

## **TOWN PLANNING BOARD**

### **Minutes of 349th Meeting of the Metro Planning Committee held at 9:00 a.m. on 11.5.2007**

#### **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

Dr. Daniel B.M. To

Mr. Stanley Y.F. Wong

Mr. Walter K.L. Chan

Mr. Raymond Y.M. Chan

Mr. Felix W. Fong

Ms. Starry W.K. Lee

Mr. K.Y. Leung

Ms. Sylvia S.F. Yau

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

Assistant Director (Environmental Assessment),

Environmental Protection Department  
Mr. Elvis W.K. Au

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

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

Secretary

**Absent with Apologies**

Professor Bernard V.W.F. Lim

Professor N.K. Leung

Professor Paul K.S. Lam

Ms. Maggie M.K. Chan

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

**In Attendance**

Assistant Director of Planning/Board  
Mr. Lau Sing

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

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

**Agenda Item 1**

Confirmation of the Draft Minutes of the 348th MPC Meeting held on 27.4.2007

[Open Meeting]

1. The draft minutes of the 348th MPC meeting held on 27.4.2007 were confirmed without amendments.

**Agenda Item 2**

Matters Arising

[Open Meeting]

2. The Secretary reported that there were no matters arising from the last meeting.

**Kowloon District**

[Mr. Eric C.K. Yue, District Planning Officer/Kowloon (DPO/K), and Mr. Kelvin K.W. Chan, Senior Town Planner/Kowloon (STP/K), were invited to the meeting at this point.]

**Agenda Item 3**

Section 16 Applications

[Open Meeting (Presentation and Question Sessions Only)]

- (i) A/K9/217 Proposed Hotel (Guesthouse)  
in "Residential (Group A)" zone,  
88-102 (Even Number) Wuhu Street,  
Hung Hom  
(MPC Paper No. A/K9/217)
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Presentation and Question Sessions

3. The Committee noted that the applicant's representative had requested on 24.4.2007 for deferment of the consideration of the application to allow time to prepare





should be consulted on the application and the comments received should be taken into account; and

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

- (e) the Planning Department (PlanD)'s views – PlanD did not support the application for the reasons as detailed in paragraph 10.1 of the Paper. The proposed hotel was not in line with the planning intention of the “Residential (Group A)” zone and was considered not compatible with the existing residential character of the area. There was no existing hotel development in this residential area and a previous application for hotel (guesthouse) on the first floor of a commercial/residential building (Application No. A/K10/212) was rejected on review by the Town Planning Board on 8.9.2006. Approval of the application would set an undesirable precedent. The small application site would also result in “pencil-type” development.

8. Members had no question on the application.

#### Deliberation Session

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

- (a) the proposed hotel development was not in line with the planning intention of the “Residential (Group A)” zone which was primarily for residential use;
- (b) the proposed hotel development was considered not compatible with the existing residential character of the Kowloon City area; and
- (c) the approval of the application would set an undesirable precedent for similar hotel developments within the Kowloon City residential neighbourhood, the cumulative effect of which would adversely affect the

traffic condition and general character of the area.

[Open Meeting (Presentation and Question Sessions Only)]

- (iv)           A/K11/179           Shop and Services (Estate Agency Office)  
in “Other Specified Uses” annotated “Business” zone,  
Workshop 3B, G/F, Laurels Industrial Centre,  
32 Tai Yau Street, San Po Kong  
(MPC Paper No. A/K11/179)
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Presentation and Question Sessions

10.           Mr. Kelvin K.W. Chan, STP/K, presented the application and covered the following aspects as detailed in the Paper:

- (a) background to the application, highlighting that a previous application (No. A/K11/156) for the same use at the application premises had been approved with condition by the Committee on 16.4.2004 on a temporary basis for a period of 3 years;
- (b) the shop and services (estate agency office) use;
- (c) departmental comments – no adverse comments from concerned Government departments, including the Director of Fire Services, was received;
- (d) no public comment was received during the statutory publication period and no local objection was received by the District Officer; and
- (e) the Planning Department (PlanD)’s views – PlanD had no objection to the application for the reasons as detailed in paragraph 11.1 of the Paper, in that the applied use was considered generally in line with the planning intention of the “Other Specified Uses” annotated “Business” zone; complied with the Town Planning Board Guidelines No. 22C; not

incompatible with the adjoining ground floor uses of the subject building; and would not have significant adverse fire safety, traffic, environmental and infrastructural impacts to the developments within the subject building and adjacent area.

