

TOWN PLANNING BOARD

Minutes of 400th Meeting of the Metro Planning Committee held at 9:00 a.m. on 24.7.2009

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

Dr. Daniel B.M. To

Ms. Sylvia S.F. Yau

Mr. Walter K.L. Chan

Mr. Raymond Y.M. Chan

Mr. Felix W. Fong

Ms. Starry W.K. Lee

Mr. K.Y. Leung

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

Assistant Director (Kowloon), Lands Department
Ms. Olga Lam

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

Secretary

Absent with Apologies

Professor Bernard V.W.F. Lim

Mr. Maurice W.M. Lee

Dr. Winnie S.M. Tang

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

Assistant Director(2), Home Affairs Department
Mr. Andrew Tsang

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
Ms. Karina W.M. Mok

Agenda Item 1

Confirmation of the Draft Minutes of the 399th MPC Meeting Held on 10.7.2009

[Open Meeting]

1. The draft minutes of the 399th MPC meeting held on 10.7.2009 were confirmed without amendments.

[Ms. Lily Y.M. Yam, District Planning Officer/Hong Kong (DPO/HK), and Ms. Helen S.H. Lau, Town Planner/Hong Kong (TP/HK), were invited to the meeting at this point.]

Agenda Item 2

Matters Arising

[Open Meeting]

- (i) Draft Planning Brief for the Proposed Developments
at the Ex-North Point Estate Site

2. The Secretary said that the Committee on 10.7.2009 endorsed the draft Planning Brief (PB) for the proposed developments at the ex-North Point Estate site (the Site). The Planning Department (PlanD) had prepared a Paper which was sent to Members on 22.7.2009 to report back on various matters raised at the meeting and to seek Members' endorsement of the revised page of the PB. Ms. Helen S.H. Lau, TP/HK, then presented the Paper and covered the following main points :

Need for a New Library

- (a) in response to a Member's suggestion on using the gross floor area released from the deletion of a health centre to provide a library at the Site, PlanD had consulted the Director of Leisure and Cultural Services (DLCS) who advised that the existing provision of libraries in the Eastern District was adequate to meet the residents' needs. According to the Hong Kong Planning Standards and Guidelines, one district library should each be provided for every district and every 200,000 persons. With a population

of about 586,100 in 2008 and a planned population of about 618,630, there were currently 3 district libraries, 2 small libraries and 4 mobile library service points in the Eastern District. A new small library at Siu Sai Wan would be opened in 2011. As such, there was no need to provide an additional library at the Site;

Minimum Coverage for Greening at Ground Level

- (b) out of the minimum coverage of 30% for greening at both Sites A and B within the Site which could be provided at ground level, podia and rooftops, the Committee requested PlanD to advise on the minimum coverage of greenery that should be provided at ground level for incorporation into the PB. Having consulted the Chief Town Planner/Urban Design and Landscape of PlanD, a minimum coverage of 20% for greening at ground level was recommended while the remaining greening requirement could be provided at ground level, podia and rooftops;

[Ms. Sylvia S.F. Yau arrived to join the meeting at this point.]

Community Hall

- (c) the PB stipulated that a community hall with upgraded facilities for small-scale cultural performances should be provided at the Site. The proposed community hall was planned to be located in a free-standing government, institution or community building which would be integrated with the public piazza to form a nodal point on the waterfront. It was proposed to stipulate the location of the community hall more specifically in the PB to reflect the intention; and

Revised PB

- (d) the revised page of the PB incorporating the proposed amendments as stated in paragraphs 2(b) and (c) above was attached at Annex 1 of the Paper for Members' consideration and agreement.

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

3. In response to a Member's question, Ms. Lily Y.M. Yam, DPO/HK, said that the greening coverage of 20% was the minimum requirement to be provided on ground level of both Sites A and B within the Site.

4. The Committee noted the DLCS's views on the provision of libraries in the Eastern District. After further deliberation, the Committee agreed to endorse the revised page of the PB at Annex I of the Paper which had incorporated the proposed minimum coverage for greening at ground level and the location of the community hall.

[The Chairperson thanked Ms. Lily Y.M. Yam, DPO/HK, and Ms. Helen S.H. Lau, TP/HK, for their attendance to answer Members' enquires. They left the meeting at this point.]

Hong Kong District

Agenda Item 3

Section 12A Application

[Open Meeting (Presentation and Question Sessions Only)]

Y/H3/5 Application for Amendment to the
Approved Sai Ying Pun & Sheung Wan Outline Zoning Plan No. S/H3/22
and Approved Urban Renewal Authority Staunton Street/Wing Lee Street
Development Scheme Plan No. S/H3/URA1/2
from "Comprehensive Development Area" to
"Residential (Group C)", 60-66 Staunton Street, 4-6 Chung Wo Lane
and Adjoining Government Land, Sheung Wan
(MPC Paper No. Y/H3/5)

5. The Secretary said that as the application site was related to the development scheme of the Urban Renewal Authority (URA) at Staunton Street/Wing Lee Street, the following Members had declared interests in this item :

Mrs. Ava S.Y. Ng as the Director of Planning	}	being non-executive directors of the URA;
Mr. Walter K.L. Chan	}	
Mr. Maurice W.M. Lee	-	being a former non-executive director of the URA with the term of office ended on 30.11.2008;
Professor Bernard V.W.F. Lim	-	having current business dealings with the URA;
Mr. Nelson W.Y. Chan	-	being a Member of the Kwun Tong District Advisory Committee (DAC) of the URA;
Ms. Starry W.K. Lee	-	being a Member of the Kowloon City DAC of the URA;
Mr. Raymond Y.M. Chan	-	being a Member of the Home Purchase Allowance (HPA) Appeals Committee;
Ms. Olga Lam as the Assistant Director of the Lands Department	-	being an assistant to the Director of Lands who was a non-executive director of the URA; and
Mr. Andrew Tsang as the Assistant Director of the Home Affairs Department	-	being an assistant to the Director of Home Affairs who was a non-executive director of the URA.

6. The Committee noted that Professor Bernard V.W.F. Lim, Mr. Maurice W.M. Lee and Mr. Andrew Tsang had tendered apologies for being unable to attend the meeting. As the HPA Appeals Committee was not appointed by or under the URA, the Committee had agreed in previous cases that Mr. Raymond Y.M. Chan's interest was indirect and he could stay at the meeting. Mr. Nelson W.Y. Chan and Ms. Starry W.K. Lee should also be allowed to stay at the meeting as the DACs to which they belonged were advisory bodies to the URA and the area of work did not relate to the subject application. The Committee noted that Ms. Lee had not yet arrived at the meeting. The interests of the other Members were considered direct and they should leave the meeting for the item. As the Chairperson had declared an interest and needed to leave the meeting, the Committee agreed that the Vice-chairman should take over and chair the meeting for the item. The Vice-chairman chaired the meeting at this point.

[Mrs. Ava S.Y. Ng, Mr. Walter K.L. Chan and Ms. Olga Lam left the meeting temporarily at this point.]

Presentation and Question Sessions

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

Ms. Lily Y.M. Yam - District Planning Officer/Hong Kong (DPO/HK)

8. The following applicants and their representatives were also invited to the meeting at this point :

Mr. Ian Brownlee

Miss Anna Wong

Mr. Dare Koslow

Mr. Sawada Wong

Mr. K.B. Elliget

Mr. David Tam

Mr. David Yan

Ms. Katty Law

Professor Roger Nissim

9. The Vice-chairman extended a welcome and explained the procedures of the hearing. Ms. Lily Y.M. Yam, DPO/HK, was then invited to brief Members on the background to the application. With the aid of a Powerpoint presentation, Ms. Yam did so as detailed in the Paper and made the following main points :

The Application

- (a) the subject URA Staunton Street/Wing Lee Street Development Scheme Plan (DSP) area comprised Sites A, B and C. The applicants, who were property owners at Site C, proposed to rezone the application site covering Site C from “Comprehensive Development Area” (“CDA”) to “Residential

(Group C)” (“R(C)”) on the approved Sai Ying Pun & Sheung Wan Outline Zoning Plan (OZP) No. S/H3/22 and the approved URA Staunton Street/Wing Lee Street DSP No. S/H3/URA1/2. The proposed “R(C)” zone could either remain in or be excised from the DSP. No indicative development proposal was submitted by the applicants. According to the Notes of the OZP, developments within the “R(C)” zone were subject to a maximum plot ratio of 5 and a maximum building height of 12 storeys, or the plot ratio and height of the existing building, whichever was the greater;

Background

- (b) on 11.7.2003, the draft URA Staunton Street/Wing Lee Street DSP No. S/H3/URA1/1 was exhibited for public inspection under section 5 of the Town Planning Ordinance (TPO). After giving preliminary and further considerations to 6 objections received, the Town Planning Board (TPB) decided not to propose amendment to the draft DSP to meet the objections. The decision was legally challenged by Objection No. 2 submitted by Capital Rich Development Ltd. and Well Unicorn Development Ltd. On 15.6.2007, after reconsidering Objection No. 2 following the Court of Appeal’s decision (hereafter referred to as the Capital Rich judgement), the TPB agreed to propose an amendment to the draft DSP to meet the objection by excising the objection site (i.e. currently known as the CentrePoint) from the DSP area which was gazetted on 22.6.2007. No further objection was received. The draft DSP was approved by the Chief Executive in Council (CE in C) on 2.10.2007 and gazetted on 18.10.2007. On 23.11.2007, the TPB endorsed the Planning Brief based on the revised boundary of the DSP;
- (c) on 30.9.2008, the URA made an application to the Secretary for Development (SDEV) under the Urban Renewal Authority Ordinance (URAO) for recommending resumption under the Lands Resumption Ordinance (LRO). To echo the CE’s Policy Address on revitalizing the Former Police Married Quarters at Hollywood Road located opposite to the application site, the URA on 24.11.2008 announced the revised plan for the subject DSP, which included emphasis on heritage preservation and

reduction of development intensity from a plot ratio of 8 to 4.5. On 27.2.2009, the URA submitted Application No. A/H3/387 for the revised development proposal for the subject DSP;

