

TOWN PLANNING BOARD

**Minutes of 420th Meeting of the
Metro Planning Committee held at 9:00 a.m. on 11.6.2010**

Present

Director of Planning
Mrs. Ava S.Y. Ng

Chairperson

Mr. Raymond Y.M. Chan

Mr. Felix W. Fong

Dr. Winnie S.M. Tang

Professor P.P. Ho

Professor C.M. Hui

Ms. Julia M.K. Lau

Professor Joseph H.W. Lee

Mr. Clarence W.C. Leung

Mr. Laurence L.J. Li

Mr. Roger K.H. Luk

Assistant Commissioner for Transport (Urban),
Transport Department
Mr. H.L. Cheng

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

Assistant Director/Kowloon, Lands Department
Ms. Olga Lam

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

Secretary

Absent with Apologies

Mr. K.Y. Leung

Vice-chairman

Ms. Maggie M.K. Chan

Mr. Maurice W.M. Lee

Professor S.C. Wong

Ms. L.P. Yau

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
Miss H.Y. Chu

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

Agenda Item 1

Confirmation of the Draft Minutes of the 419th MPC Meeting Held on 28.5.2010

[Open Meeting]

1. Mr. H. L. Cheng, the Assistant Commissioner for Transport (Urban), Transport Department, proposed an amendment to the last sentence of paragraph 34 of the draft minutes of the 419th MPC meeting held on 28.5.2010 to read “He also confirmed that vehicles longer than 7m would not be allowed to turn into Third Street”. As Members had no objection to the proposed amendment, the Committee agreed to confirm the draft minutes subject to the amendment.

[Ms. Olga Lam arrived to join the meeting at this point.]

Agenda Item 2

Matters Arising

[Open Meeting]

(i) Approval of Draft Outline Zoning Plans (OZPs)

2. The Secretary said that the Chief Executive in Council (CE in C) on 1.6.2010 approved the Tung Chung Town Centre OZP (to be renumbered as S/I-TCTC/18), Lung Yeuk Tau & Kwan Tei South OZP (to be renumbered as S/NE-LYT/14), and Ma On Shan OZP (to be renumbered as S/MOS/16) under section 9(1)(a) of the Town Planning Ordinance. The approval of these OZPs was notified in the Gazette on 11.6.2010.

(ii) Reference Back of Approved OZP

3. The Secretary said that the CE in C on 1.6.2010 referred the approved Ping Shan OZP No. S/YL-PS/11 to the Town Planning Board (TPB) for amendment under section 12(1)(b)(ii) of the Town Planning Ordinance. The reference back of this OZP was notified in the Gazette on 11.6.2010.

(iii) New Town Planning Appeal Received

Town Planning Appeal No. 10 of 2010
Petrol Filling Station in “Village Type Development” zone,
Lots 2095 S.B RP, 2096 S.B RP and 2097 S.B RP in D.D. 111,
Kam Tin Road, Wang Toi Shan, Pat Heung, Yuen Long
(Application No. A/YL-PH/579)

4. The Secretary said that a Notice of Appeal dated 1.6.2010 against the TPB’s decision on 26.3.2010 to reject on review an application (No. A/YL-PH/579) for a petrol filling station at a site zoned “Village Type Development” on the approved Pat Heung OZP No. S/YL-PH/11 was received by the Appeal Board Panel (Town Planning). The application was rejected by the TPB for the reason that the petrol filling station use was incompatible with the newly occupied village houses next to the application site and would be incompatible with the neighbouring village houses to be built in the vicinity. The hearing date of the appeal has not been fixed. The Secretary would act on behalf of the TPB in dealing with the appeal in the usual manner.

(iv) Town Planning Appeal Statistics

5. The Secretary reported that as at 11.6.2010, 28 cases were yet to be heard by the Appeal Board Panel (Town Planning). Details of the appeal statistics were as follows :

Allowed	:	24
Dismissed	:	111
Abandoned/Withdrawn/Invalid	:	137
Yet to be Heard	:	28
<u>Decision Outstanding</u>	:	<u>3</u>
Total	:	303

Hong Kong District

Agenda Item 3

Section 12A Application

[Open Meeting (Presentation and Question Sessions Only)]

Y/H4/5 Application for Amendment to the Approved Central District
Outline Zoning Plan No. S/H4/12 by Adding
‘Public Utility Installation’ Use in Column 1 of the Notes
for the “Other Specified Uses” annotated “Pier” zone,
Central Government Pier, 32 Man Fai Street, Central
(MPC Paper No. Y/H4/5)

Presentation and Question Sessions

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

Ms. Brenda K.Y. Au - District Planning Officer/Hong Kong (DPO/HK)

Mr. Ernest C.M. Fung - Senior Town Planner/Hong Kong (STP/HK)

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

Mr. Humbert Tse

Mr. Cho Ching Por

8. The Chairperson extended a welcome and explained the procedures of the hearing. Mr. Ernest C.M. Fung was then invited to brief Members on the background to the application. With the aid of a Powerpoint presentation, Mr. Fung did so as detailed in the Paper and made the following main points :

The Application

(a) the applicant proposed to add ‘Public Utility Installation’ use in Column 1

of the Notes for the “Other Specified Uses” annotated “Pier” (“OU(Pier)”) zone covering the Central Government Pier on the approved Central District Outline Zoning Plan (OZP) No. S/H4/12;

- (b) according to the layout plan submitted by the applicant in Drawing Z-1 of the Paper, it was proposed to install the mobile radio base station and antennae (including a stainless steel cabinet with air conditioning condenser and three antenna posts of 3.4m in height) on the roof level of the Central Government Pier. The applicant’s justifications were summarised in paragraph 2 of the Paper;

Comments of the Relevant Government Bureaux/Departments

- (c) the comments of the relevant Government bureaux/departments were detailed in paragraph 9 of the Paper. The key comments were summarised below :

- the Harbour Unit of the Development Bureau (HU, DEVB) did not support the application. It was the Administration’s pledge to enhance and beautify the Victoria harbour-front for public enjoyment. The vision was to create a vibrant, green, accessible and sustainable harbour-front through effective and balanced planning and utilization of land resources. However, apart from mobile radio base station use, ‘Public Utility Installation’ use included other public utility installation uses such as pump house. From the harbour-front enhancement and beautification points of view, any facility, including the proposed mobile radio base station and antennae, that was incompatible with the harbour-front vision was not supported to be located at the harbour-front;
- the Chief Town Planner/Urban Design and Landscape, PlanD commented that Victoria Harbour was the heart of Hong Kong and an important space for public enjoyment. The Vision Statement of the Town Planning Board (TPB) for Victoria Harbour had set out the goal to make Victoria Harbour attractive, vibrant, accessible and symbolic of Hong Kong. There was a public need for leisure and recreational uses at the Harbour. However,

the applicant had not provided information to demonstrate that the proposed use would not affect the visual quality of the Harbour or forestall the opportunity to use the site for activities/functions that would be conducive to public enjoyment. Moreover, the proposed inclusion of 'Public Utility Installation' use under Column 1 of the "OU(Pier)" zone would open the floodgate to similar proposals at the adjacent Central Piers No. 2 and 3 which fell within the same zone;

- in the context of the "Urban Design Study for the New Central Harbour-front", the Chief Town Planner/Special Duties, PlanD did not support the application on the ground that the proliferation of public utility installation uses would create potential visual impact to the new Central harbour-front and greatly compromise the urban design objective to create a harmonious visual relationship within the harbour setting;

- the Chief Town Planner/Studies and Research, PlanD commented that the subject pier occupied a prominent location at the Central harbour-front. According to the Harbour Planning Guidelines formulated by the Harbour-front Enhancement Committee, utility installation should not be constructed along the harbour-front as far as possible. If this was inevitable due to operational reason, they should be planned and designed in such a way that their impacts would be minimized during their construction, operation and maintenance. According to the Definition of Terms/Broad Use Terms adopted by the TPB, 'Public Utility Installation' use included a wide range of uses such as pump house, electricity substation and telephone exchange, some of which might entail a size and scale not commensurate with the prominent harbour-front setting of the site. Should 'Public Utility Installation' use be included under Column 1 of the "OU(Pier)" zone, all uses under this term would be permitted as of right within the zone with no planning control. While the layout plan in Drawing Z-1 of the Paper was only an indicative proposal submitted by the applicant in support of the application, it was considered that appropriate planning control should be in place to ensure that the planning and design of public utility installation uses at the site would respect the

prominent harbour-front setting and minimize any possible impacts on the harbour-front environment; and

- the Director-General of Telecommunications (DG of T) had no comment on the application. Regarding the public concern on the potential radiation hazard of the proposed mobile radio base station and antennae, all mobile network operators were required to follow the “Code of Practice for the Protection of Workers and Members of Public Against Non-Ionizing Radiation (NIR) Hazards from Radio Transmitting Equipment” and ensure that the NIR generated from their base stations complied with the limits recommended by the International Commission on NIR Protection for the protection of the workers and the general public;

Local Views and Public Comments

- (d) the District Officer (Central and Western) had no comment on the application, but advised that the public comments on the application should be taken into account;
- (e) during the statutory publication period, one public comment was received from two Central and Western District Council Members. The commenters expressed concerns on the potential radiation hazard to the public and the potential visual impact on the waterfront;

PlanD's Views

- (f) PlanD did not support the application based on the assessments in paragraph 11 of the Paper. The application was intended to facilitate the provision of the proposed mobile radio base station and antennae at the application site. However, the subject “OU(Pier)” zone covered the application site and also the adjacent Central Piers No. 2 and 3, which occupied a prominent location on the Central waterfront along Victoria Harbour. The roofs of Central Piers No. 2 and 3 had been developed for public open space use to help making Victoria Harbour attractive, vibrant, accessible and symbolic of Hong Kong. The applicant had not provided information to demonstrate that the proposed ‘Public Utility Installation’

use would not affect the visual quality of the harbour-front area. Approval of the application would also set an undesirable precedent for similar proposals at Central Piers No. 2 and 3 in the same zone, the cumulative effect of which would adversely affect the visual quality of the area. Moreover, according to the Definition of Terms/Broad Use Terms adopted by the TPB, 'Public Utility Installation' use meant any tank, structure or premises built on, over, or under ground level for the provision of water, sewerage, gas, electric, broadcasting, television and telecommunications services to serve the local district. Some of these installations were not compatible with the surrounding land uses or had a size/scale not commensurate with the prominent harbour-front setting of the site. Should 'Public Utility Installation' be included under Column 1 of the "OU(Pier)" zone, there would be no planning control to ensure that the design of such uses would respect the prominent harbour-front setting of the site and to minimize any possible impacts on the harbour-front environment. DEVB and PlanD did not support the application for the reasons mentioned in paragraph 9 of the Paper. There was also concern raised in the public comment on the potential visual impact of the proposed mobile radio base station and antennae on the waterfront; and

- (g) notwithstanding the above, PlanD considered that there could be provision under the Notes for the subject "OU(Pier)" zone to allow some flexibility for certain essential public utility installations at the harbour-front sites while still ensuring proper planning control over such installations. PlanD would consider proposing suitable amendments to the subject Notes for the Committee's consideration when opportunity arose.

