

TOWN PLANNING BOARD

Minutes of 430th Meeting of the Metro Planning Committee held at 9:00 a.m. on 12.11.2010

Present

Director of Planning
Mr. Jimmy C.F. Leung

Chairman

Mr. K.Y. Leung

Vice-chairman

Ms. Maggie M.K. Chan

Mr. Raymond Y.M. Chan

Mr. Felix W. Fong

Mr. Maurice W.M. Lee

Dr. Winnie S.M. Tang

Professor C.M. Hui

Mr. Clarence W.C. Leung

Mr. Laurence L.J. Li

Mr. Roger K.H. Luk

Professor S.C. WONG

Ms. L.P. Yau

Chief Traffic Engineer/Hong Kong,
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

Professor P.P. Ho

Ms. Julia M.K. Lau

Professor Joseph H.W. Lee

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
Ms. Maggie M.Y. Chin

Town Planner/Town Planning Board
Ms. Karen K.W. Chan

Agenda Item 1

Confirmation of the Draft Minutes of the 429th MPC Meeting held on 29.10.2010

[Open Meeting]

1. The draft minutes of the 429th MPC meeting held on 29.10.2010 were confirmed without amendments.

Agenda Item 2

Matters Arising

[Open Meeting]

(i) Approval of Draft Outline Zoning Plan (OZP)

2. The Secretary said that the Chief Executive in Council (CE in C) on 2.11.2010 approved the draft South Lantau Coast OZP (to be renumbered as S/SLC/16) under section 9(1)(a) of the Town Planning Ordinance (the Ordinance). The approval of the above OZP was notified in the Gazette on 12.11.2010.

(ii) Reference Back of Approved OZPs

3. The Secretary said that the CE in C on 2.11.2010 referred the following approved OZPs to the Town Planning Board (TPB) for amendment under section 12(1)(b)(ii) of the Ordinance:

- (a) approved Fanling/Sheung Shui OZP No. S/FSS/14;
- (b) approved Tai Tam & Shek O OZP No. S/H18/10;
- (c) approved South West Kowloon OZP No. S/K20/24; and
- (d) approved Tin Shui Wai OZP No. S/TSW/12.

4. The Secretary also said that the reference back of these OZPs was notified in the Gazette on 12.11.2010.

(iii) Town Planning Appeal Decisions Received

Town Planning Appeal No. 5 of 2009

Proposed Petrol Filling Station in “Undetermined” zone
and Area Shown as ‘Road’,

Lots 999 S.E, 1001 S.A RP, 1002 S.A RP and 1327 RP in D.D.115 and
Adjoining Government Land, Au Tau, Nam Sang Wai, Yuen Long
(Application No. A/YL-NSW/182)

5. The Secretary reported that the appeal was lodged by the Appellant on 15.5.2009 against the decision of the TPB to approve on review an application (No. A/YL-NSW/182) for a proposed petrol filling station (PFS) on a temporary basis for a period of 10 years until 6.3.2019, instead of a permanent approval as applied by the Appellant. The appeal site was zoned “Undetermined” (“U”) and an area shown as ‘Road’ on the approved Nam Sang Wai Outline Zoning Plan (OZP) No. S/YL-NSW/8.

6. The appeal was heard on 19.5.2010 and dismissed on 28.10.2010 by the Appeal Board Panel (Town Planning) (ABP). The Appellant’s arguments were as follow:

(a) on 27.6.1997, the TPB approved on review an application (No. A/YL-NSW/17) submitted by the Appellant for a proposed PFS which covered the subject site and the adjoining area on a permanent basis (hereafter referred to as the 1997 Approval). The 1997 Approval was granted on the basis of an undertaking submitted by the applicant (i.e. the Appellant) to the TPB which stated that the Appellant would cease operation of the PFS and demolish it to make way for a floodway project. The PFS was subsequently built, and demolished in compliance with the above undertaking; and

(b) the Appellant argued that the 1997 Approval intended to be effective even after the demolition of the PFS built under the 1997 Approval. Given the 1997 Approval was intended to be permanent and the approval was still effective, the Appellant contended that a fresh application for the subject PFS was not necessary. Even if it were required, the TPB should have acted consistently and reasonably and granted permanent approval as it did

in 1997;

7. The ABP dismissed the appeal mainly on the following grounds :

- (a) the ABP considered that paragraph 6 of the covering Notes of the approved Nam Sang Wai OZP No. S/YL-NSW/8 which read “Except as otherwise specified by the TPB, when a use or material change of use is effected or a development or redevelopment is undertaken, as always permitted in terms of the Plan or in accordance with a permission granted by the TPB, all permissions granted by the TPB in respect of the site of the use or material change of use or development or redevelopment shall lapse” was applicable to the subject application. As a matter of fact, a PFS had been built under the 1997 Approval. Accordingly, a direct application of the above paragraph would mean that the 1997 Approval had already lapsed and a fresh application was necessary;
- (b) the ABP also considered that the subject application was materially different from the previously approved scheme in respect of the 1997 Approval which would also mean that a fresh application was necessary; and
- (c) the ABP considered that the subject application was quite different from the 1997 Approval in terms of the scale, design and development parameters. There were also substantial changes in the prevailing circumstances from that in 1997. In particular, the Pok Oi Hospital which was located in close proximity to the subject site had expanded after the 1997 Approval was granted. The impact of the proposed PFS on the operation of the hospital and the health of the patients as raised by the Secretary for Food and Health would be perpetual if a permanent approval was granted. As such, the ABP agreed that the TPB’s decision was reasonable and being in line with the planning intention.