11. Members had no question on the application.

#### Deliberation Session

12. After deliberation, the Committee decided to approve the application, 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 safety measures, including the provision of means of escape and 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 11.11.2007; 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.

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

- (a) note the Chief Building Surveyor/Kowloon, Buildings Department's comments that the application premises should be physically separated from the remaining portion of the ground floor by minimum 2-hour fire resisting construction and materials pursuant to Part XV of the Building (Construction) Regulations; and
- (b) note that no vehicular access from public road to the application premises would be allowed.



[Open Meeting (Presentation and Question Sessions Only)]

(v)           A/K14/533           Wholesale Trade  
in “Other Specified Uses” annotated “Business” zone,  
Unit H, 13/F, Yip Fat Factory Building, Phase 2,  
73 and 75 Hoi Yuen Road,  
Kwun Tong  

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(MPC Paper No. A/K14/533)

(vi)           A/K14/534           Wholesale Trade  
in “Other Specified Uses” annotated “Business” zone,  
Unit G, 11/F, Yip Fat Factory Building, Phase 2,  
73 and 75 Hoi Yuen Road,  
Kwun Tong  

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(MPC Paper No. A/K14/534)

(vii)          A/K14/535           Proposed Wholesale Trade  
in “Other Specified Uses” annotated “Business” zone,  
Unit F, 1/F, Yip Fat Factory Building, Phase 2,  
73 and 75 Hoi Yuen Road,  
Kwun Tong  

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(MPC Paper No. A/K14/535)

(viii)         A/K14/536           Wholesale Trade  
in “Other Specified Uses” annotated “Business” zone,  
Unit H, 11/F, Yip Fat Factory Building, Phase 2,  
73 and 75 Hoi Yuen Road,  
Kwun Tong  

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(MPC Paper No. A/K14/536)

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| (ix)  | A/K14/537 | Wholesale Trade<br>in “Other Specified Uses” annotated “Business” zone,<br>Portion of Unit F, 11/F, Yip Fat Factory Building, Phase 2,<br>73 and 75 Hoi Yuen Road,<br>Kwun Tong<br><hr/> (MPC Paper No. A/K14/537) |
| (x)   | A/K14/538 | Wholesale Trade<br>in “Other Specified Uses” annotated “Business” zone,<br>Portion of Unit H, 12/F, Yip Fat Factory Building, Phase 2,<br>73 and 75 Hoi Yuen Road,<br>Kwun Tong<br><hr/> (MPC Paper No. A/K14/538) |
| (xi)  | A/K14/539 | Proposed Wholesale Trade<br>in “Other Specified Uses” annotated “Business” zone,<br>Unit F, 2/F, Yip Fat Factory Building, Phase 2,<br>73 and 75 Hoi Yuen Road,<br>Kwun Tong<br><hr/> (MPC Paper No. A/K14/539)    |
| (xii) | A/K14/540 | Proposed Wholesale Trade<br>in “Other Specified Uses” annotated “Business” zone,<br>Unit F, 8/F, Yip Fat Factory Building, Phase 2,<br>73 and 75 Hoi Yuen Road,<br>Kwun Tong<br><hr/> (MPC Paper No. A/K14/540)    |

#### Presentation and Question Sessions

14. Noting that Applications No. A/K14/533 to 540 were all for wholesale trade use within the same building, Members agreed to consider these eight applications together.

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

15. Mr. Kelvin K.W. Chan, STP/K, presented the applications and covered the following aspects as detailed in the Papers:

- (a) background to the applications;
- (b) the wholesale trade use at each application premises;

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

- (c) departmental comments – the District Lands Officer/Kowloon East, Lands Department (DLO/KE, LandsD) advised that the applied use under the applications was not permitted under the lease. The applicants would be required to apply for temporary waiver if planning approval was granted. The Director of Fire Services (D of FS) objected to the applications as the applied use would attract large number of visitors who were not familiar with the industrial building and hence would be exposed to higher risks inside the building;
- (d) during the statutory publication period for the applications, one public comment each in support of the applications was received. Another public comment was also received in support of Applications No. A/K14/533 to 535 and A/K14/537 to 540. However, that commenter also raised concern on the requirement for waiver fee which would render the applied use economically non-viable. The District Officer (Kwun Tong), Home Affairs Department advised that the public was concerned about the traffic problems in the Kwun Tong Industrial Area. If loading and unloading activities were involved, pedestrian safety and traffic aspects should be taken into account. The local leaders had also requested the Government to facilitate the transformation of industrial buildings into commercial/business/shops uses in the area; and
- (e) the Planning Department (PlanD)'s views – PlanD did not support the

applications for the reason as detailed in paragraph 11.1 of the Papers in that the applied use was not acceptable from fire safety point of view.