9. The Chairperson then invited the applicant's representatives to elaborate on the application. Mr. Humbert Tse made the following main points :

- (a) the applicant intended to install the proposed mobile radio base station with three antennae on the roof level of the Central Government pier in order to enhance the mobile phone coverage for the waterfront area around the application site;

- (b) referring to the photomontages and photographs showing the application site with and without the proposed installations shown at the meeting, it was pointed out that various Government departments had expressed concern over the visual impact of the proposed mobile radio base station and antennae. As the proposed installations would be built at locations close to the existing fence erecting along the boundary of the subject pier roof, they would be concealed behind the fence without causing any adverse visual impact on the surrounding area;
- (c) other photographs showing an antenna of a mobile radio base station built by the applicant in a housing estate were tabled at the meeting. As shown in the photographs, the visual impact of the antenna could be minimized by covering it up with a cabinet which had similar colour and texture with the exterior wall of the estate; and
- (d) the applicant had assessed the potential radiation hazard of the proposed mobile radio base station and antennae at the site and the assessment results were tabled at the meeting. The applicant would follow the relevant Code of Practice issued by DG of T to ensure that the proposed installations would not cause adverse health impact to the public.

10. In response to a Member's question, Mr. Humbert Tse said that the applicant was aware that any uses under Column 1 of the Notes would be permitted as of right without the need to apply for planning permission from the TPB while Column 2 uses would require planning permission from the TPB. As the proposed mobile radio base station and antennae was considered an essential public facility, the applicant thus applied to put 'Public Utility Installation' use under Column 1 instead of Column 2 of the Notes of the subject "OU(Pier)" zone under the subject section 12A application. The same Member raised a concern that if 'Public Utility Installation' use was included in Column 1 of the Notes as applied for, all uses under this term would be permitted as right and the TPB would have no opportunity to scrutinize the visual impact of such uses within the "OU(Pier)" zone. In response, Mr. Humbert Tse said that public utility installation uses, including the proposed mobile radio base station and antennae, would require the consideration and approval of the relevant

Government departments. During the process, the visual and other impacts of the proposed installations would be duly considered by the concerned Government departments.

11. In response to another Member's question on the existing use at the roof level of the Central Government Pier, Mr. Cho Ching Por said that there were an existing plant room and staircase exit on the pier roof. A fence had been erected along the boundary of the pier roof to prevent people from falling over from the roof.

12. The same Member sought clarification on paragraph 11.4 of the Paper which stated that PlanD would consider proposing suitable amendments to the Notes of the "OU(Pier)" zone. Ms. Brenda K.Y. Au said that if 'Public Utility Installation' use was included in Column 1 of the Notes as proposed by the applicant, there would be no planning and design control on the wide range of uses allowed under this term. The TPB could not ensure that the disposition, intensity and design of the proposed mobile radio base station and antennae at the site would be the same as that shown in the section 12A application. This was considered not appropriate given the prominent waterfront location of the site. Nevertheless, it was considered that there could be provision under the Notes of the "OU(Pier)" zone to allow for flexibility for certain essential public utility installations at the harbour-front sites while at the same time the TPB could maintain proper planning control on such uses. PlanD would consider proposing suitable amendments to the subject Notes in the future amendment of the Central District OZP.

13. A Member said that the photographs that were shown to Members by the applicant's representatives were taken at a high level with some distance away from the Central Government Pier. As such, they could not demonstrate the visual impact of the proposed installations if they were viewed at the street level or the public open spaces at the adjacent Central Piers No. 2 and 3. In response, Mr. Humbert Tse referred to some photographs taken on the roof level of the Central Government Pier and said that the height of the proposed mobile radio base station and antennae would be lower than that of the existing fence. As such, they should not be visible by members of the public at the street level or the public open spaces at the adjacent piers.

14. In response to a Member's question about the potential radiation hazard of the proposed mobile radio base station and antennae on users of the public open spaces at the

adjacent Central Piers No. 2 and 3, Mr. Cho Ching Por said the applicant had conducted the relevant assessment at every 0.5m interval distance from the site. As shown in the assessment results tabled at the meeting, the level of exposure to radio frequency signals at close distance to the proposed installations would be far below the level of exposure set down in the international standard. As such, the proposed installations would not cause adverse health impact on members of the public at the site, let alone the public open spaces at the adjacent Central Piers No. 2 and 3 which were at some 70-170m away from the site.

15. As the applicant's representatives had no further points to add and Members had no further questions to raise, the Chairperson 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 applicant of the Committee's decision in due course. The Chairperson thanked the applicant's and PlanD's representatives for attending the meeting. They all left the meeting at this point.

Deliberation Session

16. A Member said that based on the applicant's submission and the presentation of its representatives at the meeting, it appeared that the proposed mobile radio base station and antennae at the site would not be visually intrusive. However, unlike a section 16 application which the Committee would consider the details of individual development proposal and if approved, attach appropriate conditions, the present section 12A application was to amend the Notes of the "OU(Pier)" zone by putting 'Public Utility Installation' use in Column 1. In this connection, it was noted that 'Public Utility Installation' use included a wide range of uses and the "OU(Pier)" zone on the OZP covered the Central Government Pier as well as the adjacent Central Piers No. 2 and 3. As such, the Committee should also consider the implications of allowing such uses as of right in the "OU(Pier)" zone on the OZP. It was considered that the land uses at the Central waterfront location warranted careful consideration and proper planning control. This Member considered not appropriate to allow 'Public Utility Installation' use as of right under Column 1 of the Notes for the "OU(Pier)" zone and did not support the application.

17. Another Member shared the same views and agreed that the application could not be supported. However, this Member asked if the applicant could submit a section 16

planning application for the proposed installations. The Chairperson said that at present, 'Public Utility Installation' use was neither a Column 1 nor 2 use in the Notes for the "OU(Pier)" zone on the Central District OZP. As such, there was no provision for submission of a section 16 planning application. However, PlanD had indicated in paragraph 11.4 of the Paper that there could be provision under the Notes for the "OU(Pier)" zone to allow for flexibility for essential public utility installations. If 'Public Utility Installation' use was included under Column 2 of the Notes for the "OU(Pier)" zone in the future amendment of the Central District OZP, the applicant could then apply for planning permission for the proposed installations. Through the section 16 planning application system, the Committee would be able to assess the merits of individual development proposal within the zone, having regard to the planning intention of the site, land use compatibility, visual impact, etc.

18. In response to a Member's question, the Chairperson said that regardless of whether 'Public Utility Installation' use was to be put under Column 1 or 2 of the Notes, the Central District OZP would still need to be amended and gazetted under section 5 of the Town Planning Ordinance before the applicant could implement the proposed installations.

19. A Member asked whether an applicant could apply for planning permission given that the proposed use was neither a Column 1 nor 2 use under the Notes of the relevant OZP. The Secretary said that there was provision for application for temporary uses not exceeding a period of three years in the rural OZPs, notwithstanding that the uses were not provided for in the Notes of the rural OZPs. There was no such provision in the OZPs covering the urban areas and new towns. However, in the covering Notes of the OZPs covering the urban areas and new towns as in the case of the subject site, there was a provision that temporary uses (expected to be five years or less) of any land or buildings were permitted in all zones as long as they complied with other Government requirements. However, it was an established practice that the 'five-year rule' was not applicable to uses in permanent buildings.

20. A Member opined that with the growing competition among different mobile phone operators, allowing one operator to install its mobile radio base station at a site would likely encourage other operators to follow suit to install their own stations at the same or adjacent site to enhance their mobile phone coverage. As such, there were concerns on the undesirable precedent effect and the cumulative adverse visual impact of such uses on the

harbour-front environment. This Member asked whether different mobile phone operators could be requested to share a mobile radio base station. The Chairperson said that this would be subject to the policy of DG of T.

21. The Chairperson concluded that Members' views were that the application could not be supported. Members then went through the reasons for rejecting the application as stated in paragraph 12.1 of the Paper and agreed that they were appropriate.

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

- (a) for proper planning control, particularly in terms of land use compatibility and visual impact, it would not be appropriate to permit 'Public Utility Installation' use as of right in Column 1 of the Notes for the "Other Specified Uses" annotated "Pier" ("OU(Pier)") zone; and
- (b) approving the application would set an undesirable precedent for similar proposals within the "OU(Pier)" zone and the cumulative impact would be significant, particularly in respect of the visual impact.

[Dr. Winnie S.M. Tang arrived to join the meeting and Mr. Raymond Y.M. Chan left the meeting temporarily at this point.]

Agenda Item 4

Section 16 Application

[Open Meeting]

A/H15/238 Proposed Petrol Filling Station and Permitted Industrial Building
in "Other Specified Uses" annotated "Business (2)" zone,
19 and 21 Wong Chuk Hang Road, Aberdeen
(Aberdeen Inland Lots 278 and 280)
(MPC Paper No. A/H15/238C)

23. The Secretary said that the application was submitted by a subsidiary of Henderson Land Development Co. Ltd. (Henderson). Mr. Raymond Y.M. Chan, having current business dealings with Henderson, had declared an interest in this item. Mr. Clarence W.C. Leung had also declared an interest as Henderson was a donor of the Hong Kong Spirit Ambassadors of which he was an executive officer. As the applicant had requested to defer consideration of the application, the Committee agreed that Mr. Chan and Mr. Leung could be allowed to stay at the meeting. The Committee noted that Mr. Chan had already left the meeting temporarily for this item.

24. The Committee noted that the applicant's representative on 1.6.2010 requested for deferment of the consideration of the application for two months in order to allow sufficient time to undertake a risk assessment to address the further comments of the Director of Fire Services on the application.

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

Agenda Item 5

Section 16 Application

[Open Meeting]

A/H5/387 Proposed Hotel in "Residential (Group A)" zone,
17 and 19 Hing Wan Street, Wan Chai
(MPC Paper No. A/H5/387)

26. The Committee noted that the applicant's representative on 2.6.2010 requested for deferment of the consideration of the application for two months in order to allow sufficient time to address the departmental comments on the application.

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

[Ms. Brenda K.Y. Au, District Planning Officer/Hong Kong (DPO/HK), Mr. Ernest C.M. Fung, Senior Town Planner/Hong Kong (STP/HK), Mr. Tam Tai Keung, Senior Divisional Officer (New Projects), Fire Services Department (SDO(NP), FSD), Mr. Cheng Chit Fai, Senior Station Officer (New Projects) (SStnO(NP)), FSD, Ms. Monika Yim, Senior Building Surveyor/Hong Kong East, Buildings Department (SBS/HKE, BD), and Mr. W.H. Pang, Building Surveyor/Hong Kong East (BS/HKE), BD, were invited to the meeting at this point.]

[Mr. Clarence W.C. Leung left the meeting temporarily at this point.]