[Professor S.C. Wong arrived to join the meeting at this point.]

(iv) Appeal Statistics

8. The Secretary said that as at 12.11.2010, a total of 25 cases were yet to be heard by the ABP. Details of the appeal statistics were as below :

Allowed	:	25
Dismissed	:	113
Abandoned/Withdrawn/Invalid	:	142
Yet to be Heard	:	25
<u>Decision Outstanding</u>	:	<u>3</u>
Total	:	308

9. The Chairman said that there was an appeal decision in relating to two appeals (Applications No. A/ST/630 and 658). A copy of the appeal decision was tabled in the meeting for Members' reference. As the appeal was allowed without specifying conditions, liaisons with the Department of Justice, the APB and the Appellant was underway. As the APB's decision was quite lengthy and covered a number of points which would be considered by TPB, Members might go through the decision first and briefing on the appeal decision would be given in due course.

Tsuen Wan and West Kowloon District

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

Agenda Item 3

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/K5/698 Proposed Temporary Shop and Services
for a Period of 5 Years
in “Other Specified Uses” annotated “Business 3” zone,
Workshop No. 4, G/F, Premier Centre,
20 Cheung Shun Street, Cheung Sha Wan
(MPC Paper No. A/K5/698)

Presentation and Question Sessions

10. Mr. Philip Y.L. Chum, STP/TWK, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed temporary shop and services use for a period of five years. The proposed use would occupy a floor area of about 38.83m² at Workshop No. 4 on the ground floor of Premier Centre, Cheung Sha Wan;
- (c) departmental comments – concerned government departments had no objection to or adverse comments on the application. The Director of Fire Services (D of FS) commented that the subject industrial building was subject to a maximum permissible limit of 460m² for the aggregate commercial floor area on the ground floor as it was fully protected by a sprinkler system;
- (d) no public comment was received during the statutory publication period and no local objection was received by the District Officer (Sham Shui Po); and
- (e) the Planning Department (PlanD)’s views – PlanD had no objection to the

application based on the assessment in paragraph 11 of the Paper. The proposed temporary shop and services use for a period of five years was considered generally in line with the planning intention of the “Other Specified Uses” annotated “Business” (“OU(Business)”) zone which allowed greater flexibility in the use of the existing industrial or I-O buildings provided that the use would not induce adverse fire safety and environmental impacts. The proposed temporary shop and services use under application complied with the ‘Town Planning Board Guidelines for Development within “OU (Business)” Zone’ (TPB PG-No. 22D) in that it would not generate significant adverse impacts on the developments within the subject building and the adjacent areas. Moreover, the application premises with an area of 38.83m² would not exceed the maximum permissible limit of 460m² of aggregate commercial floor area on the ground floor of the subject industrial building. Concerned government departments including D of FS, the Chief Building Surveyor/Kowloon, Buildings Department, Director of Food and Environmental Hygiene, Director of Environmental Protection and Commissioner for Transport had no in-principle objection to the application.

11. In response to a Member’s enquiry, Mr. Philip Y.L. Chum, STP/TWK, said that there were two similar planning applications i.e. Application No. A/K5/620 and Application No. A/K5/652 for shop and services use approved by the Committee at Workshop 1 on ground floor of the same industrial building. However, Application No. A/K5/620 was revoked on 15.3.2007 and Application No. A/K5/652 for showroom and ancillary office use was not included in the calculation of aggregate commercial floor area, as such the application premises with an area of 38.83m² would not exceed the maximum permissible limit of 460m² of the subject industrial building.

Deliberation Session

12. After further deliberation, the Committee decided to approve the application on a temporary basis for a period of 5 years up to 12.11.2015, 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 safety measures, including the provision of a means of escape completely separating the subject premises from the industrial portion of the building and fire service installations at the subject premises, to the satisfaction of the Director of Fire Services or of the TPB before operation of the use; and
- (b) if the above planning condition was not complied with before operation of the use, the approval hereby given should cease to have effect and should on the same date be revoked without further notice.

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

- (a) to note the comments of the District Lands Officer/Kowloon West, Lands Department the need to apply for a temporary waiver to permit the applied use;
- (b) to note the comments of the Chief Building Surveyor/Kowloon, Buildings Department to ensure that the change in use should comply with the Buildings Ordinance, in particular, the provision of 2-hour fire resisting separation walls between the subject premises and the remaining portion of the building in accordance with Building (Construction) Regulation 90 and Code of Practice for Fire Resisting Construction 1996; and
- (c) to note the comments of the Director of Food and Environmental Hygiene that relevant licence/permit should be obtained from the Food and Environmental Hygiene Department (FEHD) should the subject premises be intended for conducting food business/other trade that requires a licence/permit to operate under the relevant legislation enforceable by FEHD.