- (d) on 20.3.2009, the same applicants of the subject application submitted Application No. A/H3/388 for an alternative development proposal for the DSP. At the request of the applicants, the Committee on 8.5.2009 agreed to defer a decision on Applications No. A/H3/387 and A/H3/388 which would be considered by the Committee at the same meeting under Agenda Items 4 and 5 respectively;

Applicants' Justifications

- (e) the applicants' justifications were detailed in paragraph 2.1 of the Paper. On 29.4.2009, the applicants' solicitors submitted further information which included preliminary legal points which the applicants wished the TPB to take into account when considering applications relating to the application site as detailed in paragraph 2.2 of the Paper;

Application Site

- (f) the application site was part of the entire URA Staunton Street/Wing Lee Street DSP. It was situated on a sloping ground running down from the south-west to the north-east towards Staunton Street and included the stepped street of Chung Wo Lane;
- (g) as shown in Plans Z-3, Z-4 and Z-6 of the Paper, the application site was predominantly for residential use with some of the buildings having commercial uses at the ground level. The buildings were of 2 to 6 storeys high, some with cocklofts, and had a building age of about 40 to 60 years;
- (h) with reference to Plan Z-5 of the Paper showing the building conditions of Site C in 2003 when the subject DSP was prepared, the buildings fronting Staunton Street were in deteriorating condition whereas the buildings fronting Chung Wo Lane were in poor condition. The existing conditions of Site C were then shown, highlighting the narrow lanes and dilapidated

structures, the cracks observed at the back of the building at 66 Staunton Street, the temporary structure adjoining 6 Chung Wo Lane and the whole building at 64 Staunton Street that had been refurbished. Site photos showing the existing conditions of the surrounding areas outside the application site, including the vacant CentrePoint site as well as the existing refuse collection point (RCP) and market at Bridges Street, were also displayed;

Departmental Comments

(i) the departmental comments were highlighted in paragraph 9 of the Paper and summarised below :

- the Chief Estate Surveyor/Urban Renewal, Lands Department (CES/UR, LandsD) advised that should the site be rezoned to “R(C)”, any refurbishment/redevelopment work to the site would be at the initiative of individual land owners. As the site was held by different owners, it was uncertain whether the applicants’ proposal could be implemented. Since the CE in C had approved the draft DSP in 2007 and URA had acted accordingly and acquired properties within the site, there might be legal implications in approving the application;
- the Chief Building Surveyor/Hong Kong East & Heritage Unit, Buildings Department advised that the number of storeys and approved uses of the existing buildings at Site C given in the applicants’ submission did not tally with the approved building plans/occupation permits;
- the Chief Town Planner/Urban Design and Landscape, PlanD had reservation on the application from landscape planning viewpoint. As the existing buildings were proposed for retention, there would be no scope for improvement of the existing sitting-out area and landscape provision at the site; and
- the Director of Food and Environmental Hygiene advised that there was

operational need to reprovise the existing Bridges Street RCP. Whether or not the RCP could be reprovise through the expansion of Gage Street RCP would be subject to the views of the Central and Western District Council (C&WDC). If a permanent reprovise site could not be identified, a temporary RCP should be provided within the subject DSP area;

Local Views

- (j) the District Officer (Central & Western) advised that C&WDC had discussed the URA's development proposal (not the proposed rezoning under the subject application) on 8.1.2009. While raising no adverse comments on the URA's development proposal, some members expressed views on the possibility of retaining the RCP in-situ or finding suitable reprovise site nearby, the possible collaboration between the URA and the property owners at Site C over the preservation of the character of the tenement buildings, and the possible adverse visual effect caused by the URA's development proposal at Site C;

Public Comments

- (k) during the statutory publication period of the application, a total of 42 public comments were received with 38 supporting and 4 providing comments on the application. The public comments were highlighted in paragraph 10 of the Paper and summarised below :

- the supporting comments were submitted by members of the public, a property owner at Site C and Central & Western Concern Group mainly on the grounds that private property right should be respected; demolishing the existing good condition buildings at Site C for redevelopment would not be justifiable nor bring public benefits to the neighbourhood; further development in the area would deteriorate the quality of life; the DSP boundary was illogical; the proposed rezoning with a maximum building height restriction of 12 storeys was considered better than the 28-storey development proposed by the URA and was a proper response to the changing public aspirations towards

lower development density; the existing buildings at Site C were a reflection of a certain period of Hong Kong's history and should thus be preserved; the DSP area was a historic area that should be kept low-rise and the existing buildings at Site C complemented the ambience of the heritage area and reflected the style of the Former Married Police Quarters; high-rise buildings should not be built for being located in a geotechnically sensitive area; there was a legal precedent of excising the CentrePoint site from the DSP following a judicial ruling; and the URA had no community features, except a RCP, planned in its redevelopment proposal for Site C;

- 3 members of the public submitted comments on the application mainly relating to the uniqueness of the existing buildings at Site C which should not be replaced by generic developments; and to the existing large tree on site which should not be felled; and
- the URA also submitted comments on the application and raised the following main points as detailed in paragraphs 10.2(t) to (ff) of the Paper:
 - (i) it was uncertain how the proposed "R(C)" zoning, which allowed redevelopment to a plot ratio and building height higher than those of the existing developments, was conducive to the retention/rehabilitation of the existing buildings at Site C;
 - (ii) the opportunity of providing planning gains, achieving environmental improvement and promoting efficient land use would be forgone if Site C was rezoned to "R(C)";
 - (iii) the TPB would have no chance to consider development/redevelopment proposal under the proposed "R(C)" zoning through the planning application system if it conformed to the OZP;

- (iv) according to the URA's record, the living conditions of some tenants at Site C were contradictory to what the applicants had claimed;
- (v) the applicants represented about 30% of the total land interests at Site C and there was no information showing that the other property owners were agreeable to the applicants' proposal;
- (vi) it was not the URA's policy to acquire and rehabilitate properties which had no conservation/heritage value as those found at Site C; and
- (vii) the legal advice obtained by the URA on the preliminary legal points raised by the applicants' solicitors were summarised in paragraph 10.2(ff) of the Paper;

Legal Advice

- (l) as detailed in paragraph 11 of the Paper, the Department of Justice (DoJ) had been consulted regarding the preliminary legal points raised by the applicants' solicitors. In brief, DoJ advised that :
 - (i) it was open to the TPB to consider whether "financial viability" was a relevant consideration. If it was considered a relevant consideration, the TPB must be satisfied that there was sufficient information/evidence provided in order to properly consider the issue. In the public comment submitted by the URA on the subject application, it was noted that the URA's solicitors had indicated that no justification based on "financial viability" had been included in the revised Master Layout Plan (MLP) under Application No. A/H3/387. The URA also did not intend to put forward "financial viability" as a ground in opposition to the subject application and Application No. A/H3/388;
 - (ii) it was open to the TPB to consider any alternatives submitted

including those which did not require removal/demolition of the existing buildings at Site C;

- (iii) it was relevant for the TPB to take into account the “current opinion of the affected people” i.e. the views of the owners at Site C;
- (iv) the TPB had to consider each application objectively and in accordance with the approved DSP; the applicant had a legal right to challenge the URA’s development proposal;
- (v) the court would look at whether it was proportionate to sacrifice the rights of private owners to give effect to the objective of redeveloping the dilapidated part of the sites;
- (vi) the TPB should not have a presumption in favour of the URA’s development proposal and should consider the objections in the light of the evidence before it;
- (vii) the TPB should not take the view that the owners were too late to make the application as there was no time limit under the TPO for submission of section 12A or section 16 applications; and
- (viii) the power to resume and whether it was justifiable to resume a private property fell outside the TPB’s jurisdiction under the TPO; and

PlanD’s Views

- (m) the Planning Department (PlanD) did not support the application based on the assessment in paragraph 12 of the Paper which was summarised below :

Planning Intention of the “CDA” Zone

- the DSP boundary was duly delineated based on a number of factors, including building conditions (structural, building services and fire safety considerations), building age, building height and environmental

conditions. Given the generally poor environmental conditions of the DSP area, the planning intention of the subject “CDA” zone was to achieve environmental improvement in the area through comprehensive redevelopment, restructuring the street pattern, promoting efficient land use and providing community facilities/public open space (POS). While the DSP boundary was amended in 2007, the above planning intention for the current DSP area remained unchanged;

- although renovation works had been carried out by owners of some premises, Site C was generally in poor environmental and hygienic conditions with existing buildings having defective external wall and dilapidated illegal extensions. There was a temporary structure and some narrow lanes within the site. The six land lots at Site C were separated by a small sitting-out area with some of them not being accessible by fire engines. If Site C was to be excised from the DSP and rezoned to “R(C)” which allowed redevelopment of individual buildings for residential use as of right, this would result in piecemeal redevelopments and could not achieve the planning intention of comprehensive redevelopment and promoting efficient land use for the area;

Due Process and Owners’ Expectation

- the subject URA project was first made known to the public in 1998 and the subject DSP had gone through a due statutory planning process since its first gazettal in 2003. There had been discussions at the district level, including C&WDC, regarding the DSP boundary and content of the development scheme. There was a legitimate expectation from the other owners, including the URA, for implementation of the development scheme in full in accordance with the planning intention of the approved DSP;

Implementability

- the applicants (who owned 9 units or about 27% out of a total of 33 units at Site C) had not proposed any mechanism/means to ensure that the other

owners were agreeable to the proposed rehabilitation approach under the subject application. Given that the URA had acquired some units within Site C with a view to achieving comprehensive redevelopment of the DSP area, the implementability of the applicants' proposal was doubtful;

Financial Viability

- regarding one of the preliminary legal points raised by the applicants' solicitors on financial viability issue, the TPB did not rely on information on financial viability of the URA's development proposal in reaching a decision on the DSP boundary; and

Land Resumption

- regarding another preliminary legal point raised by the applicants' solicitors about the power to resume and whether it was justifiable to resume, the Committee would consider the subject application based on the planning considerations and the merits of the proposal submitted by the applicants.