Agenda Item 6

Section 16A Application

[Open Meeting (Presentation and Question Sessions Only)]

A/H25/10-1 Application for Extension of Time for Compliance with
Conditions (h) and (j) for the Approved Temporary Exhibition Hall
for Motor Vehicles for a Period of Two Years under
Application No. A/H25/10 for a Further 3 Months up to 18.9.2010
in “Open Space” zone, Basement Level B1 of the Car Park Complex,
Hong Kong Convention and Exhibition Centre (Phase 1),
1 Harbour Road, Wan Chai
(MPC Paper No. A/H25/10-1)

Presentation and Question Sessions

28. Mr. Ernest C.M. Fung, STP/HK, said that a replacement of page 11 of the Paper was tabled at the meeting for Members' consideration. He then presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application, including the following :
 - (i) as detailed in paragraph 1 and Appendix I of the Paper, the application site was the subject of three previous applications (No. A/H25/2, A/H25/6 and A/H25/9) for the same temporary exhibition hall for motor vehicles use;
 - (ii) for Application No. A/H25/2 which was approved with conditions by the Committee on 10.10.2003 for a period of three years, the condition relating to the provision of fire service installations (FSI) had not been implemented and the planning permission lapsed on 11.10.2006;
 - (iii) in approving Application No. A/H25/6 on 3.11.2006 for a period of three years, the Committee imposed a time-limited condition (c) relating to the provision of FSI for compliance within six months, failing which the permission would be revoked, in view of the non-compliance of condition under Application No. A/H25/2. Subsequently, the time limit for compliance with condition (c) was extended up to 21 months under three section 16A applications (No. A/H25/6-1, A/H25/6-2 and A/H25/6-3). A further section 16A application (No. A/H25/6-4) for extension of time (EOT) for compliance with condition (c) up to 27 months was rejected by the Committee on 1.8.2008 and the planning permission was revoked on 3.8.2008. The applicant subsequently applied for review of the Committee's decision. On 14.11.2008, the Town Planning Board (TPB) agreed on review to extend the time limit for compliance with condition (c) to 14.5.2009 and granted planning permission to

the subject use on a temporary basis until 3.11.2009. However, the planning permission was again revoked as the applicant failed to comply with condition (c) satisfactorily by 14.5.2009. On 1.6.2009, the applicant appealed to the TPB against the revocation of the planning permission, but the TPB on 17.7.2009 decided not to support the appeal against the revocation of the planning permission;

[Mr. Clarence W.C. Leung returned to join the meeting at this point.]

- (iv) Application No. A/H25/9 was rejected by the Committee on 24.10.2008 due to insufficient information in the submission to demonstrate that FSI would be provided early for the applied use;
- (v) under Application No. A/H25/10, a sales office would be demarcated from the car parking area and provided with a new corridor to meet the means of escape (MoE) requirement. The applicant had also proposed to restrict the maximum number of cars and visitors to 345 and 300 respectively at any time in the car parking area of the application premises. Upon consideration on 18.12.2009, the Committee approved the application for a period of two years subject to the conditions as stated in paragraph 1.6 of the Paper;
- (vi) the current status of compliance with conditions under Application No. A/H25/10 was summarised in paragraph 1.8 and Appendix IV of the Paper. In brief, the applicant had already installed a mechanical monitoring system and employed an independent professional to monitor the system and prepare monitoring reports under condition (d), employed an Authorized Person (AP) to conduct audit checks on the monitoring system and monitoring reports on the number of visitors under condition (e) and submit bi-monthly audit reports under condition (f), as well as submitted proposals for the MoE and FSI under conditions (g) and (i)

respectively which had been accepted by the relevant Government departments; and

- (vii) conditions (h) and (j) under Application No. A/H25/10 were respectively relating to the implementation of the MoE as well as the implementation of the FSI and submission of documentary proof to indicate that the fire safety requirements were fulfilled, all within six months by 18.6.2010. A set of general building plans (GBPs) covering the application premises with the MoE and fire safety requirements (including a smoke extraction system for the parking area) was already approved by the Building Authority (BA) on 5.3.2010. However, according to the applicant, the smoke extraction system could not be practically installed for two reasons. Firstly, the various parts of the application premises (including those along the exit routes) after installation would only have a clear headroom of 1.67m, which was less than the minimum statutory requirement of 2m. Secondly, the pipe ducts had to pass through various floors to a public garden on the roof of the car park which was outside the control/authorized use of the applicant. In this respect, the AP of the applicant had submitted a revised set of GBPs mainly involving the deletion of the proposed smoke extraction system. It was disapproved by the BA on 17.5.2010 as the fire certificate was not issued by the Director of Fire Services (D of FS). On 19.5.2010, the AP submitted another set of GBPs with a Fire Engineering Report. According to the applicant, the Fire Engineering Report indicated that although smoke extraction system could not be provided, the provision of the proposed enhanced FSI (e.g. smoke detection system, public announcement system, use of CCTV and fast response sprinkler) could still achieve the overall level of safety standard in accordance with the prescriptive requirement;

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

- (b) the current application for EOT for compliance with conditions (h) and (j) under Application No. A/H25/10 for a further three months up to 18.9.2010;
- (c) the departmental comments were detailed in paragraph 6 of the Paper. While having no comment on the EOT application, the major advice tendered by the District Lands Officer/Hong Kong East, Lands Department (DLO/HKE, LandsD), Chief Building Surveyor/Hong Kong East and Heritage Unit, Buildings Department (CBS/HKE&HU, BD) and D of FS was highlighted below :
- DLO/HKE, LandsD indicated that the applicant had submitted a waiver application for the use of display and sale of motor vehicles, but was informed on 3.6.2010 that the application could not be processed further with the disapproval of the building plans on 17.5.2010;
 - CBS/HKE&HU, BD advised that according to the approved set of GBPs, the works on MoE might be completed in three months' time. The revised set of GBPs with a Fire Engineering Report submitted on 19.5.2010 would be due for a reply on 15.6.2010. A Fire Safety Committee Meeting was scheduled on 21.7.2010 to discuss the Fire Engineering Report for the proposed non-provision of smoke extraction system for the parking area. With regard to the clear headroom issue raised by the applicant, Building (Planning) Regulation 24 was applicable for the purpose of an office or for habitation only. Besides, the 2m clear headroom requirement was applicable only when the pipe ducts passed through the exit route. Apart from the clear headroom issue, there was no comment under the Buildings Ordinance regarding the installation of the smoke extraction system. According to a joint site inspection with the AP on 8.6.2010, the site works on the implementation of the MoE were basically completed pending minor rectifications and submission of the documentary proof; and

- D of FS advised that in case the applicant found it difficult to install a smoke extraction system due to existing site constraint, D of FS might consider to adopt a fire engineering approach with enhanced fire safety measures as an alternative to the prescriptive provision provided that the fire engineering approach should not provide inferior safety standard to the prescriptive requirements and this would be subject to his approval;
- (d) the District Officer (Wan Chai) received six comments on the application for the temporary waiver for the applied use with one objecting to, one providing comment on, two supporting, and two having no comment on the application. The major ground of objection was that the car park should serve the visitors to the Hong Kong Convention and Exhibition Centre, instead of being a car exhibition hall. One commenter raised concern on whether the applied use had complied with the fire safety or other safety regulations; and
- (e) the Planning Department (PlanD)'s views – PlanD had no objection to the EOT application based on the assessments in paragraph 7 of the Paper. The applicant had obtained building plans approval from the BA on 5.3.2010 which involved, inter alia, proposals on the MoE and FSI (including the smoke extraction system for the parking area). Since then, the applicant had taken steps to implement the approved proposals. BD advised that the relevant building works relating to the MoE were basically completed pending minor rectifications and submission of the documentary proof. Regarding the FSI, the applicant explained that difficulties were encountered in the course of implementation. While BD advised that the minimum headroom requirement under the Building (Planning) Regulation was only applicable to the sales office and exit route, the ownership issue arising from the passing of the pipe ducts through the upper floors to a public garden above might be difficult to resolve. In this connection, the AP on 19.5.2010 submitted a set of revised GBPs with a Fire Engineering Report to demonstrate why smoke extraction facilities were not required. This set of GBPs, being processed by BD and FSD, was due for a reply on 15.6.2010. A Fire Safety Committee Meeting had also been scheduled for 21.7.2010 to discuss the Fire Engineering Report for the proposed

non-provision of smoke extraction system for the parking area. As the GBPs involved both MoE and FSI proposals and the AP could not apply for 'completion of building works' for the MoE only when the implementation of the FSI proposal was still outstanding, the applicant thus had to apply for EOT for compliance with condition (h) relating to the implementation of MoE in order to tally with that of condition (j) relating to the implementation of the FSI. In view of the above and having regard to the steps taken by the applicant in complying with the other conditions as detailed in paragraph 1.8 and Appendix IV of the Paper, it might be unreasonable not to grant the EOT so that the applicant could obtain the necessary approval for the revised FSI proposal and complete the implementation of the FSI within the three-month extension period. Should the Committee decide to approve the EOT application, the applicant should be advised that this would be the last EOT for the compliance with approval conditions and no further EOT would be granted as the planning permission had only been granted for a period of two years and given the non-compliance and revocation of the previous applications. Regarding the local concerns, the Commissioner for Transport had no adverse comment on the use of the subject premises as temporary exhibition hall for motor vehicles under Application No. A/H25/10 and the applicant was also making further effort to comply with the conditions relating to the implementation of the MoE and FSI.

29. In response to a Member's question, Mr. Ernest C.M. Fung said that the application premises had a floor area of about 8,200m². According to conditions (b) and (c) attached to the subject planning permission, a maximum number of 345 cars and 300 visitors were allowed at any time in the car parking area of the application premises. Noting the large floor area of the application premises and the large number of maximum allowable cars/visitors therein, this Member was concerned about the fire safety issue, particularly as the applicant could not provide the most 'desirable' type of FSI (i.e. the smoke extraction system for the parking area). While fire drill could be arranged for the residents or workers who lived or worked in a building, the same could not be arranged for visitors to the subject exhibition hall. As visitors were not familiar with the layout of the premises, there was potential life risk in case of fire. In this respect, this Member asked how could D of FS

ensure that the FSI to be installed at the premises would be effective or would achieve the intended level of fire safety in case of fire. Another Member shared the same fire safety concern and asked if the FSI requirements for the subject exhibition hall and other uses would be the same, whether it was a must to provide a smoke extraction system in the parking area of the premises, what were the difficulties in the provision of the concerned smoke extraction system, and whether the concerned smoke extraction system could be replaced by other FSI.

30. Mr. Tam Tai Keung, SDO(NP), FSD, said that FSD was committed to monitoring fire safety in the community and ensuring the provision of appropriate FSI in buildings/premises according to their intended use(s). While the prescriptive FSI requirements for different type of uses had been set out in the Code of Practice for Minimum Fire Service Installations and Equipment (hereinafter referred to as the FSI Code) issued by the FSD, D of FS might accept, on a case by case basis, fire engineering approach as an alternative to the prescriptive provisions provided that the applicant could demonstrate that the overall level of safety under the fire engineering approach would be equivalent to that of full compliance with the prescriptive requirements. This flexible approach was specified in paragraph 1.3 of the FSI Code. When the required FSI were completed or installed, the AP of the respective applicant had to submit documentary proof to D of FS certifying that the required FSI had been satisfactorily completed/installed. To ensure the proper functioning of the FSI upon completion/installation, the FSI must be maintained, inspected and certified by a registered fire service installation contractor at least once every 12 months and the certificate for the annual inspection of FSI had to be submitted to D of FS.

