

TOWN PLANNING BOARD

**Minutes of 342nd Meeting of the
Metro Planning Committee held at 9:00 a.m. on 19.1.2007**

Present

Director of Planning
Mrs. Ava S.Y. Ng

Chairperson

Dr. Greg C.Y. Wong

Vice-chairman

Mr. Nelson W.Y. Chan

Mr. Leslie H.C. Chen

Professor N.K. Leung

Dr. Daniel B.M. To

Mr. Stanley Y.F. Wong

Ms. Sylvia S.F. Yau

Mr. Walter K.L. Chan

Ms. Starry W.K. Lee

Mr. K.Y. Leung

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

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

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

Secretary

Absent with Apologies

Professor Bernard V.W.F. Lim

Ms. Maggie M.K. Chan

Mr. Raymond Y.M. Chan

Mr. Felix W. Fong

Professor Paul K.S. Lam

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

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

In Attendance

Assistant Director of Planning/Board
Mr. Lau Sing

Chief Town Planner/Town Planning Board
Ms. Brenda K.Y. Au

Town Planner/Town Planning Board
Mr. K.W. Ng

Agenda Item 1

Confirmation of the Draft Minutes of the 341st MPC Meeting held on 5.1.2007

[Open Meeting]

1. The draft minutes of the 341st MPC meeting held on 5.1.2007 were confirmed without amendments.

Agenda Item 2

Matters Arising

[Closed Meeting]

Hong Kong District

Agenda Item 3

Section 12A Application

[Open Meeting (Presentation and Question Sessions only)]

Y/H7/2 Application for Amendment to the Approved
Wong Nai Chung Outline Zoning Plan No. S/H7/11
from “Green Belt” to “Residential (Group C)1”, Government Land
Adjoining 12A and 12B Broadwood Road (i.e. Inland Lot 2132)
(MPC Paper No. Y/H7/2)

Presentation and Question Sessions

2. The following representative from the Planning Department (PlanD) was invited to the meeting at this point :

Mrs. Alice K.F. Mak - Senior Town Planner/Hong Kong (STP/HK)

3. The following applicant’s representatives were invited to the meeting at this point :

Ms. Erika Law

Ms. Keren Seddon

Ms. Alice Cheung

Mr. Patrick Yan

4. The Chairperson extended a welcome and explained the procedures of the hearing. The Chairperson then invited Mrs. Alice K.F. Mak, STP/HK, to brief Members on the background to the application.

5. Mrs. Alice K.F. Mak presented the application as detailed in the Paper and made the following main points :

- (a) the applicant proposed to rezone a piece of Government land located to the immediate east of a private residential development (i.e. 12A and 12B Broadwood Road) from “Green Belt” (“GB”) to “Residential (Group C)1” (“R(C)1”) on the Wong Nai Chung Outline Zoning Plan (OZP). The application site had been used for a private pleasure garden since 1976 under Short Term Tenancy (STT);
- (b) the building previously erected at 12A and 12B Broadwood Road had already been demolished. The slope to the immediate northeast and east of the application site was zoned “GB” and covered by vegetation;
- (c) the justifications for the applicant were summarized in paragraph 2 of the Paper;
- (d) the comments from concerned Government departments were set out in paragraph 8 of the Paper. The Buildings Department pointed out that it was likely that the application site would be included in the redevelopment of the immediately adjoining lot, the possibility of transferring the plot ratio from the application site to the adjoining lot and its effect on the environment should be considered. The Chief Town Planner/Urban Design and Landscape (CTP/UD&L), PlanD did not support the application from landscape point of view as the application site may become part of the

building area for private use upon rezoning. Other departments had no objection to or no adverse comment on the application;

- (e) a total of 24 public comments, mainly submitted by the residents and management offices of the nearby residential developments (including Villa Lotto and Villa Rocha), were received during the statutory publication period. 22 of them were against the application and the remaining two raised concerns on issues relating to air pollution, traffic and decrease in property value. The commenters' views were summarized in paragraph 9.2 of the Paper;
- (f) the applicant submitted further information on 18.1.2007, responding to the comments given by Government departments and the public. Copy of the further information was tabled at the meeting for Members' reference; and
- (g) the PlanD did not support the application for reasons as detailed in paragraph 10.1 of the Paper. The applicant had not provided strong justification to warrant a departure of the planning intention of the "GB" zone. Even without the proposed rezoning, the application site could remain to be used as a private garden. However, if the site was rezoned to "R(C)1", more intensive uses such as 'flat' up to plot ratio 5 would be permitted as of right. Approval of the application would set an undesirable precedent for similar applications for rezoning within "GB" zone, the cumulative effect of which would jeopardize the planning intention and might result in more intensive development and generate adverse impacts on the surrounding area.

