future development to the east of the site. This Member considered that there was scope for changing the disposition and design of the blocks in allowing more spaces to be provided between

blocks.

[Ms. Maggie M.K. Chan left the meeting temporarily at this point.]

37. On the issue of visual impact, another Member said that the physical setting and developments in the surrounding areas should also be taken in account. For the present application, the proposed development was located adjacent to a “Village Type Development” zone which comprised mainly low-rise developments and natural slopes. As the application site was located in a relatively open setting, the likely wall effect of the proposed development would largely be relieved. The Chairman added that the “Open Space” zone to the south of the site would also help maintain an open setting in the area and relieve the wall effect of the proposed development. With a view to further improving the design of the proposed development, the Chairman suggested and Members agreed that an advisory clause should be incorporated advising the applicant to revise the disposition and design of the residential blocks to allow more space between the blocks.

[Ms. Maggie M.K. Chan returned to the meeting at this point.]

38. 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 16.6.2010, and after the said date, the permission should cease to have effect unless before the said date, the development permitted was commenced or the permission was renewed. The permission was subject to the following conditions :

- (a) the implementation of the mitigation measures identified in the environmental assessment report, including the hazard assessment, to the satisfaction of the Director of Environmental Protection or of the TPB;
- (b) the submission of a revised traffic impact assessment (TIA) and implementation of the recommendations of the revised TIA to the satisfaction of the Commissioner for Transport or of the TPB;
- (c) the design and provision of parking and loading/unloading facilities and

vehicular access to the satisfaction of the Commissioner for Transport or of the TPB;

- (d) the carrying out of investigation and stability assessment of the slopes, including the natural terrain, adjacent to the application site as identified in the Geotechnical Assessment Report and the implementation of the necessary stabilization/mitigation works to the satisfaction of the Director of Civil Engineering and Development or of the TPB;
- (e) the submission and implementation of a landscape master plan, including a tree preservation proposal, to the satisfaction of the Director of Planning or of the TPB; and
- (f) 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.

39. The Committee also agreed to advise the applicant :

- (a) that the approval of the application did not imply that necessary approvals would be given by any Government departments. The applicant should approach the relevant Government departments direct for any necessary approvals;
- (b) to submit to the Director of Lands tree felling/transplanting proposal under the lease, and to liaise with him on entering Government Land, if required, for slope investigation and stabilization works;
- (c) to revise the disposition and design of the residential blocks of the proposed development so that more spaces would be allowed between the blocks for relieving wall effect and improving air ventilation;
- (d) to submit building plans to the Building Authority to demonstrate that the detailed design of the residential buildings would comply with the Buildings

Ordinance and its subsidiary legislations, and to comply with the Code of Practice for Means of Access for Firefighting and Rescue on the provision of emergency vehicular access;

- (e) to liaise with the Director of Highways on the slope upgrading works which might affect the adjoining slopes currently maintained by the Highways Department; and
- (f) to liaise with the commenter of the application on her request.

[Mr. Walter K.L. Chan left the meeting temporarily at this point.]

Agenda Item 6

Section 16A Application

[Open Meeting (Presentation and Question Session only)]

A/K20/43-1 Extension of Time for Commencement of Approved Development –
Proposed Comprehensive Residential and Retail Development with
Public Car/Lorry Parking Spaces,
NKILs 6003RP and 6052 and Government Land, Cheung Sha Wan
(MPC Paper No. A/K20/43-1)

Presentation and Question Session

40. Mr. P.C. Mok, STP/TWK, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application, highlighting that Application No. A/K20/43 was approved in July 2001 and the time limit for commencement of the approved scheme was extended by the Town Planning Board (the Board) in July 2004 for a period of two years until 28.6.2006;