[The Chairman thanked Mr. Philip Y.L. Chum, STP/TWK, for his attendance to answer Members' enquiries. He left the meeting at this point.]

Agenda Item 4

Section 16 Application

[Open Meeting]

A/TY/113 Proposed Redevelopment of Religious Institution (Temple)
in “Village Type Development” zone,
Lot 537 in D.D. 434, Tsing Yi
(MPC Paper No. A/TY/113)

14. The Committee noted that the applicant on 26.10.2010 requested for deferment of the consideration of the application for two months in order to allow more time for the applicant to address and resolve the issues raised by concerned government departments.

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

Agenda Item 5

Section 16 Application

[Open Meeting]

A/K3/525 Proposed Hotel in “Residential (Group A)” zone,
Nos. 58-66 Boundary Street, Mong Kok
(MPC Paper No. A/K3/525B)

16. The Committee noted that the applicant on 3.11.2010 requested for deferment of the consideration of the application for one month in order to allow more time for the applicant to respond to the comments of the Chief Town Planner/Urban Design and Landscape, Planning Department.

17. 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 one month was allowed for preparation of the submission of further information, and no further deferment would be granted unless under very special circumstances.

[Mr. C.K. Soh, STP/TWK, was invited to the meeting at this point.]

Agenda Item 6

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/K3/532 Proposed Commercial Bathhouse and Massage Establishment
in “Commercial” zone,
Units 901-910, 9/F, Sun Hing Building,
603-609 Nathan Road, Kowloon
(MPC Paper No. A/K3/532)

Presentation and Question Sessions

18. 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 proposed commercial bathhouse and massage establishment with a total floor area of about 1,100m²;
- (c) departmental comments – concerned government departments had no objection to or adverse comments on the application;

- (d) during the statutory publication period, one public comment was received from a District Councillor stating that the owners of Sun Hing Building raised objection and complaints to the application; and

- (e) the Planning Department (PlanD)'s views – PlanD had no objection to the application based on the assessment in paragraph 11 of the Paper. The application premises was located in a mixed neighbourhood with commercial/office, commercial/residential and other commercial developments. Two similar applications (No. A/K3/410 and A/K3/479) for commercial bathhouse/massage establishment uses approved by the Committee were located within the same building. Moreover, the application premises located on the 9/F, which was within the non-domestic portion of the subject commercial/residential building. The premises was accessible from the main entrance leading from Nathan Road and Soy Street by way of two lifts in the lobby of the building and was separated from the access to the residential units in the same building. The operation of the proposed commercial bathhouse and massage establishment was not expected to interface with the residential portion at the upper floors. As such, the proposed use was considered not incompatible with the existing uses within the same building. Concerned government departments had no objection to or adverse comments on the application. Moreover, the proposed commercial bathhouse and massage establishment could meet the planning criterion as laid down in the 'Town Planning Board Guidelines for Application for Commercial Bathhouse and Massage Establishment' (TPB PG-No. 14B). An approval condition requiring the applicant to provide fire service installations and water supplies for fire fighting had been recommended in paragraph 12.2 (a) of the Paper. Regarding the public comments on objection from owners of the same building, no details including the grounds of objections had been provided. It should be noted that the subject premises had been provided with access separated from the residential portion of the building, and it was a mixed commercial/residential neighbourhood having similar uses and other commercial uses in the same building and in the vicinity.

19. Members had no question on the application.

Deliberation Session

20. 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 12.11.2014, 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 condition :

- the provision of fire service installations and water supplies for fire fighting to the satisfaction of the Director of Fire Services or of the TPB.

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

- (a) to note the comments of the Commissioner of Police that an application for a massage establishment licence should be submitted to his office for consideration after planning permission was obtained;
- (b) to note the comments of the Director of Environmental Protection that the operator of the proposed uses should ensure compliance with the requirement under relevant environmental pollution control ordinance;
- (c) to note the comments of the Director of Fire Services that reference should be made to the Fire Safety Standards for Massage Establishment MAS/101 for the proposed development; and
- (d) to note the comments of the Director of Buildings that :
 - (i) a structural justification on the adequacy of the existing floor to take up the imposed loading carried by the proposed Hot/Cool Pools should be provided by an Authorized Person/Registered Structural Engineer; and

- (ii) access and facilities for persons with a disability should be provided in accordance with Building (Planning) Regulation 72 and Design Manual: Barrier Free Access 2008 for the Premises.

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

[Dr. Winnie S.M. Tang arrived to join the meeting at this point.]