6. With the aid of a powerpoint presentation, Ms. Keren Seddon made the following main points :

- (a) the application site, with an area of about 130m², was adjacent to a residential lot owned by the applicant. The application site had been legitimately used as an ancillary private pleasure garden under a STT since 1976. In terms of planning history and physical reality, the adjoining residential lot and the application site formed a "single entity". A set of

building plans for redevelopment of the residential lot was approved by the Building Authority on 29.12.2006. This approval involved a 40-storey building (including one storey of sky garden/refuge floor) over a 5-storey podium;

- (b) the application was intended to rationalize the existing site boundaries, to achieve conformity with the existing land use pattern, and to make the application site a formal and permanent part of the garden area of the residential lot. It should be sensible to reflect a use on the OZP that had been allowed under a STT for more than 30 years;
- (c) the residential lot had already been cleared for residential redevelopment. The former landscape treatment on the application site had been cleared except for some trees. To extinguish the private garden use on the application site might result in rubbish and pest problems;
- (d) the application site was the only known ancillary private garden in the “GB” zone in that area. Hence, approving the application would neither result in any material erosion of the “GB” zone nor set any undesirable precedent. The application site in fact had no attributes/qualities that satisfied the “GB” zoning criteria;
- (e) the OZP itself provided flexibility for slight adjustment of zoning boundaries provided that it was in small scale and was to reflect actual long term use. According to paragraph (5) the covering Notes of the OZP, “boundaries between zones may be subject to minor alterations”;
- (f) approving the application would have an advantage of better overall land use control. A single “R(C)1” zone could ensure that the private sector would continue to manage and maintain the application site, and there would be no administrative burden and liabilities for the Government. A permanent land use arrangement could also give the applicant incentives to undertake a high standard of upgrading works. All these commitments would create a better living environment;

- (g) most of the public comments were subjective. Some had totally misunderstood the applicant's intention. Comment on loss of property value was ill-founded and non-planning related. The existing views currently enjoyed by the residents of the nearby buildings should not be materially affected by the application as most of them were towards the Hong Kong Stadium and Happy Valley;
- (h) the application site itself would not be built upon. Any transfer of plot ratio from the application site to the residential lot would be governed by building and lease controls, and subject to Government requirements; and
- (i) the application was supported by the Lands Department (LandsD). Except the PlanD, all concerned Government departments had no objection to the application. For the proposal of transferring plot ratio, both the Environmental Protection Department and Transport Department (TD) did not raise any objection from environmental and traffic point of view. PlanD's concern only reflected a desire for status quo based on existing planning provisions and mechanism. It could neither reflect the on ground situation nor help the LandsD to ensure sensible and efficient land administration.

7. Members had the following questions :

- (a) why the "GB" zone covering the application site and the nearby slopes was divided into three parts on Plan Z-2 of the Paper;
- (b) whether the application site was a natural or a man-made slope, and whether the lease had any condition governing the use of that slope; and
- (c) if the application was not agreed by the Committee, whether the applicant would still be allowed to use the application site as a private garden and carry out improvement works on it.

8. In response, Mrs. Alice K.F. Mak explained that the three parts of the "GB" zone shown in Plan Z-2 of the Paper involved two OZPs. The lines bisecting the zone were just

the boundaries between the two planning scheme areas. According to on-site inspection, the application site was not a slope but a piece of flat land. Provided that application site would continue to be held under a STT for a private pleasure garden, the applicant could carry out any improvement works for the garden as long as the works did not breach the conditions of the STT. Mr. James Merritt pointed out that the application was held under a STT for private garden use.

