

TOWN PLANNING BOARD

Minutes of 375th Meeting of the Metro Planning Committee held at 9:00 a.m. on 20.6.2008

Present

Director of Planning
Mrs. Ava S.Y. Ng

Chairperson

Mr. Stanley Y.F. Wong

Vice-chairman

Mr. Nelson W.Y. Chan

Mr. Leslie H.C. Chen

Professor N.K. Leung

Professor Bernard V.W.F. Lim

Dr. Daniel B.M. To

Ms. Sylvia S.F. Yau

Mr. Walter K.L. Chan

Mr. Raymond Y.M. Chan

Mr. K.Y. Leung

Mr. Maurice W.M. Lee

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

Assistant Director (Environmental Assessment),
Environmental Protection Department
Mr. C.W. Tse

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

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

Secretary

Absent with Apologies

Mr. Felix W. Fong

Ms. Starry W.K. Lee

Dr. Ellen Y.Y. Lau

Dr. Winnie S.M. Tang

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. W.S. Lau

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

Agenda Item 1

Confirmation of the Draft Minutes of the 374th MPC Meeting held on 6.6.2008

[Open Meeting]

1. The draft minutes of the 374th MPC meeting held on 6.6.2008 were confirmed without amendments.

Agenda Item 2

Matters Arising

[Open Meeting]

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

[Mr. Maurice W.M. Lee arrived to join the meeting at this point.]

Hong Kong District

Agenda Item 3

Section 12A Application

[Open Meeting (Presentation and Question Sessions only)]

Y/H5/1 Application for Amendments to the
Approved Land Development Corporation Wan Chai Road/
Tai Yuen Street Development Scheme Plan No. S/H5/LDC1/2,
Urban Renewal Authority Development Scheme Area at
Wan Chai Road/Tai Yuen Street, Wan Chai
(MPC Paper No. Y/H5/1)

[The hearing was conducted in Cantonese.]

Presentation and Question Sessions

3. The Secretary said that as the subject application involved the Urban Renewal Authority's Development Scheme Area at Wan Chai Road/Tai Yuen Street, the following Members had declared interests in this item :

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| Mrs. Ava S.Y. Ng
as the Director of Planning | - being a Non-executive Director of the Urban Renewal Authority (URA) |
| Professor Bernard V.W.F. Lim | - having current business dealing with the URA |
| Mr. Walter K.L. Chan | - being a Non-executive Director of the URA |
| Mr. Maurice W. M. Lee | - being a Non-executive Director of the URA |
| Mr. James Merritt
as the Assistant Director of
Lands Department | - being an assistant to the Director of Lands who was a Non-executive Director of the URA |
| Ms. Margaret Hsia
as the Assistant Director of
Home Affairs Department | - being an assistant to the Director of Home Affairs who was a Non-executive Director of the URA |

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

4. The Committee noted that Ms. Margaret Hsia had tendered apologies for being unable to attend the meeting, and Professor Bernard V.W.F. Lim had not yet arrived at the meeting. The Secretary said that as the Chairperson had declared an interest in the item, the Vice-chairman should take up the chair of the meeting.

[The Chairperson, Mr. Walter K.L. Chan, Mr. Maurice W.M. Lee and Mr. James Merritt left the meeting temporarily at this point.]

5. The following representatives from the Planning Department (PlanD) were invited to the meeting at this point :

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| Ms. Brenda K.Y. Au | - District Planning Officer/Hong Kong (DPO/HK) |
| Ms. Donna Y.P. Tam | - Senior Town Planner/Hong Kong (STP/HK) |

6. Miss Ho Ka-bo, the applicant's representative, was also invited to the meeting at this point.

7. The Vice-chairman extended a welcome and explained the procedures of the hearing. The Vice-chairman then invited Ms. Donna Y.P. Tam, STP/HK, to brief Members on the background to the application.

8. With the aid of a Powerpoint presentation, Ms. Donna Y.P. Tam presented the application as detailed in the Paper and made the following main points :

- (a) the applicant proposed to rezone Site C of the URA Development Scheme Area at Wan Chai Road/Tai Yuen Street, Wan Chai (i.e. the Wanchai Market) from "Comprehensive Development Area" ("CAD") to "Other Specified Uses" ("OU") annotated "In-situ Preservation of the Wanchai Market and No Addition to the Existing Building Should be Permitted" on the approved Land Development Corporation (LDC) Wan Chai Road/Tai Yuen Street Development Scheme Plan (DSP). The applicant also proposed the following provisions in the Notes of the proposed "OU" zone :-
 - (i) openable windows of the Wanchai Market were special architectural feature and should not be enclosed; and
 - (ii) any structural alteration to the Wanchai Market required planning permission from the Town Planning Board (TPB);
- (b) the applicant had not put forward any Column 1 or 2 uses for the proposed "OU" zone, but proposed that the Wanchai Market should retain its function as a market. To recognize the development rights of the developer, the applicant had put forth two development options. The first one was to grant the adjacent site currently occupied by the Lui Kee Education Services Centre for re-provision, and the second one was to transfer the development rights to other URA projects;

- (c) the justifications put forth by the applicant were summarized in paragraph 2 of the Paper;
- (d) The Wanchai Market was a Grade III historical building built in 1937. The market was still operating. The building was bounded by Wan Chai Road, Queen's Road East, the Ruttonjee Hospital and the Hong Kong Jockey Club Garden. Adjacent to its north and west were Sites A and B of the Wan Chai Road/Tai Yuen Street Development Scheme Area;
- (e) the subject Development Scheme Area was zoned "CDA" on the LDC Wan Chai Road/Tai Yuen Street DSP No. S/H5/LDC1/2. On 16.1.1998, the first Master Layout Plan (MLP) covering the whole Development Scheme Area (i.e. Sites A, B and C) was approved by the Committee. The approved developments for Sites A and B had already been completed. According to the amended MLP approved by the Town Planning Board (TPB) on 20.2.2004, the Wanchai Market on Site C would be demolished and redeveloped into a 42-storey residential on a 4-storey podium with commercial facilities;
- (f) in order to address the public request for preservation of the Wanchai Market, the URA had worked out with the joint venture developer a "core elements preservation" approach by preserving in-situ the key representative elements of the existing building. The residential development under the previously approved scheme would be built on the top of the preserved building. The Antiquities Advisory Board, the Subcommittee on Heritage Conservation of the Legislative Council Panel on Home Affairs, and the Wan Chai District Council had been consulted on that approach. All parties welcomed the efforts made by the Government, URA and the joint venture developer and generally agreed that the "core elements preservation" approach had struck a fine balance between heritage conservation and development. Hence, a section 16 application (No. A/H5/369) for amendments to the approved MLP to effect this approach had been submitted by the URA. That application would be consideration by the Committee at the same meeting;

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

- (g) the comments on the application from concerned Government departments were set out in paragraph 9 of the Paper. The Chief Town Planner/Urban Design and Landscape, Planning Department supported the preservation of the Wanchai Market but doubted the practicability of the proposed transfer of plot ratio to the adjacent site currently occupied by Lui Kee Education Services Centre. The District Lands Officer/Hong Kong East, Lands Departments did not support the application from land utilization point of view as the proposal would fail to meet the minimum gross floor area requirement under the lease. Other concerned Government departments have no adverse comment on/objection to the application;