16. A Member sought clarification on the current use of the application premises. Referring to the applicant's letter dated 27.4.2007 at Appendix 1a of each Paper, Mr. Eric C.K. Yue, DPO/K, said that the application premises were currently occupied by sportswear/clothing stores or vacant/partially vacant.

17. Other Members had the following questions regarding the current retail uses in the subject industrial building:

- (a) what was the proportion of retail to industrial uses;
- (b) when did the retail uses commence operation and whether planning permission was required; and
- (c) what was the existing Government policy for such uses under the "Other Specified Uses" annotated "Business" ("OU(B)") zoning.

18. In reply, Mr. Eric C.K. Yue, DPO/K, made the following points:

- (a) there was no information at hand regarding the proportion of retail uses in the subject building and when they commenced operation. Referring to paragraph 7.2 of the Papers, the subject building had now been predominantly occupied by retail and other commercial uses; and
- (b) the "OU(B)" zone was introduced to encourage the redevelopment/conversion of industrial/industrial-office (I-O) buildings to general business uses, such as offices and other commercial uses, and to provide greater flexibility for change of use in existing industrial/I-O buildings, without compromising fire safety and other requirements. The revised Town Planning Board Guidelines (TPB) No. 22C for 'Development within "OU(B)" had been promulgated in January 2006 to provide guidance for prospective applicants on the specific requirements for change

of use of industrial premises to these uses. In general, shop and services use was restricted to ground floor of an existing industrial/I-O building only due to fire safety concerns, subject to the specific provisions of the relevant outline zoning plan.

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

19. In response to a Member's question on lease enforcement, Mr. James Merritt, Assistant Director (Kowloon), Lands Department (LandsD), advised that the subject building was restricted to industrial and/or godown excluding offensive trades as stated in paragraph 9.1.1 of the Papers. Both retail and wholesale trade uses were not permitted under the lease and subject to lease enforcement action. Should the applications be rejected by the Committee, appropriate lease enforcement action would be taken by the LandsD according to the priority of work.

20. A Member asked if there was any mechanism to facilitate the transformation of an industrial/I-O building to other uses. Mr. Eric C.K. Yue, DPO/K, replied that such transformation would depend on the private initiatives, which was generally a gradual process as determined by the market force.

21. Noting that the D of FS objected to the wholesale trade use under application, some Members raised concerns on the presence of retail uses in the same building which would likely attract more visitors to the building than wholesale trade use. They also enquired about D of FS's criteria in considering applications for commercial uses in industrial/I-O buildings, and whether that would vary if the whole or part of the building had been converted to commercial uses.

22. In reply, Mr. Eric K.C.K. Yue, DPO/K, stated that meetings had been held between D of FS and the concerned owners/occupiers in the subject building on fire safety matters. He further explained that under the TPB Guidelines No. 22C, commercial uses with an aggregate floor area of not exceeding 460m<sup>2</sup> and 230m<sup>2</sup> were allowed on the ground floor of an industrial/I-O building with and without sprinkler systems respectively. Such floor area criteria did not apply to new development or redevelopment/conversion of the whole industrial building as interface issues with the polluting and/or hazardous industrial

uses within the same building would not be a concern.

23. In response to a Member's question on the feasibility of wholesale conversion/redevelopment of the subject building for commercial uses, Mr. James Merritt advised that unanimous consent from all landowners concerned for lease modification would be required. The possibility of obtaining unanimous consent would be difficult for buildings that involved multiple ownership.

#### Deliberation Session

24. Whilst recognising the changing business environment, Members generally agreed that it was important to ensure the fire safety of those visitors attracted to the commercial activities within the industrial building. As such, the current applications could not be supported from fire safety point of view.