9. In response to a Member's question, Mr. Anthony Loo clarified that the TD would not support the application if the proposed rezoning would result in any increase in development intensity to the residential lot as the existing traffic at Broadwood Road was already very congested. Ms. Keren Seddon responded that any increase in development intensity would not necessarily result in any increase in the car parking spaces, residential units and building height of the future development on the residential lot. Since the increase was so small when compared with the overall amount permitted on the residential lot, any traffic impact to be generated should be negligible.

10. In response to two Members' questions, Ms. Keren Seddon confirmed that the application site had been used as a private pleasure garden for the past 30 years under a STT which was renewed regularly. In addition, all the engineering works carried out on the application site and the residential lot, including the hoardings, as shown in the photos in the applicant's submission were in accordance with Government requirements.

11. As the applicant's representatives had no further point to make and Members had no further question to raise, the Chairperson informed them that the hearing procedures had been completed and the Committee would further deliberate on the application in their absence and inform the applicant of the Committee's decision in due course. The Chairperson thanked the applicant's representatives and PlanD's representative for attending the meeting. They all left the meeting at this point.

Deliberation Session

12. Two Members commented that there was no planning merit to approve the application. The intention behind of the application was to transfer the plot ratio from the application site to the adjoining residential lot. Approving the application would set an undesirable precedent for similar applications. Another Member pointed out that since the

application site could still be used as a private garden after the redevelopment of the residential lot, the applicant should suffer no loss even if the application was not agreed by the Committee.

13. A Member asked whether the STT could have a longer tenancy period, and whether conditions could be imposed to require the tenant to landscape the site to a higher standard. Mr. James Merritt replied that a STT for private garden normally had a renewable tenancy period of three years. The STT would restrict the land to be used as private garden only and the site would be landscaped. However, no specific landscape standard would be imposed. Should the tenant like to discontinue the private garden use, he could return the land to the Government at any time. He went on to say that should the Committee approve the application, the application site could be designated as a non-building area. The application site could be included as part of the development site area and accountable for plot ratio calculation.

14. In response to Mr. James Merritt's comments, the Secretary pointed out that some residential developments currently zoned "R(C)" in the Peak and Southern District involved both residential and garden lots. The general principle was that the garden lots should not be taken into account in plot ratio calculation, and all building development within the zone should be restricted to the lots which carried development right.

15. Referring to similar strips of land zoned "GB" but adjoining residential zones on the OZP, Members considered that the precedent implications of approving the current application would be very wide.

16. After further deliberation, the Committee decided not to agree to the application for the following reasons :

- (a) the planning intention of the "Green Belt" ("GB") zone was primarily to conserve the existing natural environment and to safeguard the area from encroachment by urban type development. The applicant had not provided strong justification to warrant a departure from the planning intention;

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

[Ms. Starry W.K. Lee left the meeting temporarily at this point.]

[Mrs. Alice K.F. Mak, STP/HK, was invited to the meeting at this point.]

Agenda Item 4

Section 16 Applications

[Open Meeting (Presentation and Question Sessions Only)]

- (i) A/H5/355 Proposed Educational Institution/Training Centre
in “Commercial/Residential” Zone,
6/F, 88 Gloucester Road, Wan Chai
(MPC Paper No. A/H5/355)
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Presentation and Question Sessions

17. Mrs. Alice K.F. Mak, STP/HK, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;

- (b) the proposed educational institution/training centre, highlighting that planning approval for “training centre” at the application premises was previously granted on 24.9.2004;
- (c) departmental comments – concerned Government departments had no objection to or no adverse comment on the application;
- (d) no public comment was received during the statutory publication period, and no local objection/view was received by the relevant District Officer; and
- (e) the Planning Department (PlanD)’s views – PlanD had no objection to the application for reasons as detailed in 10.1 of the Paper.

[Dr. Daniel B.M. To left the meeting temporarily at this point.]

18. Members had no question on the application.

Deliberation Session

19. 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 19.1.2011, and after the said date, the permission should cease to have effect unless before the said date, the development permitted was commenced or the permission was renewed. The permission was subject to the condition that the provision of water supplies for fire fighting and fire service installations to the satisfaction of the Director of Fire Services or of the TPB.