31. Mr. Tam continued to say that the subject exhibition hall, being a kind of commercial use, was located at the basement level with a compartment volume exceeding 7,000m³. According to paragraph 4.14 of the FSI Code, the FSI requirements for the subject exhibition hall included, inter alia, a smoke extraction system for the parking area. The specifications of a smoke extraction system were set out in paragraph 5.23 of the FSI Code. On 19.5.2010, the AP of the applicant submitted a revised set of GBPs with a Fire Engineering Report explaining the difficulties encountered in providing the concerned smoke extraction system and proposing alternative measures based on a fire engineering approach. According to the site visit conducted by FSD, the premises currently had a headroom of about 2m only which would pose difficulty to install a smoke extraction system. So far, the

applicant had amended the Fire Engineering Report three times to address the comments of D of FS. The last amended Fire Engineering Report submitted by the AP on 10.6.2010 was being processed by D of FS. The Fire Engineering Report also contained a Fire Safety Management Plan which had to indicate clearly how the applicant could control the number of visitors and cars at the parking area of the application premises to a level not exceeding the maximum limits as stipulated in conditions (b) and (c).

32. Ms. Brenda K.Y. Au, DPO/HK, added that the applicant had also encountered ownership problem in the provision of smoke extraction system in that the pipe ducts had to pass through various floors and the outlets of the air intake/exhaust pipe would be located at a public garden on the roof of the car park which was under the jurisdiction of the Trade Development Council and hence not under the control/authorized use of the applicant.

33. A Member was concerned that the exhibition hall was already in operation, but the applicant had not yet fulfilled the conditions on implementation of the MoE and FSI. Another Member shared similar concern, in particular that the applicant had a track record of failing to comply with the approval conditions relating to the provision of FSI.

34. In response to a Member's question, Ms. Brenda K.Y. Au said that if the subject EOT application was rejected by the Committee and the applicant could not comply with conditions (h) and (j) by the current time limit (i.e. 18.6.2010), the planning permission under Application No. A/H25/10 would be revoked on the same date under condition (l). DLO/HKE, LandsD would then require the applicant to terminate the subject exhibition hall use and revert the premises back to the original use immediately.

35. A Member asked as to why the exhibition hall was allowed to operate when the FSI had not yet been satisfactorily provided. Ms. Brenda K.Y. Au said that the applicant had ceased operation at the premises when the previous planning permission (No. A/H25/6-4) was revoked. Subsequently, the applicant submitted a fresh application (No. A/H25/10). In considering that application, the Committee was of the view that the temporary exhibition hall for motor vehicles was not incompatible with the surrounding land uses and planning permissions for the use had been granted since 2003. As such, the main concern on the application lied not on land use but on how to ensure compliance of the approval conditions relating to the technical requirements of the relevant Government departments. Having

taken into account, inter alia, that the relevant Government departments had no objection to the application and the applicant had made various proposals to address the Committee's concern, the Committee on 18.12.2009 decided to approve Application No. A/H25/10 with conditions for a period of two years. As stipulated under condition (d), the exhibition hall was allowed to operate after the installation of a mechanical monitoring system to control the number of visitors to the parking area. At the site visit on 10.6.2010, the AP of the applicant indicated that the alternative FSI proposed by the applicant in replacement of the smoke extraction system had basically been provided on site. Nevertheless, whether the alternative FSI proposal was acceptable would be subject to D of FS's decision.

Deliberation Session

36. A Member expressed grave concern that the exhibition hall was already in operation, but the compliance with the conditions relating to the provision of MoE and FSI had been dragged on by the applicant for a long time. For small-scale shop and services use on the ground floor of a building, visitors could easily escape from these premises to the outside of the building in case of fire. However, the subject exhibition hall was located at the basement level with a large site area and large number of cars (maximum 345) and visitors (maximum 300) therein. Any fire breakout in the subject premises might result in loss of life. In view of the above, this Member did not support the EOT application.

37. Another Member asked if the implementation problems on the FSI were insurmountable. If affirmative, the EOT application should not be approved. In case that the Committee decided to approve the EOT application, this Member considered that this should be the last EOT for compliance given the bad track record of the applicant and the fire safety concern. Mr. Tam Tai Keung said that the applicant had encountered the headroom and ownership problems in the provision of smoke extraction system for the parking area. Nevertheless, as explained earlier at the meeting, D of FS had been adopting a flexible and pragmatic approach in considering the fire safety requirements for each case. If the applicant had difficulties in complying with the prescriptive requirements of the FSI Code, D of FS might consider accepting a fire engineering approach provided that it would not provide inferior standard. In this connection, the AP of the applicant had submitted the revised Fire Engineering Report to demonstrate that the enhanced FSI proposal were viable alternatives to the smoke extraction system. The preliminary checking of the revised Fire

Engineering Report indicated that the enhanced FSI proposal was basically acceptable.

38. A Member noted that the exhibition hall had once ceased operation and asked if the current operation had obtained the planning permission of the TPB. The Secretary said that the applicant had ceased operation with the revocation of the previous planning permission. However, the applicant had submitted a fresh application (No. A/H25/10) which was approved with conditions by the Committee on 18.12.2009. With the obtaining of the planning permission and compliance of condition (d) as explained by DPO/HK earlier at the meeting, the exhibition hall was put into operation again. Given this information, this Member considered that the Committee should have duly considered the fire safety issue in granting planning permission for the current operation.

39. The same Member noted that PlanD had recommended in paragraph 7.5 of the Paper that should the Committee approve the EOT application, this would be the last EOT for compliance with the approval conditions. This Member asked if this recommendation was enforceable or not. The Secretary replied in the affirmative. In approving applications for temporary uses in areas covered by rural outline zoning plans, appropriate conditions, including a revocation clause, would normally be imposed to ensure that the temporary uses would not cause undue environmental impacts and nuisances to the surrounding areas. For the cases which involved two or more previously revoked permissions, it had been an established practice to make it clear to the applicant in the advisory clause that sympathetic consideration would not be given to any further application should the applicant fail to comply with the approval conditions again resulting in the revocation of the planning permission. In some EOT cases, it was explicitly stated in the advisory clause that it was the last extension for fulfilling the approval conditions and no further extension would be granted.

40. The same Member said that the applicant had put in continuous effort in implementing the FSI. Regarding the fire safety concern, it was noted that the works relating to the MoE and the alternative FSI proposal were basically completed. The outstanding matter was mainly relating to the approval of the revised GBPs and the revised Fire Engineering Report by BD and D of FS respectively as well as the subsequent submission of the documentary proof by the applicant to certify that the related works had been completed. According to Mr. Tam's advice, there appeared to be good prospect that

the alternative FSI proposed by the applicant could be accepted by D of FS. Regarding the concern that the applicant might continue to delay the provision of FSI, the Secretary had explained that the recommendation of granting the last extension for compliance could be enforced. In light of the above, this Member considered that the EOT application could be approved, but it should be made clear to the applicant that this would be the last extension for compliance granted by the Committee.

41. A Member, however, reiterated the stance of not supporting the EOT application as expressed earlier at the meeting. In handling planning applications, the applicant had to submit all relevant technical assessments to the satisfaction of the relevant Government departments before the Committee could grant planning permission. However, the alternative FSI proposal had not been accepted by D of FS for this case. The Secretary said that the Committee, in approving Application No. A/H25/10 on 18.12.2009, had duly considered, among others, all technical assessments submitted by the applicant and the departmental comments on the application. The purpose of the subject section 16A application was not to seek planning permission for a proposed use, but to apply for a three-month extension period for compliance with conditions (h) and (j) attached to the application as the applicant had encountered difficulties in implementing the originally proposed FSI and the alternative FSI proposal and the revised set of GBPs were still being processed by D of FS and BD respectively.

42. Two Members said that the applicant had put in efforts to implement the FSI and hence agreed to grant the last EOT for compliance with conditions (h) and (j). However, noting that the Fire Safety Committee Meeting was scheduled for 21.7.2010 to consider the revised Fire Engineering Report for the proposed non-provision of smoke extraction system, one of them asked if a shorter compliance period, instead of the three-month period sought, should be granted to give a clear message to the applicant that the conditions should be complied with as soon as possible and in view of the fire safety concern.

43. In response, Mr. Tam Tai Keung said that if the revised Fire Engineering Report was accepted by D of FS, there was no need to submit it to the Fire Safety Committee Meeting scheduled for 21.7.2010 for consideration. Based on the observation at a site visit conducted on 8.6.2010, the proposed alternative FSI had basically been provided on site. However, the revised Fire Engineering Report including the Fire Safety Management Plan

was yet to be approved by D of FS. Subject to the approval of the revised Fire Engineering Report, the AP of the applicant also had to submit documentary proof to certify that the approved FSI proposal had been satisfactorily completed/installed. It was considered that a three-month extension period sought by the applicant was reasonable. Ms. Monika Yim, SBS/HKE, BD, advised that the respective AP had to submit documentary proof to certify that the related building works had been completed in accordance with the approved plans. According to a recent site visit, the site works on the implementation of the MoE were basically completed pending minor rectifications and submission of the documentary proof. BA would process the application for 'completion of building works' within 14 days. In response to a Member's question, Ms. Monika Yim said that according to office record, the subject case had not been submitted to the Fire Safety Committee Meeting for consideration before. Noting the views of the concerned departments, Members considered that shortening the extension period was not required if the case was approved.

44. In summary, the Chairperson said the majority views of Members were that the EOT application for an additional period of three month for compliance with conditions (h) and (j) could be approved and that this would be the last extension granted for the compliance with the approval conditions.

45. After further deliberation, the Committee decided to approve the application for extending the time limit for compliance with conditions (h) and (j) for an addition of three months until 18.9.2010, on the terms of the application as submitted to the Town Planning Board (TPB) and subject to the following conditions :

- (a) no motor shows or car fairs or any related events should be undertaken at the premises;
- (b) the number of cars to be parked at the car parking area of the application premises should not exceed 345 at any time;
- (c) the number of visitors allowed at the car parking area of the application premises should not exceed 300 at any time;
- (d) the installation of a mechanical monitoring system to control the number of visitors to the car parking area of the application premises, as proposed by

the applicant, before the proposed use was put into operation, to the satisfaction of the Director of Buildings or of the TPB, and to employ an independent professional to monitor the system and prepare monitoring reports on a monthly basis;

- (e) to employ an Authorized Person to conduct audit checks on the monitoring system and the monitoring reports on the number of visitors to the car parking area of the application premises, as proposed by the applicant, on a bi-monthly basis;
- (f) in relation to (e) above, to submit the audit reports every two months, with any non-compliance on the number of visitors to the car parking area of the application premises highlighted, to the satisfaction of the Director of Buildings or of the TPB;
- (g) the provision of the means of escape within 9 months from the date of planning approval to the satisfaction of the Director of Buildings or of the TPB by 18.9.2010;
- (h) the provision of the fire service installations and submission of documentary proof to indicate that the fire safety requirements were fulfilled within 9 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the TPB by 18.9.2010;
- (i) if any of the above planning conditions (a), (b), (c), (d), (e) or (f) was not complied with during the planning approval period, the approval hereby given should cease to have effect and should be revoked immediately without further notice; and
- (j) if any of the above planning conditions (g) or (h) 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.