- (h) a total of 19 public comments were received during the statutory publication period. 15 supported to the application and one objected to it. The remaining provided comments/suggestions on the application. The supporting comments were submitted by the general public, the Conservancy Association and a Wan Chai District Council member, while the objecting comment was submitted by the URA. The main reasons to support the application were the need to preserve the historical building and to reduce building intensity in the area. The major reasons for objection were that any proposal to change the redevelopment boundary or transfer of development right elsewhere would have significant legal and contractual implications on all relevant parties, and the “core elements preservation” approach had strived to strike a balance between conservation and development; and

- (i) the PlanD did not support the application for reasons as detailed in paragraph 11 of the Paper in that there was no mechanism under the Town Planning Ordinance for the TPB to rescind the planning permission already granted. It was not appropriate to rezone the site as proposed in the application which would not allow any additional development on Site C. The URA had commented that the application would have significant legal and contractual implications. As such, the implementability of the

preservation proposal under application was doubtful. To address the increasing public aspiration on the preservation of historical building, the URA had proposed a “core elements preservation” approach which would allow an integration of the existing Wanchai Market and the new development. In this regard, there was insufficient justification in the application for preserving the Wanchai Market in whole, and the proposed rezoning should not be regarded as the only option for preserving this historical building.

9. The Vice-chairman then invited the applicant’s representative to present her case.
10. With the aid of a Powerpoint presentation, Miss Ho Ka-bo made the following main points :
 - (a) the subject site was located in an open area with several URA’s redevelopment projects in the same district. Some of these projects were completed and the remaining were still undergoing;
 - (b) the existing Wanchai Market was of Bauhaus Modernism character, with a theme of ‘form follows functions’. The openable windows and open layout design allowed natural lighting and better air ventilation within the building. As such, there was no need to have air-conditioning in the market. In contrast, the new market within the subject “CDA” site was like a shopping centre, with partition walls for each stall. The floor height was relatively lower and the indoor area was enclosed. This made air-conditioning inevitable;
 - (c) the URA’s proposal under section 16 application No. A/H5/369 was not a genuine “core elements preservation” approach for the Wanchai Market as the existing market building would be partially demolished with a 39-storey residential development on its top. Most importantly, the preserved building would no longer be used as market;

- (d) the applicant also proposed two restrictions for the “OU” zone, including openable windows of the Market should not be enclosed, and any structural alteration to the Market should require planning permission from the TPB;
- (e) in order to compensate the developer’s development rights, the applicant also suggested two development options, including granting the adjacent site currently occupied by Lui Kee Education Services Centre for re-provision, or to transfer the development rights to other URA redevelopment projects;
- (f) there were a total of five historical markets in Hong Kong. The Western Market, which was a listed building, had been converted into a shopping centre. The site of Kowloon Market was already redeveloped into a commercial building. The Central Market was on the Application List for Land Sale. The remaining two were the Wanchai Market and the Causeway Bay Market; and
- (g) the major objective of the applicant’s proposal was to maintain the market function of the Wanchai Market. It was hoped that the TPB could urgently review the existing urban renewal policy and take genuine efforts to preserve the remaining historical buildings in Hong Kong.

11. In response to a Member’s question on the future use of the Wanchai Market in URA’s proposed “core elements preservation” approach, Ms. Brenda K.Y. Au, DPO/HK, said that the preserved Market would be used as a shopping centre with retail shops and eating places.

12. Two Members raised questions on the grading of the historical Wanchai Market. Miss Ho Ka-bo replied that the applicant had never discussed the matter with the Antiquities and Monuments Office (AMO) nor made any application for upgrading the grading of the historical building. Ms. Brenda K.Y. Au clarified that under the Antiquities and Monuments Ordinance, the Antiquities Authority was responsible for assessment of the grading of the historical buildings in Hong Kong, and the TPB had no role to play under the Town Planning Ordinance.

13. Two Members asked about the proposed transfer of development rights to the site at Lui Kee Education Services Centre. Miss Ho Ka-bo said that that site was suggested by some local residents, organizations and District Councils members, taking into consideration the existing low usage rate of Lui Kee Education Services Centre. It was located on the opposite side of Queen's Road East near the subject site. In spite of its smaller size when compared with the subject site, it could still accommodate the residential development proposed on the subject site. A preliminary assessment had been done for this development option. It was found that the potential impacts of the residential development on both the subject site and the Lui Kee site would be similar.

14. The Vice-chairman requested Ms. Brenda K.Y. Au to further explain the point on significant legal and contractual implications mentioned in the URA's comments. Ms. Au said that the MLP for the subject "CDA" zone was first approved by the Committee in 1998. So far, the approved scheme for Sites A and B had already been completed and the flats had already been sold. Regarding Site C, the Government had already granted the land in 2003, and all the contractual agreements between the URA and the joint venture developer had already been signed. According to the URA, the amendments proposed under section 16 application No. A/H5/369 were already the best compromised deal which could be reached between the URA and the joint venture developer. Any further major change in the proposal would not be acceptable to the joint venture developer, thereby rendering the revised scheme non-implementable.

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

15. As Members had raised no further question, and the applicant's representative had no further point to make, the Vice-chairman informed the applicant's representative that the hearing procedures had been completed and the Committee would further deliberate on the application in her absence, and inform the applicant of the Committee's decision in due course. The Vice-chairman thanked the applicant's representative for attending the meeting. She left the meeting at this point.

16. Noting that a section 16 application No. A/H5/369, also involving the Wanchai Market, would be considered at the same meeting, the Committee agreed to deliberate on the subject application together with that application. In view of this, the Vice-chairman invited

the PlanD's representatives to stay at the meeting to present the section 16 application No. A/H5/369.

Agenda Item 4

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/H5/369 Proposed Residential/Commercial Development with
Government, Institution and Community Facilities
(Amendments to Approved Scheme in Relation to Site C Only)
in "Comprehensive Development Area" zone,
Urban Renewal Authority Development Scheme Area
at Wanchai Road/Tai Yuen Street, Wan Chai, Hong Kong
(MPC Paper No. A/H5/369)

Presentation and Question Sessions

17. The Secretary said that as the subject application was made by the Urban Renewal Authority (URA) involving the Development Scheme Area at Wan Chai Road/Tai Yuen Street, the following Members had declared interests in this item :

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| Mrs. Ava S.Y. Ng
as the Director of Planning | - being a Non-executive Director of the URA |
| Professor Bernard V.W.F. Lim | - having current business dealing with the URA |
| Mr. Walter K.L. Chan | - being a Non-executive Director of the URA |
| Mr. Maurice W. M. Lee | - being a Non-executive Director of the URA |
| Mr. James Merritt
as the Assistant Director of
Lands Department | - being an assistant to the Director of Lands
who was a Non-executive Director of the
URA |
| Ms. Margaret Hsia
as the Assistant Director of
Home Affairs Department | - being an assistant to the Director of Home
Affairs who was a Non-executive Director
of the URA |

18. The Committee noted that Ms. Margaret Hsia had tendered apologies for being unable to attend the meeting; Professor Bernard V.W.F. Lim had not yet arrived at the meeting; and the Chairperson, Mr. Walter K.L. Chan, Mr. Maurice W.M. Lee and Mr. James Merritt had already left the meeting temporarily at the beginning of the hearing of section 12A application No. Y/H5/1 under Agenda Item 3. The Secretary said that as the Chairperson had declared an interest in the item, the Vice-chairman should continue to chair the meeting.