- (b) the proposed extension of time for commencement of the approved scheme for a period of two years 28.6.2008;
- (c) departmental comments – no adverse comment from concerned Government departments was received;
- (d) the District Officer (Sham Shui Po) (DO(SSP)) advised that local consultation on the application was undertaken and three responses were received. Two of the respondents agreed to the application. The other respondent, a principal of the nearby Tsung Tsin Christian Academy, was concerned that the nine blocks in the approved scheme at a building height of 188m would hinder natural light penetration and air circulation affecting the health and learning of the students; and the closure of Lai Fat Street would cause inconvenience and affect the air circulation; and
- (e) the Planning Department (PlanD)'s views – the PlanD had no objection to the application for reasons as detailed in paragraph 8.2 of the Paper in that there had been no material change in the planning circumstances since the approval of Application No. A/K20/43, the applicant had taken reasonable actions to implement the approved scheme, the proposed extension period of two years was considered reasonable and there was no objection from concerned Government departments. Regarding the local concerns reflected by the DO(SSP), it was noted that the application only involved an extension of time for commencement of an approved scheme and no change in the approved planning parameters was proposed. Furthermore, the approved development would improve the local environment by replacing the existing godown/industrial buildings on the site. On the concern about the closure of Lai Fat Street, the Lands Department advised that no public objection was received on the road closure proposal when it was notified under the gazette on 25.8.2003 and during consultation with the relevant District Council, Area Committee and local bodies.

41. Members had no question on the application.

Deliberation Session

42. In response to a Member's enquiry, the Secretary said that upon the commencement of the Town Planning (Amendment) Ordinance 2004 (the Amendment Ordinance) on 10.6.2005, any extensions of time for commencement of development should not result in an aggregate extension period longer than the original duration for commencement of the approved scheme. If the original planning permission was granted prior to the commencement of the Amendment Ordinance, the original duration for commencement of development should be taken as the duration allowed in the last approval given by the Board or the Director of Planning under the delegated authority of the Board. Since a period of two years was allowed for commencement of development in the last approval given by the Board in 2004, a maximum of two years extension of time for commencement could be allowed under this application.

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

43. A Member was concerned that closing Lai Fat Street and having it incorporated into the development scheme would result in more intensive development. This Member asked whether the decision to close the road was based on traffic considerations or other planning reasons. The Chairman said that in general, whether a public road should be closed and incorporated into a development scheme should be determined on individual merits, taking into account all relevant planning considerations. For the subject case, Lai Fat Street was included in the subject "Comprehensive Development Area" ("CDA") zone and the closure of it for development was in line with the planning intention for comprehensive development. Referring to Plan AA-2 of the Paper, Ms Heidi Y.M. Chan supplemented that apart from including Lai Fat Street in the "CDA" zone, the boundary of the subject private lots had also be rationalized to facilitate redevelopment of the existing industrial/godown buildings within the "CDA" zone.

44. 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 for 2 years until 28.6.2008, 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 revised Master Layout Plan (MLP) incorporating the approval conditions (b), (c), (e) and (f) below and to include the development programme of the proposed development, to the satisfaction of the Director of Planning or of the TPB;
- (b) the design and provision of car-parking, loading/unloading facilities and public car/lorry park to the satisfaction of the Commissioner for Transport or of the TPB;
- (c) the design and provision of the pedestrian footbridge link from the application site across Sham Mong Road to the “Comprehensive Development Area” to the south of the application site at no cost to the Government, as proposed by the applicant, to the satisfaction of the Commissioner for Transport or of the TPB;
- (d) the design, provision and implementation of the proposed traffic/road improvement schemes identified in the Traffic Impact Assessment at no cost to the Government, as proposed by the applicant, to the satisfaction of the Commissioner for Transport or of the TPB;
- (e) the provision of emergency vehicular access and fire services installations to the satisfaction of the Director of Fire Services or of the TPB;
- (f) the submission and implementation of a Landscape Master Plan to the satisfaction of the Director of Planning or of the TPB;
- (g) the diversion of the existing stormwater drain along Lai Fat Street at the cost of the applicant to the satisfaction of the Director of Drainage Services or of the TPB; and

- (h) the diversion of the existing water mains along Lai Fat Street at the cost of the applicant, to the satisfaction of the Director of Water Supplies or of the TPB.

45. The Committee also agreed to advise the applicant that :

- (a) the approved MLP, together with the set of approval conditions, would be certified by the Chairman of the TPB and deposited in the Land Registry in accordance with section 4A(3) of the Town Planning Ordinance. Efforts should be made to incorporate the relevant approval conditions into a revised MLP for deposition in the Land Registry as soon as practicable;
- (b) the Chief Engineer/Kowloon and the Chief Engineer/Design of the Water Supplies Department should be consulted on the details of the existing and proposed water mains in Lai Fat Street;
- (c) the District Lands Officer/Kowloon West of the Lands Department should be consulted on the encroachment onto the temporary works area for Water Supplies Department;
- (d) the Chief Engineer/Mainland South, Drainage Services Department should be consulted on the details of the existing and proposed stormwater drains at Lai Fat Street; and
- (e) if the applicant wished to seek any further extension of time for commencement of the development, the applicant might submit a fresh application under section 16 of the Town Planning Ordinance. Reference could be made to TPB PG-Nos. 35A and 36 for details.