20. The Committee also agreed to advise the applicant to resolve any land issues relating to the development with the concerned owner(s) of the application site.

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

[Open Meeting (Presentation and Question Sessions Only)]

- (ii) A/H14/52 Minor Relaxation of Plot Ratio Restriction
from 0.5 to 0.6 for House Development
in “Residential (Group C)2” Zone,
77 Peak Road
(MPC Paper No. A/H14/52)
-

Presentation and Question Sessions

21. The application was submitted by a subsidiary company of the Wharf (Holdings) Ltd.. The Secretary reported that Dr. Greg C.Y. Wong had declared an interest as he had current business dealings with the company. As the applicant had requested the Committee to defer consideration of the application, discussion of and determination on this term was not necessary. Dr. Greg C.Y. Wong was allowed to stay in the meeting.

22. The Committee noted that the applicant’s representative on 10.1.2007 requested for a deferment of the consideration of the application to allow time for the applicant to address the concerns of Government departments and to submit further information to substantiate his case.

Deliberation Session

23. 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.

[The Chairperson thanked Mrs. Alice K.F. Mak, STP/HK, for her attendance to answer Members’ enquires. Mrs. Mak left the meeting at this point.]

Tsuen Wan and West Kowloon District

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

Agenda Item 5

Section 16 Applications

[Open Meeting (Presentation and Question Sessions Only)]

- (i) A/K3/491 Proposed Hotel
 in “Residential (Group A)” Zone,
 36-38 Li Tak Street, Tai Kok Tsui (KML 28 S.G RP)
 (MPC Paper No. A/K3/491)
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Presentation and Question Sessions

24. 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 conversion of an existing 8-storey building into a hotel, highlighting that planning approval for the same use at the application premises was last granted on 7.7.2006;
- (c) departmental comments – concerned Government departments had no objection to or no adverse comment on the application;
- (d) during the statutory publication period, one comment was received from a Yau Tsim Mong District Councillor which disagreed with the proposed hotel development but without giving any reason. The relevant District Officer received a comment from the Chairman of Yau Tsim Mong West Area Committee supporting the application; and

- (e) the Planning Department (PlanD)'s views – the PlanD had no objection to the application for reasons as detailed in paragraph 10.1 of the Paper, in that the proposed hotel development was considered not incompatible with the surrounding land uses which were predominantly composite commercial/residential developments. The Committee had previously approved two similar applications for hotel development on the application site and there was no change in planning circumstances. The proposed hotel development would not cause any adverse environmental, drainage and traffic impacts. The concerned Government departments had no objection to the application.

25. Members had no question on the application.

Deliberation Session

26. 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 19.1.2011, and after the said date, the permission should cease to have effect unless before the said date, the development permitted was commenced or the permission was renewed. The permission was subject to the following conditions :

- (a) the provision of water supply for fire fighting and fire service installations to the satisfaction of the Director of Fire Services or of the TPB; and
- (b) the submission of a sewerage impact assessment and implementation of the sewerage improvement and upgrading works identified therein to the satisfaction of the Director of Drainage Services or of the TPB.

27. The Committee also agreed to advise the applicant :

- (a) the approval of the application would not imply the gross floor area exemption for hotel concession and back-of-house facilities would be granted by the Building Authority. The applicant should approach the Buildings Department direct to obtain the necessary approval;

- (b) to note the requirements for provision of prescribed windows, natural lighting and ventilation to internal toilets under the Building (Planning) Regulations;
- (c) to maintain the existing right-of-ways at the front and rear parts of the application site in accordance with the Deed of Partition dated 15.6.1962;
- (d) to apply to the Director of Lands for lease modification for the proposed hotel development at the application site;
- (e) to consult the Chief Officer/Licensing Authority of the Home Affairs Department on the licensing requirements for the proposed hotel development; and
- (f) to comply with Part VI of the Code of Practice for Means of Access for Firefighting and Rescue regarding arrangement on Emergency Vehicular Access.

[Open Meeting (Presentation and Question Sessions Only)]

- (ii) A/K3/492 School (Tutorial School)
in "Residential (Group A)" Zone,
3/F, Wai Hing Building, 148 Prince Edward Road West,
Mong Kok (KIL 2542 RP)
(MPC Paper No. A/K3/492)
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Presentation and Question Sessions

28. The Committee noted that the applicant on 11.1.2007 requested for a deferment of the consideration of the application to allow more time to address the comments from the Buildings Department.