19. With the aid of a Powerpoint presentation, Ms. Donna Y.P. Tam, STP/HK, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) amendments to an approved scheme for comprehensive residential/commercial development with Government, institution and community facilities;
- (c) departmental comments – the District Lands Officer/Hong Kong East, Lands Department noted that the proposed amendments would entail some non-fulfillment of the lease requirements. Therefore, a lease modification would be required should the application be approved. The Chief Architect/Advisory and Statutory Compliance, Architectural Services Department suggested the applicant to explore other possibilities to separate the residential tower visually from the Market as much as possible so that a more distinct and individual identity for the Market might be allowed. The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) considered it necessary to appropriately use the spaces within the preserved historical structure for the benefit of the community. The Director of Leisure and Cultural Services (DLCS) requested the existing playground on the rooftop of the market building be remained in its status quo if the market building was to be preserved. Other concerned Government departments had no objection to or no adverse comment on the application;

- (d) a total of 19 public comments were received during the statutory publication period. One indicated no comment on the application, and one provided comments/suggestions on the development of the site. The remaining 17 comments were submitted by the residents nearby and members of the general public. They objected to the application mainly on grounds relating to high development density, adverse traffic impacts, and the need for preservation of the Wanchai Market; and

- (e) the Planning Department (PlanD)'s views – the PlanD had no objection to the application for the reasons as detailed in paragraph 11 of the Paper in that the proposed development was generally in line with the planning intention of the subject “Comprehensive Development Area” (“CDA”) zone, and the approved development of Sites A and B has already been completed. Under the previously approved scheme (Application No. A/H5/337), the Wanchai Market was proposed to be demolished. The current proposal for partial preservation of the Market, with the residential block built above it, represented the best effort shown by the URA to preserve the Grade III historical building. The proposed “core elements preservation” approach was considered to have struck a balance between heritage conservation and development. Any major change in design of the approved Master Layout Plan would not be acceptable to the joint venture developer, rendering the revised scheme non-implementable. Compared with the previously approved scheme, the proposed development under application had no change in the major development parameters, including total gross floor area and building height. Most concerned Government departments, including the Assistant Commissioner for Transport/Urban, Transport Department (AC for T/U, TD), had no objection to or no adverse comment on the application. In response to the concerns of the CTP/UD&L, PlanD on the future community uses for the preserved building, it was suggested to impose an advisory clause to allow public use and appreciation of the historical structure. As regards the comments of the DLCS on the existing public open space on the rooftop of the Wanchai Market, there was actually no requirement in the previously approved scheme for the re-provision of the open space upon demolition of

the market building.

20. The Vice-chairman informed Members that the applicant had submitted a physical model on the proposed development, and the model was placed in the meeting room for Members' reference.

21. In response to two Members' questions on the provision of market in the subject "CDA" site, Ms. Brenda K.Y. Au, DPO/HK, said that the Wanchai Market was still used as market. In accordance with the approved MLP, a 3-storey market (LG/F, G/F and 1/F) was already completed at Site A, and the G/F was for the relocation of the stalls in the Wanchai Market while the 1/F was for the relocation of the stalls at Tai Yuen Street. In view of the abortion of the relocation plan for Tai Yuen Street Bazaar, the Food and Environmental Hygiene Department (FEHD) had already obtained a planning approval for converting 1/F of the new market into FEHD's office. For the LG/F, there was still no confirmed use, but most probably it would be for public purposes. Up till now, the whole market at Site A was still vacant.

22. Upon a Member's questions on issues relating to traffic arrangements, natural lighting, openable windows and open space of the proposed development, Ms. Brenda K.Y. Au made the following points:

- (a) noting that there was no change in the development parameters of the approved scheme and the design constraints imposed by the need to preserve the Wanchai Market, the AC for T/U, TD had no objection to the revised car parking and loading/unloading provisions proposed by the applicant, which were on the low side of the requirements set out in the Hong Kong Planning Standards and Guidelines;
- (b) the AC for T/U, TD also had no objection to the junction improvement measures proposed by the applicant, noting that the previous road widening proposal would become infeasible in view of the preservation of the Wanchai Market;

- (c) the natural lighting of the proposed development would be subject to the requirements of the Building (Planning) Regulations;
- (d) according to the applicant's proposal, the openable windows of the existing Market would be enclosed after preservation, and air-conditioning would be used in the proposed shopping centre; and
- (e) there was no public open space at Site C according to the scheme previously approved. For the current scheme, the roof of the Wanchai Market would become part of the podium roof of the future residential development, and that podium roof would become the private open space for the residents.

23. Upon the Vice-chairman's request, Mr. Anthony Loo supplemented that in view of the setback in the proposed development after the demolition of the Wanchai Market in the previously approved scheme, the applicant originally planned to take the opportunity to widen the existing junction of Wan Chai Road and Queen's Road East so as to allow the vehicles from Wan Chai Road to turn left and right to Queen's Road East, and to add some new pedestrian crossing facilities at Queen's Road East. In view of the preservation scheme for the Wanchai Market, the applicant had proposed some alternative measures for improving the junction. The Transport Department had no in-principle objection to these alternative improvement measures, but suggested to impose an approval condition to require the applicant to have the proposed design and layout of the junction to their satisfaction.

[The Vice-chairman thanked Ms. Brenda K.Y. Au, DPO/HK, and Ms. Donna Y.P. Tam, STP/HK, for their attendance to answer Members' enquires. They left the meeting at this point.]

Deliberation Session for Application No. Y/H5/1

24. Upon a Member's enquiry, the Secretary clarified that the first planning permission for the subject "CDA" site was granted by the Committee in 1998 while the approval granted in 2004 was for some amendments to the approved scheme only. Up till now, the joint venture developer had already made investments and completed the approved

development at Sites A and B. There was no mechanism under the Town Planning Ordinance to rescind the previous planning permission. One Member suggested that if the application was rejected, the absence of mechanism to rescind the previous planning permission should form part of the reasons for not agreeing to the application. Other Members agreed.

25. A Member had reservation on the application as the Town Planning Board had no statutory power to determine the grading of the Wanchai Market. Another Member did not support the application because the Wanchai Market was not a statutory historical building, and local residents would prefer to use the new market at Site A as it was larger and air-conditioned.

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

- (a) there was insufficient justification provided in the rezoning application for preserving Wanchai Market in whole. The proposed rezoning should not be regarded as the only option for preserving the historical building; and
- (b) as there was no mechanism under the Town Planning Ordinance to rescind the previous planning approvals already granted for comprehensive redevelopment at the subject site, the implementability of the preservation proposal under the proposed rezoning was doubtful.