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

- (a) the applicant should comply with approval conditions (g) and (h) within the 3-month extension period. This was the last extension for the compliance of the approval conditions, and no further extension of time would be granted;
- (b) no sympathetic consideration to any further planning application would be given if the current permission was revoked again for non-compliance with the approval conditions;
- (c) to note the comments of the Chief Building Surveyor/Hong Kong East and Heritage Unit, Buildings Department on the provision of fireman's lift in accordance with the relevant Code of Practice;
- (d) to note the comments of the Director of Fire Services on the provision of fire service installations for the whole application premises;
- (e) to apply to the District Lands Officer/Hong Kong East, Lands Department for a temporary waiver; and
- (f) to note the comments of the Director of Environmental Protection that the operator should switch on vehicle engines only when necessary and switch off the engines immediately after use to minimize air pollutants in the exhibition hall, and reference should be made to the Practice Note on "Control of Air Pollution in Car Park" (ProPECC No. 2/96).

[The Chairperson thanked Ms. Brenda K.Y. Au, DPO, Mr. Ernest C.M. Fung, STP/HK, Mr. Tam Tai Keung, SDO(NP), FSD, Mr. Cheng Chit Fai, SStnO(NP), FSD, Ms. Monika Yim, SBS/HKE, BD, and Mr. W.H. Pang, BS/HKE, BD, for their attendance to answer Members' enquiries. They left the meeting at this point.]

[A short break of three minutes was taken at this point.]

Tsuen Wan and West Kowloon District

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

Agenda Item 7

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/K4/59 Proposed Religious Institution (Chinese Temple)
in “Residential (Group A)” zone,
Junction of Pak Tin Street and Woh Chai Street, Shek Kip Mei
(MPC Paper No. A/K4/59)

Presentation and Question Sessions

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

[Professor Joseph H.W. Lee left the meeting temporarily at this point.]

- (a) background to the application;
- (b) the proposed religious institution (Chinese temple) use;
- (c) departmental comments – concerned Government bureau/departments had no objection to or adverse comments on the application;
- (d) during the statutory publication period, one public comment from the Shek Kip Mei Estate Block 22 Mutual Aid Committee was received. The commenter expressed the view that the site should be used as an open space rather than for a religious institution which would promote superstition; and
- (e) the Planning Department (PlanD)’s views – PlanD had no objection to the

application based on the assessments in paragraph 10 of the Paper. The proposed temple was an in-situ redevelopment of a demolished temple which was in existence in Shek Kip Mei for over 40 years. The site was the subject of two previously approved applications (No. A/K4/37 and A/K4/56) for the same use. As compared with the last approved scheme (No. A/K4/56), the current application involved an increase in the gross floor area (GFA) of the proposed temple from 27.2m² to 105.93m² with no change in the site area, layout and building height as detailed in paragraph 1.5 of the Paper. Since the approval of the previous applications, there was no major change in the planning circumstances. The site, with an area of 521.7m², largely comprised artificial slopes and staircases to be managed by the applicant as requested by the Hong Kong Housing Authority. The development intensity of the proposed single-storey temple with a GFA of 105.93m², plot ratio of 0.203 and site coverage of 20.3% was considered small in scale and not unacceptable in this locality. The proposed building height of 28.4mPD also did not exceed the building height restriction of 30mPD as stipulated for the subject “Residential (Group A)” zone on the Outline Zoning Plan. The proposed increase in the GFA of the proposed temple under the current application was to provide sufficient space within the temple for worshippers. The Chief Town Planner/Urban Design and Landscape, PlanD considered that the proposed temple would not cause significant visual and landscape impacts. Besides, it would not generate significant traffic and environmental impacts on the surrounding areas. The proposed temple was considered not incompatible with the surrounding areas, which comprised mainly residential and Government, institution or community uses. According to the applicant, the proposed temple would not provide commercial activities, tablets, columbarium use, and storage of urns containing human remains. The Director of Environmental Protection advised that the potential environmental impacts arising from the operation of the proposed temple could be controlled by the relevant environmental legislation. With regard to the public comment, the site which mainly comprised artificial slopes was considered not suitable for open space use. Moreover, there were two existing public open spaces in the vicinity, namely Wai Chi Street

Playground and Berwick Street Sitting-out Area, to serve the local residents.

48. Members had no question on the application.

Deliberation Session

49. 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 11.6.2014, 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 landscape proposal, including a tree preservation and compensatory planting scheme, to the satisfaction of the Director of Planning or of the TPB; and
- (b) the provision of fire service installations to the satisfaction of the Director of Fire Services or of the TPB.

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

- (a) to open the temple and the garden for use of the public;
- (b) to note the comments of the District Lands Officer/Kowloon West, Lands Department to apply for a short term tenancy for the proposed temple at the subject site;
- (c) to note the comments of the Chief Building Surveyor/Kowloon, Buildings Department to appoint an Authorized Person to submit building plans for approval prior to the commencement of building works;
- (d) to note the comments of the Head of Geotechnical Engineering Office, Civil Engineering and Development Department that the effects of the

proposed temple structure encroaching onto the existing slopes should be assessed for design and construction considerations. The necessary slope upgrading/strengthening works should be incorporated in the site formation plans and foundation plans to be submitted by an Authorized Person to the Buildings Department for approval; and

- (e) to note the comments of the Chief Engineer/Mainland South, Drainage Services Department to implement local sewerage upgrading works if found necessary.

[The Chairperson thanked Mr. P.C. Mok, STP/TWK, for his attendance to answer Members' enquiries. Mr. Mok left the meeting at this point.]

[Professor Joseph H.W. Lee returned to join the meeting at this point.]

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

Agenda Item 8

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/KC/354 Religious Institution (Temple)
in "Open Space" zone, Government land,
Tai Wo Hau Road, Kwai Chung
(MPC Paper No. A/KC/354)

Presentation and Question Sessions

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

- (a) background to the application;

- (b) the religious institution (temple) use;
- (c) departmental comments – concerned Government departments 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 (Kwai Tsing); and
- (e) the Planning Department (PlanD)'s views – PlanD had no objection to the application based on the assessments in paragraph 11 of the Paper. The temple had been in existence in Kwai Chung since 1958 to provide a place for the worship of the 'God of Land' by the public. Part of the site was the subject of a previously approved application (No. A/KC/85) for a Chinese temple with a site area of 280m² and site coverage (SC) area of 50m². In the subsequent processing of a short term tenancy for temple use in 1991, the site area and SC area of the temple had been increased to 380m² and 166.3m² respectively. Further increase in the site area and SC area by 12m² and 99.7m² to 392m² and 266m² respectively were noted by the District Lands Officer/Tsuen Wan and Kwai Tsing in recent site visits. As the temple had already been developed on site, the intention of the current application was to regularize the as-built situation of the temple. The temple was located within an area zoned "Open Space" ("O") with steep topography. The land area within the "O" zone which was suitable for open space use had already been implemented. There was no intention to develop the application site for open space use. In accordance with the Hong Kong Planning Standards and Guidelines, there was a surplus of about 8 ha in the open space provision in the Kwai Chung area. As such, the increase in site area of the temple by 112m² as compared with the previously approved scheme (No. A/KC/85) would not have adverse impact on the open space provision in the area. In this regard, the Director of Leisure and Cultural Services had no objection to the application. As the increase in site area and SC area of the temple would

not involve additional site formation works or tree felling, the Chief Town Planner/Urban Design and Landscape, PlanD had no adverse comments on the application. According to the applicant, the temple would not provide commercial activities, columbarium use, storage of urns containing human remains and tablets relating to deceased persons. The continuation of the temple use at the site would not cause significant traffic, environmental, visual and landscape impacts on the surrounding areas.

52. Members had no question on the application.

Deliberation Session

53. 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 of fire service installation proposal and implementation of fire service installations in the application premises within 6 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the TPB by 11.12.2010; and
- (b) if the above planning condition (a) 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.

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

- (a) to note the comments of the District Lands Officer/Tsuen Wan and Kwai Tsing, Lands Department to apply for a short term tenancy to effect the temple use. The applicant was also required to fulfil the relevant legislations and the requirements of the relevant Government departments before the regularisation of the kitchen and toilet could be further considered;

- (b) to note the comments of the Chief Engineer/Development (2), Water Supplies Department that for the provision of water supply to the application premises, the applicant might need to extend their inside services to the nearest suitable Government water mains for connection. The applicant should also resolve any land matter (such as private lots) associated with the provision of water supply and should be responsible for the construction, operation and maintenance of the inside services within the private lots to his satisfaction;

- (c) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department that the granting of planning permission should not be construed as an acceptance of the unauthorized building works on site under the Buildings Ordinance and the unauthorized buildings should be removed. Moreover, Authorized Person must be appointed to coordinate any new building works. Having considered the topographical features that there was no specified street abutting the site, the development potential such as building height, maximum site coverage and maximum plot ratio should be determined by the Building Authority as laid down in section 19(3) of the Building (Planning) Regulation;

- (d) to note the comments of the Director of Fire Services regarding the submission of relevant layout plans incorporating the fire service installations (FSIs) proposal for the proposed structures and to make reference to the following requirements :
 - (i) sufficient emergency lighting should be provided throughout the entire building in accordance with BS 5266: Part 1 and BS EN 1838;
 - (ii) sufficient directional and exit sign should be provided in accordance with BS 5266: Part 1 and FSD Circular Letter No. 5/2008;
 - (iii) fire alarm system should be provided to the entire building in accordance with BS 5839: Part 1: 2002+A2:2008 and FSD Circular Letter No. 1/2009. One actuating point and one audio warning device should be located at each hose reel point. This actuation point should include facilities for fire pump start and audio/visual

- warning device initiation;
- (iv) a modified hose reel system supplied by 2m³ FS water tank should be provided. There should be sufficient hose reels to ensure that every part of each building could be reached by a length of not more than 30m of hose reel tubing. The FS water tank, FS pump and hose reel should be clearly marked on plans;
 - (v) portable hand-operated approved appliances should be provided as required by occupancy and should be clearly indicated on plans;
 - (vi) sprinkler system should be provided to the entire building in accordance with BS EN 12845:2003 and FSD Circular Letter No. 3/2006. The classification of occupancies and capacity of sprinkler tank should be clearly stated. The sprinkler tank, sprinkler pump room, sprinkler inlet and sprinkler control valve group should be clearly marked on plans;
 - (vii) should the applicant wish to apply for exemption from the provision of certain FSIs as prescribed above, the applicant was required to provide justifications to his department for consideration; and
- (e) to note the comments of the Chief Town Planner/Urban Design and Landscape, Planning Department to maintain the structures within the application site in a proper manner.

Agenda Item 9

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/KC/355

Shop and Services (Property Agent)

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

Workshop 1, G/F, Kwai Wu Industrial Building,

89 Ta Chuen Ping Street, Kwai Chung

(MPC Paper No. A/KC/355)

Presentation and Question Sessions

55. Mr. Y.S. Lee, STP/TWK, said that a replacement of page 7 of the Paper was sent to Members on 10.6.2010. He then presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the shop and services (property agent) use on the ground floor of an existing industrial building;
- (c) departmental comments – concerned Government departments 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 (Kwai Tsing); and
- (e) the Planning Department (PlanD)'s views – PlanD had no objection to the application based on the assessments in paragraph 11 of the Paper. The applied use was considered not incompatible with the uses of the subject industrial building, which mainly comprised industrial uses and office uses related to industrial establishments/trading firms/food companies on the upper floors. The applied use, with a floor area of about 14.02m², was small scale and would unlikely generate adverse traffic or environmental impacts on the surrounding areas. It also complied with the Town Planning Board Guidelines No. 22D for 'Development within "Other Specified Uses(Business)" zone' in terms of fire safety, traffic and environmental impacts. In this connection, the Commissioner for Transport and Director of Environmental Protection had no objection to the application. The aggregate commercial floor area on the ground floor of the subject industrial building, including the applied use under application, did not exceed the maximum permissible limit of 460m². In this connection, the Director of Fire Services had no objection to the

application.