10. The Vice-chairman then invited the applicants and their representatives to elaborate on the application. With the aid of a Powerpoint presentation, Mr. Ian Brownlee made the following main points :

- (a) apart from the URA, there were only seven property owners at Site C. The subject application involved four applicants who were all property owners at Site C. However, only two of the applicants, i.e. Mr. Dare Koslow and Mr. K.B. Elliget who were the property owners within 60-62 Staunton Street, could attend the meeting. In addition, Mr. David Tam (representative of property owner at 66 Staunton Street) and Mr. David Yan (whose family owned 4 Chung Wo Lane) had also attended the meeting;
- (b) while Plans Z-19 to Z-21 of the Paper were provided for sake of completeness for Members' reference, it should be noted that the site photos shown in these plans were not related to the application site and hence irrelevant to the subject application;
- (c) the purpose of the application was to change the planning intention of Site

C by rezoning it to “R(C)” such that the URA would have no further involvement in the site. While the applicants objected to the URA’s development proposal under which the existing buildings at Site C would be demolished for redevelopment to a 28-storey building under Application No. A/H3/387, they had submitted an alternative development proposal to retain and refurbish the existing buildings at Site C under Application No. A/H3/388;

- (d) at present, there was no approved MLP and hence no commitment by the TPB to any development proposal for the site. To facilitate Members’ consideration of the application, further information had been tabled by the applicants at the meeting (hereafter referred to as the tabled information);

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

Summary of Three Legal Opinions

- (e) as detailed on page 1 of the tabled information, there was considerable agreement in the legal opinions given by the solicitors of the applicants, the URA and DoJ, which were similar to the legal points in paragraph 11.1(a) to (h) of the Paper. Regarding the financial viability issue, the URA’s solicitors had advised in paragraph 29(a)(iii) of Appendix I as attached to the public comment submitted by the URA on the subject application that URA would not be taking the argument of financial viability as a reason for opposing the subject application and Application No. A/H3/388. Regarding the issue that the TPB had to consider each application objectively and in accordance with the approved DSP, it should be noted that while section 16 applications had to be considered within the context of the approved DSP, the subject section 12A application should be considered on its own merits based on planning grounds;

Position on Resumption

- (f) the concerned private lots at Site C were unrestricted in use under lease and were leased in perpetuity for 999 years. The applicants wished to retain their rights to own and use their properties in accordance with the law and

leases with no intention of selling them to the URA. The TPB had not been asked to decide whether Site C should be resumed or not. Instead, the TPB was asked to be aware of the consequences of its decision which would lead to resumption of the private properties at Site C as evident from the following three quotations;

- (g) in the Capital Rich judgement, the Court of Appeal recognised that if the applicants did not take the position to challenge the zoning proposal, “the consequences would be that the site would be resumed by the URA under the LRO. It would not be possible at the resumption stage to challenge the inclusion of the applicants’ property in the OZP”. The same would apply to Site C if the TPB did not agree to the subject application by amending the “CDA” zoning boundary;
- (h) as stated in paragraph 9.1.2 of the Paper, CES/UR, LandsD had advised that “should Site C be rezoned to “R(C)”, it would be excised from the DSP and would not be resumed”. It was clear that the consequences of amending the “CDA” zoning boundary would be that the applicants’ properties would not be resumed;
- (i) the then Attorney General’s Chambers had previously advised the Advisory Committee on the Environment in 1996 that there were constraints attached to the power of the then Governor in Council (G in C) to decide whether the resumption of land was required for a public purpose under the then Crown Lands Resumption Ordinance, including that “it was not open to the then G in C to declare that a thing was a public purpose if it had no public character; the ‘public purpose’ must include a purpose in which the general interest of the community was concerned; the general interest of the community must be directly and vitally concerned; and the power must be exercised bona fide”. The URA would demolish the existing buildings at Site C and would build a 28-storey development with similar uses as the existing ones which had no public character nor for the general interest of the community. As such, the URA’s development proposal for Site C failed to meet the above criteria;

Illogical “CDA” Zoning Boundary

- (j) the “CDA” zoning boundary was not sensible or logical. With the removal of the CentrePoint site, a hole was left in the middle of the “CDA” zone, leaving only a very narrow connection between Site C and the remaining “CDA” site. There was no physical or planning relationship between Site C and the remaining “CDA” site;

Changed Planning Circumstances

- (k) since the approval of the subject DSP, there had been changes in the planning circumstances that warranted the reconsideration of the “CDA” zoning boundary as detailed on page 3 of the tabled information and were summarised below :

- in considering the revised Planning Brief for the subject DSP in 2007, Members had raised various concerns including the preservation of buildings in Wing Lee street and reprovisioning of the existing uses of local characteristics. There was no reason why the preservation approach could not be applied to Site C;
- opposite to the application site was the Former Police Married Quarters site which had been withdrawn from the list of sites for sale by application for revitalisation and heritage preservation of the site. The proposed rezoning of Site C to “R(C)” was more compatible with the revised planning intention of the Former Police Married Quarters site;
- other approaches/means were now available for encouraging the regeneration of old buildings. The URA had adopted the “4Rs” strategy for urban renewal and introduced measures for rehabilitation and preservation such as the Building Rehabilitation Loan Scheme. The response to the “Operation Building Bright” scheme recently launched by the Government in collaboration with the Hong Kong Housing Society and the URA to provide funding for owners to carry

out repair works in the common areas of eligible buildings was also overwhelming;

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

- there was growing public concern over the “demolish, sell and rebuild” approach adopted by the URA, particularly when the buildings were in good condition as those found at Site C. The change in public sentiment was evident in the public support for the subject application and Application No. A/H3/388 as well as the strong opposition to the URA’s development proposal under Application No. A/H3/387;
- there was change in attitude by the C&WDC as it had commented on the possible collaboration of the URA with the owners of Site C to preserve the character of the tenement buildings and the possible adverse visual impact of the proposed 28-storey development at Site C; and
- some of the properties had been upgraded by the owners to provide a high standard of modern accommodation. Photos showing the internal/external renovations that had been undertaken at some properties at Site C were exhibited. The description of the building conditions at Site C as “deteriorating” or “poor” by PlanD was incorrect. 64 Staunton Street should be graded as “excellent” and 62-64 and 66 Staunton Street should be graded as “good”. These examples also demonstrated how similar improvements could be made to the other properties at Site C;

Planning Justifications for the Proposed Rezoning

- (l) the main planning justifications for rezoning Site C from “CDA” to “R(C)” were that the existing buildings were in such good condition that they needed not be demolished; the URA’s development proposal had shown no significant public interest that warranted the inclusion of Site C within the “CDA” zone; the area had been blighted by the “CDA” zoning; the

proposed “R(C)” zoning with a maximum plot ratio of 5 and a maximum building height of 12 storeys was considered more compatible with the character of the area, particularly the Former Police Married Quarters site; and the proposed rezoning could be made without affecting the URA’s proposal for Sites A and B;

Responses to PlanD’s Views

- (m) as detailed on page 4 of the tabled information, the planning intention of the “CDA” zone was no longer appropriate. Though the existing buildings at Site C were old, some of the properties had been renovated by the owners. The structural, fire safety, building services or environmental conditions of the existing buildings at Site C were not so bad that warranted resumption and demolition by the URA. This also showed that urban renewal could be achieved by the owners themselves through rehabilitation. The proposed “R(C)” zoning could retain the character of the area and was considered more appropriate than the 28-storey development proposed by the URA at Site C. Illegal extensions to buildings could be dealt with by the Building Authority. The temporary structure adjoining Chung Wo Lane was on Government land and hence could be cleared by the Government. All the above matters could be addressed without the need to resume the private properties at Site C. Apart from PlanD, the concerned Government departments, including the Buildings Department and Fire Services Department, had no objection to the rezoning proposal under application. Any new buildings would have to comply with the modern building and fire safety standards. The proposed “R(C)” zoning could retain the character of the area which was considered more appropriate than the 28-storey development proposed by the URA at Site C. Under the URA’s development proposal for Site C, there was no “restructuring of street pattern” nor “efficient use of land” as stated in the planning intention of the subject “CDA” zone;

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

- (n) PlanD had raised the issue of due process which was not supported by the

legal opinion obtained. There was a clear right for the applicants to make their objections to the URA's development proposal and submit alternative development proposal to the TPB for consideration; and

- (o) regarding the implementation issue, the major obstacle to the owners proceeding to upgrade their properties was the URA and the "CDA" zoning. Notwithstanding the planning blight created, all applicants had upgraded their private properties internally. The complete internal and external refurbishment of the whole building at 64 Staunton Street by an applicant was at a very high standard. Another applicant also had the experience of completely renovating a similar building at 55 Tung Street. 66 Staunton Street was under single ownership and could be renovated if the planning blight was removed. The buildings at 4 and 6 Chung Wo Lane had been owned by two families since it was built. This simplified ownership and long-term relationship would make it possible for the buildings to be jointly renovated or redeveloped. The owners in 60 – 62 Staunton Street had proposed to jointly upgrade the common areas of the buildings in conjunction with the URA. The applicants' experiences also showed that the renovation of the exterior and common areas of buildings could be achieved relatively cheaply, probably at about \$1-2 million per building.