Deliberation Session for Application No. A/H5/369

27. The Secretary pointed out that the “core elements preservation” approach proposed by the applicant was intended to strike a balance between heritage conservation and development. To change the redevelopment boundary or to transfer the development right elsewhere would not only affect the interests of the applicant and the joint venture developer, but would also have significant legal and contractual implications. Should the subject application be rejected, both the applicant and the developer would likely go back to implement the previously approved scheme and demolish the Wanchai Market. Two Members appreciated the efforts made by the applicant and the developer to revise the

previously approved scheme with an intention to meet the public aspiration to preserve the Wanchai Market. These Members agreed that the current scheme was the best compromised deal which could be reached between the applicant and the developer.

28. A few Members had concerns on the use of the preserved Wanchai Market. After some discussions, Members generally agreed that more flexibility should be allowed for the future uses in the Market. Nevertheless, Members would like to make the following suggestions to the applicant :

- (a) the future uses in the preserved Market should be in line with the Bauhaus character of the building;
- (b) whether the building could be used as market with special theme(s) should be examined; and
- (c) if possible, the openable windows should not be enclosed so as to better preserve the original character of the building.

29. On the issue of public open space, the Vice-chairman asked whether re-provisioning of the open space on the roof-top of the preserved Market was possible. The Secretary said that the floor space of the whole podium roof would have to be used as the private open space for the residents of the proposed development. As a result, no space within the subject site was left for re-provision of the public open space. She suggested referring the issue of re-provisioning to the PlanD to follow up with the Leisure and Cultural Services Department. Members agreed.

30. A Member asked whether it was feasible to have two storeys of open space in the proposed development, with the upper level for the residents and the lower level for the public. The Secretary said that the proposal was technically feasible, but the users on lower level might not be able to enjoy natural lighting. Besides, the provision of public open space on the upper floor of a private development might have problems on public access, management and maintenance. Two Members had reservations on the provision of public open space on the upper floor of a private development in view of the low usage rate and possible nuisances created to the residents.

31. 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 20.6.2012, 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) to incorporate the approval conditions (b) to (g) below to the satisfaction of the Director of Planning or of the TPB;
- (b) the submission and implementation of a Landscape Master Plan for Site C to the satisfaction of the Director of Planning or of the TPB;
- (c) the partial preservation of the Wanchai Market to the satisfaction of the Director of Leisure and Cultural Services or of the TPB;
- (d) the design and provision of car parking and loading/unloading facilities of Site C to the satisfaction of the Commissioner for Transport or of the TPB;
- (e) the design and layout of the junction improvement of Queen's Road East and Wan Chai Road to the satisfaction of the Commissioner for Transport or of the TPB;
- (f) the design and provision of noise mitigation measures to the satisfaction of the Director of Environmental Protection or of the TPB; and
- (g) 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.

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

- (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) to consider the following views/suggestions made by of the TPB Members on the preserved Market :
 - (i) the future uses should be in line with the Bauhaus character of the building;
 - (ii) to examine uses with special theme(s); and
 - (iii) to keep the openable windows open so as to better preserve the original character of the building;
- (c) to apply to the District Lands Officer/Hong Kong East, Lands Department for lease modification to accord with the revised MLP;
- (d) to consider replacing the car parking use in the Market with uses that would allow public use and appreciation of the historical structure as far as possible;
- (e) to note the comments of the Assistant Commissioner for Transport/Urban, Transport Department on regulating of goods vehicles manoeuvring in/out of the loading/unloading spaces and vehicles waiting and entering the car lifts, such that the queuing back of vehicles onto the public carriageway would not occur;
- (f) to note the comments of the Director of Environmental Protection on air quality assessment and to disclose the noise performance and noise mitigation measures at all flats to the future buyers and occupants to make an informed decision; and
- (g) to note the comment of the Head, Geotechnical Engineering Office, Civil Engineering and Development Department and to address the impact of the

proposed development on the disused tunnel at the detailed design stage.

[The Chairperson, Mr. Walter K.L. Chan, Mr. Maurice W.M. Lee and Mr. James Merritt returned to join the meeting at this point. Professor Bernard V.W.F. Lim arrived to join the meeting at this point. Dr. Daniel B.M. To left the meeting temporarily at this point.]

33. The meeting was adjourned at 10:45 a.m. for a short break of 5 minutes.

Agenda Item 5

Section 12A Application

[Open Meeting (Presentation and Question Sessions only)]

Y/H10/3 Application for Amendment to
Approved Pok Fu Lam Outline Zoning Plan No. S/H10/15
from “Residential (Group C)” to “Other Specified Uses” annotated
“Residential Development with Historical Building Preserved”,
128 Pok Fu Lam Road, Hong Kong
(MPC Paper No. Y/H10/3A)

Presentation and Question Sessions

34. The Committee noted that the applicant on 2.6.2008 requested to further defer a decision on the application as the applicant was still discussing with the Government on the development options of the application site. A conclusion was expected to be reached in the next few weeks.

Deliberation Session

35. After deliberation, the Committee decided to further defer a decision on the application as requested by the applicant pending the submission of additional information from the applicant. The Committee also agreed that the application should be submitted to the Committee for consideration within three months from the date of receipt of additional information from the applicant. The Committee also agreed to advise the applicant that two months were allowed for preparation of the submission of the further information, and no

further deferment would be granted unless under very special circumstances.

Agenda Item 6

Section 12A Application

[Open Meeting (Presentation and Question Sessions only)]

Y/H21/1 Application for Amendment to the
Draft Quarry Bay Outline Zoning Plan No. S/H21/24
from “Residential (Group B)” to “Residential (Group B)1”
Shau Kei Wan Inland Lot 761(Part), 1-10 Sai Wan Terrace, Quarry Bay
(MPC Paper No. Y/H21/1)

Presentation and Question Sessions

36. The Secretary said that the subject application site was owned by a subsidiary of Swire Pacific Ltd. (SP). Mr. Raymond Y.M. Chan, who had current business dealing with SP, had declared an interest in this item. As the Planning Department (PlanD) had requested the Committee to defer consideration of the application, Mr. Chan was allowed to stay in the meeting.

37. The Committee noted that the PlanD recommended the Committee to defer a decision on the application for two months to 18.7.2008 as another similar section 12A application (No. Y/H21/2) involving the same “Residential (Group B)” zone was received and was scheduled for consideration by the Committee on 1.8.2008. In order to minimize the delay in the processing of the subject application and not to pre-empt the Committee’s decision on the latter application, the PlanD recommended the Committee to consider the two applications at the same meeting to be held on 18.7.2008.

Deliberation Session

38. After deliberation, the Committee decided to defer a decision on the application for two weeks, and to consider the two section 12A applications at the same meeting on 18.7.2008.

[Ms. Donna Y.P. Tam, Senior Town Planner/Hong Kong (STP/HK), was invited to the meeting at this point.]