[The Chairman thanked Ms. Heidi Y.M. Chan, DPO/TWK, and Mr. P.C. Mok, STP/TWK, for their attendance to answer Members' enquiries. Ms. Chan and Mr. Mok left the meeting at this point.]

Deliberation Session

47. After deliberation, the Committee decided to defer a decision on the application as requested by the applicant pending the submission of further 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 further 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.

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

[Open Meeting (Presentation and Question Session only)]

- (ii) Y/K18/1 Application for Amendment to the
Draft Kowloon Tong Outline Zoning Plan No. S/K18/12
by Rezoning a Site from “Residential (Group C) 1” to
“Comprehensive Development Area (1)” and ‘Road’,
3, 5 and 7 Kent Road (NKILs 865, 866 and 867),
Kowloon Tong
(MPC Paper No. Y/K18/1)
-

Presentation and Question Session

48. The Committee noted that the applicant requested on 1.6.2006 for a deferment of the consideration of the application to allow time for preparing further information to address the comments of the Director of Environmental Protection.

Deliberation Session

49. After deliberation, the Committee decided to defer a decision on the application as requested by the applicant pending the submission of further 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.

Agenda Item 8

[Open Meeting (Presentation and Question Session only)]

Further Consideration of Application No. A/K13/212

Proposed Minor Relaxation of Building Height Restriction from 120mPD to 126mPD

to Accommodate One Storey of Communal Sky Garden

on 15/F of a Proposed Commercial/Office Development

in “Other Specified Uses” annotated “Business” zone,

Junction of Sheung Yuet Road and Wang Chiu Road, Kowloon Bay

(MPC Paper No. A/K13/212A)

50. The Committee noted that the application was submitted by a subsidiary company of Sino Land Company Limited (SLCL) and Dr. Greg C.Y. Wong had declared an interest in this item for having current business dealings with the SLCL. Dr. Wong has tendered his apologies for being unable to attend the meeting.

Presentation and Question Session

51. Mr. Raymond K.W. Lee, DPO/K, presented the application and covered the following aspects as detailed in the Paper.

- (a) background to the application, highlighting that the Committee considered the application on 17.3.2006 and decided to defer a decision pending further information from the applicant to demonstrate that the proposed sky garden would meet the criteria set out in the relevant Joint Practice Notes (JPN) and to justify the proposed floor-to-floor heights;

- (b) the proposed minor relaxation of building height restriction from 120mPD to 126mPD, highlighting that further information was submitted by the applicant on 18.4.2006, 6.6.2006 and 13.6.2006 in respect of the amendments to the planter and curtain wall arrangements of the proposed sky garden, justifications on the proposed floor-to-floor heights and detailed design of the headroom provision of typical office floor;
- (c) departmental comments – no adverse comments were received from concerned Government departments on the application;
- (d) one public comment was received during the statutory publication period. The commenter agreed with the proposal; and
- (e) the Planning Department (PlanD)'s views – the PlanD had no objection to the application for reasons as detailed in paragraphs 6.1 and 6.2 of the Paper in that the proposal was in line with the criteria set out in the relevant JPN and would enhance the natural ventilation and visual quality of the proposed development, the proposed relaxation of building height restriction was not expected to generate adverse impacts on the surrounding areas, and the concerned Government departments had no objection to the application.

52. Members had no question on the application.

Deliberation Session

53. A Member said that taking into account the design merits of the proposed sky-garden and the further information submitted by the applicant to address the Committee's concerns, it was acceptable to approve the application. However, the building height of developments in the Kowloon Bay area as a whole should continue to be strictly controlled.

54. Another Member said that the model view shown in Figure B.2 on Drawing A-18 of the Paper might give an impression that any developments blocked by the existing tall buildings at Hung Hom would have no adverse visual impact at all. This Member was

concerned that such impression might be used to justify other applications for minor relaxation of building height restrictions in the area. Another Member shared the concern and had reservation on approving the application despite that the proposed extent of relaxation to the restriction was minor.