Hong Kong District

Agenda Item 7

Section 12A Application

[Open Meeting]

Y/H10/5 Application for Amendment to the
Approved Pok Fu Lam Outline Zoning Plan No. S/H10/15
from "Government, Institution or Community"
to "Residential (Group C)7" with a Maximum Plot Ratio 1.9
and a Maximum Building Height of 151mPD,
or the Existing Plot Ratio and Building Height,
whichever is the Greater,
the Ebenezer School and Home for the Visually Impaired,
131 Pok Fu Lam Road, Pok Fu Lam (RBL No. 136RP)
(MPC Paper No. Y/H10/5C)

22. The Committee noted that Professor S.C. Wong declared an interest on this item as a close relative of him served on the Board of Directors for the Ebenezer School and Home for the Visually Impaired. As the applicant had requested for a deferment of consideration of the application, Members considered that Professor Wong could be allowed to stay at the meeting.

23. The Secretary said that the s.12A application was submitted by the applicant on 24.3.2009 for rezoning a site at 131 Pok Fu Lam Road from “G/IC” to “R(C)7”. The application was considered by the Committee on 19.6.2009. Members generally had no objection to low-rise, low-density residential development on the site, and were of the view that the details of the proposal could be further considered on the basis that the proposed development intensity and building height would not exceed those of the existing buildings (i.e. Plot Ratio of 1.9 and maximum building height of 151mPD). While Members were sympathetic with the need of the Ebenezer for a new school, some Members expressed concern that once the site was rezoned for residential use, there was no mechanism to ensure that the services currently provided to the visually impaired would not be interrupted, as the lease of the site was virtually unrestricted and lease modification would not be required for the proposed residential development. Some Members considered that the application should not be supported if there was no mechanism to guarantee that the application site would only be redeveloped after the Ebenezer was relocated to the new school. After deliberation, the Committee decided to defer a decision on the application pending the Planning Department (PlanD) to explore the possible mechanism with concerned government bureaux/departments to ensure that a continuous provision of school and social welfare facilities for the visually impaired and adequate planning control on the redevelopment proposal could be maintained.

24. The Secretary continued that in mid 2010, the applicant submitted two letters to TPB stating that they were continuing to address the various matters with the relevant Bureau, and considered that it would be premature for the Committee to reconsider the application. The applicant requested to defer the reconsideration for another two months. On 25.6.2010, 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 applicant was also advised that two months were allowed for preparation of the submission of further information, and no further deferment would be granted. Since then, there had been continued discussion between PlanD and the applicant on the issues of development intensity and building height for the application site, as well as the enforcement mechanism to ensure that the application site would only be redeveloped after the Ebenezer School was relocated to the new school. Legal advice on the applicant’s proposed enforcement mechanism had been sought and passed to the applicant for reference in preparing the further submission. On 9.9.2010, the applicant submitted further information with a revised indicative scheme for

the proposed residential development. The application was originally scheduled for the consideration of the Committee on 26.11.2010.

25. On 8.11.2010, the applicant submitted a request for deferment of the consideration of the application for two months for the reasons that (a) the applicant was currently awaiting for a substantive reply from the concerned government department on reprovisioning the Ebenezer New Hope School; (b) the applicant had posted an advertisement in the local newspapers inviting interested parties or donor to sell or donate land for the school's development purpose. The response to the advertisement had been positive and the discussion regarding possible purchase of a relocation site was undergoing, and it would be unlikely that the relevant contract negotiation and arrangement with the interested parties or donor would be completed in few weeks; and (c) further time was required to address comments from PlanD.

26. A Member said that the issues in relation to the reprovisioning of the Ebenezer New Hope School would unlikely be resolved within two months as requested by the applicant. It was noted that on 25.6.2010, when approving the previous application for deferment submitted by the applicant, the Committee considered that no further deferment would be granted. However, according to the information provided by the applicant, it was noted that efforts had been made by the applicant to address the reprovisioning issues, the deferment period was not indefinite. It was considered that further deferment could be allowed. This Member also suggested to delete the sentence in paragraph 3.2 of the Paper that 'no further deferment would be granted', in view of the fact that the reprovisioning issues might not be resolved within two months time.

27. A Member enquired whether there was any implication for allowing an indefinite period of deferment on this application, knowing that the applicant was unlikely to resolve the lands issue within the next two months. In response to this Member's enquiry, the Secretary said that should the deferment period be indefinite, it would likely affect the interest of other parties. The Secretary also remarked that as set out in the 'Town Planning Board Guidelines on Deferment of Decision on Representations, Comments, Further Representations and Applications Made under the Town Planning Ordinance' (TPB PG No. 33), in considering a request for deferment, the TPB would take into account all relevant factors and whether the right or interest of other concerned parties would be affected and

might specify the maximum period for deferment as it deemed appropriate.

28. A Member considered that to facilitate the Committee's consideration, the applicant should resolve all outstanding issues before submitting the rezoning request. If it was unlikely that there would be any solution to such fundamental issues within two months. This Member suggested the applicant to submit a fresh application after all outstanding issues were resolved.