56. Members had no question on the application.

Deliberation Session

57. 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 of fire service installations proposal and implementation of fire service installations in the application premises within 6 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the TPB by 11.12.2010; and
- (b) if the above planning condition (a) 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.

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

- (a) that prior planning permission should have been obtained before commencing the applied use at the application premises;
- (b) to note the comments of the District Lands Officer/Tsuen Wan and Kwai Tsing, Lands Department to apply for a temporary waiver to permit the applied use at the application premises; and
- (c) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department on compliance with the provisions of the Buildings Ordinance.

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

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

Agenda Item 10

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/K3/524 Training Centre in “Residential (Group A)” zone,
Flat D, 3/F, Wing Wah Building,
14-24 Sai Yeung Choi Street South, Mong Kok
(MPC Paper No. A/K3/524)

Presentation and Question Sessions

59. Mr. C.K. Soh, STP/TWK, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the training centre use;
- (c) departmental comments – concerned Government departments had no objection to or adverse comments on the application;
- (d) one public comment was received during the statutory publication period. The commenter had no comment on the application; and
- (e) the Planning Department (PlanD)’s views – PlanD had no objection to the application based on the assessments in paragraph 9 of the Paper. The training centre was considered not incompatible with the existing mixed uses at the subject building and the surrounding land uses which were predominantly mixed commercial/residential in nature. The training

centre, with a floor area of about 57.92m², was small in scale and hence no significant impact on the infrastructure and the neighbourhood was expected. The training centre would help the working population to upgrade their skills level and encourage them to pursue continuous development. According to the Employees Retraining Board, the applicant had submitted an application to be an appointed Training Bodies of Specific Services.

60. Members had no question on the application.

Deliberation Session

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

- (a) the submission of fire service installations proposal and implementation of the fire service installations in the application premises within 6 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the TPB by 11.12.2010; and
- (b) if the above planning condition (a) 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.

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

- (a) to note the comments of the Chief Building Surveyor/Kowloon, Buildings Department that an Authorized Person should be appointed to submit building plans for the proposed change of use to demonstrate compliance with the Buildings Ordinance; and
- (b) to note the comments of the Director of Environmental Protection that the future operator should ensure compliance with the requirement under the

relevant environmental pollution control ordinance.

[The Chairperson thanked Mr. C.K. Soh, STP/TWK, for his attendance to answer Members' enquiries. Mr. Soh left the meeting at this point.]

Kowloon District

Agenda Item 11

Section 16 Application

[Open Meeting]

A/K22/9 Proposed Residential Development (Including a Pier (Landing Steps),
Eating Place and Shop and Services Uses)
with Minor Relaxation of the Building Height Restriction
in "Commercial (2)" zone, 1-5 Kai Hing Road, Kowloon Bay
(NKILs 5805, 5806 and 5982)
(MPC Paper No. A/K22/9D)

63. The Secretary said that the application was submitted by a subsidiary of Wheelock Properties Limited. Mr. Roger K.H. Luk, being the Independent Non-executive Director of Wheelock Properties Limited, had declared an interest in this item. As the applicant had requested to defer consideration of the application, the Committee agreed that Mr. Luk could be allowed to stay at the meeting.

64. The Committee noted that the applicant's representative on 3.6.2010 requested for deferment of the consideration of the application for three weeks as the applicant was finalizing the revised scheme upon the receipt of departmental and public comments.

65. 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 a

further period of two months was allowed for preparation of the submission of the further information, and as a total of eight months had been allowed, no further deferment would be granted unless under very special circumstances.

[Mr. Vincent T.K. Lai, 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/K18/270 Proposed School (Kindergarten cum Child Care Centre)
 in “Residential (Group C) 1” zone,
 43 Cumberland Road, Kowloon Tong (NKIL 741)
 (MPC Paper No. A/K18/270)

Presentation and Question Sessions

66. 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 school (kindergarten cum child care centre) use;
- (c) departmental comments – concerned Government bureau/departments had no objection to or adverse comments on the application;
- (d) during the statutory publication period of the application, seven public comments were received. Six commenters objected to the application mainly on the grounds that there were already too many schools in the vicinity; the proposed school use deviated from the planning intention of the subject “Residential (Group C)” zone; and the proposed kindergarten

cum child care centre would lead to further traffic congestion, road safety, noise pollution, air pollution and public safety problems as well as degradation of the living environment. One commenter agreed to the proposal, but raised concerns on matters relating to fire service installations and traffic congestion;

- (e) during the statutory publication period of the further information, two public comments raising objection to the application were received. The major grounds of objection included traffic, road safety and students' safety problems, noise impact, disturbance to the existing tranquil environment, and suspected encroachment onto the non-building area; and

- (f) the Planning Department (PlanD)'s views – PlanD had no objection to the application based on the assessments in paragraph 11 of the Paper. The proposed kindergarten cum child care centre generally complied with the Town Planning Board Guidelines No. 23 for 'Application for Kindergarten/Child Care Centre in Kowloon Tong Garden Estate'. As school use was commonly found in the vicinity of the site, the proposed kindergarten cum child care centre was considered not incompatible with the surrounding developments. The provision of on-site parking and loading/unloading facilities as well as the proposed layout of facilities were considered acceptable to the Commissioner for Transport (C for T). No significant adverse impacts on traffic, environment and infrastructure provisions of the area were anticipated. In this respect, C for T, the Commissioner of Police (C of P), Director of Environmental Protection (DEP), Chief Engineer/Mainland South, Drainage Services Department and Chief Engineer/Development (2), Water Supplies Department had no objection to or adverse comments on the application. The technical requirements on the building structural safety, fire safety and internal layout of the proposed kindergarten cum child care centre could be further considered during the stage of building plan submission and/or school licence application. In this regard, should the Committee decide to approve the application, approval condition (a) and advisory clauses (a) and (b) in relation to the above matters were recommended in paragraph 12.2 of

the Paper. Regarding the matters of concern raised in the objecting public comments, the relevant Government bureau/departments, including the Secretary for Education, C for T, DEP and C of P, had no objection to or adverse comments on the application.

67. In response to a Member's question, Mr. Vincent T.K. Lai said that according to the applicant, the existing two-storey vacant building at the site would be converted to the proposed kindergarten cum child care centre whereas the single storey structure at the south-western corner of the site would be demolished. The Antiquities and Monuments Office, Leisure and Cultural Services Department had been consulted and had no comment on the application.

Deliberation Session

68. 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 11.6.2014, and after the said date, the permission should cease to have effect unless before the said date, the development permitted was commenced or the permission was renewed. The permission was subject to the following conditions :

- (a) the provision of water supplies for firefighting and fire service installations to the satisfaction of the Director of Fire Services or of the TPB;
- (b) the design and provision of parking facilities, loading/unloading spaces, lay-bys and carpark layout for the proposed development to the satisfaction of the Commissioner for Transport or of the TPB; and
- (c) the submission and implementation of a landscape and tree preservation proposal to the satisfaction of the Director of Planning or of the TPB.

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

- (a) the approval of the application did not imply any compliance with the Buildings Ordinance and Regulations. The applicant should appoint

Authorized Person/Registered Structural Engineer to submit building plans to the Buildings Department to demonstrate compliance with the Buildings Ordinance;

- (b) to consult the Registration Section and the Joint Office for Pre-Primary Services of the Education Bureau on the school registration process for the proposed kindergarten cum child care centre under the Education Ordinance and Regulations;
- (c) to design the noise sensitive uses, like classrooms, to facing away from the railway as far as practicable;
- (d) to consult the Lands Department on the lease matters concerning the proposed development;
- (e) to seek the approval of the Lands Department as a priority if removal of the existing *Celtis sinensis* was unavoidable; and
- (f) to resolve any land issue relating to the development with the concerned owner(s) of the application site.

Agenda Item 13

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/K7/100 Proposed Minor Relaxation of Building Height Restriction
from 80mPD to 85.12mPD for Permitted Residential Use
in “Residential (Group B)” zone,
170C, 170D, 170E and 170F Boundary Street, Kowloon
(KILs 3277 s.C, s.D, s.E and s.F)
(MPC Paper No. A/K7/100)

Presentation and Question Sessions

70. 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, including that the application site was the subject of a previous application (No. A/K7/92) submitted by the same applicant for the proposed minor relaxation of building height (BH) restriction from 80mPD to 89.47mPD for the permitted residential use at the site. On 24.7.2009, the Committee rejected Application No. A/K7/92 for the reasons given in paragraph 5.1 of the Paper. During the review of Application No. A/K7/92, the applicant proposed to reduce the BH of the residential development by 2.75m to 86.72mPD. On 5.2.2010, the Town Planning Board (TPB) decided on review to relax the BH restriction of the site for 3m from 80mPD to 83mPD. On 23.4.2010, the applicant lodged an appeal to the Appeal Board Panel (Town Planning) against the above TPB's decision;
- (b) the proposed minor relaxation of BH restriction from 80mPD to 85.12mPD by 5.12m (6.4%) for the permitted residential use at the site;
- (c) as detailed in paragraph 9 of the Paper, concerned Government departments had no objection to or adverse comments on the application;
- (d) during the statutory publication period, 19 public comments from a Kowloon City District Council Member, the Chairperson of the Owners Committee of The Lamma Palace, and 17 individuals were received. Among them, 17 commenters objected to the application mainly due to the air quality, air ventilation and traffic noise problems, the wall effect of tall buildings, and the undesirable precedent effect. There were also concerns that the low-rise residential character of the area would be affected; views and natural light penetration would be obstructed, and the existing public facilities would be overtaxed. Two commenters did not indicate objection to the application, but they expressed similar concerns; and

(e) the Planning Department (PlanD)'s views – PlanD did not support the application based on the assessments in paragraph 11 of the Paper :

- the application site was zoned “Residential (Group B)” (“R(B)”) and located in a low to medium-density residential area. Apart from the adjacent residential development, The Lamma Palace, having a BH of 123.5mPD (main roof level) which was extremely tall in the area, bearing in mind that the height of the existing buildings in the surrounding area was around 20-50mPD. A maximum BH restriction of 80mPD was imposed onto the “R(B)” zone, including the application site, on the Ho Man Tin Outline Zoning Plan (OZP) in order to maintain a smooth transition of BHs, preserve the existing townscape and minimise air ventilation problem caused by excessively tall buildings. In drawing up the height limit, it had been estimated that a plot ratio of 5 could reasonably be accommodated under a BH restriction of 80mPD 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 proposed residential development at the site was approved by the Building Authority in September 2009. The approved building plans showed a 20-storey residential development at 80mPD (main roof level) with a domestic floor height of 3.05m, a total domestic gross floor area (GFA) of 3,788m² and a plot ratio of 4.92 (i.e. 60m² GFA less than the maximum plot ratio of 5 as stipulated on the OZP), as well as the 6m setback along Boundary Street and setbacks along the other three sides of the proposed development;
- in the review of Application No. A/K7/92, the TPB, having taken into account the special site circumstances and constraints of the site, the setback requirements of the proposed development, and the efforts made by the applicant to reduce the BH of the proposed residential

development to 86.72mPD, decided that a minor relaxation of BH for 3m (from 80mPD as shown on the approved building plans to 83mPD) could be given so that the applicant could accommodate the remaining 60m² GFA and fully utilise the GFA permitted on the OZP;