Agenda Item 7

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/H5/370 Proposed Eating Place, Shop and Services in “Open Space” zone,
6/F, 7/F and 20/F-22/F, 196-206 Queen's Road East,
Wan Chai, Hong Kong
(MPC Paper No. A/H5/370)

39. The application was submitted by a subsidiary of Hopewell Holdings Ltd. (HH). The Secretary reported that Mr. Felix W. Fong had declared interests in the item. The Committee noted that Mr. Fong had tendered apologies for being unable to attend the meeting.

Presentation and Question Sessions

40. With the aid of a Powerpoint presentation, Ms. Donna Y.P. Tam, STP/HK, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed eating place/shop and services uses;
- (c) departmental comments – concerned Government departments had no objection to or no comment on the application except the Chief Building Surveyor/Hong Kong East, Buildings Department (CBS/HKE, BD) who considered that the proposed change of use of the subject premises might induce an effect on the ratio of the pedestrian flow generated by the public and the building’s users for the dedicated areas for public passage at G/F and 2/F of the subject building;

- (d) one public comment from the Incorporated Owners of New Springs Garden Mansion was received during the statutory publication period, objecting to the application because of the problems on oily fume and noise; and
- (e) the Planning Department (PlanD)'s views – the PlanD had no objection to the application for the reasons as detailed in paragraph 11 of the Paper in that the proposed uses were not incompatible with retail shops and office use in the same building and would not generate any adverse impact on the surrounding area. Relevant Government departments, including the Director of Environmental Protection had no adverse comments on the application.

41. A Member enquired about the loading/unloading arrangements for the refuse collection vehicles in commercial buildings mainly occupied by eating places. Ms. Donna Y.P. Tam said that there were some requirements under the Buildings Ordinance for refuse collection in commercial buildings, but such requirements were unrelated to the provision of loading/unloading bay for refuse collection vehicles.

42. In response to a Member's questions on the specific types of shop and services proposed in the subject application, and the cumulative impacts of all the planning permissions for eating place/shop and services uses previously granted for different floors of the subject building on the aspects of pedestrian flow and lift service, Ms. Donna Y.P. Tam made the following points :

- (a) the applicant did not specify any specific type of shop and services use for the subject premises;
- (b) regarding the cumulative impacts of the previous permissions on pedestrian flow, the CBS/HKE, BD's concern was on the flow generated by the public and the building's users in the dedicated areas at G/F and 2/F which were public passage excluded from gross floor area calculation based on a traffic assessment previously submitted by the Authorized Person and agreed by the Transport Department. In response to this concern, the applicant had undertaken another traffic assessment by taking into account all the

approved eating place/shop and services uses on different floors of the building. The updated assessment report had been circulated to concerned Government departments for comments; and

- (c) regarding the cumulative impacts of the previous permissions on lift service, the CBS/HKE, BD had been consulted before when processing a similar application in the same building. He replied that he had no specific comment on the matter, unless the subsequent building plans submissions could not meet the Buildings Ordinance's requirements on lift service.

Noting that both the BD and the Electrical and Mechanical Services Department had no duty to ensure sufficient provision of lift service in buildings, the same Member opined that the Committee had an obligation to look into the matter. In this connection, this Member asked whether the applicant had done any lift traffic analysis for the subject application. Ms. Donna Y.P. Tam replied that no such analysis had been included in the applicant's submission. Echoing this Member's views, another Member said that any large-scale conversion of an existing office building into eating places would usually cause inconvenience to the other users of the building, especially during lunch-time and dinner-time when there was great demand to serve the latter. One typical example was the Island Beverley in Causeway Bay.

43. The Chairperson remarked that for a commercial building located within "Commercial" zone, uses like office, eating place and shop and services were uses always permitted and hence no planning permission was required for a change from one use to another under such circumstances.

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

Deliberation Session

44. In response to a Member's questions on toilet requirements and premium, the Chairperson said that the toilet requirements for office and eating place were different according to the Buildings Ordinance, and Mr. James Merritt said that no premium was required for the proposed change of use as the subject site was held under an unrestricted

lease.

45. A Member said that as many floors of the subject building had already been approved for eating place use, a lift traffic analysis should be required so as to assess the cumulative impacts of these approvals on the remaining office use. This could be done by a lift engineer based on international standards. Some Members opined that the requirement for such an analysis might not be fair to the applicant, noting that similar change of use within office buildings in “Commercial” zones would be permitted as of right.

46. In view of the high density environment and the existence of so many different kinds of eating places in Hong Kong, a Member said that the international standards on provision of lift service usually could not be strictly adopted in local context. This Member further pointed out that as the subject building did not have any loading/unloading bay, the applicant had reached an agreement with Hopewell Centre for providing five loading/unloading bays within Hopewell Centre for the exclusive use of the retail/eatery tenants of the subject building. As such, delivery of fresh food and vegetables to the restaurants in the subject building would have to share the footbridge on 2/F and the lifts with other users, i.e. mainly office workers and customers of eating place. Problems might arise when the intensity of use increased and more and more floors were converted into eating places as the public usage of the footbridge might also be affected. Members generally shared this Member’s views.

47. After some discussions, Members agreed that the applicant should be required to provide an assessment on the cumulative impacts of all the eating places and shop and services uses (including associated delivery activities) in the subject building on the pedestrian flow for the dedicated areas at G/F and 2/F, and on the lift service of the whole building.

48. After further deliberation, the Committee decided to defer a decision on the application pending submission of additional information from the applicant to address the concerns raised by Members on the cumulative impacts of all the eating places and shop and services uses (including associated delivery activities) in the subject building on the pedestrian flow for the dedicated areas at G/F and 2/F, and on the lift service of the whole building. 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.

Agenda Item 8

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/H14/56 Proposed Radar, Telecommunications Electronic Microwave Repeater, Television and/or Radio Transmitter Installation (New Equipment and Electrical and Mechanical Building for Digital Terrestrial Television Broadcasting Services) in “Green Belt” zone, Adjacent to existing Mount Nicholson TV Transposer Station
(MPC Paper No. A/H14/56)

49. The application was submitted by Television Broadcasts Ltd. (TVB). The Secretary reported that Professor N.K. Leung had declared an interest in the item as he had family member working in TVB. Mr. James Merritt also declared an interest in the item as the Lands Department had a survey point on the subject site which would be affected by the proposed development.

[Professor N.K. Leung left the meeting at this point. Mr. James Merritt left the meeting temporarily at this point.]

Presentation and Question Sessions

50. With the aid of a Powerpoint presentation, Ms. Donna Y.P. Tam, STP/HK, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) proposed radar, telecommunications electronic microwave repeater, television and/or radio transmitter installation (new equipment and electrical and mechanical building for digital terrestrial television

broadcasting (DTTB) services);

- (c) departmental comments – concerned Government departments had no objection to or no adverse comment on the application;
- (d) one public comment was received during the statutory publication period, indicating no objection to the application; and
- (e) the Planning Department (PlanD)'s views – the PlanD had no objection to the application for the reasons as detailed in paragraph 11 of the Paper in that the proposed development was required to provide the essential supporting facilities for launching the DTTB services in accordance with the Government policy. Support from the Office of the Telecommunications Authority (OFTA) had been obtained. The proposed development complied with the Town Planning Board Guidelines No. 10. The subject site was located adjacent to the existing Mount Nicholson TV Transposer Station and the HK Electric Microwave Station on a hilltop away from developed areas. It would not have significant visual and environmental impacts on the surrounding areas.