29. The Secretary said that in the previous Committee's meeting, Members generally had no objection to the rezoning request. While Members were sympathetic with the need of the School for a new premises, some Members were concerned that there was no mechanism to ensure that the services currently provided to the visually impaired would not be interrupted. After deliberation, the Committee decided to defer a decision on the application pending the exploration of a possible mechanism to ensure that a continuous provision of school could be maintained. Since then, the applicant had taken various efforts to address the Committee's concerns, and had no intention to withdraw the rezoning application.

30. A Member enquired whether a longer time frame of deferment, for instance, six months could be granted to this application. The Secretary said that the applicant had only request the Committee to defer the consideration for two months. Another Member said that there was no justification for the Committee to grant a longer deferral period.

31. The Chairman concluded that Members generally agreed to the deferral request as efforts to address Members' concern had been made by the applicant, the deferment period was two months and such deferment would unlikely affect the interest of the third party. Even though the applicant might not resolve the issues within two-months time, Members considered that it was appropriate to stipulate a definite deferral period. Further deferment could be submitted to the Committee's consideration, if required.

32. 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 three months from the date of receipt of further information from the applicant. The Committee also agreed to advise the applicant that a

maximum period of two months were allowed for preparation of the submission of further information, and no further deferment would be granted unless under exceptional circumstances.

[Mr. Tom C.K. Yip, Senior Town Planner/Hong Kong (STP/HK), was invited to the meeting at this point.]

Agenda Item 8

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/H8/408 Proposed Shop and Services (Book Store)
 in “Residential (Group E)” zone,
 Portion of Ground Floor of North Point Industrial Building,
 499 King’s Road and 78 Marble Road, North Point
 (MPC Paper No. A/H8/408)

Presentation and Question Sessions

33. Mr. Tom C.K. Yip, STP/HK, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application. The major part of the application premises was the subject of a previous planning application No. A/H8/363 for office (property sales) use approved by the Committee on 25.7.2003;
- (b) the proposed shop and services (book store) with the floor area of 454m² on the ground floor of North Point Industrial Building;
- (c) departmental comments – concerned government departments had no objection to or adverse comments on the application. The Director of Fire Services (D of FS) commented that the subject industrial building was subject to a maximum permissible limit of 460m² for the aggregate

commercial floor area on the ground floor as it was fully protected by a sprinkler system;

- (d) during the statutory publication period, one public comment was received supporting the application as the proposed bookstore could encourage reading; and
- (e) the Planning Department (PlanD)'s views – PlanD had no objection to the application based on the assessment in paragraph 10 of the Paper. The proposed shop and services (book store) use at the application premises was in line with the planning intention of the “Residential (Group E)” zone, which was to encourage the phasing out of the existing industrial uses through redevelopment or conversion. The proposed book store would serve the residents in the area. The proposed use would occupy a total floor area of 454m² which was within the permissible limit of aggregate commercial floor area on ground floor (i.e. 460m²). Moreover, the proposed use was compatible with the surrounding developments, which comprised mainly residential developments with commercial and ‘Government, Institution and Community’ facilities, and would unlikely generate any adverse fire safety, traffic and environmental impacts. Concerned government departments including D of FS, the Commissioner for Transport and Director of Environmental Protection had no objection to the application.

34. Members had no question on the application.

Deliberation Session

35. 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 12.11.2012, 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 provision of a means of escape and fire service installations to the satisfaction of the Director of Fire Services or of the TPB before operation of the proposed 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.

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

- (a) to apply to the District Lands Officer/Hong Kong East, Lands Department for lease modification or a temporary waiver for the proposed use under application;
- (b) to note the comments of the Chief Building Surveyor/Hong Kong East and Heritage Unit, Buildings Department regarding the compliance with the provision of a means of escape, separation between different uses by compartment walls and disability facilities at the building plan submission stage; and
- (c) to note the comments of the Director of Fire Services regarding the compliance of the requirements as stipulated in Code of Practice for Fire Resisting Construction.

[The Chairman thanked Mr. Tom C.K. Yip, STP/HK, for his attendance to answer Members' enquiries. He left the meeting at this point.]

Kowloon District

[Ms. Jessica H.F. Chu, Senior Town Planner/Kowloon (STP/K), was invited to the meeting at this point.]

Agenda Item 9

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/K10/236 Proposed Hotel (Guesthouse) Development
 in “Residential (Group A) 2” zone,
 380 Prince Edward Road West, Kowloon City (NKIL 2358)
 (MPC Paper No. A/K10/236)

Presentation and Question Sessions

37. Ms. Jessica H.F. Chu, STP/K, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application including:
- the application site was the subject of a previous application No. A/K10/222 for a 20-storey hotel (guesthouse) development submitted by the same applicant. The application was rejected by the Town Planning Board (TPB) on review on 5.10.2007 on the grounds that the proposed hotel was not in line with the planning intention of the “R(A)” zone which was primarily for residential use; it was premature to consider the application pending a land use review of the Kowloon City area; and the approval of the application would set an undesirable precedent for similar hotel developments within the Kowloon City residential neighbourhood, the cumulative effect of which would adversely affect the traffic condition and general character of the area;
 - on 20.11.2007, the applicant lodged an appeal against the decision of the TPB under s.17B of the Town Planning Ordinance. On 9.2.2010, the appeal was abandoned by the appellant of his own accord; and
 - a land use review of the Kowloon City area had been undertaken and the findings were detailed at Appendix IV of the Paper;