- in the current application, the applicant proposed to increase the BH restriction of the site to 85.12mPD for achieving the full development potential of the site (i.e. plot ratio of 5) and providing the required level of car parking facilities and on-site loading/unloading facility to avoid disruption to the traffic along Boundary Street. As compared with the previously approved scheme (No. A/K7/92), the BH in the current scheme was increased from 83mPD to 85.12mPD by 2.12m (2.55%). However, the applicant had not addressed the TPB's concern by demonstrating that why the remaining 60m² GFA could not be accommodated under the relaxed BH of 83mPD;
- during the review of Application No. A/K7/92, a TPB Member expressed the view that the applicant had not demonstrated that basement development option on the site was not feasible. While claiming that relocating the transformer room to the basement level was not feasible in the current application, the applicant had not explored alternative design such as accommodating the proposed car park, loading/unloading facilities and other uses (e.g. plant room) at basement level under the relaxed BH of 83mPD to address the TPB's concern. Although planting and greening were proposed within the site, there were no strong planning justifications and design merits to justify the proposed minor relaxation of BH; and
- since the approval of the review application (No. A/K7/92), there was no change in the planning circumstances. Given the importance of maintaining the integrity of a BH profile and the above planning assessments, the approval of the application would set an undesirable precedent for other similar applications within the "R(B)" zone. In addition, there were 19 public comments raising objection to or

concerns about the application for the reasons given in paragraph 10 of the Paper.

[Dr. Winnie S.M. Tang left the meeting at this point.]

71. In response to the Chairperson's questions, Mr. Vincent T.K. Lai, referring to paragraph 1.2 and Drawing A-10 of the Paper, said that as compared with the previously approved scheme (No. A/K7/92), the domestic floor height in the current application was reduced from 3.15m to 3.05m by 0.1m. There was, however, no change in the layout and floor uses of the proposed residential development.

72. Mr. Lai continued to say that the applicant's representative submitted a letter dated 10.6.2010 to the Secretary of the TPB which had been tabled at the meeting for Members' consideration. In the letter, the applicant's representative pointed out, inter alia, that PlanD's position was inconsistent. In brief, it was recorded in the minutes of the review application (No. A/K7/92) that in working out the BH restriction, PlanD estimated that the maximum plot ratio of 5 at the "R(B)" sites could be achieved under the 80mPD height restriction without provision of basements. As such, the applicant had a legitimate expectation that provision of basement was not required for the proposed development at the site. However, PlanD stated in paragraph 11.6 of the Paper that the applicant had not explored alternative design such as accommodating some uses of the proposed development at basement level in the current application. The applicant's representative further explained that many alternative designs, including basement option, had been explored, but they could not identify an option that could meet all TPB/Government requirements while still providing the public planning gains/design merits of the scheme approved under the section 17 review of Application No. A/K7/92. Mr. Lai said that in considering the review application (No. A/K7/92), the TPB had taken into account, inter alia, the special circumstances of the case in deciding to relax the BH restriction at the site for 3m to 83mPD as stated in paragraph 11.4 of the Paper and the concerned minutes at Appendix III of the Paper.

73. In response to a Member's question, the Secretary said that in considering the previous application (No. A/K7/92) on 24.7.2009, the Committee noted that there was already a set of approved building plans demonstrating that a reasonable development at the

site could be achieved under the BH restriction of 80mPD. The application was rejected for the reasons given in paragraph 5.1 of the Paper. During the review of Application No. A/K7/92, the applicant had made efforts to reduce the BH of the proposed development from 89.47mPD to 86.72mPD. The applicant also indicated that due to the site constraints and the small size of the site, the full permissible development potential of the site allowed under the OZP (i.e. plot ratio of 5) could not be achieved and 60m² GFA had not been accommodated in the approved building plans. In this respect, Members were of the view that in imposing the BH restrictions on the OZP, it had been based on the premise that the permissible development potential of individual sites could be achieved under the BH restrictions. Given the special circumstances of the case, the TPB agreed to relax the BH restriction of the site for 3m to 83mPD in order to allow the applicant to accommodate the remaining 60m² GFA at the site while basically retaining the design. While an appeal had been lodged against the TPB's decision under Application No. A/K7/92, the applicant submitted the subject application proposing to relax the BH restriction of the site to 85.12mPD. Members would need to consider whether there were sufficient justifications to justify the proposed minor relaxation. Regarding the allegation of inconsistency in PlanD's position by the applicant's representative in its letter dated 10.6.2010, paragraph 11.6 of the Paper quoted a TPB Member's view as expressed at the review meeting of Application No. A/K7/92 that the applicant had not demonstrated that the basement development option was not feasible at the site, but no alternative design was explored in the current application to address the above concern. The current application was not supported by PlanD for the reasons given in paragraph 12.1 of the Paper.

74. A Member noted that the BH of the current scheme at 85.12mPD was only 2.12m higher than the relaxed BH of 83mPD and opined that the visual impact of the proposed development at these two height levels might be difficult to compare. This Member asked if there were any criteria for consideration of applications for minor relaxation of the BH restriction. The Secretary said that the formulation of BH restrictions on the OZP was broadbrush in nature. However, to cater for site specific circumstances, the Notes for the subject "R(B)" zone had included a minor relaxation clause mainly to serve two purposes. The first one was to provide incentive for developments/redevelopments with planning and design merits e.g. innovative building design and planning merits that would bring about improvements to townscape and amenity of the locality provided that no adverse landscape/visual impacts would be resulted, provision of separation between buildings to

enhance air/visual permeability, etc. The second purpose was to cater for cases with site constraints so that the permissible development intensity of the site under the OZP could be achieved on application to the TPB through the section 16 planning application system. The criteria for consideration of applications for minor relaxation of the BH restrictions were set out in paragraph 7.5 of the Explanatory Statement of the OZP and shown to Members via the visualizer. In considering the review application (No. A/K7/92), the TPB considered that while the planning and design merits might not be sufficient to justify the relaxation, a minor relaxation of the BH restriction of the site for 3m could be given to allow the applicant to achieve the full development potential by accommodating the remaining 60m² GFA at the site which was not possible under a height limit of 80mPD due to site constraints.

75. A Member said that the TPB had already agreed to relax the BH restriction at the site to 83mPD under Application No. A/K7/92. However, it was considered that there were insufficient justifications in the current submission to justify the proposed minor relaxation of BH further to 85.12mPD.

Deliberation Session

76. Several Members shared the same view that there were insufficient justifications in the submission to justify the proposed minor relaxation. One indicated that the BH of the current scheme was only 2.12m higher than the relaxed BH of 83mPD. It was considered that the applicant could reduce the floor height of, for example, the proposed clubhouse, the domestic storeys, the ground floor lobby, or other uses at the site in order to accommodate the full development potential of the site under the relaxed BH of 83mPD. Another Member opined that the TPB had taken heed of different considerations in drawing up the height limit of the area. As a matter of principle, the BH restrictions stipulated on the OZP should be adhered to unless strong and sufficient justifications were provided to justify any proposed minor relaxation of BH restrictions. It was considered that no strong planning justifications and design merits had been given in the current submission to justify the proposed minor relaxation and hence the application could not be supported. The other Member shared the above views and did not support the application.

77. In summary, the Chairperson summarized Members' views that the application could not be supported. Members then went through the reasons for rejecting the

application as stated in paragraph 12.1 of the Paper and agreed that they were appropriate.

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

- (a) there were no strong planning justifications and design merits in the submission for the proposed relaxation of the building height restriction; and
- (b) the applicant had not demonstrated that the proposed redevelopment could not be achieved under the approved building height of 83mPD.

Agenda Item 14

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/K7/99 Proposed School (Tutorial School)
in “Residential (Group B)” zone,
Ground Floor, 108C Boundary Street, Kowloon (NKIL 2323)
(MPC Paper No. A/K7/99)

Presentation and Question Sessions

79. 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 school (tutorial school) use;
- (c) departmental comments – concerned Government bureau/departments had no objection to or adverse comments on the application;

- (d) during the statutory publication period, one public comment from a Kowloon City District Council Member was received. The commenter indicated that lots of complaints from the local residents were received. The local residents were concerned about the oversupply of tutorial schools in the district. As such, they strongly objected to the addition of tutorial school in the district, which would aggravate hygiene, traffic, noise and nuisance problems as well as affect the building management and public order; and

- (e) the Planning Department (PlanD)'s views – PlanD did not support the application based on the assessments in paragraph 11 of the Paper. The access to the proposed tutorial school would be through the common main gate of the side entrance of the subject residential development along Boundary Street and a common access within the residential development, which was shared with the residents of the residential development. This access arrangement would bring nuisance to the residents living in the same residential development. As such, the proposed tutorial school under the current application did not comply with the Town Planning Board (TPB) Guidelines No. 40 for 'Application for Tutorial School' as its access was not separated from the domestic portion of the building and would cause disturbance or nuisance to the residents in the subject residential building. The Committee had previously rejected five similar applications for tutorial school. The access to the application premises in these five cases was shared with the residents of the concerned building. Approval of the application would also set an undesirable precedent for other similar applications for tutorial school within residential building in the area, which had no separate access to the application premises from public roads. Moreover, there was a public comment indicating that many local residents strongly objected to the addition of tutorial school in the area for the reasons given in paragraph 10.2 of the Paper.

80. In response to a Member's questions, Mr. Vincent T.K. Lai said that the application premises was located on the ground floor of an existing 3-storey residential building at 108C Boundary Street, although it was on a level a few steps above the ground as

shown in Plan A-5 of the Paper. The application premises had been decorated with furniture for the proposed tutorial school whereas the first and second floors of the same building were occupied by domestic use and a home for the aged respectively. There was no record that the home for the aged on the second floor had obtained planning permission from the TPB.

81. Another Member noted that one of the grounds for rejecting the application was about the undesirable precedent effect caused by the proposed tutorial school. However, there were many tutorial schools on the lower floors of residential buildings in the Western District. The Chairperson said that depending on the specific provision of individual Outline Zoning Plans (OZPs), some non-domestic uses such as school, shop and services, eating place, etc. were generally permitted as of right on the lowest three floors of a building or the purpose-designed non-residential portion of an existing building under the “Residential (Group A)” zone. However, the subject premises was located in the “Residential (Group B)” (“R(B)”) zone under which ‘School’ use not in a free-standing purpose-designed building was under Column 2 of the Notes and hence required planning permission from the TPB. The TPB promulgated a set of Guidelines in February 2008 which set out the main planning criteria in assessing the applications for tutorial school. For tutorial school located within a residential building or the domestic portion of a composite building, the proposed access must be separated from that of the domestic portion of the building to minimize its disturbance or nuisance to the residents of the same building. Unless the applicant could come up with practical and implementable proposals to demonstrate that the proposed tutorial school would not create nuisance to the residents of the same building, access to the tutorial school through the common area of the residential development would generally not be supported.