25. Notwithstanding, Members opined that the subject building was undergoing transformation, the direction of which was in line with the planning intention of the "OU(B)" zone to encourage the phasing out of existing polluting and/or hazardous industrial uses so that the area could be transformed to cater for business uses. However, during the transitional process, some industrial uses remained in the same building. To help realise the planning intention, the Government should be more proactive to facilitate the transformation, particularly when a large proportion of uses in the industrial/I-O building had been converted or had the intention to convert to other uses as in the case of the subject building. Members' comments/suggestions were summarised below:

- (a) accelerating the redevelopment/conversion of old industrial buildings in the "OU(B)" zone to non-industrial uses should be supported as it would rejuvenate the economic activities of the area;
- (b) the incentive for wholesale redevelopment/conversion of an industrial/I-O building for commercial uses might not be high due to high premium for lease modification;
- (c) individual owners/occupiers might not have the necessary resources and

expertises to put forward measures to overcome fire safety problems during the transformation process;

- (d) on fire safety concerns, D of FS should be requested to examine if different criteria should be adopted for applications for commercial uses in an industrial/I-O building when only a small proportion of industrial uses remained in the same building;
- (e) to address the interface problem, more innovative zoning mechanism could be considered, such as by allowing conversion of a number of consecutive floors in a comprehensive manner with provision of a buffer floor separating industrial uses from commercial uses; and
- (f) consideration should be given to setting up a task force to examine the issues and put forward practicable solutions as well as setting up a resource centre to provide assistances and advice to owners/occupiers in overcoming problems encountered during the transformation process;
- (g) apart from lease enforcement, D of FS should patrol more frequently and step up enforcement action against the unauthorised commercial uses during the transformation process.

26. The Chairperson said that the issues relating to rejuvenation of the old industrial areas in Hong Kong were complicated. With the structural changes in the economy, a lot of industrial uses were gradually phasing out. The introduction of the “OU(B)” and the provision for a selective range of compatible business uses under the planning application system were providing incentive to help transforming the old industrial areas to other uses. However, it had to be complemented by a mechanism to overcome strata-title problem of most of the industrial buildings in Hong Kong. The Secretary supplemented that the fire safety concerns related to commercial uses within the industrial/I-O buildings had been a subject of discussion among relevant Government departments, including the Housing, Planning and Lands Bureau (HPLB), PlanD, LandsD and the Fire Services Department (FSD). A paper was being prepared by the Secretariat on enforcement of planning conditions relating to fire safety installations for submission to the

Town Planning Board for consideration. Representatives from concerned Government departments would be invited to attend the relevant meeting to address the issues raised by Members. Members' comments/suggestions in paragraph 25 above would be relayed to HPLB and FSD respectively for their consideration.

27. After deliberation, the Committee decided to reject the applications for the reason that the applications were not supported from fire safety point of view.

[The Chairperson thanked Mr. Eric C.K. Yue, DPO/K, and Mr. Kelvin K.W. Chan, STP/K, for their attendance to answer Members' enquiries. Messrs. Yue and Chan left the meeting at this point.]

### **Hong Kong District**

[Ms. Lily Y.M. Yam, Senior Town Planner/Hong Kong (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/H3/376 Proposed Hotel  
in "Residential (Group A)" zone,  
110, 112 and 114 Second Street,  
Sai Ying Pun  
(MPC Paper No. A/H3/376)
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##### **Presentation and Question Sessions**

28. Ms. Lily Y.M. Yam, STP/HK, presented the application and covered the following aspects as detailed in the Paper:



- (a) background to the application;
- (b) the proposed hotel use;
- (c) departmental comments – the Commissioner of Police had raised concerns on the traffic impact due to the increased loading and parking activities generated by the proposed hotel, especially during peak periods. While having no objection to the proposed hotel from urban design and landscape points of view, the Chief Town Planner/Urban Design and Landscape, Planning Department commented that the proposed hotel was not in harmony in built form, architectural style nor colour with the low-rise residential buildings in the immediate vicinity and hence further improvement in architectural design should be considered. The Chief Engineer/Hong Kong and Islands, Drainage Services Department commented that the applicant had not addressed the drainage and sewerage issues due to the proposed development in the submission;
- (d) nine public comments objecting the application were received during the statutory publication periods of the application and the further information. The grounds of objection were highlighted as per paragraph 9.3 of the Paper. The District Officer (Central & Western), Home Affairs Department had reservation on the application mainly on traffic and environmental grounds; and
- (e) the Planning Department (PlanD)’s views – PlanD did not support the application for the reasons as detailed in paragraph 10.1 of the Paper, mainly in that the proposed hotel was not in line with the planning intention of the “Residential (Group A)” zone and was considered not compatible with the residential character of the area. There was no strong justification in the submission to merit a departure from the planning intention. Approval of the application would also set an undesirable precedent.