- (b) the proposed hotel (guesthouse) development with a total gross floor area of 1,176.006m² and a building height of 63.3mPD at the main roof (75.25mPD including roof-top structures). A comparison of the major development parameters and floor uses between the rejected scheme and the current scheme was at paragraph 1.6 of the Paper. As compared with the previous application, the average room size under the current proposal had been increased from 7.87m² to 9.4m². Thus, whilst keeping the same number of 48 guestrooms, the storeys had been increased from 20 to 24. Moreover, landscape planting was proposed on the upper G/F, 1/F, 2/F and roof floor to provide greenings;
- (c) departmental comments – Commissioner for Tourism supported the application as the proposed hotel would help to increase the supply of hotel rooms, broaden the range of accommodations for visitors, and support the rapid development of the tourism and hotel industries. Other concerned government departments had no objection to or adverse comments on the application;
- (d) during the statutory publication period, one public comment was received objecting to the application on the grounds that the proposed hotel (guesthouse) was not close to a Mass Transit Railway station, tourists would be more likely to commute by taxis or buses which would stop in front of the proposed development along Prince Edward Road West. Lorries would also stop along the road for loading/unloading of hotel supplies thus causing more congestion; and
- (e) the Planning Department (PlanD)'s views – PlanD had no objection to the application based on the assessment in paragraph 11 of the Paper. The land use review undertaken revealed that Kowloon City area had a very diverse development mix and was not a pure and tranquil residential neighbourhood. Apart from residential uses (mostly located on the upper floors), there was a wide variety of uses found in the area which could mainly be grouped as eateries, service industries (including hotel/guesthouses), retail uses, offices, and religious institutions.

Moreover, it was anticipated that the Kowloon City area would become an interesting and attractive tourist spot. Hence, the proposed hotel (guesthouse) was considered not incompatible with the surrounding uses. The proposed development with a plot ratio of about 9 (excluding back-of-house facilities) and a building height of 75.25mPD complied with development restrictions of the “Residential (Group A)2” zone on the approved Ma Tau Kok Outline Zoning Plan No. S/K10/20. Concerned government departments had no objection to the application. To address concerns raised by government departments including the Chief Town Planner/Urban Design & Landscape, Planning Department and the Director of Fire Services, appropriate approval conditions had been recommended in paragraphs 12.2 (a) to 12.2 (e) of the Paper. As regards the commenter’s objection on the grounds that the proposed hotel (guesthouse) would cause congestion to Prince Edward Road West, the Commissioner for Transport, Transport Department had no objection to the application as the scale of the proposed development was small and would not cause significant impact to the surrounding road network.

Deliberation Session

38. A Member had the following questions on the land use review undertaken for Kowloon City:

- (a) the reasons for undertaking a land use review study for Kowloon City area;
- (b) whether a land use review study would be undertaken on a regular basis;
and
- (c) whether the findings and recommendations of the land use review study be released for public information.

39. Ms. Jessica H.F. Chu, STP/K, briefed Members on the background of the land use review study. In October 2007, a planning application (No. A/K10/222) for a proposed hotel (guesthouse) development was rejected by the Town Planning Board on review. One of the rejection reasons was that it was premature to consider the application pending a land use review of the Kowloon City area. Subsequently, a land use review study had been

undertaken by PlanD and the findings were attached at Annex IV of the Paper. As revealed in the land use review study, the Kowloon City area had a very diverse development mix, and was not a pure and tranquil residential neighbourhood. Besides, residential uses mostly located on the upper floors. There were a variety of uses found in the area which could be grouped as eateries, service industries, retail uses, offices and religious institutions. The study also examined the building age/building height of the existing developments, its pace of redevelopment and the integration with new developments at Kai Tak. As no amendments to the Ma Tau Kok OZP had been recommended by the study, the findings had not been made to public.

40. The Secretary said that land use reviews had been/would be initiated by PlanD on a need basis. For example, in considering some planning applications or representations to the amendments to the OZP, Members had concerns on some planning/land use issues and requested PlanD to further examine. Besides, PlanD had also initiated land use reviews for areas that were undergoing transformation so as to review the appropriate land uses. The findings of these land use reviews had been presented to TPB or the relevant District Councils for consideration, as appropriate. Regarding the subject application, the review undertaken by PlanD revealed that the Kowloon City area had changed from a residential neighbourhood to a mixed residential and commercial area. The area had great potential for redevelopment to better integrate with the new development at Kai Tak. It was against these findings that PlanD had no objection to the proposed hotel development which was considered not incompatible with the surrounding areas.