11. Mr. Roger Nissim then made the following main points :

- (a) the authority for recommending the resumption of land under the LRO rested with the CE in C. However, in exercising such authority, the CE in C would require firm recommendation from the concerned parties, including the TPB in this case and as explained earlier at the meeting, the consequences of TPB's decision would lead to resumption of the private properties within Site C;
- (b) there were three criteria in considering an application for resumption of land under the LRO, including that (a) the land required was clearly for a public purpose; (b) whether there was no alternative which would not require the resumption of the land; and (c) the area of land to be resumed

was the minimum area of land necessary to achieve the public purpose;

- (c) Site C failed to meet all three criteria. On criterion (a), the existing buildings at Site C were in good condition. They were not dilapidated nor falling down. Buying buildings that were in good condition and selling it to private developer for redevelopment was not a public purpose. On criterion (b), the owners had demonstrated that they could rehabilitate their properties themselves. As such, alternative approach other than resumption was available. Criterion (c) was crucial to protect the public purse and perhaps more importantly to protect the right of private ownership of property in accordance with law as stipulated under Article 6 of the Basic Law. In this respect, the private land within Site C was leased for 999 years and such private property right should be protected; and
- (d) since the approval of the DSP, the URA had acquired some properties at Site C. This was not insurmountable. If the Committee agreed to the rezoning proposal, the URA could give the former owners the right of first refusal to buy back their properties.

12. Ms. Katty Law then made the following main points :

- (a) Central & Western Concern Group had been following up the subject development scheme for more than 2 years. The application site was located in the SoHo district characterised by low-rise tenement buildings with narrow lanes. It was also located opposite to the Former Police Married Quarters site and formed part of this heritage area. The applicants' proposal to retain and renovate the tenement buildings at Site C was in line with the increasing trend of renovating tenement buildings in the SoHo district; and

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

- (b) while Sites A and B were located in a sensitive geotechnical area which

was unsuitable for construction of high-rise developments, Site C was located adjacent to the CentrePoint. Upon completion of both developments, about half of the windows facing Site C at the CentrePoint would be blocked by the development at Site C. The air ventilation assessment undertaken by the URA for its development proposal at the subject DSP had adopted the worst-case scenario (i.e. assuming Sites A, B and C to be fully developed) as the baseline condition. The conclusion that the URA's development proposal could result in better air ventilation for the area was questionable. "Wall-like" developments would be created behind the Former Police Married Quarters site. The Committee was requested to take into account the local community's concerns on air ventilation impact and "wall effect" of development in considering the development proposal for the site and consider whether there were alternatives such as the rehabilitation approach proposed by the applicants that could bring about sustainable development in the area.

13. Mr. David Tam then made the following main points :

- (a) in paragraph 1.3 of the public comment submitted by the URA as well as paragraphs 31(4) and 34(5) of Appendix I attached to that public comment, it was stated that "given the wide coverage of the media on the judgment of the Court of Appeal and the rehearing by the TPB in 2007, it is hardly believable that genuine purchasers and their lawyers would pay no attention to such information", "the mere fact that some rights of land owners would be adversely affected was not of itself a sufficient reason for the TPB to refrain from exercising its statutory powers and functions of town planning; otherwise the whole process will be self defeating" and "the TPB should not be concerned with the resumption process, which is a matter outside its jurisdiction" respectively. These statements were unfair to small property owners like the applicants. When they bought their properties, the transactions were made in accordance with the law and no one had asked them to cease the transactions; and
- (b) regarding the conditions of Chung Wo Lane and the vicinity, the area was

the shooting location of a local film. With good lighting, the conditions of the area as shown on photos could be quite different.

14. Mr. K.B. Elliget and Mr. Dare Koslow then made the following main points :
 - (a) the applicants did not understand the planning and urban renewal processes. The TPB should not take the view that the submission of their application was too late;
 - (b) when Mr. Koslow bought his property at Site C two years ago, the URA also had the opportunity to buy it but it chose not to;
 - (c) the application site was among the few low-rise areas remaining in Central. The existing buildings at Site C should be retained as they were in good condition and reflected a specific period of Hong Kong's history; and
 - (d) the TPB should consider the alternative rehabilitation approach proposed by the applicants. Mr. Elliget estimated that about \$250,000 was spent to refurbish his flat. Other property owners should be willing to renovate their properties if the planning blight was removed.

15. Members had the following main views and questions on the application :
 - (a) it was not uncommon that private property owners affected by the URA project were reluctant to spend money to renovate or repair their properties if they would be eventually acquired by the URA for redevelopment. The situation at Site C was, however, different. Some of the properties had been renovated by the owners. It appeared that the building conditions of Site C were not deteriorating or poor;
 - (b) it was stated in paragraph 12.1 of the Paper that the boundary of the DSP had been duly delineated in 2003 based on a number of factors. With the passage of time, whether there were any new considerations that warranted a review of the DSP boundary;

- (c) whether PlanD considered it appropriate to rezone Site C to “R(C)” as proposed by the applicants and whether there were any mechanism or means to ensure that the applicants’ proposal of retaining and refurbishing the existing buildings would be implemented;
- (d) what were the legal implications as raised by CES/UR, LandsD if the Committee approved the application;
- (e) whether Sites A and B outside the application site fell within sensitive geotechnical area as claimed by Central & Western Concern Group;
- (f) whether the URA had consulted the local residents in respect of its development proposal for the DSP area;
- (g) regarding PlanD’s doubt about the implementability of the applicants’ proposal, whether the applicants had any idea about the intent of the remaining owners within Site C;
- (h) in relation to paragraph 15(g) above, whether the applicants had any response to PlanD’s doubt about the implementability of their proposal; and
- (i) were there any reasons for the applicants to propose a “R(C)” zoning for Site C with a maximum plot ratio of 5 and a maximum building height of 12 storeys and whether there was any scope to reduce the proposed development intensity.

16. In response to Members’ questions in paragraphs 15(a) to (f) above, Ms. Lily Y.M. Yam made the following main points :

- (a) Plan Z-5 showed only the building conditions within the DSP area according to a survey undertaken by the URA during the preparation of the DSP in 2003. Notwithstanding, site photos showing the existing conditions of the application site had been shown to Members in her

presentation at the meeting. These site photos were shown again for Members' information;

- (b) since the gazette of the draft URA Staunton Street/Wing Lee Street DSP No. S/HS/URA1/1 in 2003, the DSP boundary had been revised in 2007 with the excision of the CentrePoint site after re-considering Objection No. 2 following the decision of the Court of Appeal. In re-considering the objection, the TPB noted, among others, that if the objection site was to be excised from the DSP, the comprehensiveness of the subject development scheme would be compromised to a certain extent. However, the TPB noted that the objection site was already at an advanced stage of redevelopment, including the approval of building plans by the Building Authority. The continued inclusion of the objection site might further delay the implementation of the development scheme, resulting in prolonged uncertainty and the continual dilapidated building conditions within the DSP area which was considered undesirable. Integration of the POSs to be provided within the DSP area and in the vicinity could still be achieved through careful design at MLP submission stage. After taking into account the relevant considerations, the TPB agreed to excise the objection site from the DSP;

- (c) the current DSP boundary was still considered appropriate. As shown on Plan Z-4, the existing Chung Wo Lane Sitting Out Area within Site C was very small. If Site C was retained within the DSP area, land amalgamation to allow a more efficient use of land could then be undertaken by the URA. In particular, the footprint of the proposed residential development could be confined to the portion of the site fronting Staunton Street, allowing a larger POS to be provided at 4-6 Chung Wo Lane and the adjoining temporary structure;

- (d) the proposed "R(C)" zoning would allow redevelopment of individual buildings for residential use as of right at Site C as long as the zoning restrictions were complied with. This would result in piecemeal redevelopments on individual lot basis which might not meet the modern

building and fire safety standards. Some lots within Site C would also remain inaccessible by fire engines. The planning intention for comprehensive redevelopment of the area could not be achieved. There was also no mechanism/means to ensure that the applicants' proposal to rehabilitate the existing buildings within the site would be implemented under the proposed "R(C)" zoning;

- (e) while CES/UR, LandsD had commented that there might be legal implications in approving the application, PlanD would only take into account the relevant planning considerations in considering a planning application;
- (f) the Head of Geotechnical Engineering Office, Civil Engineering and Development Department in commenting Application No. A/H3/387 had advised that there were cases of past instability and landslide within or near the DSP boundary. As such, a review of such previous cases of instability and landslide should be carried out to help identify the appropriate options of foundation type and associated method of construction within the DSP area. A geotechnical assessment should also be submitted to the Building Authority during the building plan submission stage; and
- (g) while it was more appropriate for the URA to respond on consultation matter, it was understood that the URA had organised consultation forums and invited the local residents to attend.

17. In response to Members' questions in paragraphs 15(g) to (i) above, Mr. Ian Brownlee made the following main points :

- (a) out of a total of 33 units within Site C, the URA had acquired 8 units (about 24.24%) at 60-62 Staunton Street. The ownership of the remaining properties were held/represented by the applicants and those present in the meeting, except Mr. Andrew Wong who owned 3 units (about 9.09%) at 6 Chung Wo Lane. Mr. David Tam represented the owner of the whole building at 66 Staunton Street whereas the family of Mr. David Yan owned

4 Chung Wo Lane. In other words, the applicants had solicited support from the owners of a total of 22 units (about 66.67%); and

- (b) the proposed “R(C)” zoning with a maximum plot ratio of 5 and a maximum building height of 12 storeys was the standard zoning in the vicinity of Site C. The application sought to extend the “R(C)” zoning to Site C. In contrast, a 28-storey development was proposed by the URA under the current “CDA” zoning.

18. In response to the Vice-chairman’s follow-up question on whether Mr. Andrew Wong was agreeable to the applicants’ proposal, Mr. David Tam said that 64 Staunton Street, 66 Staunton Street, 4 Chung Wo Lane and 6 Chung Wo Lane were each under single ownership. Mr. Andrew Wong had indicated that he was willing to join hands with the applicants. Mr. David Yan supplemented that the building at 4 Chung Wo Lane was the ancestral property of his family and he confirmed that he would join hands with the applicants.

19. In response to DPO/HK’s reply in paragraph 16(b) above, Mr. Ian Brownlee said that under the current application submitted by the URA, the proposed POS at Site C was surrounded by tall buildings which was undesirable. It was mentioned that building plans for the CentrePoint had been approved by the Building Authority when the TPB agreed to excise that site from the DSP in 2007. For this case, there were existing buildings on site in which the applicants were living. There was a stronger case to excise Site C from the DSP.