Deliberation Session

82. The Chairperson said that there was existing domestic use on the first floor of the subject residential building. As the site was zoned “R(B)” under which ‘Flat’ use was always permitted, the home for the aged on the second floor could also be converted back to domestic use at any time. As access to the proposed tutorial school would be through a common main gate and a common access within the residential development, such access arrangement would bring nuisance to the residents of the same building. As such, it was not in line with the TPB Guidelines No. 40.

83. A Member did not support the application, but raised a concern that the existing home for the aged on the second floor of the same building had not obtained planning permission as shown in paragraph 7.2 of the Paper. The Secretary said that planning permission from the TPB would not be required if the use was an 'Existing Use' tolerated under the Town Planning Ordinance. However, there was no information at hand to determine whether the concerned home for the aged was an 'Existing Use'. Regarding the lease aspect, Ms. Olga Lam, the Assistant Director/Kowloon, Lands Department, said that the lease of the concerned premises allowed the erection of 'one domestic house of an European type'. Legal advice might be required as to whether the concerned home for the aged was allowed under lease. In response to an enquiry from the same Member, the Chairperson said that in general, enforcement of unauthorised uses in the urban and new town areas would be undertaken through the lease and processing of building plans.

84. Members generally considered that the application could not be supported as the access arrangement of the proposed tutorial school would cause disturbance to the residents in the same residential building. Members then went through the reasons for rejecting the application as stated in paragraph 12.1 of the Paper and agreed that they were appropriate.

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

- (a) the proposed tutorial school would cause disturbance or nuisance to the local residents; and
- (b) the approval of the application would set an undesirable precedent for similar applications for tutorial schools within residential buildings in the area.

Agenda Item 15

Section 16 Application

[Open Meeting]

A/K9/237 Proposed Office
in “Other Specified Uses” annotated “Business” zone,
Workshop Units No. 2, 3, 4 and 5,
10/F, Guardforce Centre, 3 Hok Yuen Street East, Hung Hom
(MPC Paper No. A/K9/237B)

86. The Committee noted that the applicant’s representative on 25.5.2010 requested for deferment of the consideration of the application for two months as he was consolidating consents from the owners of other workshop units within the same building for wholesale conversion so as to effect the Government’s policy on revitalisation of industrial buildings. If all owners’ consent for wholesale conversion could not be obtained, the applicant would reactivate the current application. Withdrawal of the current application would waste the staff resources of the relevant Government departments in processing the application.

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

[The Chairperson thanked Mr. Vincent T.K. Lai, STP/K, for his attendance to answer Members’ enquiries. Mr. Lai 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 16

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/K11/197 Proposed Temporary Shop and Services For a Period of 5 Years
in “Other Specified Uses” annotated “Business” zone,
Unit No. E8, G/F, Wah Hing Industrial Mansions,
36 Tai Yau Street and 21-25 Tseuk Luk Street, San Po Kong
(MPC Paper No. A/K11/197)

Presentation and Question Sessions

88. Miss Annie K.W. To, STP/K, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed temporary shop and services use on the ground floor of an existing industrial building for a period of five years;
- (c) departmental comments – concerned Government departments 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 (Wong Tai Sin); and
- (e) the Planning Department (PlanD)’s views – PlanD had no objection to the application based on the assessments in paragraph 11 of the Paper. The proposed temporary shop and services use was considered generally in line with the planning intention of the “Other Specified Uses” annotated “Business” (“OU(B)”) zone and complied with the Town Planning Board Guidelines No. 22D for ‘Development within “OU(B)” Zone’. Similar applications for shop and services use had been approved for other ground

floor workshop units in the San Po Kong Business Area and on the ground floor of the same industrial building. The proposed temporary shop and services use was not incompatible with the other uses within the same building. Besides, it would not induce significant adverse fire safety, traffic, environmental and infrastructural impacts on the developments within the subject building and the adjacent area. The aggregate commercial floor area on the ground floor of the subject industrial building did not exceed the maximum permissible limit of 230m². Should the Committee decide to approve the application, it was proposed to grant a temporary approval of three years, instead of the five-year approval period sought under the application, in order to closely monitor the utilisation of the ground floor of the subject building for shop and services use.

89. Members had no question on the application.

Deliberation Session

90. After deliberation, the Committee decided to approve the application on a temporary basis for a period of 3 years up to 11.6.2013, on the terms of the application as submitted to the Town Planning Board (TPB) and subject to the following conditions :

- (a) the submission and implementation of fire safety measures, including the provision of a means of escape completely separated from the industrial portion and fire service installations in the application premises, within 6 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the TPB by 11.12.2010; 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.

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

- (a) a shorter approval period of three years was given such that the utilization

of the ground floor of the subject industrial building for shop and services use could be closely monitored;

- (b) to apply to the District Lands Officer/Kowloon East, Lands Department for a temporary wavier or lease modification;
- (c) to appoint an Authorized Person to submit building plans for the proposed change of use to demonstrate compliance with the Buildings Ordinance regarding the provision of adequate sanitary fitments access and facilities for the disabled persons and fire-resisting separation from the adjoining premises;
- (d) to comply with the requirements as stipulated in the Code of Practice for Fire Resisting Construction; and
- (e) to consult the Food and Environmental Hygiene Department regarding the food licence for the operation of food business under the Food Business Regulations.

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

[Mr. Silas K.M. Liu, Senior Town Planner/Kowloon (STP/K), was invited to the meeting at this point.]

Agenda Item 17

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/K14/613 Proposed Shop and Services (Showroom)
in "Other Specified Uses" annotated "Business" zone,
1/F, New East Sun Industrial Building, 18 Shing Yip Street, Kwun Tong
(MPC Paper No. A/K14/613)

Presentation and Question Sessions

92. Mr. Silas K.M. Liu, 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 (showroom) use;
- (c) departmental comments – concerned Government departments had no objection to or adverse comments on the application;
- (d) during the statutory publication period, two public comments expressing support/no objection to the application were received; and
- (e) the Planning Department (PlanD)’s views – PlanD had no objection to the application based on the assessments in paragraph 11 of the Paper. The proposed showroom use was considered generally in line with the planning intention of the “Other Specified Uses” annotated “Business” (“OU(B)”) zone, which was to allow for greater flexibility in the use of the existing industrial or industrial-office buildings provided that the use would not induce adverse fire safety and environmental impacts. It also complied with the Town Planning Board Guidelines No. 22D for ‘Development within “OU(B)” Zone’ in that it would not induce adverse fire safety, traffic, environmental and infrastructural impacts on the developments within the subject building and the adjacent areas.

93. Members had no question on the application.

Deliberation Session

94. 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 11.6.2012, and after the said date, the permission should cease to have effect unless before the said date, the development permitted was commenced or the permission was renewed. The permission was subject to the following conditions :

- (a) the submission and implementation of fire service installations in the application 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.

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

- (a) to apply to the District Lands Officer/Kowloon East, Lands Department for lease modification or a temporary waiver for the proposed shop and services (showroom) use at the application premises;
- (b) to appoint an Authorized Person to submit building plans for the proposed change of use and alteration works to demonstrate compliance with the Buildings Ordinance, in particular of the following :
 - (i) the provision of exit routes from storey required by Table 2 of the Means of Escape (MOE) Code and the re-assessment of the discharge value provision in compliance with the current Building (Planning) regulation 41(1) and paragraph 15 of the MOE Code;
 - (ii) the provision of two-hour fire resisting separation wall/slab between the application premises and the remaining portion of the building in accordance with the Building (Construction) Regulation 90 and paragraph 8 of the Fire Resisting Construction Code;
 - (iii) the provision of access and facilities for persons with disability under the Building (Planning) Regulation 72 and Design Manual: Barrier Free Access 2008; and
- (c) to note the comments of the Director of Fire Services that the proposed

showroom use should be used in connection with the main industrial use.

Agenda Item 18

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/K15/97 Proposed Temporary Institutional Use (not elsewhere specified)
For a Period of 5 Years in “Village Type Development” zone,
Hoi Bun School, 45 Hoi Pong Road Central, Lei Yue Mun, Kwun Tong
(MPC Paper No. A/K15/97)

96. The Secretary said that the application was submitted by the District Officer/Kwun Tong, Home Affairs Department (HAD). Mr. Andrew Tsang, being an Assistant Director of HAD, had declared an interest in this item. The Committee noted that Mr. Andrew Tsang had tendered an apology for being unable to attend the meeting.

97. Ms. Julia M.K. Lau also declared an interest in this item as the office of her parents was located in Yau Tong. The Committee considered that the interest of Ms. Lau was remote and agreed that she could be allowed to stay at the meeting.

Presentation and Question Sessions

98. Mr. Silas K.M. Liu, STP/K, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed temporary institutional use (not elsewhere specified) for a period of five years;
- (c) departmental comments – concerned Government bureaux/departments had no objection to or adverse comments on the application;

- (d) during the statutory publication period, eleven public comments were received. Among them, ten commenters, including a Kwun Tong District Council Member, a Kwun Tong South Area Committee Member and the Chairman of Lei Yue Mun Kai Fong Welfare Association, supported the application. Their major comments were that the application premises had historical value and hence the proposed use should retain its original appearance. Besides, the future community use at the application premises should promote the general well-being of the local community such as the preservation of the history of Lei Yuen Mun and the promotion of art and cultural and adult education. The other commenter expressed the view that it would be difficult to render comments on the application due to the insufficient information about the proposed use; and

- (e) the Planning Department (PlanD)'s views – PlanD had no objection to the application based on the assessments in paragraph 11 of the Paper. The proposal did not involve development or redevelopment of the application premises. The Secretary for Education advised that the ex-Hoi Bun School at the application premises had been closed since September 2008. As the application premises was not suitable for further school/educational use, it had been returned to the District Lands Officer/Kowloon East, Lands Department for disposal. The use of the application premises for community purpose could benefit the public and improve the sense of community spirit in the area. The proposed meeting room to be provided on the ground floor of the application premises could also be used by the local community as a meeting venue and for small-scale community activities. This could maximize the utilization of the existing resources. The proposal would not generate adverse traffic impact or worsen the environmental conditions in the area.

99. In response to two Members' questions, Mr. Silas K.M. Liu said that the District Officer/Kwun Tong, Home Affairs Department submitted the subject application with a view to granting the site to a non-profit making organisation for community use. The applicant had not indicated in the submission as to whether the vacant school building would be renovated for the proposed temporary use.

Deliberation Session

100. After deliberation, the Committee decided to approve the application on a temporary basis for a period of 5 years up to 11.6.2015, on the terms of the application as submitted to the Town Planning Board (TPB) and subject to the following conditions :

- (a) the submission and implementation of fire service installations in the application premises within 6 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the TPB by 11.12.2010; 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.

[The Chairperson thanked Mr. Silas K.M. Liu, STP/K, for his attendance to answer Members' enquiries. Mr. Liu left the meeting at this point.]

Agenda Item 19

Any Other Business

101. There being no other business, the meeting was closed at 11:40 a.m..