55. The Chairman said that the building height restrictions in the Kowloon Bay area were determined based on the findings of a detailed study, and the provisions for minor relaxation to the height restrictions for cases with merits were part of the recommendations of the study. For this application, Members should consider whether the information submitted by the applicant was sufficient to demonstrate the merits of its proposal and to address the Committee's concerns. Members generally agreed to this approach and considered that favourable consideration could be given to this application for reasons as stated in paragraphs 6.1 and 6.2 of the Paper.

56. After deliberation, the Committee decided to approve the application, on the terms of the application as submitted to the Town Planning Board. The permission should be valid until 16.6.2010, 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 of the provision of water supplies for fire-fighting and fire service installations and equipment to the satisfaction of the Fire Services Department, or of the Town Planning Board.

57. The Committee also agreed to advise the applicant :

- (a) to minimize the deviation from the building height restriction by exploring reduction of the floor-to-floor heights of the proposed development; and
- (b) to liaise with District Lands Officer/Kowloon East on the lease matters.

Agenda Item 9

Section 16 Applications

Deliberation Session

60. The Chairman remarked that the proposed tutorial school was considered compatible with the surrounding uses, and four similar applications had previously been approved by the Committee in the same building.

61. 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 16.6.2010, 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 of the provision of fire service installations and equipment to the satisfaction of the Director of Fire Services or of the TPB.

62. The Committee also agreed to advise the applicant to :

- (a) consult the Registration Section of the Education and Manpower Bureau on school registration process under the Education Ordinance/Regulations; and
- (b) resolve any land issues relating to the development with the owner of the application premises.

[Open Meeting (Presentation and Question Session only)]

- (ii) A/K10/215 Proposed Conversion of an Existing 9-Storey Building into a Hotel in “Residential (Group A)” zone, 14-18 Sung Wong Toi Road, Ma Tau Kok
(MPC Paper No. A/K10/215)
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Presentation and Question Session

63. The Committee noted that the applicant requested on 30.5.2006 for a deferment of the consideration of the application to allow time for preparing further information on the

Planning Board Guidelines No. 22C for Development within “Other Specified Uses (Business)” Zone;

- (d) three public comments were received during the statutory publication period. Two of the commenters supported the application. The other commenter enquired whether forbearance fee should be paid by the applicant before it could obtain temporary approval for commencing its business; and
- (e) the Planning Department (PlanD)’s views – the PlanD did not support the application for reasons as detailed in paragraph 11.1 of the Paper in that the proposed use was not acceptable from the fire safety point of view.

66. A Member asked whether there were any details about the 1500mm void proposed by the applicant. Referring to Drawing A-2 of the Paper, Mr. Raymond K.W. Lee, DPO/K, replied that according to the applicant, the proposed void would be created by building an additional ceiling with a 100mm thick concrete slab beneath the original ceiling. The applicant intended to use the void as a fire buffer which, however, was considered not acceptable by the D of FS.

Deliberation Session

67 In response to a Member’s enquiry in relation to a public comment, Mr. James Merritt said that forbearance fee could be taken as a form of penalty on the landowners who committed a breach of lease conditions. Under normal practice, upon the discovery of a breach of lease conditions, the Lands Department would give the landowners a period of time to take appropriate actions to remedy the breach, which might include the application for planning permissions from the Town Planning Board. During that period, the subject landowners would be required to pay a forbearance fee to the Government.

68. After deliberation, the Committee decided to reject the application for the reason that the application was not acceptable from fire safety point of view.

[Open Meeting (Presentation and Question Session only)]

- (iv) A/K14/504 Proposed Shop and Services
in “Other Specified Uses” annotated “Business” zone,
Workshop on G/F, Fook Cheong Building,
63 Hoi Yuen Road, Kwun Tong
(MPC Paper No. A/K14/504)
-

Presentation and Question Session

69. Mr. Raymond K.W. Lee, DPO/K, presented the application and covered the following aspects as detailed in the Paper.

- (a) background to the application;
- (b) the proposed shop and services use;
- (c) departmental comments – no adverse comment was received from concerned Government departments;
- (d) seven public comments were received during the statutory publication period. Two of the commenters supported the application. The other five commenters objected to the application for the reason that the operation of the existing café at the subject premises had resulted in hygiene and security problems; and
- (e) the Planning Department (PlanD)’s views – the PlanD had no objection to the application for reasons as detailed in paragraph 11.1 of the Paper in that the proposed shop and services use would not generate significant adverse impacts on the developments within the subject building and the adjacent areas and was generally in line with the planning intention of the “OU (Business)” Zone and the Town Planning Board Guidelines No. 22C for Development within “Other Specified Uses (Business)” Zone. Regarding

the public concern on the hygiene and security problems, the existing café at the premises was an eating place, which would not be allowed under the permission for shop and services use, and the applicant had indicated no intention to operate an eating place at the premises.