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

41. After further deliberation, the Committee decided to approve the application, on the terms of the application as submitted to the Town Planning Board (TPB). The permission should be valid until 12.11.2014, 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 a building design proposal to further improve the design of the proposed development, particularly for the façade treatment to the satisfaction of the Director of Planning or of the

TPB;

- (b) the submission and implementation of a landscaping proposal to the satisfaction of the Director of Planning or of the TPB;
- (c) the provision of water supplies for firefighting and the fire service installations to the satisfaction of the Director of Fire Services or of the TPB;
- (d) the submission of a Sewerage Impact Assessment (SIA) to the satisfaction of the Director of Environmental Protection or of the TPB; and
- (e) the implementation of the local sewerage upgrading/sewerage connection works identified in the SIA in the approval condition (d) above to the satisfaction of the Director of Drainage Services or of the TPB.

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

- (a) to note the comments of the Chief Building Surveyor/Kowloon, Buildings Department regarding hotel concessions, the application for hotel concession including exemption of back-of-house facilities from gross floor area calculation under Building (Planning) Regulation 23A would be considered upon formal submission of building plans subject to compliance with the criteria under the Practice Note for Authorised Persons and Registered Structural Engineers No. 111;
- (b) to consult the Chief Officer/Licensing Authority, Home Affairs Department on the licensing requirements for the proposed hotel development;
- (c) to note the comments of the Chief Engineer/Mainland South, Drainage Services Department that the applicant was required to check that the existing sewerage system in the vicinity of the application site had adequate capacity to accommodate the increase in the sewage discharge due to the proposed development and implement local sewerage upgrading works at

his own cost, if found necessary; and

- (d) to note the comments of the Director of Fire Services that the arrangement of emergency vehicular access should comply with Part VI of the Code of Practice for Means of Access for Firefighting and Rescue which was administered by Buildings Department.

[The Chairman thanked Ms. Jessica H.F. Chu, STP/K, for her attendance to answer Members' enquiries. She left the meeting at this point.]

[Ms. Caroline T.Y. Tang, STP/K, was invited to the meeting at this point.]

Agenda Item 10

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/K18/275 Proposed Minor Relaxation of Building Height Restriction to Allow
for One Storey of Basement for Two Car Parking Spaces
and Ancillary Plant Room Use in a Proposed Residential Development
in "Residential (Group C) 1" zone,
4 Stafford Road, Kowloon Tong (NKIL 785)
(MPC Paper No. A/K18/275)

Presentation and Question Sessions

43. Ms. Caroline T.Y. Tang, STP/K, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) proposed minor relaxation of building height restriction to allow for one storey of basement in a proposed residential development in "Residential (Group C)1" zone with development restrictions of maximum plot ratio of 0.6 and maximum building height of three storeys;

- (c) the proposed minor relaxation of building height restriction was to facilitate the construction of one basement floor of about 410m² in area (about 44% of the total site area) and 3.6m in height for accommodating two car parking spaces and some ancillary plant rooms;
- (d) departmental comments – the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) had no objection to the application. The Landscape Unit of CTP/UD&L, PlanD commented that the proposed use was not incompatible with the surrounding developments. Moreover, a conceptual landscape proposal was included in the application to enhance the landscape quality of the proposed development. Hence, significant adverse landscape impact arising from the proposed use to the surrounding areas was not anticipated;
- (e) during the statutory publication period, one public comment was received objecting to the application on the grounds that there were no justifications for the relaxation of plot ratio and site coverage, and no planning gains could be achieved; and
- (f) the Planning Department (PlanD)'s views – PlanD had no objection to the application based on the assessment in paragraph 10 of the Paper. According to the Remarks of the Notes for “R(C)” zone of the Approved Kowloon Tong OZP No. S/K18/16, on land designated “R(C)1”, based on the individual merits of a development or redevelopment proposal, minor relaxation of the building height restriction to allow for one storey of basement which was constructed or intended solely for use as car park and/or ancillary plant room, might be considered by TPB on application. Such provision was to allow design flexibility for development with design merits/planning gains. Moreover, the construction of the basement should not cause any adverse impacts to the existing trees or diminish the distinctiveness of the area as a garden estate. According to the landscape plan, the internal courtyard and other outdoor landscaped area on different levels amounted to over 80% of the site area. Besides, there would be

some covered landscaped areas to provide shades and to offer a variety of landscaping. As such, the implementation of the landscape proposal would enhance the amenity of the Kowloon Tong neighbourhood. Fulfilment of the non-building area requirement (i.e. setback from Stafford Road by 6m) together with the provision of outdoor and covered landscaped areas and special building design at higher levels would help enhance the air and visual permeability in this area. Since the proposed car parking and plant room uses were all located in the basement floor, the impacts on the environment, drainage, traffic, visual and the planned infrastructure on the surrounding areas, if any, should be insignificant. Concerned government departments had no objection to or adverse comments on the application. There was only one public comment received, however, the objection reasons raised by the commenter were not relevant as the application did not involve any relaxation of plot ratio or site coverage of the application site.