29. Members had no question on the application.

Deliberation Session

30. The Chairperson remarked that the application site of about 175.7m<sup>2</sup> was relatively small and the maximum non-domestic plot ratio of 15 permissible under the Building (Planning) Regulations, excluding the bonus plot ratio that might be granted for back-of-house facilities for the hotel use, was substantially higher than the maximum domestic plot ratio of 8 permissible in the adjoining area, thus creating an incongruous built environment in the neighbourhood.

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

- (a) the proposed hotel was not in line with the planning intention of the “Residential (Group A)” zone which was primarily intended for residential use. There was no strong justification in the submission to merit a departure from the planning intention;
- (b) the proposed development was considered incompatible with the surrounding area which was predominantly residential in character; and
- (c) the approval of the application would set an undesirable precedent for similar hotel developments within the residential neighbourhood, the cumulative effect of which would adversely affect the general amenity in the area.

[The Chairperson thanked Ms. Lily Y.M Yam, STP/HK, for her attendance to answer Members’ enquires. Ms. Yam left the meeting at this point.]

[Mr. David C.M. Lam, STP/HK, was invited to the meeting at this point.]

[Open Meeting (Presentation and Question Sessions Only)]

- (ii)           A/H18/52                   Proposed House (Conversion of Existing Building)  
in “Government, Institution or Community” zone,  
Former Government Staff Quarters of  
Water Supplies Department,  
Tai Tam Tuk Pumping Station,  
Tai Tam  
  
(MPC Paper No. A/H18/52)
- 

Presentation and Question Sessions

32.           The Secretary reported that the former Government staff quarters of Water Supplies Department within the application site were classified as Grade I historical buildings. Dr. Greg C.Y. Wong, Professor Bernard V.W.F. Lim and Mr. Leslie H.C. Chen were Members of the Antiquities Advisory Board. Members agreed that their interests were indirect and hence they should be allowed to stay at the meeting. Members noted that Professor Bernard V.W.F. Lim had tendered apology for not being able to attend the meeting.

33.           The Secretary also reported that a letter was received from Protech Property Management Ltd. raising objection to the application on behalf of the Redhill Peninsula. Mr. Felix W. Fong had declared an interest in this item as he owned a property at Redhill Peninsula.

[Mr. Felix W. Fong left the meeting temporarily at this point.]

34.           Mr. David C.M. Lam, STP/HK, presented the application and covered the following aspects as detailed in the Paper:

- (a) background to the application, highlighting that the application site was the subject of a previous application (No. A/H18/47) approved by the Committee on 30.7.2004 for the conversion of the former Government staff quarters to house use on a temporary basis for a period of 5 years. However, the letting of the vacant premises for residential use had been deferred pending the completion of the building services works in

end-2006;

- (b) the proposed House (conversion of existing building) use;
- (c) departmental comments – no objection from concerned Government departments, including the Antiquities Monuments Office (AMO) of the Leisure and Cultural Services Department (LCSD), was received;
- (d) during the statutory publication period, two public comments were received. One commenter had no objection to the application while the other commenter supported the preservation of the heritage site and the proposed conversion for beneficial use with minimum adverse impact to the surrounding environment. The District Officer (Southern), Home Affairs Department had received an objection to the application from Protech Property Management Ltd., on behalf of the Redhill Peninsula, on the ground that the proposed use would destroy the quiet environment of the Redhill Peninsula; and
- (e) the Planning Department (PlanD)'s views – PlanD had no in-principle objection to the application for the reasons as detailed in paragraph 10.1 of the Paper, mainly in that the proposed use was considered not incompatible with the surrounding land uses; would unlikely generate adverse traffic impact; and there was virtually no change of use as the site was originally for residential purpose. As any alteration and addition to the existing historical buildings would be prohibited under the tenancy agreement, the proposed use would not create any adverse impact on the historical value of the existing premises. However, the application should be approved on a temporary basis for a period of 5 years to provide flexibility for the Government to review the land use of the application site at an appropriate time. As regards the local concerns, the proposed use was for a single residence, which would unlikely create significant impact on the surrounding neighbourhood.