Deliberation Session

70. The Chairman remarked that the proposed shop and services use complied with the relevant Town Planning Board Guidelines and the concerned Government departments had no adverse comments on the application.

71. 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 16.6.2008, and after the said date, the permission should cease to have effect unless before the said date, the development permitted was commenced or the permission was renewed. The permission was subject to the following conditions :

- (a) the submission and implementation of fire services installations in the subject premises to the satisfaction of the Director of Fire Services or of the TPB before operation of the use; and
- (b) if the above condition of approval was not complied with before operation of the use, the approval hereby given should cease to have effect and should on the same date be revoked without further notice.

72. The Committee also agreed to advise the applicant :

- (a) to apply to District Lands Officer/Kowloon East, Lands Department for a temporary waiver for the proposed shop and services use under application including the size of the application premises;
- (b) to appoint an Authorised Person to submit building plans to demonstrate compliance with the Buildings Ordinance, in particular, the fire separation

by 2 hours Fire Resistant Partition between the proposed shop and services use and the existing workshop on 1/F, provision of means of escape and provision of access and facilities for the disabled person;

- (c) that any operation of food business under the purview of Food Business Regulation, Cap. 132 would require application to Food and Environmental Hygiene Department for a relevant licence/permit; and
- (d) to strictly observe the regulatory restrictions and instant traffic situation during loading/unloading activities to avoid interfering the main stream traffic.

[Open Meeting (Presentation and Question Session only)]

- (v) A/K21/12 Proposed Residential Development with Retail Shops in “Comprehensive Development Area (2)” zone, NKIL 5805, 5806 and 5982, Kai Hing Road, Kowloon Bay
(MPC Paper No. A/K21/12)
-

73. The Committee noted that the application was submitted by a subsidiary company of the Wharf Reality Limited (WRL) and Dr. Greg C.Y. Wong had declared an interest in this item for having current business dealings with the WRL. Dr. Wong had tendered his apologies for being unable to attend the meeting.

Presentation and Question Session

74. The Committee noted that the applicant requested on 10.6.2006 for a deferment of the consideration of the application to allow time for preparing further information to address the comments of concerned Government departments.

Deliberation Session

75. After deliberation, the Committee decided to defer a decision on the application as requested by the applicant pending the submission of further 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 further 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.

[The Chairman thanked Mr. Raymond K.W. Lee, DPO/K, and Miss Helen L.M. So, STP/K, for their attendance to answer Members' enquiries. Mr. Lee and Miss So left the meeting at this point.]

[Dr. Paul K.S. Lam left the meeting temporarily at this point.]

Hong Kong District

[Mr. Kevin C.P. Ng, District Planning Officer/Hong Kong (DPO/HK), was invited to the meeting at this point.]

Agenda Item 10

Section 16 Applications

[Open Meeting (Presentation and Question Session only)]

- | | | |
|-----|-----------|------------------------------------------------------------|
| (i) | A/H15/217 | Proposed Hotel |
| | | in "Other Specified Uses" annotated "Business" zone, |
| | | 1 Yip Fat Street, Wong Chuk Hang – Aberdeen Inland Lot 309 |
| | | (MPC Paper No. A/H15/217A) |
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76. As the application was submitted by a subsidiary company of K. Wah Real Estates

Company Limited (KWRECL), Mr. Raymond Y.M. Chan declared an interest in this item for having current business dealings with the KWRECL.

[Mr. Raymond Y.M. Chan left the meeting temporarily at this point.]