51. Upon a Member's question, Ms. Donna Y.P. Tam said that the OFTA was responsible for coordinating the installation of DTTB facilities for all the broadcasting companies in Hong Kong. For the proposed development, it would be used by both the applicant and the Asia Television Ltd..

52. A Member asked whether the applicant could be required to improve the design of the proposed development for better integration with the surrounding environment. The Chairperson replied that if considered necessary, relevant approval condition could be imposed.

53. Another Member agreed that the subject site was suitable for the proposed development. Nevertheless, since the site was located on a hilltop which was easily visible when looking from Causeway Bay, it was important to ensure that the silhouette of the proposed development would be compatible with both the existing adjacent developments

and natural environment. For the HK Electric Microwave Station to the immediate southwest of the subject site, the building was specially designed so as to match with the natural environment and reduce its visual intrusiveness when looking from the urban areas. This kind of efforts made in designing public utility/telecommunications building on hilltop was very important as the public had growing concern on the ridgelines in recent years. For the subject application, the proposed building would be 5m high with antennae to be mounted on its top. The building structure would not be insignificant when looking from Causeway Bay. Yet, the applicant had failed to provide sufficient information to demonstrate how the proposed development would be compatible with the existing environment. Two Members agreed to this Member's views. One of them pointed out that the proposed development was for a building accommodating electrical and mechanical equipment only while the existing TV Transposer Station adjacent to the application site would be converted for installation of the DTTB equipment. Referring Photo A in Plan A-4 of the Paper, this Member commented that even the design of the existing microwave antennae on top of the TV Transposer Station was not satisfactory from visual point of view.

54. Upon a Chairperson's enquiry, Ms. Donna Y.P. Tam confirmed that Drawings A-2 and A-3 were the applicant's only submission on the design of the proposed development. In general, the proposed building would be rectangular in shape, but no information on the details of its façade was available.

55. A Member objected to relocate the existing Lands Department's Geodetic Survey Control Station (GSCS) as such kind of survey point should be placed on the ground level at the hilltop. Ms. Donna Y.P. Tam confirmed that the District Lands Officer/Hong Kong East, Lands Department had no objection to the relocation proposal provided that the applicant could re-establish the GSCS in accordance with their requirements.

Deliberation Session

56. A Member emphasized that the subject hilltop was an important ridgeline in Hong Kong, on which the silhouettes of the public utility/telecommunications installations would have significant visual impacts on the wider urban areas. The design of the proposed development would therefore have far reaching implications from visual point of view. In this regard, this Member suggested requesting the applicant to provide addition information

to demonstrate that the proposed development would be compatible with the surrounding environment. Other Members agreed.

57. Members then discussed whether the proposed development should not be allowed to occupy the existing GSCS site. Some Members considered that as the proposed building would be for generator rooms only, it could be located elsewhere on a lower level. Other were of a view that the subject site was a reasonable location for the proposed development, noting the site requirements for a Digital Terrestrial Television (DTT) Station and the existence of a TV Transposer Station adjoining the application site. To move the proposed development to another site would spoil a new green spot on Mount Nicholson. Being the authority for positioning survey points, the LandsD had indicated no objection to the relocation of the GSCS.

58. After further discussion, Members generally agreed that the applicant should be rejected for the reasons that the application had failed to provide sufficient information to justify that the subject site was the most suitable location in the area for the proposed development, and to demonstrate that the design of the proposed development (including the microwave antennae) would be compatible with the surrounding areas and visually acceptable from urban design point of view.

59. Upon a Member's request, the Chairperson agreed to request the PlanD to seek OFTA's advice on the general site requirements for DTT station and whether there would be more applications for such installations. The PlanD would also need to identify those visually sensitive hilltops/ridgelines on both sides of the Victoria Harbour for reference of the trades in submission of similar planning applications.

60. After further deliberation, the Committee decided to reject the application for the following reasons :

- (a) there was insufficient information to justify that the subject site was the most suitable location in the area for the proposed development; and
- (b) there was insufficient information to demonstrate that the design of the proposed development (including the microwave antennae) would be

compatible with the surrounding areas, and visually acceptable from urban design point of view.

[The Chairperson thanked Ms. Donna Y.P. Tam, STP/HK, for her attendance to answer Members' enquires. Ms. Tam left the meeting at this point.]

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

Tsuen Wan and West Kowloon District

[Mr. Y.S. Lee, Senior Town Planner/Tsuen Wan and West Kowloon (STP/TWK), was invited to the meeting at this point.]

Agenda Item 9

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/KC/335 Shop and Services (Real Estate Agency)
in "Other Specified Uses" annotated "Business" zone,
Workshop A1 on Lower Ground Floor, Block 1
Kingswin Industrial Building, Nos. 32-50 Lei Muk Road, Kwai Chung
(MPC Paper No. A/KC/335)

Presentation and Question Sessions

61. Mr. Y.S. Lee, STP/TWK, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;

- (b) the proposed shop and services (real estate agency) use;

- (c) departmental comments – except the District Lands Officer/Tsuen Wan and Kai Tsing, Lands Department (DLO/TW&KT, LandsD), concerned Government departments had no objection to or no adverse comment on the application. The DLO/TW&KT, LandsD considered the proposed use not acceptable from lease point of view. Should the application be approved, the owner of the application premises should apply for a temporary waiver for the use;
- (d) during the statutory publication period, one public comment was received from the Incorporated Owners (IO) of the subject building objecting to the application as the proposed use would adversely affect the interests of property owners and security of the subject building; and
- (e) the Planning Department (PlanD)'s views – the PlanD had no objection to the application for the reasons as detailed in paragraph 11 of the Paper in that the proposed use was considered not incompatible with the uses of subject building. It would unlikely to generate adverse traffic and environmental impacts on the surrounding areas. The application complied with the Town Planning Board (TPB) Guidelines No. 22D. Concerned Government departments had no objection to or no adverse comment on the application. As regards the objection raised by the Incorporated Owners, there was no information provided to elaborate how the interests of the property owners and the security of the subject building had been and would be affected by the proposed use. The applicant had indicated that staff of the real estate agency had been following the proper procedures including checking the identity and signing the estate agency agreements before taking clients into the subject building.

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

62. In response to a Member's question on the fees involved for changing the subject premises to the proposed use, Mr. Y.S. Lee explained that the applicant did not have to pay any fee for submitting the subject application, but should the application be approved, waiver fees would be charged by the Lands Department. Mr. James Merritt supplemented that the

proposed use was in breach of the lease conditions of the subject site. Hence, should the subject application be approved, the applicant would have to apply for temporary waiver or lease modification. Waiver fee or modification premium would be charged accordingly.

63. Another Member asked whether the IC of the subject building had held a meeting to discuss the matter before raising the objection to the application. Mr. Y.S. Lee replied that no such information was available.