35. Members had no question on the application.

Deliberation Session

36. After deliberation, the Committee decided to approve the application on a temporary basis for a period of 5 years up to 11.5.2012, on the terms of the application as submitted to the Town Planning Board (TPB) and subject to the condition that the provision of water supply for fire fighting and fire services installations to the satisfaction of the Director of Fire Services (D of FS) or of the TPB.

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

- (a) all proposals on alterations and additions to the premises should have the consent of the Antiquities Monuments Office (AMO) of the Leisure and Cultural Services Department (LCSD) prior to the commencement of works;
- (b) the premises should be made available to the staff of the AMO of LCSD to gain access for the purpose of any site inspection, improvement or development in connection with the historical buildings;
- (c) vehicles weighing over 3 tonnes were prohibited to enter the road section beyond the Tai Tam Scout Centre;
- (d) to seek the agreement of Director of Water Supplies on the access arrangement;
- (e) to note the comments of Director of Water Supplies regarding the implementation of security and safety measures within the Tai Tam Tuk pumping station boundary;
- (f) to note the comments of D of FS regarding the compliance of Code of Practice for Means of Access for Firefighting and Rescue; and
- (g) to note the comments of Chief Town Planner/Urban Design and Landscape,



- (b) the school (tutorial school) use;
- (c) departmental comments – no objection from concerned Government departments was received;
- (d) during the statutory publication period, one public comment was received with no comment on the application. The District Officer (Yau Tsim Mong), Home Affairs Department had consulted the Chairman of Yau Tsim Mong North Area Committee, who had no comment on the application; and
- (e) the Planning Department (PlanD)’s views – PlanD did not support the application for the reasons as detailed in paragraph 11.1 of the Paper. The tutorial school was considered incompatible with the approved domestic uses on part of 1/F and 2/F to 12/F in the Occupation Permit as there was no separate access and its operation might cause nuisances to the residents of the subject building. The non-conforming commercial uses above the lowest three floors of the subject building had not yet obtained planning permission. Unlike the current application premises, the 19 previous approved applications for school use under the “Residential (Group A)” (“R(A)”) zoning in the Mong Kok area were located in commercial/office buildings or the non-domestic portion of commercial/residential building with separate access. Approval of the application would set an undesirable precedent.

39. Members had no question on the application.

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

#### Deliberation Session

40. In response to Members’ question on enforcement matter, Mr. James Merritt, Assistant Director (Kowloon), Lands Department, said that the subject building was subject

to virtually unrestricted lease, except for the standard non-offensive trade clause. In the event that the application was rejected by the Committee, no lease enforcement action on the tutorial school use at the application premises could be taken. The Chairperson supplemented that there was also no provision under the Town Planning Ordinance for planning enforcement in the urban and new town areas. In such case, enforcement on unauthorised change of uses had to rely on Buildings Department through the submission of building plans.

41. Noting that the Director of Fire Services (D of FS), Chief Building Surveyor/Kowloon, Buildings Department (CBS/K, BD) and other concerned Government departments had no objection to the application and the subject building had largely been converted to commercial uses without planning permission, Members were concerned if rejection of the current application would deter the regularisation of unauthorised commercial uses within the same building.

42. Another Member cautioned that the tutorial school use under application was in breach of the Occupation Permit issued by the Buildings Department. Unlike Applications No. A/K14/533 to 540 considered by the Committee earlier in the same meeting, the tutorial school use was not in line with the general planning intention of the “R(A)” zone which was for residential use. Referring to paragraph 7.2 of the Paper, there were still residential uses in the same building and some non-domestic premises could be resumed to domestic uses in future. Members therefore generally considered that the tutorial school use would cause nuisances to residents of the same building. A Member also considered that approval of the current application in the “R(A)” zone would set an undesirable precedent for similar applications for commercial uses in the domestic portion which was not provided with separate access in commercial/residential buildings. For Members’ information, the Secretary said that in rejecting a previous application (No. A/K7/81) for the same use under the “Residential (Group B)” zone in Ho Man Tin area on 9.3.2007, Members had agreed that separate access to the application premises was a relevant consideration in assessing applications for tutorial school use.