Deliberation Session

29. 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 Sessions Only)]

- (iii) A/K5/625 Temporary Shop and Services (Real Estate Agency) and Office for a Period of 3 Years in “Other Specified Uses” annotated “Business” Zone, Unit 1, G/F and Cockloft of Units 2 and 3, Wing Ming Industrial Centre, 15 Cheung Yue Street
(MPC Paper No. A/K5/625)
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Presentation and Question Sessions

30. 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 temporary shop and services (real estate agency) and office for a period of three years;
- (c) departmental comments – concerned Government departments had no objection to or no adverse comment on the application;
- (d) three public comments were received from other occupants of the subject building during the statutory publication period, objecting to the application on the grounds summarized in paragraph 10 of the Paper. No local

objection/view was received by the relevant 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 uses under application were in line with the planning intention of the “Other Specified Uses” annotated “Business” (“OU(Business)”) zone for general business uses. They also complied with the Town Planning Board Guidelines for Development within “OU(Business)” Zone (TPB PG-No. 22C) in terms of fire safety, land use, traffic and environmental impacts. The applied uses were not incompatible with the uses of the subject building, which mainly comprised offices ancillary to industrial and trading firms. Relevant Government departments had no objection to the application.

31. In response to a Member's question, Ms. Heidi Y.M. Chan, DPO/TWK, said that the Fire Services Department (FSD) had clarified that only the 90m² floor area on the ground floor of the application premises would be counted as part of the permissible limit of 460m² aggregate commercial floor area for the subject building. So far, no planning application had been received in respect of Units 2 and 3 on the ground floor of the subject building.

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

32. In response to another Member's question, Ms. Heidi Y.M. Chan said that if there was an Owners' Corporation (OC) of the subject building, the relevant District Officer would consult the OC. On this application, no local objection/view was received from the relevant District Officer. The Secretary supplemented that in addition to the statutory requirements of publication of a planning application for public comments, according to the administrative measures stated in the relevant TPB Guidelines (TPB PG-No. 30) relating to publication of applications, notices of each application would also be sent to all concerned Owners' Corporations (including that of subject building and those within 100ft (around 30m) of the application site) to invite their comments on the application.

[Mr. Leslie H.C. Chen left the meeting temporarily at this point.]

Deliberation Session

33. A Member queried whether the cockloft in the application was illegal or not, and whether the floor area in the cockloft should be counted towards the permissible aggregate commercial floor area as the means of escape for the cockloft was also through the ground floor. Referring to paragraph 9.1.2(a) of the Paper, another Member said that the FSD had excluded the cockloft from the permissible limit of 460m² aggregate commercial floor area for the subject building. He also pointed out that even if the cockloft was taken into account, the total floor area of the application premises was only 353m², which would still be within the limit of 460m². As such, the application could be approved. The Chairperson asked Ms. Heidi Y.M. Chan to take note of Members' concern and to specifically consult FSD on this aspect, should there be any future similar application in the subject building.

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

34. After deliberation, the Committee decided to approve the application on a temporary basis for a period of 3 years until 19.1.2010, on the terms of the application as submitted to the Town Planning Board (TPB) and subject to the following conditions :

- (a) the submission and implementation of fire service installations in the subject premises within 6 months from the date of the planning approval to the satisfaction of the Director of Fire Services or of the TPB by 19.7.2007; 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.

35. The Committee also agreed to advise the applicant :

- (a) to apply to the District Lands Officer/Kowloon West, Lands Department for the temporary wavier to permit the applied uses;
- (b) to consult the Chief Building Surveyor/Kowloon, Buildings Department on the submission of building plans in respect of separation of the application

premises from other existing use of the subject building by proper fire resistance construction and design, provision of means of escape as well as provision of natural lighting and ventilation, access and facilities for persons with a disability and sanitary fitments; and

- (c) clients of the real estate agency were not be allowed to visit the office at the cockloft.