Deliberation Session

64. A Member opined that the Committee should respect an IC's objection if it was the decision of the property owners made after a general meeting. Since there was no information on whether such a meeting had been held, this Member had no strong view on the subject application. The Chairperson said that under the Town Planning Ordinance, there was no provision to require an IC in submitting representation/comment to indicate whether the representation/comment was a resolution of a general meeting.

65. A Member asked why the applicant was still needed to submit the subject application as the proposed use complied with the relevant TPB Guidelines. The Secretary explained that through planning application, concerned Government departments would be given the opportunity to examine whether the proposed use was acceptable. They could also suggest imposition of approval conditions to mitigate the adverse impact of the proposed development as appropriate. For the subject application, the most important concern was the Director of Fire Services' comments on fire safety and whether approval condition on fire service installations was required.

66. 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 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 20.12.2008; 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.

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

- (a) apply to the District Lands Officer/Tsuen Wan and Kwai Tsing, Lands Department for a temporary wavier for the applied use;
- (b) consult the Chief Building Surveyor/New Territories West, Buildings Department on the submission of building plans in respect of the provision of means of escape and separation of the application premises from the remaining portion of the subject industrial building by proper fire resisting construction; and
- (c) remind the applicant that prior planning permission should have been obtained before commencing the applied use at the application premises.

[The Chairperson thanked Mr. Y.S. Lee, STP/TWK, for his attendance to answer Members' enquires. Mr. Lee left the meeting at this point.]

Agenda Item 10

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/KC/336 Proposed Hotel
 in "Other Specified Uses" annotated "Business" zone,
 Topy Tower, 659 Castle Peak Road, Kwai Chung (KCTL 193)
 (MPC Paper No. A/KC/336)

Presentation and Question Sessions

68. The Committee noted that the applicant on 30.5.2008 requested to defer a decision on the application for two months so as to allow sufficient time for the preparation

of a “Risk Assessment Report” to address the concerns from Water Supplies Department and Environmental Protect Department in relation to a Potentially Hazardous Installation in the vicinity of the application site (i.e. Tsuen Wan Water Treatment Works).

Deliberation Session

69. 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.

Kowloon District

Agenda Item 11

Section 12A Application

[Open Meeting (Presentation and Question Sessions only)]

Y/K14S/1 Application for Amendment to the Approved
Kwun Tong (South) Outline Zoning Plan No. S/K14S/15 from
“Government, Institution or Community (1)” to “Open Space”,
Tsun Yip Cooked Food Market, 67 Tsun Yip Street, Kwun Tong
(MPC Paper No. Y/K14S/1C)

Presentation and Question Sessions

70. The Committee noted that the applicant on 29.5.2008 requested to further defer a decision on the application for at least two months so as to allow time for the applicant to further consult relevant Government departments and stakeholders to resolve issues directly associated with the application, and to seek support on the application from the Kwun Tong District Council.

Deliberation Session

71. After deliberation, the Committee decided to further defer a decision on the application as requested by the applicant pending the submission of additional information from the applicant. The Committee also agreed that the application should be submitted to the Committee for consideration within three months from the date of receipt of additional information from the applicant. The Committee also agreed to advise the applicant that two months were allowed for preparation of the submission of the further information, and no further deferment would be granted unless under very special circumstances.

Agenda Item 12

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/K7/90 Proposed Minor Relaxation of Building Height Restriction
from 80mPD to 86mPD for Permitted Residential Development
in “Residential (Group B)” zone, 211-215C Prince Edward Road West,
Ho Man Tin, Kowloon
(MPC Paper No. A/K7/90)

Presentation and Question Sessions

72. The Committee noted that the Planning Department (PlanD) recommended the Committee to defer a decision on the application as there were representations to the draft Ho Man Tin Outline Zoning Plan No. S/K7/19 (the OZP) as a whole on the proposed building height restrictions for various zones, among three of which opposed to the “Residential (Group B)” zone with building height restriction of 80mPD. According to the Town Planning Board Guidelines No. 33, a decision on a section 16 application would be deferred if the zoning of the application site was still subject to outstanding adverse representation in respect of a draft plan 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. In this regard, the PlanD recommended the Committee not to consider the subject application until the CE in C had made decision on the relevant adverse representations in respect of the OZP.

Deliberation Session

73. After deliberation, the Committee decided to defer a decision on the application pending the Chief Executive in Council's decision on the adverse representations in respect of the draft Ho Man Tin Outline Zoning Plan No. S/K7/19.

[Miss Annie K.W. To, Senior Town Planners/Kowloon (STP/K), was invited to the meeting at this point.]

Agenda Item 13

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/K11/182 Shop and Services
 in "Other Specified Uses" annotated "Business" zone,
 Workspace A (Portion), G/F, Lee King Industrial Building,
 12 Ng Fong Street, San Po Kong, Kowloon
 (MPC Paper No. A/K11/182)

Presentation and Question Sessions

74. With the aid of a Powerpoint presentation, Miss Annie K.W. To, STP/K, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed shop and services use;
- (c) departmental comments – concerned Government departments had no objection to or no adverse comment on the application. The District Lands Officer/Kowloon East, Lands Department advised that a proposed temporary waiver to permit retail shop use at the subject premises (with effect from 6.2.2007) was accepted by the owner of the premises. If the subject application was rejected by the Committee, such waiver might be

terminated;

- (d) the Incorporated Owners (IC) of the subject building made one public comment during the statutory publication period. They advised that the owners of the subject building did not oppose to the application provided that the business to be operated at the subject premises was related to catering and was only restricted to staff and owners of the subject building. Regarding the type of business to be operated at the subject premises, the final decision should be left with the owners and the IC of the subject building; and
- (e) the Planning Department (PlanD)'s views – PlanD had no objection to the subject application for the reasons as detailed in paragraph 11 of the Paper in that the proposed use was considered generally in line with the planning intention of the “Other Specified Uses” annotated “Business” zone. It complied with the requirements set out in Town Planning Board Guidelines No. 22D and relevant Government departments had no objection to or no adverse comment on the application. There had been no change in planning circumstances and no public complaint since the approval of previous planning permission (Application No. A/K11/178) for the same use in the subject premises in April 2007.

75. Members had no question on the application.

Deliberation Session

76. 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 a means of escape and fire service installations in the subject premises, within 6 months from the date of the approval to the satisfaction of the Director of Fire Services or of the TPB by 20.12.2008; 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.

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

- (a) appoint an Authorized Person to submit Alteration and Addition Plan to demonstrate compliance with the Buildings Ordinance, in particular, the subject premises should be separated from the remaining premises by walls of minimum 2 hours fire resistance period in accordance with Building (Construction) Regulation 90;
- (b) consult Food and Environmental Hygiene Department regarding food licence under Food Business Regulation; and
- (c) note that no vehicular access from public road to the subject premises would be allowed.