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

43. A Member asked if planning permission would be required if the tutorial school



was under “Commercial/Residential” (“C/R”) zone, instead of “R(A)” zone. Referring to Appendix 1e of the Paper, another Member enquired if structural calculations were required for applications for tutorial school use. The Secretary replied that planning permission for tutorial school use would not be required under “C/R” zone. However, the “Stage II Study on Review of Metroplan and the Related Kowloon Density Study Review (2003)” had recommended to rezone the “C/R” zone to other appropriate zonings as it would create uncertainties as to the type of development that would take place. Implementation of the recommendation on rezoning of the “C/R” zones at various places was already underway. As the tutorial school was in breach of the Occupation Permit for domestic use, the structural calculations were necessary to demonstrate to the Buildings Department that the structural loading of the application premises was acceptable for the tutorial school use. Members generally considered that the infiltration of large number of non-domestic uses in the subject building was not a good reason to allow the current application as the former were not approved by the Town Planning Board.

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

- (a) the tutorial school was incompatible with the approved domestic uses within the subject building; and
- (b) approval of the application would set an undesirable precedent for other similar applications which would lead to intrusion of commercial uses into the domestic portion of commercial/residential buildings in “Residential (Group A)” zone.

[Ms. Sylvia S.F. Yau left the meeting at this point.]

[Open Meeting (Presentation and Question Sessions Only)]

- (ii)           A/TW/390           Proposed Religious Institution (Church)  
in “Residential (Group A)” zone,  
1/F, Podium A, Wealthy Garden Shopping Arcade,  
36-48 Tsuen Wah Street,  
Tsuen Wan  
(MPC Paper No. A/TW/390)
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Presentation and Question Sessions

45.           The Committee noted that the applicant’s representative had requested on 26.4.2007 for deferment of the consideration of the application to resolve various matters with the Buildings Department.

Deliberation Session

46.           After deliberation, the Committee decided to defer a decision on the application as requested by the applicant pending the resolution of various matters with the Buildings Department and 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 resolution of various matters with the Buildings Department and preparation of the submission of further information, and no further deferment would be granted unless under very special circumstances.

[Open Meeting (Presentation and Question Sessions Only)]

- (iii)           A/TY/96           Concrete Batching Plant and Asphalt Production Plant  
in “Industrial” zone,  
Tsing Yi Town Lot 108RP(Part),  
Sai Tso Wan Road,  
Tsing Yi  
(MPC Paper No. A/TY/96B)
-

Presentation and Question Sessions

47. The Secretary reported that the application was submitted by the Hong Kong United Dockyards Ltd., a joint venture of Hutchison Whampoa Ltd. and Swire Pacific Ltd. Dr. Greg C.Y. Wong and Mr. Raymond Y.M. Chan, who had current business dealings with Hutchison Whampoa Ltd. and Swire Pacific Ltd. respectively, declared interests in this item.

[Dr. Greg C.Y. Wong and Mr. Raymond Y.M. Chan left the meeting temporarily at this point.]

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

- (a) background to the application as detailed in paragraphs 1 and 2 of the Paper, highlighting that the application was to seek planning permission to continue the existing concrete batching plant and asphalt production plant uses at the application site on a permanent basis;
- (b) during the statutory publication period of the further information submitted by the applicant, a public comment was received challenging the Town Planning Board (TPB)'s jurisdiction under section 16 of the Town Planning Ordinance (the Ordinance) to consider the application in relation to the asphalt production plant, while submitting that the permission for such use should be considered under section 12A of the Ordinance. Under the Notes for the "Industrial" ("I") zone on the approved Tsing Yi Outline Zoning Plan (OZP) No. S/TY/22, 'asphalt production plant' had not been specifically designated as a Column 1 or 2 uses. Neither was the term defined in the Definition of Terms/Broad Use Terms used in Statutory Plans. On 15.12.2006, the Committee agreed to defer consideration of the application as requested by the Planning Department (PlanD) to seek legal advice on the asphalt production plant use;
- (c) Department of Justice (D of J) advised that the interpretation of 'asphalt

production plant' being regarded as akin to 'concrete batching plant' was not free from doubt based on the considerations given in paragraph 2.5 of the Paper. In light of the legal advice from D of J, PlanD was of the view that the application should not be considered in the absence of provision for the TPB to consider the 'asphalt production plant' use by way of a section 16 application. To put it beyond doubt that planning application for 'asphalt production plant' use could be submitted under section 16 of the Ordinance, PlanD suggested to amend the Notes of the Tsing Yi OZP by adding 'asphalt plant' in Column 2 of the Notes for the subject "I" zone. The Master Schedule of Notes to Statutory Plans would also be amended accordingly so that similar amendments to the Notes of other OZPs would be made when opportunity arose.