20. In response to DPO/HK’s reply in paragraph 16(b) above, Ms. Katty Law said that the POSs to be provided at Site C and the adjacent CentrePoint could not be connected unless the concerned developer had agreed so. Ms. Lily Y.M. Yam said that according to the submitted building plans for the CentrePoint, a POS would be provided on the first floor with provision of entrances at Chung Wo Lane. Under the URA’s development proposal, entrances would also be provided at Chung Wo Lane to allow the public to gain access to the POS at Site C. In this way, the two POSs could be connected and the public could further access Wa In Fong East through the POS at the CentrePoint. Mr. Ian Brownlee said that the same open space connections could also be provided under the applicants’ proposal while still retaining the existing buildings at Site C.

21. In response to DPO/HK's reply in paragraph 16(g) above, Mr. Dare Koslow said that the URA had never consulted the affected residents directly which was different and could not be replaced by holding public forums. Ms. Katty Law added that the previous application (No. A/H3/381) submitted by the URA had received over 1,000 opposing public comments whereas the revised URA's development proposal under Application No. A/H3/387 had received 411 opposing public comments. In December 2007, the URA had organised a workshop about the subject development scheme, but the information provided to the consultees was considered inadequate. The Central & Western Concern Group thus requested the C&WDC to organise another workshop which was attended by over 100 local residents who raised objection to the URA's development proposal.

22. As the applicants and their representatives had no further points to add and Members had no further questions to raise, the Vice-chairman informed them that the hearing procedures for the application had been completed and the Committee would further deliberate on the application in their absence and inform the applicants of the Committee's decision in due course. The Vice-chairman thanked the applicants, their representatives and PlanD's representative for attending the meeting. They all left the meeting at this point.

23. The meeting was adjourned at 11:25 a.m. for a short break of 5 minutes.

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

Deliberation Session

24. Noting that Henderson Land Development Co. Ltd. (Henderson) was the developer of the adjoining CentrePoint development, Mr. Raymond Y.M. Chan, having current business dealings with Henderson, declared an interest in the item. Members considered that as the decision on the application could affect the CentrePoint development, Mr. Chan's interest was direct and should not stay in the meeting.

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

25. Members then had a lengthy discussion on the application which was

summarized as follows :

- (a) with the excision of the CentrePoint site from the DSP area in 2007, the subject “CDA” zone would be splitted up into two portions with Site C being physically separated from Sites A and B. In that circumstances, the original planning intention for the comprehensive development/redevelopment of the entire “CDA” site was no longer tenable as there was little physical connection between Site C with Sites A and B;
- (b) with the renovation work undertaken by some of the owners, there had been certain improvement to the building conditions at Site C. The applicants had now requested for retention and rehabilitation of the buildings themselves. There were similar private sector initiatives on rehabilitation of tenement buildings in other parts of Hong Kong such as Kowloon City and Tong Chong Street at Quarry Bay. Such rehabilitation approach could improve the built environment and reduce the need or urgency for redevelopment. In fact, other than redevelopment, there had been increasing community calls for urban renewal through different means such as rehabilitation and preservation. A Member pointed out that it was not uncommon that redevelopment would bring about change in character of an area and social disruption to the affected residents. In attending the consultation activities recently organised by the Development Bureau on the review of the Urban Renewal Strategy, an issue raised was the role and responsibilities of individual property owners in the urban renewal process;
- (c) out of the total of 33 units in Site C, the applicants claimed that they had now solicited support from the owners of a total of 22 units (about 66.67%). Apart from the URA who owned 8 units (about 24.24%), the remaining owner of 3 units (9.09%) was also willing to join hands with the applicants. If the individual owners (apart from the URA) could demonstrate that they could join hands together to rehabilitate their properties to provide a safe and good living environment, there was no reason why Site C had to be redeveloped by the URA;

- (d) a Member pointed out that the legal advice had confirmed that it was open to the TPB to consider any alternatives submitted; it was relevant for the TPB to take into account the current opinion of the affected people; and the TPB should not have a presumption in favour of the URA's development proposal as stated in paragraphs 11.1(b), (c) and (g) of the Paper;
- (e) in light of the current circumstances, the original planning intention for comprehensive development/redevelopment of the entire "CDA" site and the wholesale redevelopment approach adopted by the URA at Site C was no longer be appropriate, although this might affect URA's development proposal for Sites A and B and might have financial implications to the URA;
- (f) while Members were generally sympathetic with the rehabilitation efforts of the applicants and some other owners on their properties, the proposed rezoning of Site C from "CDA" to "R(C)" was not supported. The proposed "R(C)" zoning would allow redevelopment of individual buildings for residential use as of right. Such piecemeal redevelopments might result in pencil-like buildings given the small size of the lots. Some lots would remain inaccessible by fire engines. These were considered undesirable. In particular, there was no mechanism under the proposed "R(C)" zoning to ensure that the existing buildings would be retained and renovated as suggested by the applicants. Given that the existing building heights on site was only 2-6 storeys, there were much concerns that the existing buildings would be demolished for redevelopment up to a maximum building height of 12 storeys which would be allowed as of right under the proposed "R(C)" zone as long as the zoning restrictions were complied with. In turn, the existing character of the area might not be retained as suggested by the applicants;
- (g) as the existing buildings were not historical/graded buildings per se, the long-term planning intention for Site C should not be for preservation and thus the existing buildings could be demolished in the long run. The long-term planning intention of Site C for comprehensive

development/redevelopment of this site should remain valid, but probably under a separate “CDA” zone and allowing renovation of the existing buildings prior to redevelopment;

- (h) the alternative of retaining the current “CDA” boundary but reviewing the development parameters of the current “CDA” zone was discussed. However, as the original planning intention of the current “CDA” zone for comprehensive development/redevelopment of the entire “CDA” site was no longer achievable, it was agreed that this alternative should not be pursued;
- (i) in light of the increasing public aspiration for lower development intensity and public concern on “wall-like” development, appropriate development restrictions should be stipulated for Site C. Members generally considered that high-rise development was incompatible with the character of the area, taking into account the latest intention of revitalising the Former Police Married Quarters site;
- (j) Members considered it prudent to defer consideration of the application and request PlanD to draw up a proposal on the basis of a separate “CDA” zone for Site C with appropriate planning parameters for the consideration of the Committee;
- (k) Members were mindful about the prospect of implementation of the separate “CDA” zone and the interests of all relevant stakeholders, including the URA, at Site C. In this regard, the applicants should be requested to submit written evidence to support their claim on support from the other owners within Site C. The relevant stakeholders, including the URA and the applicants, should be given the opportunity to comment on the revised zoning proposal for the site to be worked out by PlanD;
- (l) in response to a Member’s question on the basis to be adopted in determining the percentage of land interests owned by the applicants, the Secretary said that the total land interests within Site C, rather than the

entire DSP area, should be adopted as the proposed “CDA” zone was related to Site C only. Members agreed;

- (m) two Members said that that the URA could liaise with the other owners at Site C for possible collaboration to implement the separate “CDA” development based on the proposal to be worked out by PlanD; and
- (n) as the URA had started to acquire properties since the approval of the subject DSP by the CE in C in 2007, legal advice would be sought regarding the legal implications of the proposed approach as stated in paragraph 25(j).

26. After further deliberation, the Committee decided to defer consideration of the application pending the written evidence by the applicants to support their claim on support from the other owners; submission of the proposal to be worked out by PlanD for the separate “CDA” zoning for Site C; and the legal advice on the proposed approach.

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

[Ms. Lily Y.M. Yam, District Planning Officer/Hong Kong (DPO/HK), was invited to the meeting at this point.]

Agenda Item 4

Section 16 Application

[Open Meeting]

A/H3/387

Proposed Comprehensive Residential and Commercial Development with the Provision of Government, Institution or Community Facilities and Public Open Space in “Comprehensive Development Area” zone, the Site of the Urban Renewal Authority Development Scheme at Staunton Street/Wing Lee Street, Sheung Wan
(Master Layout Plan Submission)
(MPC Paper No. A/H3/387)

27. The Secretary said that as the application was submitted by the Urban Renewal Authority (URA) and AGC Design Ltd. was one of the Consultants for the application, the following Members had declared interests in this item :

Mrs. Ava S.Y. Ng as the Director of Planning	} being non-executive directors of the URA;
Mr. Walter K.L. Chan	}
Mr. Maurice W.M. Lee	- being a former non-executive director of the URA with the term of office ended on 30.11.2008;
Professor Bernard V.W.F. Lim	- having current business dealings with the URA and AGC Design Ltd.;
Mr. Nelson W.Y. Chan	- being a Member of the Kwun Tong District Advisory Committee (DAC) of the URA;
Ms. Starry W.K. Lee	- being a Member of the Kowloon City DAC of the URA;
Mr. Raymond Y.M. Chan	- being a Member of the Home Purchase Allowance (HPA) Appeals Committee;
Ms. Olga Lam as the Assistant Director of the Lands Department	- being an assistant to the Director of Lands who was a non-executive director of the URA; and
Mr. Andrew Tsang as the Assistant Director of the Home Affairs Department	- being an assistant to the Director of Home Affairs who was a non-executive director of the URA.

28. In addition, the Secretary said that the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) had submitted a comment on Application No. A/H3/387. Ms. Starry W.K. Lee and Mr. Felix W. Fong, being members of the Central Committee of DAB, had also declared interests in this item.

29. The Committee noted that Mrs. Ava S.Y. Ng, Mr. Walter K.L. Chan, Mr. Raymond Y.M. Chan, Mr. Felix W. Fong, Ms. Starry W.K. Lee and Ms. Olga Lam had already left the meeting.