Presentation and Question Session

77. Mr. Kevin C.P. Ng, DPO/HK, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application - the application was submitted on 2.2.2006. On 17.3.2006, the Committee decided at the applicant's request to defer the consideration of the application to allow time for the applicant to resolve the outstanding issues with the Transport Department. On the same date, the Committee agreed the proposed amendments to the draft Aberdeen & Ap Lei Chau Outline Zoning Plan (OZP) to divide the "Other Specified Uses" annotated "Business" ("OU(B)") zone within the Wong Chuk Hang area into the "OU(B)1" & "OU(B)2" sub-areas, with the incorporation of building height restrictions of 120mPD and 140mPD respectively. During the exhibition period of the draft Aberdeen & Ap Lei Chau OZP No. S/H15/23 incorporating the amendments, seven representations were received, which were all in respect of the building height restrictions for the Wong Chuk Hang area. Except one which suggested the imposition of a lower restriction (100mPD or below), the other six representations were against the imposition of building height restrictions or of the view that the restrictions were too stringent. The application site fell within the area zoned "OU(B)1" which was the subject of representations;
- (b) the proposed hotel development with a building height of not more than 120mPD;
- (c) departmental comments – no adverse comment was received from concerned Government departments;

- (d) one public comment was received during the statutory publication period commenting that the proposed hotel with a height of more than 100mPD was unacceptable. During the statutory publication period of further information submitted by the applicant, no public comment was received; and
- (e) the Planning Department (PlanD)'s views – the PlanD recommended that a decision on the application should be deferred pending the Town Planning Board (the Board)'s decision on the representations in respect of the draft OZP No. S/H15/23. Since the application site fell within the “OU(B)1” zone which was the subject of the representations and the hearing procedures of the representations had not been conducted yet, approving the application would pre-empt the decision of the Board on the representations.

78. The Secretary said that in response to the PlanD's recommendation of deferring the consideration of the application, the applicant wrote to the Board on 8.6.2006 expressing his concerns on undue delay in considering the application. The applicant's letter was at Appendix Ie of the Paper. Mr. Kevin C.P. Ng then briefed Members on the main points put forth by the applicant. In gist, the applicant considered that the application should be considered under the provisions of the “OU(B)” zone which was the prevailing zoning at the time when the application was submitted. Since there was no building height restriction under the “OU(B)” zone, it would be unreasonable to defer the consideration of the application pending consideration of the representations in respect of the building height restriction under the “OU(B)1” zone.

79. The Secretary clarified that although the application site was not subject to any building height restriction under the OZP when the application was submitted, it was subject to an interim building height restriction of not more than 120mPD under the TPB Guidelines No. 37 for 'Interim Building Height Control in Wong Chuk Hang Business Area' promulgated in June 2005. Since the exhibition of the draft OZP No. S/H15/23, the interim restrictions had been incorporated into the OZP.

80. Members had the following questions on the application:

- (a) whether the application should be considered under the previous zoning applicable to the site when the application was submitted or under the current zoning;
- (b) whether the Committee was empowered to defer the consideration of a planning application;
- (c) whether there was any precedent involving an applicant raising objection to the PlanD's recommendation of deferring the consideration of its application; and
- (d) when the representations on the draft OZP would be considered by the Board.

81. In response to Members' questions, the Secretary made the following points:

- (a) according to relevant legal advice, the application should be considered under the provisions of the zoning applicable to the site when the application was submitted. However, the Committee could make reference to the latest relevant planning circumstances, including the planning intention of the current zoning of the site, in considering the application;
- (b) the Committee was empowered to defer the consideration of a planning application if there was reasonable ground. The general principles and practices for the deferment were set out in the Board Guidelines No. 33 on Deferment of Decision on Representations, Comments, Further Representations and Applications; and
- (c) there was no precedent involving an applicant raising objection to the PlanD's recommendation of deferring the consideration of its application.

82. In response to question (d) above, Mr. Kevin C.P. Ng said that the hearing of the representations was tentatively scheduled for consideration by the Board at its meeting to be held on 11.8.2006.

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

Deliberation Session

83. The Chairman remarked that the “OU(B)1” zone covering the application site was the subject of representations received during the exhibition period of the draft OZP No. S/H15/23. The key consideration was whether it was appropriate to consider the application prior to the completion of the hearing of the representations. He said it was a general principle that in considering a planning application, the Committee should take into account all relevant planning considerations. For this application, the latest planning intention of the Board to zone the site as “OU(B)1” with building height restriction and the Board’s decision to be made on the representations in relation to the “OU(B)1” zone would be relevant considerations.

84. Members then had a lengthy discussion and the main points were summarized as follows:

- (a) while the application should be considered under the provisions of the previous “OU(B)” zoning, the latest planning circumstances applicable to the site should also be taken into account in considering the application;
- (b) the Committee had previously agreed to defer the consideration of a similar application (No. A/H15/216) pending the Board’s decision on the representations in respect of the draft OZP. For consistency, the same approach should be adopted by the Committee in handling this application;
- (c) since there were both supporting and opposing views in the representations received in respect of the building height restrictions under the draft OZP, the decision of the Board to be made on the representations might not be

necessarily unfavourable to the application. Deferring the consideration of the application would not be unfair to the applicant;

- (d) although there was no statutory building height restriction for the site when the application was submitted, the site was subject to interim height restriction; and
- (e) as the hearing of the representations had been scheduled for August 2006, the deferral of consideration of the application would not be too long.