49. In response to a Member's questions, Mr. Elvis W.K. Au, Assistant Director (Environmental Assessment), Environmental Protection Department (EPD), replied that concrete batching plant and asphalt production plant were Specified Processes under the Air Pollution Control Ordinance (APCO). The licences required for the operation of the concrete batching plant and asphalt production plant at the application site under the APCO had been issued in 2002. The environmental concerns in respect of the asphalt production plant use were mainly on dust pollution and traffic noise impacts generated by the activities. The level of impacts would depend on a number of considerations, such as the volume of production and materials involved and the scale of operation. Three complaints mainly relating to dust pollution generated by the current uses at the application site had previously been received by the EPD, but they were not substantiated after investigation.

50. In response to two other Members' questions, the Secretary replied that in general, polluting industrial uses, including 'concrete batching plant' use, were put under Column 2 of the "I" zone such that planning permission was required to ensure that they would not generate adverse environmental, traffic, infrastructural and other impacts. The exhibition of the draft Tsing Yi OZP under section 5 of the Ordinance to make provision for application for 'asphalt production plant' use under the subject "I" zone, if agreed, would provide a statutory channel for the public to submit representations on the proposed amendment to the Notes of the OZP.

Deliberation Session

51. A Member raised concern on the compatibility of the subject “I” site with the adjacent “Other Specified Uses” (“OU”) annotated “Recreation and Tourism Related Uses”. Ms. Heidi Y.M. Chan, DPO/TWK, explained that the concerned “OU” zone was intended for low-density and low-rise recreation and tourism related uses such as resort hotel, public recreational uses and other tourist attractions. The interface issue could be addressed through careful design and layout of developments therein as required under the concerned “OU” zone, in particular the land area of the subject zone was very large and the permitted development intensity was very low, so there should be sufficient land to provide suitable buffer between the two uses.

52. In light of the legal advice and the above discussions, Members agreed that there was no provision for the Committee to consider section 16 application for the ‘asphalt production plant’ use. The Committee agreed to advise the applicant that according to section 16(4) of the Ordinance, the TPB might grant permission only to the extent shown or provided for or specified in the OZP. There was no provision under the Notes of the approved Tsing Yi OZP No. S/TY/22 for the TPB to grant planning permission to the application which included ‘asphalt production plant’ use at the application site.

53. The Committee also agreed to advise the applicant that the TPB would proceed to amend the approved Tsing Yi OZP No. S/TY/22 in order to make provision for consideration of planning applications submitted under section 16 of the Ordinance for ‘asphalt production plant’ use on the OZP. The proposed amendment would be exhibited for public representation under section 5 of the Ordinance.

54. The Committee also noted that the Master Schedule of Notes to Statutory Plans would be amended accordingly so that similar amendments to the Notes of other OZPs would be made when opportunity arose.

[Dr. Greg C.Y. Wong and Mr. Raymond Y.M. Chan returned to join the meeting at this point.]

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



The District Officer (Kwai Tsing), Home Affairs Department supported the application; and

- (e) the Planning Department (PlanD)'s views – PlanD had no objection to the application for the reasons as detailed in paragraph 10.1 of the Paper, mainly in that the applied use was an essential facility for serving and accessing to the Lantau Link Visitor Centre and Viewing Platform; it was considered not incompatible with the character of the surrounding areas; the application site might not be suitable for other uses given its isolated location; and relevant Government departments had no objection to the application. As regards the public concerns, a taxi stand was already in place south of the application site and the public might use public transport, other than private cars, to reach the Lantau Link Visitor Centre and Viewing Platform. Plantings had been provided within the public vehicle park at the application site. While the applied use was currently managed, operated and maintained by the operator of the Tsing Ma Control Area, the applicant had clarified that these duties would be taken up by its car park operator in future.

57. Members had no question on the application.

#### Deliberation Session

58. After deliberation, the Committee decided to approve the application, on the terms of the application as submitted to the Town Planning Board.

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

#### Agenda Item 6

59. The minutes of this item were recorded under separate confidential cover.

**Hong Kong District**

**Agenda Item 7**

60. The minutes of this item were recorded under separate confidential cover.

**Agenda Item 8**

**Any Other Business**

61. There being no other business, the meeting was closed at 12:55 p.m.