30. The Vice-chairman said that in considering Application No. Y/H3/5 under Agenda Item 3, the Committee had agreed to defer consideration of the application pending further information. As the application site of Application No. Y/H3/5 was involved in the subject application, it was considered prudent to also defer consideration of this application.

31. After deliberation, the Committee decided to defer consideration of the application to the same date when Application No. Y/H3/5 was submitted to the Committee for consideration.

Agenda Item 5

Section 16 Application

[Open Meeting]

A/H3/388 Proposed Comprehensive Residential and Commercial Development with Government, Institution or Community Facilities and Public Open Space in “Comprehensive Development Area” zone, 60-66 and 88-90 Staunton Street, 4-6 Chung Wo Lane, 8 and 13 Wa In Fong East, 2-10 and 16 Wa In Fong West, 2-10 and 17-19 Shing Wong Street, 1-12 Wing Lee Street, Bridges Street Market and Refuse Collection Point and Adjoining Government Land, Sheung Wan
(MPC Paper No. A/H3/388)

32. The Secretary said that as the application site was related to development scheme of the Urban Renewal Authority (URA) at Staunton Street/Wing Lee Street, the following Members had declared interests in this item :

Mrs. Ava S.Y. Ng as the Director of Planning	}	being non-executive directors of the URA;
Mr. Walter K.L. Chan	}	
Mr. Maurice W.M. Lee	-	being a former non-executive director of the URA with the term of office ended on 30.11.2008;

- | | |
|---|---|
| Professor Bernard V.W.F. Lim | - having current business dealings with the URA; |
| Mr. Nelson W.Y. Chan | - being a Member of the Kwun Tong District Advisory Committee (DAC) of the URA; |
| Ms. Starry W.K. Lee | - being a Member of the Kowloon City DAC of the URA; |
| Mr. Raymond Y.M. Chan | - being a Member of the Home Purchase Allowance (HPA) Appeals Committee; |
| Ms. Olga Lam
as the Assistant Director of the
Lands Department | - being an assistant to the Director of Lands who was a non-executive director of the URA; and |
| Mr. Andrew Tsang
as the Assistant Director of the
Home Affairs Department | - being an assistant to the Director of Home Affairs who was a non-executive director of the URA. |

33. The Committee noted that Mrs. Ava S.Y. Ng, Mr. Walter K.L. Chan, Mr. Raymond Y.M. Chan, Mr. Felix W. Fong, Ms. Starry W.K. Lee and Ms. Olga Lam had already left the meeting.

34. The Vice-chairman said that in considering Application No. Y/H3/5 under Agenda Item 3, the Committee had agreed to defer consideration of the application pending further information. As the application site of Application No. Y/H3/5 was involved in the subject application, it was considered prudent to also defer consideration of this application.

35. After deliberation, the Committee decided to defer consideration of the application to the same date when Application No. Y/H3/5 was submitted to the Committee for consideration.

[The Vice-chairperson thanked Ms. Lily Y.M. Yam, DPO/HK, for her attendance to the meeting. Ms. Yam left the meeting at this point.]

[Professor N.K. Leung left the meeting at this point while Mrs. Ava S.Y. Ng and Mr. Walter K.L. Chan returned to join the meeting at this point.]

[Mr. Derek W.O. Cheung, Senior Town Planner/Hong Kong (STP/HK), was invited to the meeting at this point.]

Agenda Item 6

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/H14/61 Access Road with Guardhouse and Gate for House
 in “Green Belt” zone, 3 Barker Road,
 the Peak Area (Land Adjacent to R.B.L. 552)
 (MPC Paper No. A/H14/61)

Presentation and Question Sessions

36. With the aid of a Powerpoint presentation, Mr. Derek W.O. Cheung, STP/HK, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the access road with guardhouse and gate within the “Green Belt” (“GB”) zone which formed part of the existing house development at the adjoining R.B.L. 552 within the “Residential (Group C)3” (“R(C)3”) zone;
- (c) departmental comments – concerned Government departments, including the Director of Agriculture, Fisheries and Conservation and the Chief Town Planner/Urban Design and Landscape of Planning Department (PlanD), had no objection to or adverse comments on the application;
- (d) no public comment was received during the statutory publication period and no local objection was received by the District Officer; and
- (e) PlanD’s views – PlanD had no objection to the application based on the assessment in paragraph 12 of the Paper. There was an access road

serving R.B.L. 552 before the first publication of The Peak Area Outline Zoning Plan in 1973. Although the alignment was subsequently adjusted mainly to improve the access and to facilitate slope stabilization works, the access road remained as a non-exclusive right-of-way within the “GB” zone. The current application was to facilitate the extension of R.B.L. 552 to include the access road with guardhouse and gate for the exclusive use of the existing house at R.B.L. 552 due to security concern. Though encroaching onto the “GB” zone, the concerned area had already been formed and no tree felling or disruption to the existing landscape features would be involved. It would not have any adverse impact on the surrounding environment. To ensure that the extension of R.B.L. 552 to include the access road with guardhouse and gate would not result in an increase of the development intensity on the adjoining “R(C)3” portion of the lot, it was recommended to impose an approval condition stipulating that the subject access road should not be included in the site area for plot ratio and site coverage calculations.

37. Members had no question on the application.

Deliberation Session

38. After deliberation, the Committee decided to approve the application, on the terms of the application as submitted to the Town Planning Board (TPB). The permission was subject to the condition that the subject access road should not be included in the site area for plot ratio and site coverage calculations for any future development on R.B.L. 552 within the “Residential (Group C)3” portion of the lot.

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

- (a) to note the comments of the Chief Building Surveyor/Hong Kong West, Buildings Department in paragraph 10.1.2 of the Paper that new building works, if any, should be submitted to the Building Authority for approval; and

- (b) to note the comments of the Director of Fire Services in paragraph 10.1.3 of the Paper that the gate of the existing access/right-of-way should be 24-hour manned to ensure free passage of emergency appliances.

Agenda Item 7

Section 16 Application

[Open Meeting]

A/H20/160 Proposed Religious Institution (Temple)
in “Green Belt” zone,
Government land at the hillside near Hiu Tsui Street, Chai Wan
(MPC Paper No. A/H20/160)

40. The Committee noted that the applicant’s representative on 16.7.2009 had requested for deferment of the consideration of the application for two months in order to allow time to prepare further information to address departmental comments.

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

[The Chairperson thanked Mr. Derek W.O. Cheung, STP/HK, for his attendance to answer Members’ enquires. Mr. Cheung left the meeting at this point.]

Tsuen Wan and West Kowloon District

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

Agenda Item 8

Section 16A Application

[Open Meeting (Presentation and Question Sessions Only)]

A/TW/373-1 Application for Class B Amendments to the
Approved Master Layout Plan under Application No. A/TW/373
for the Proposed Comprehensive Residential cum
Government, Institution or Community Development
in “Comprehensive Development Area” zone,
Site TW7, West Rail Tsuen Wan West Station, Tsuen Wan
(MPC Paper No. A/TW/373-1)

42. The Secretary said that the application was submitted by Kowloon-Canton Railway Corporation Ltd. with Mass Transit Railway Corporation Ltd. (MTRCL) as its agent. Mr. Anthony Loo, being an alternate member for the Deputy Secretary for Transport and Housing (Transport)¹ who was a member of the Board of MTRCL, had declared an interest in the item. As his interest was considered direct and substantial, the Committee agreed that Mr. Loo should leave the meeting temporarily for the item.

[Mr. Anthony Loo left the meeting temporarily at this point.]

Presentation and Question Sessions

43. With the aid of a Powerpoint presentation, Mr. K.T. Ng, STP/TWK, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application, including that the Master Layout Plan (MLP) for the proposed comprehensive residential cum government, institution or community (GIC) development at the application site had previously been approved with conditions by the Committee under Applications No. A/TW/304, 358 and 373 on 17.8.2001, 17.12.2004 and 9.9.2005 respectively. Under the last approved scheme (No. A/TW/373), the proposed development comprised a residential development with 7

residential blocks ranging from 44 to 49 storeys (or 138.3mPD to 151.6mPD), a primary school and a residential care home for the elderly (RCHE) cum day care unit with a domestic plot ratio of 4.765 and non-domestic plot ratio of 0.446. The land grant for the proposed development had been executed in December 2008;

- (b) according to the Town Planning Board (TPB) Guidelines No. 36 for ‘Class A and Class B Amendments to Approved Development Proposals’, the proposed Class B amendments to the approved MLP under Application No. A/TW/373, including the changes in built form and disposition of residential blocks, location and layout of the proposed RCHE, layout of internal roads, emergency vehicular access, car park and loading/unloading facilities, hard/soft landscape areas as well as the phasing and implementation schedule of the proposed development, required planning permission of the TPB;
- (c) departmental comments – concerned Government departments had no objection to or adverse comments on the application;
- (d) the District Officer (Tsuen Wan) advised that the Chairman of the Area Committee (also being a District Council Member) and another District Council Member objected to the current scheme mainly raising concerns on the building height, close distance between buildings and wall effect of development. The Chairman of Estate Owners’ Committee of Riviera Gardens also objected to the current scheme and requested to reduce the building height and number of building blocks. At the request of the Tsuen Wan District Management Committee, PlanD had submitted a brief information note on the application prepared by the applicant to the District Officer (Tsuen Wan) for distribution to the Tsuen Wan District Council Members for their information on 21.7.2009; and
- (e) the Planning Department (PlanD)’s views – PlanD had no objection to the application based on the assessment in paragraph 10 of the Paper. The changes in building height and number of storeys not exceeding 10% of the

approved levels, reduction in site area due to setting out of site boundary, increase of the non-domestic plot ratio due to the reduced site area, reduction in domestic gross floor area (GFA)/plot ratio and number of residential units, increase in average flat size and change in clubhouse floor area were Class A amendments and hence did not require further application to the TPB. The current application was for various Class B amendments as detailed in paragraph 43(b) above. The Director of Environmental Protection advised that no adverse environmental impact associated with the proposed development was anticipated given the various noise mitigation measures proposed. He also had no adverse comment on the changes in built form and disposition of residential blocks from environmental viewpoint. Other concerned Government departments, including the Director of Social Welfare, the Assistant Commissioner for Transport/New Territories of the Transport Department, the Director of Fire Services and the Chief Town Planner/Urban Design and Landscape of PlanD, had no adverse comments on the application. Regarding the local objections, the current scheme involved various Class B amendments to the previously approved scheme with no increase in GFA of the proposed development. As the total building gaps between residential blocks would be increased from 41m to 67m, the current scheme would allow better separation of building blocks. The wider building gaps/breezeways could improve visual permeability of the proposed development and facilitate better air ventilation. To address the local concerns, it was recommended to stipulate in advisory clause (b) that the applicant should meet with the Tsuen Wan District Council, the Area Committee and the local residents to explain the development proposal/MLP.