[Open Meeting (Presentation and Question Sessions Only)]

- (iv) A/K5/627 Proposed Hotel
 in “Residential (Group A)” Zone,
 2/F to 10/F, 180-182 Tai Po Road, Sham Shui Po
 (MPC Paper No. A/K5/627)
-

Presentation and Question Sessions

36. The Committee noted that the applicant’s representative on 3.1.2007 requested for a deferment of the consideration of the application to allow sufficient time to prepare additional information to support the application.

Deliberation Session

37. 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 Sessions Only)]

- (v) A/K20/96 Proposed Hotel (Amendments to Approved Scheme)
in “Residential (Group A)1” Zone,
G/F (Part) and UG/F (Part), Kowloon Inland Lot 11158,
Hoi Fai Road, West Kowloon Reclamation
(MPC Paper No. A/K20/96)
-

Presentation and Question Sessions

38. 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 hotel, highlighting that planning approval for the same use at the application site was previously granted on 15.4.2005;
- (c) departmental comments – concerned Government departments had no objection to or no adverse comment on the application, except for the Lands Department which objected to the application for the reason that the proposed hotel was not acceptable under the lease. As the proposed hotel premises involved a material change of land use within five years of the disposal of the subject site, no lease modification would be processed according to the existing policy;
- (d) nine and three public comments were received during the statutory publication periods for the application and the further information respectively. The commenters included a Yau Tsim Mong District Councillor, a local concern group, the owners’ sub-committee of a nearby residential development, and an architectural and engineering firm. Almost all commenters objected to the application for the reasons that the proposed hotel development would aggravate the existing traffic congestion and illegal street parking problems, create environmental nuisance, worsen air ventilation problem, reduce gross floor area of retail and public facilities,

and might cause potential social problem if the hotel was offered for sale in the future. The relevant District Officer also received similar comments from the same Yau Tsim Mong District Councillor and the owners' committee of the nearby residential development; 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. The concerned premises were in the purpose-built non-domestic portion of a recently completed residential development, and the intended use according to the approved building plans was for retail shops serving the local residents. As compared with the previously approved scheme, the area of the proposed hotel in the current scheme had been increased by about 45%, i.e. from 4,153.1m² to 6,029.4m². There was insufficient information in the submission to justify such an increase in hotel gross floor area, which might have an impact on the level of retail facilities to serve local residents. There were also strong local concerns on the impacts of the proposed development. The proposed average hotel room size had also been increased by 147%, i.e. from 34.9m² to 86.13m², which was considered excessive. The approval of the application would set an undesirable precedent for other similar hotel developments within composite commercial and residential developments.

39. Ms. Heidi Y.M. Chan, DPO/TWK, made the following points in response to the questions raised by the Chairperson and some Members :

- (a) the occupation permit for the development was recently issued by the Building Authority. So far, no Owners' Corporation (OC) had been formed. This was the reason for no public comment from the residents or OC of the development;
- (b) on the large average room size, the applicant claimed that the proposed hotel would be a boutique hotel with provision of sitting and lounge areas and private outdoor terrace for each room; and there was a trend for the hotels in Hong Kong to provide larger rooms and suites to meet customer demand. Details of the applicant's justifications on this issue were

included in Appendix Ih of the Paper; and

- (c) there would not be any catering facilities in the proposed hotel, but back-of-house facilities were included.

40. In response to some Members' questions, Mr. James Merritt clarified that lease modification would be processed in due course if the application was approved by the Committee. If this happened, a non-alienation clause would be imposed to the effect that the hotel could only be sold as a whole (i.e. sale of individual rooms would not be allowed). Any condition to restrict long-term renting/letting of the hotel rooms was considered not feasible as it would be unreasonable to fix any maximum renting/letting period. However, the hotel would also be subject to the licensing requirements of the Home Affairs Department. As regards the interest of the buyers of the residential flats above the application premises, the developer would probably have indicated in the sale brochure the retail use of the application premises. As such, buyers might not be aware of such a subsequent change of use.

Deliberation Session

41. Members noted that approval for application would result in a further decrease in the retail floor area on the subject site by 29.8%. Taking into account the fact that no catering facilities would be provided in the proposed hotel, it was likely that the remaining retail floor area would have to serve both the hotel customers and local residents. Such an extent of decrease in the retail floor space provision was considered not acceptable.