85. The Secretary added that deferring the decision on the application was in accordance with the Board Guidelines No. 33 which explicitly stated that a decision on planning application would be deferred if the zoning of the subject site was still subject to outstanding adverse representation yet to be submitted to the Chief Executive in Council (CE in C) for consideration and the substance of the representation was relevant to the subject application.

86. A Member asked how long should the application be deferred. The Secretary replied that decision on the application should be deferred until a final decision on the representations was made by the CE in C. According to the Town Planning Ordinance, the Board should submit the draft OZP together with a schedule of representations/comments on the representations to the CE in C for consideration within nine months after expiration of the statutory exhibition period of the draft OZP. Since the exhibition period of the draft OZP expired in May 2006, it was expected that a decision of the CE in C would be available in early 2007. The Chairman said that submission to the CE in C should be made as soon as possible after completion of the hearing of the representations to avoid undue delay for the consideration of the application.

87. In response to Members' enquiries, the Secretary said that there were no provisions for the applicant to apply for a review of the Committee's decision to defer the application. Since the applicant was not a representer on the draft OZP, it had no right to be heard in the Board's consideration of the representations.

88. After deliberation, the Committee decided to defer a decision on the application pending a final decision on the representations with regard to the draft Aberdeen & Ap Lei Chau OZP No. S/H15/23.

[Mr. Raymond Y.M. Chan returned to the meeting at this point.]

[Open Meeting (Presentation and Question Session only)]

- (ii) A/H15/218 Proposed Underground Cable Car System
in “Green Belt” zone,
Brick Hill
(MPC Paper No. A/H15/218)
-

Presentation and Question Session

89. Mr. Kevin C.P. Ng, DPO/HK, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed underground cable car system;
- (c) departmental comments – no adverse comment was received from concerned Government departments;
- (d) no public comment was received during the statutory publication period of the application. During the statutory publication period of further information submitted by the applicant, two comments were received from a Member of the Eastern District Council (EDC) and the Incorporated Owners (IO) of Manly Villa. The Member of EDC expressed no objection to the application. The IO of Manly Villa was concerned that construction of the cable car system would have adverse impact on the existing approach road of Manly Villa; and

- (e) the Planning Department (PlanD)'s views – the PlanD had no objection to the application for reasons as detailed in paragraph 12.1 of the Paper in that the proposed cable car system would be built underground and would have no adverse landscape, visual and traffic impacts on the surrounding areas. Notwithstanding, all environmental issues associated with the proposal would be further addressed in the application for Environmental Permit under the Environmental Impact Assessment Ordinance.

90. Members had no questions on the application.

Deliberation Session

91. The Chairman remarked that as the proposed cable car system would be built underground, there would not be adverse impacts on the surrounding areas including the approach road to Manly Villa. He also noted that the IO of Manly Villa had suggested in its letter to the District Officer (Southern) that the site of Manly Villa should be rezoned to “Residential (Group C)” to reflect the existing development. The Secretary said that the development at Manly Villa was the subject of a planning permission given in 1977 (Application No. H15/4P) and a rezoning of the site to reflect the existing development could be made when opportunity arose. The Chairman said that the suggestion of rezoning was not directly related to the application and should be considered separately.

92. 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 16.6.2010, 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 of the provision of water supplies for fire fighting and fire safety installations to the satisfaction of the Director of Fire Services or of the TPB.

93. The Committee also agreed to advise the applicant to:

- (a) demonstrate to the District Lands Officer/Hong Kong West and South of Lands Department that the right-of-way for Manly Villa would not be adversely affected by the funicular system; and
- (b) note the comments from the Chief Building Surveyor/Hong Kong West of Buildings Department regarding the provision of fire safety and facilities for persons with a disability.

[The Chairman thanked Mr. Kevin C.P. Ng, DPO/HK, for his attendance to answer Members' enquiries. Mr. Ng left the meeting at this point.]

[Ms. Maggie M.K. Chan left the meeting temporarily at this point.]