44. Members had no question on the application.

Deliberation Session

45. While Members had no objection to the application and considered that the current scheme was an improvement to the previously approved scheme, a Member

suggested that for similar section 16A applications for amendments to previously approved scheme in future, the area of improvements as incorporated in the current scheme could be more specifically highlighted on plans for Members' ease of reference. Other Members agreed. The Chairperson said that for better understanding, the area of improvements as compared between the current and previously approved schemes should be highlighted in the Powerpoint presentation of similar section 16A applications in future.

46. After further deliberation, the Committee decided to approve the Master Layout Plan (MLP) and the application, under sections 4A and 16A of the Town Planning Ordinance, on the terms of the application as submitted to the Town Planning Board (TPB). The permission was subject to the following conditions :

- (a) the submission of a revised MLP to incorporate the approval conditions as stipulated in conditions (c) to (j) below and the implementation of the revised MLP to the satisfaction of the Director of Planning or of the TPB; and
- (b) the submission of a revised traffic impact assessment and implementation of the improvement works identified therein to the satisfaction of the Commissioner for Transport or of the TPB;
- (c) the design and provision of vehicular access, car parking spaces and loading/unloading facilities to the satisfaction of the Commissioner for Transport or of the TPB;
- (d) the design and implementation of the footbridge connection linking the adjacent Site TW6 to the satisfaction of the Director of Highways or of the TPB;
- (e) the formation of a site with a minimum area of 5,800m² for the construction of a 30-classroom primary school with a gross floor area of about 10,727m² to the satisfaction of the Secretary for Education or of the TPB;
- (f) the design and provision of a residential care home for the elderly cum day

care unit together with its ancillary parking and loading/unloading facilities to the satisfaction of the Director of Social Welfare or of the TPB;

- (g) the design and provision of emergency vehicular access, water supplies for fire-fighting and fire service installations to the satisfaction of the Director of Fire Services or of the TPB;
- (h) the submission and implementation of a Landscape Master Plan including tree preservation and compensatory planting proposals to the satisfaction of the Director of Planning or of the TPB;
- (i) the submission and implementation of a revised development programme indicating the timing and phasing of the proposed development to the satisfaction of the Director of Planning or of the TPB; and
- (j) the implementation of the environmental mitigation measures identified in the environmental assessments to the satisfaction of the Director of Environmental Protection or of the TPB.

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

- (a) that 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 possible;
- (b) in consultation with the Tsuen Wan District Office, to meet with the Tsuen Wan District Council, the Area Committee and the local residents in the area to explain the development proposal/MLP;
- (c) to consult the Director of Buildings on the compliance of the proposed development with the Buildings Ordinance and the proposed exemption of gross floor area. The approval of the application did not imply that the

gross floor area exemption included in the application would be granted by the Building Authority. The applicant should approach the Buildings Department direct to obtain the necessary approval;

- (d) to consult the CLP Power Hong Kong Limited on the operation and maintenance requirements, particularly the access and transportation of equipment to/from the adjacent electricity sub-station and to observe the underground electricity cables in the vicinity of the electricity sub-station;
- (e) to liaise with the Secretary for Education on the formation and handing over of the proposed primary school site;
- (f) to liaise with the Commissioner for Transport on public transport facilities, feeder services and pedestrian facilities;
- (g) to provide the Director of Civil Engineering and Development with detailed information on traffic noise assessment to facilitate the Civil Engineering and Development Department in designing the upgraded Tsuen Wan Road; and
- (h) to liaise with the Director of Civil Engineering and Development and the Director of Fire Services on the provision of sufficient clearance distance between the proposed development and the future upgraded Tsuen Wan Road.

[The Chairperson thanked Mr. K.T. Ng, STP/TWK, for his attendance to answer Members' enquires. Mr. Ng left the meeting at this point.]

[Ms. Olga Lam and Mr. Anthony Loo returned to join the meeting at this point.]

Kowloon District

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

Agenda Item 9

[Open Meeting]

Further Consideration of Draft Development Parameters and Draft Planning Brief for
“Comprehensive Development Area” at Inverness Road
on Draft Kowloon Tong Outline Zoning Plan No. S/K18/15
(MPC Paper No. 22/09)

Presentation and Question Sessions

48. With the aid of a Powerpoint presentation, Mr. Vincent T.K. Lai, STP/K, presented the item and covered the following main aspects as detailed in the Paper :

Background

- (a) the subject “Comprehensive Development Area” (“CDA”) site on the draft Kowloon Tong Outline Zoning Plan (OZP) No. S/K18/15 consisted of a residential portion and a school portion in the western and eastern parts of the site respectively. On 27.3.2009, the Committee considered the proposed development parameters for the residential portion of the site and the draft Planning Brief (PB) for the whole “CDA” site, and agreed that the draft PB was suitable for consultation with the Kowloon City District Council. The proposed residential development would be subject to a maximum plot ratio of 3, a maximum building height of 13 storeys (67mPD) and designation of 10m/4.5m wide non-building area (NBA) along the site boundary;
- (b) on 5.6.2009, the consultation results and proposed amendments to the draft PB were submitted to the Committee. Upon consideration, the Committee decided to defer a decision on the draft PB and requested the Planning Department (PlanD) to assess the feasibility of reducing the maximum

building height of the proposed residential development to be more compatible with the adjoining schools and to study the visual impact of the proposed residential development, particularly when viewed from Kowloon Tsai Park;

Review of Maximum Building Height

- (c) as detailed in paragraph 3.1 of the Paper, three design options with different building heights of 13 storeys (Baseline Option), 8 storeys (Option 1) and 10 storeys (Option 2) but with the same plot ratio and NBA requirement were drawn up;
- (d) in the vicinity of the subject “CDA” site, the “Residential (Group C)9” zone along Inverness Road was subject to a maximum plot ratio of 3 and a maximum building height of 8 storeys on the same OZP. The adoption of the same building height of 8 storeys for the proposed residential development under Option 1 was, however, considered undesirable from district planning viewpoint after taking into account the following site constraints and design requirements:
- provision of setback in the form of NBA was considered necessary as the “CDA” site was mainly surrounded by schools, including two schools adjoining the residential portion to the east and southwest;
 - as shown in Plan 3 of the Paper, the net site coverage of the proposed residential development (after discounting the 10m/4.5m wide NBA) under the Baseline Option and Option 2 was about 49% and 64% respectively. With a reduced building height of 8 storeys under Option 1, the net site coverage would be increased to about 80%, leaving little gaps between buildings and offering not much room for the provision of open space and other ancillary facilities on ground level. The resultant building bulk would create wall effect and was considered undesirable for air ventilation and wind penetration; and

- the NBA requirement, the triangular shape of the residential portion of the site, the requirements to accommodate car parking and other ancillary facilities at basement to minimize the building bulk above ground, and avoidance of podium design to enhance air ventilation at street level had altogether restrained the design flexibility of the proposed residential development. The reduction of building height to 8 storeys would pose substantial constraints to the layout design of the proposed residential development;
- (e) based on a broad-brush assessment of the three design options, the Director of Architectural Services (DArchS) commented that the Baseline Option was the most desirable option in terms of building layout and block siting whereas Option 2 was less preferred as the reduction of building height to 10 storeys would seriously constrain the siting of residential blocks. Option 1 was not supported from architectural design viewpoint as it would impose further constraints on the design of the proposed residential development;
- (f) in light of the above, the Baseline Option and Option 2 were considered technically acceptable whilst Option 1 should not be pursued;

Visual Appraisal

- (g) a visual appraisal was then undertaken to compare the merits of the Baseline Option and Option 2. Nine view points from Kowloon Tsai Park and other sites in the surrounding area as shown in Plan 1 of the Paper were identified for assessing the potential visual impacts of the proposed residential development on the surrounding area. The photomontages comparing between the visual impacts of the Baseline Option and Option 2 from the nine view points were highlighted in Plans 4 to 8 and paragraphs 4.2 and 4.3 of the Paper. In brief, the visual impacts of Option 2 from View Points 1 to 4 were considered less intrusive than the Baseline Option. From View Points 5 to 9, no adverse visual impacts were anticipated under both options as the views to the “CDA” site were obstructed by natural

terrain or vegetation;

Recommended Option

- (h) based upon the above assessment findings, it was recommended to adopt a maximum building height of 10 storeys (57mPD) under Option 2 for the proposed residential development. Option 1 was considered technically undesirable. Although both the Baseline Option and Option 2 were considered acceptable in terms of design and visual impact considerations in the context of the Kowloon Tong area, Option 2 could provide a better overall visual quality and green setting for the area. As shown in Plan 2 of the Paper, the proposed building height of 10 storeys or 57mPD could help create a clearer stepped height profile in the area, stepping down from about 60-70mPD at the school developments in the north to about 50-60mPD at the subject “CDA” site and further to about 35-50mPD at the school and low-rise residential developments in the south. Based on a mean street level of about 25mPD, the absolute building height of the proposed residential development would be 32m, which was comparable to a standard 8-storey school development of about 30m in height as advised by DArchS; and

- (i) to balance between design flexibility and development restrictions imposed, it was recommended to reduce the NBA requirement along the southwestern and eastern boundaries of the residential portion of the “CDA” site from 10m to 6m. The 6m wide NBA was in line with the NBA requirement of 6m as specified on the draft Kowloon Tong Outline Development Plan No. D/K18/1A and could serve as an emergency vehicular access, without jeopardizing its role as a visual and wind corridor separating the site from the adjoining schools.