Agenda Item 14

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/K13/233 Temporary Shop and Services (Real Estate Agency) for a Period of
3 Years in “Other Specified Uses” annotated “Business” zone,
Unit 5A, G/F, Kowloon Bay Industrial Centre, 15 Wang Hoi Road,
Kowloon Bay, Kowloon
(MPC Paper No. A/K13/233)

Presentation and Question Sessions

78. With the aid of a Powerpoint presentation, Miss Annie K.W. To, STP/K, 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) use for a period of three years;
- (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 District Officer (Kwun Tong); and
- (e) the Planning Department (PlanD)’s views – the PlanD had no objection to the application for the reasons as detailed in paragraph 11 of the Paper in that the proposed use was considered generally in line with the planning intention of the “Other Specified Uses” annotated “Business” zone. It complied with the requirements set out in Town Planning Board Guidelines No. 22D. Concerned Government departments had no objection to or no adverse comment on the application. As two previous planning permissions (applications No. A/K13/213 and A/K13/218) for the same use in the subject premises had been revoked due to the applicant’s failure to comply with the approval condition, it was recommended to impose a shorter compliance period to the subject application in order to closely monitor the implementation of the condition.

79. A Member asked whether the processing of this kind of minor applications could be streamlined. The Chairperson responded that according to the Notes for the “Other Specified Uses” annotated “Business” zone on the statutory plans, any proposed shop and services use on the ground floor of an existing industrial building required planning permissions from the Town Planning Board (TPB). Under the Town Planning Ordinance, there was no provision for the TPB to delegate its authority to consider this kind of planning applications to a public officer. The same Member further asked whether the existing arrangements could be changed so that this kind of proposals could be exempted from planning applications. The Secretary replied that planning application was required so that concerned Government departments would be given the opportunity to comment each

proposal, and to suggest approval conditions as required. The Chairperson added that the preparation of the TPB Guidelines No. 22D was in fact to facilitate the processing of this kind of applications in a more focused and simplified manner.

Deliberation Session

80. After deliberation, the Committee decided to approve the application on a temporary basis for a period of 3 years until 20.6.2011, 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 a means of escape separating the subject premises from the industrial portion of the building and fire service installations in the subject premises, within 3 months from the date of approval to the satisfaction of the Director of Fire Services or of the TPB by 20.9.2008; 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.

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

- (a) appoint an Authorized Person to submit building plans for the proposed change in use to demonstrate compliance with the Buildings Ordinance, in particular, the fire resisting separation and the provision of access and facilities for the persons with a disability under Building (Planning) Regulation 72 and Design Manual: Barrier Free Access 1997; and
- (b) observe road restriction requirements in force when all loading/unloading activities were taking place.

[The Chairperson thanked Miss Annie K.W. To, STP/K, for her attendance to answer Members' enquires. Miss To left the meeting at this point.]

[Miss Helen L.M. So, Senior Town Planners/Kowloon (STP/K), was invited to the meeting at this point.]

Agenda Item 15

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/K14/567 Proposed Shop and Services
in “Other Specified Uses” annotated “Business” zone,
Watchman/Caretaker Room, G/F, Union Hing Yip Factory Building,
No. 20 Hing Yip Street, Kwun Tong, Kowloon
(MPC Paper No. A/K14/567)

Presentation and Question Sessions

82. With the aid of a Powerpoint presentation, Miss Helen L.M. So, STP/K, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed shop and services use;
- (c) departmental comments – concerned Government departments had no objection to or no adverse comment on the application;
- (d) a total of three public comments was received during the statutory publication period. The one made by the Chairman of the Kwun Tong Central Area Committee supported the application while the one made by a private company had no objection to it. The remaining comment was made by the management company of the subject building on behalf of the Incorporated Owners (IC). It objected to the application on grounds that the proposed use would violate the Deed of Mutual Covenant (DMC) of the subject building and affect the services provided for the whole building. Besides, the entrance/exit of the subject premises from/to the car parking area of the subject building might cause potential danger to the customer

going/leaving the premises; and

- (e) the Planning Department (PlanD)'s views – the PlanD had no objection to the application for the reasons as detailed in paragraph 11 of the Paper in that the proposed use was considered generally in line with the planning intention of the “Other Specified Uses” annotated “Business” zone. It complied with the requirements set out in the Town Planning Board Guidelines No. 22D. As regards the comments made by the IC of the subject building, concerned Government departments, including the District Lands Officer/Kowloon East, Lands Department, Chief Building Surveyor/Kowloon, Buildings Department, and Assistant Commissioner for Transport/Urban, Transport Department, had no objection to or no adverse comment on the application.

83. In response to a Member's question on whether there was any re-provision of the watchman/caretaker room for the subject building, Miss Helen L.M. So replied that according to the applicant's submission, a room opposite to the subject premises was now used as watchman/caretaker room. That room was designated as 'first-aid room' according to the Occupation Permit of the subject building. In response to another Member's question on whether the applicant had discussed with the IC and/or the management company of the subject building regarding the proposed use under application, Miss So replied that the applicant had not provided such information in the submission.

84. The Chairperson drew Members' attention that according to the applicant's submission, the subject premises had been vacant since the subject building was occupied.

Deliberation Session

85. One Member objected to the application for the reasons that the replacement of the original watchman/caretaker room with the proposed use, and the replacement of the original first-aid room with watchman/caretaker room would adversely affect the interests of the individual property owners of the subject building. From building security point of view, such changes of uses were also not satisfactory. Besides, the proposed use might violate the DMC of the subject building and the concerned IC had already raised objection to the

application through the management company.

86. A Member said that the subject premises were private premises instead of a common area for the use of all occupiers, though they were indicated as “watchman/caretaker room” on the approved building plans. Whilst the proposed use might violate the DMC, the owner had a legal right to apply for converting the premises into such use. According to the applicant, the subject premises had never been used as watchman/caretaker room. It was difficult for the Committee not to approve the application as it complied with planning requirements. Another Member said that the IC might consider taking legal action against the owner of the proposed use in the subject premises should the use violate the DMC. After some discussion, Members generally agreed that issue on DMC should not be taken into account in consideration of planning applications under the Town Planning Ordinance.

87. The Chairperson added that rejection of the application did not necessarily mean that the subject premises would be used for watchman/caretaker room noting that the premises were privately owned and were not part of the common areas of the subject building.

88. After further 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 20.6.2012, 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 safety measures, including the provision of a means of escape completely separated from the industrial portion and fire service 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 planning condition 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.

89. The Committee also agreed to advise the applicant to :
- (a) apply to the District Lands Officer/Kowloon East for lease modification for the shop and services use at the subject premises;
 - (b) comply with the requirements as stipulated in the Code of Practice for Fire Resisting Construction;
 - (c) appoint an Authorized Person to submit building plans for the proposed change of use to demonstrate compliance with the Buildings Ordinance, in particular :
 - (i) the separation from the adjoining carpark with walls of 2 hours fire resistance period. Reference should be made to paragraph 8.1 of the Code of Practice for the Fire Resisting Construction 1996; and
 - (ii) the provision of access and facilities for the persons with a disability under Building (Planning) Regulation 72 and Design Manual : Barrier Free Access 1997; and
 - (d) note the concern of the Incorporated Owners of the subject building and the management company.

[The Chairperson thanked Miss Helen L.M. So, STP/K, for her attendance to answer Members' enquires. Miss So left the meeting at this point.]

Agenda Item 16

Any Other Business

90. There being no other business, the meeting was closed at 12:40 p.m..