42. In response to a Member's question, the Secretary clarified that the application premises was the subject of a previous application for a proposed hotel with a floor area of 4153.1m². In considering the previous application on 28.1.2005, some Members had raised concern on whether the proposed hotel was a genuine hotel development as it was rather unusual for locating hotel development at the podium levels intermixed with retail use. The Committee therefore deferred a decision on the application pending the applicant's submission of additional information on detailed layout of hotel rooms and back-of-house facilities. The applicant subsequently provided the required information, and upon further consideration, the Committee approved the application with conditions. The present application was for a further increase in the hotel floor area at the expense of the retail use.

There had been previous discussion by the Town Planning Board on the subject of service apartment due to the concerns on the difference in plot ratios of hotel vis-à-vis residential developments, as well as the possible adverse impacts on the supporting infrastructure and Government, Institution or Community facilities in that area.

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

- (a) there was insufficient information in the submission to justify the proposed increase in gross floor area for the hotel development which was considered excessive;
- (b) the approval of the application would result in a significant reduction in the retail floor area on the subject site which was to serve the local residents; and
- (c) the approval of the application would set an undesirable precedent for other similar hotel developments within composite residential and commercial developments.

[Open Meeting (Presentation and Question Sessions Only)]

- (vi) A/TY/99 Proposed Public Utility Installation (Package Transformer) in “Village Type Development” Zone, Government Land, Tsing Fai Village, Fung Shue Wo Road, Tsing Yi
(MPC Paper No. A/TY/99)
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Presentation and Question Sessions

44. 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 public utility installation (package transformer) to serve Tsing Fai Village in Tsing Yi;
- (c) departmental comments – concerned Government departments had no objection to or no adverse comment on the application;
- (d) no public comment was received during the statutory publication period and no local objection/view was received by the relevant District Officer. The applicant had in his submission included a support letter from the Tsing Yi Tsing Fai Expansion Area Village Committee; 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.

45. Members had no question on the application.

Deliberation Session

46. In response to the questions raised by the Chairperson and some Members, Ms. Heidi Y.M. Chan, DPO/TWK, said that PlanD had, in consultation with concerned Government departments, local villagers and the applicant, examined the feasibility of several other sites in the vicinity before. These sites included :

- (a) a roadside area to the east of the application site near a bus stop and the staircase of a footbridge which would require diversion of some existing underground facilities, and removal of three trees;
- (b) a roadside area at the toe of a slope to the immediate east of the application site which was considered not suitable by the applicant for geotechnical reasons;
- (c) an area within a planter of Tsing Fai Village to the west of the application site which was objected to by the local villagers as they preferred the package transformer to be installed outside Tsing Fai Village; and

- (d) an area currently used as car parking spaces to the west of the application site which was not supported by the local villagers and the Transport Department (TD). That location might also affect the manoeuvring space of the vehicles coming to collect refuse from the refuse collection point.

47. Ms. Heidi Y.M. Chan pointed out that PlanD considered the application site as a more suitable location because it was acceptable to all parties. Currently, Tsing Fai Village had two entrances, one in the east and the other in the west. The application site was near the western entrance which was a less popular one. After the installation of the package transformer, the footpath would still have a width of 2.18m which was acceptable to the TD.

48. A number of Members commented that the proposed transformer on the application site would be visually intrusive and obstructing the existing footpath, especially when there was already a refuse collection point to its immediate east. A Member suggested the PlanD to re-examine whether there were any other suitable sites, including sites requiring tree felling and/or transplanting. If the trees involved were not mature trees or rare species, preservation of trees needed not be an overriding consideration. Another Member suggested that the PlanD and TD could re-examine the area currently used as car parking spaces. Mr. James Merritt said the Slope Maintenance Section of the Lands Department could also provide advice on the feasibility of the area at the toe of a slope to the immediate east of the application site.

49. After deliberation, the Committee decided to defer a decision on the application pending Planning Department's and the applicant's further study on the suitability and feasibility of other sites, in consultation with concerned Government departments, for the installation of the proposed package transformer.

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

Agenda Item 6

Any Other Business

50. There being no other business, the meeting was closed at 11:20 a.m..