49. Members had no question on the item.

50. The Committee noted the results of the review of maximum building height and visual appraisal for the proposed residential development as summarised in paragraphs 3 and

4 of the Paper. After deliberation, the Committee decided to:

- (a) agree to the proposed amendments to the draft PB as summarised in paragraph 6 and Attachment D of the Paper; and
- (b) endorse the draft PB as attached at Attachment D of the Paper.

Agenda Item 10

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/K7/92 Proposed Minor Relaxation of Building Height Restriction
for Permitted Residential Use
in “Residential (Group B)” zone,
170C, 170D, 170E and 170F Boundary Street, Ho Man Tin
(MPC Paper No. A/K7/92)

51. The Secretary said that the application was submitted by City Success Development Ltd.

Presentation and Question Sessions

52. Mr. Vincent T.K. Lai, STP/K, clarified that the existing building height of The Lamma Palace should be 118.26mPD instead of 123.5mPD as stated in the Paper. With the aid of a Powerpoint presentation, Mr. Lai then presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed minor relaxation of building height restriction from 80mPD to 89.47mPD (i.e. an increase of 9.47m or 11.8%) for permitted residential use within the “Residential (Group B)” (“R(B)”) zone;

- (c) departmental comments – concerned Government departments had no objection to or adverse comments on the application;
- (d) during the statutory publication period of the application, a total of 117 public comments were received with 114 objecting to, one having reservation and two providing comments on the application. Those who objected to the application were mainly due to the concerns on undesirable precedent effect, wall effect of tall buildings, obstruction of views, overtaxing of public facilities, as well as adverse impacts on air quality, air ventilation, natural light penetration, traffic noise and the low-rise residential character of the area. A commenter opined that an environmental study should be conducted before granting permission; and
- (e) the Planning Department (PlanD)'s views – PlanD did not support the application based on the assessment in paragraph 11 of the Paper. The application site was zoned “R(B)” zone and located in a low to medium-density residential area. Apart from the adjacent residential development, The Lamma Palace, having a building height of 118.26mPD which was exceptional in the area, the surrounding developments had an existing building height of around 20-50mPD and were subject to a maximum building height restriction of 80mPD. In imposing the building height restriction of 80mPD, it had been estimated that the permissible maximum plot ratio of 5 could be achievable, taking into account, inter alia, the provision of car parking spaces, recreational and clubhouse facilities in accordance with the Hong Kong Planning Standards and Guidelines and the setback requirements under lease. A set of building plans for a 20-storey residential development (or 80mPD at main roof level) with a plot ratio of about 4.96 and provision of setbacks (including a 6m setback along Boundary Street) at the application site had been approved by the Building Authority in November 2008. The approved building plans showed that a reasonable development could be achieved under the building height restriction of 80mPD. The increase in the proposed building height under the current application was mainly due to the increase in floor-to-floor height of the domestic storeys, transfer plate, club house level, car parking

levels and entrance lobby, one additional car parking level and one additional domestic storey. Regarding the provision of 6m setback along Boundary Street for better streetscape and public urban space as suggested by the applicant, it was a requirement under lease for the application site and a requirement for the surrounding sites south of Boundary Street in accordance with the draft Ho Man Tin Outline Development Plan No. D/K7/2 for enhancing the streetscape. There was insufficient information to demonstrate how the streetscape and street level public space in front of the application site and the surrounding area would be improved. There were insufficient planning justifications and design merits to justify the proposed minor relaxation of building height restriction. Approval of the application would set an undesirable precedent.

53. In response to the Chairperson's and Member's questions on the increase of floor height and building setback, Mr. Eric C.K. Yue, DPO/K, referred to Appendix III of the Paper and a Powerpoint slide showing the floor-to-floor height of the proposed residential development under the approved building plans and the current application and replied that :

- (a) the floor-to-floor height of the domestic storeys under the approved building plans and the current application was 3.05m and 3.15m respectively;
- (b) as compared with the approved building plans, the podium level was about 4.5m higher under the current application. This was mainly due to an additional car parking level and the greater floor-to-floor height at the entrance lobby, club house level and some car parking levels. Above the podium portion, an additional domestic storey was also proposed under the current application; and
- (c) setback had been provided at the application site in the approved building plans.

54. Members generally considered that there were no planning and design merits to support the proposed minor relaxation of building height restriction.

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

- (a) there were insufficient planning justifications and design merits in the submission for the proposed relaxation of the building height restriction;
- (b) there was insufficient information in the submission to demonstrate that the proposed redevelopment could not be achieved without minor relaxation of the building height restriction; and
- (c) the approval of the application would set an undesirable precedent for other similar applications.

Agenda Item 11

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/K9/234 Proposed Shop and Services (Arts Shop)
in “Other Specified Uses” annotated “Business” zone,
Workshop Unit No.1, G/F, Heng Ngai Jewelry Centre,
4 Hok Yuen Street East, Hung Hom
(MPC Paper No. A/K9/234)

56. The Secretary said that a replacement page 10 had been sent to Members on 23.7.2009 and tabled at the meeting for Members’ consideration.

Presentation and Question Sessions

57. With the aid of a Powerpoint presentation, Mr. Vincent T.K. Lai, 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 (arts shop) use on the ground floor of an existing industrial building;
- (c) departmental comments – concerned Government departments, including the Director of Fire Services, had no objection to or adverse comments on the application;
- (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 based on the assessment in paragraph 11 of the Paper. The proposed arts shop was considered generally in line with the planning intention of the “Other Specified Uses” annotated “Business” (“OU(Business)”) zone and complied with the requirements set out in the Town Planning Board Guidelines No. 22D for ‘Development within “OU(Business)” Zone’. It was not incompatible with the other uses within the subject building. No adverse impacts on fire safety and car parking provision in the subject building were anticipated. Similar applications for shop and services use on the ground floor of other industrial buildings in the Hung Hom Industrial Area had previously been approved by the Committee.

58. Members had no question on the application.

Deliberation Session

59. 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 24.7.2011, and after the said date, the permission should cease to have effect unless before the said date, the development permitted was commenced or the

permission was renewed. The permission was subject to the following conditions :

- (a) the submission and implementation of fire safety measures, including the provision of a means of escape completely separating the subject premises from the industrial portion of the building 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.

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

- (a) to apply to the District Lands Officer/Kowloon West for a temporary waiver for the proposed shop and services use at the subject premises;
- (b) to comply with the requirements as stipulated in the Code of Practice for Fire Resisting Construction; and
- (c) to ensure that the proposed change in use should comply with the Buildings Ordinance, in particular the provision of means of escape under Building (Planning) Regulation 41(1) and the Code of Practice for the Provision of Means of Escape in case of Fire 1996; the provision of 2-hour fire resisting separation wall between the application premises and the remaining portion of the existing workshops on the ground floor in accordance with paragraph 8.1 of the Code of Practice for Fire Resisting Construction 1996 and Building (Construction) Regulation 90; and the provision of prescribed window for office use and provision of access and facilities for persons with a disability under Building (Planning) Regulations.

[The Chairperson thanked Mr. Eric C.K. Yue, DPO/K, and Mr. Vincent T.K. Lai, STP/K, for their attendance to answer Members' enquires. They left the meeting at this point.]

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

Agenda Item 12

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/K11/194 Shop and Services
 in “Other Specified Uses” annotated “Business” zone,
 Workshop 3, G/F, Canny Industrial Building,
 33 Tai Yau Street, San Po Kong
 (MPC Paper No. A/K11/194)

Presentation and Question Sessions

61. 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 shop and services use on the ground floor of an existing industrial building;
- (c) departmental comments – concerned Government departments, including the Director of Fire Services (D of FS), had no objection to or adverse comments on the application;
- (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 based on the assessment in paragraph 11 of the Paper. The shop and services use was considered generally in line with the planning

intention of the “Other Specified Uses” annotated “Business” (“OU(Business)”) zone and complied with the requirements set out in the Town Planning Board Guidelines No. 22D for ‘Development within “OU(Business)” Zone’. It was not incompatible with the other uses within the subject building. No significant adverse fire safety, traffic, environmental and infrastructural impacts on the developments within the subject building and the adjacent area were anticipated. Similar applications for shop and services use at the other units on the ground floor of the subject building and other industrial buildings in the San Po Kong Business Area had previously been approved by the Committee. The previous approval under Application No. A/K11/183 had been revoked due to non-compliance with the approval condition on the submission and implementation of fire safety measures. While the applicant advised that the fire service requirements as incorporated in the building plans for the application premises had been found satisfactory by the D of FS on 4.5.2009, a shorter compliance period was recommended to monitor the progress of compliance with the approval condition. Moreover, the applicant would be advised that should the applicant fail to comply with approval condition again resulting in the revocation of the planning permission, sympathetic consideration might not be given to any further application.

62. Members had no question on the application.

Deliberation Session

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

- (a) the submission and implementation of fire safety measures, including the provision of a means of escape separated from the industrial portion and fire service installations in the subject premises, within three months from the date of the planning approval to the satisfaction of the Director of Fire

Services or of the TPB by 24.10.2009; 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.

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

- (a) to apply to the District Lands Officer/Kowloon East, Lands Department for a temporary waiver or lease modification;
- (b) to appoint an Authorized Person to submit Alteration and Addition plans to demonstrate compliance with the Buildings Ordinance; and
- (c) should the applicant fail to comply with the approval condition again resulting in the revocation of the planning permission, sympathetic consideration might not be given by the Committee to any further application.

[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.]

Agenda Item 13

Any Other Business

65. There being no other business, the meeting was closed at 12:45 p.m..