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

44. In response to a Member's enquiry, Ms. Caroline T.Y. Tang, STP/K, said that according to the Remarks of the Notes for "R(C)" zone of the approved Kowloon Tong OZP No. S/K18/16, on land designated "R(C)1", based on individual merits of a development or redevelopment proposal, minor relaxation of the building height restriction to allow for one storey of basement which was constructed or intended solely for use as car park and/or ancillary plant room, might be considered by the TPB on application under section 16 of the Town Planning Ordinance. The provision was to allow flexibility for development with design merits/planning gains. Moreover, the construction of the basement should not cause any adverse impacts to the existing trees or local character of the area.

Deliberation Session

45. After further deliberation, the Committee decided to approve the application, on the terms of the application as submitted to the Town Planning Board (TPB). The permission should be valid until 12.11.2014, 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 the fire service installations to the satisfaction of the Director of Fire Services or of the TPB; and
- (b) the submission and implementation of a landscape proposal to the satisfaction of the Director of Planning or of the TPB.

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

- (a) to note that approval of the application did not imply that the proposed gross floor area exemption in the application would be granted by the Building Authority. The applicant should approach the Buildings Department direct to obtain the necessary approval;
- (b) to note that should the basement size be considered excessive during the building plan submission stage, a fresh planning application for the proposed development would be required; and
- (c) to note the requirements of the Electrical and Mechanical Services Department's Code of Practice on Avoiding Danger From Gas Pipes and maintain liaison/coordination with the Hong Kong and China Gas Company Limited in respect of the existing planned gas pipes routes/ gas installations in the vicinity of the proposed work area and the minimum set back distance away from the gas pipelines during the design and construction stages of development.

[The Chairman thanked Ms. Caroline T.Y. Tang, STP/K, for her attendance to answer Members' enquiries. She left the meeting at this point.]

[Mr. Silas K.M. Liu, STP/K, was invited to the meeting at this point.]

Agenda Item 11

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/K15/102 Religious Institution (Church) in “Residential (Group A) 1” zone,
Shop No. S3A, 2/F, Laguna Plaza, 88 Cha Kwo Ling Road, Kowloon
(MPC Paper No. A/K15/102)

Presentation and Question Sessions

47. 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 religious institution (church) with ancillary institutional uses located on the second floor of a shopping arcade i.e. Laguna Plaza;
- (c) departmental comments – concerned government department had no objection to or adverse comments on the application;
- (d) during the statutory publication period, five public comments were received. Three commenters supported the application, one of which contained 28 signatures and the comments detailed in the Paper and were summarized as below:

Supportive comments

- the setting up of a church in Laguna Plaza had no adverse impact on the residents and the shopping mall;
- the premises was often found vacated in the past and the setting up of the church had positive effect to the business of the mall;
- it was more convenient for the residents in the Laguna City to participate in religious activities;
- the church was so popular and well-accepted by residents of the

Laguna City; and

- the services provided by the church were highly beneficial to the residents in the Laguna City and its vicinity;

Adverse comments

- it would reduce the commercial floor area which might affect the supply and demand, resulting in the increase of rents in the Laguna Plaza;
- it might attract similar applications from other religious institutions which turn the shopping mall into a religious area;
- the church might request for occupying more area in the Laguna Plaza on grounds of expansion in the future; and
- it might make residents with other religious beliefs or those without religious beliefs feel uncomfortable;

- (e) the Planning Department (PlanD)'s views – PlanD had no objection to the application based on the assessment in paragraph 10 of the Paper. The church was located in the purpose-built standalone shopping arcade. The use was considered compatible with other commercial uses e.g. retail shops, banks, restaurants and tutorial schools etc in the shopping arcade. Access to the application premises was separated from the entrance lobby of the residential towers. As such, it was unlikely that the application would cause nuisance to the residents of the Laguna City. In view of the scale and nature of the church, it would unlikely cause adverse traffic, environmental, and fire safety impacts to the surrounding area. Concerned government departments including the Commissioner for Transport, Director of Environmental Protection and Director of Fire Services had no objection to or adverse comments on the application. To address the concerns raised by the government departments, relevant approval conditions and advisory clause had been recommended in paragraph 11.2 of the Paper. Regarding the public concerns on the reduction of commercial floor area in Laguna Plaza, it was noted that the total GFA of the Laguna Plaza was about 15,162m² and the church only occupied a small portion of the building which accounted about 4% of the

total GFA.

48. As regards a Member's concern, the Secretary said that commenters were only advised to provide their particulars to facilitate communication with the Secretariat of the TPB for the processing of applications. There was no provision under the Ordinance for commenters to attend the TPB's meeting. As such, the substance of the comments rather than the personal particulars was the material consideration that should be taken into account by the Board. For Members' information, the Secretary said that in the statutory plan-making process, people who made the representation/comment were entitled to attend the TPB's meeting and to be heard. Hence, the contact details of the representers/commenters were necessary to facilitate the Secretariat of the TPB to make arrangement on representation/comment hearing sessions.

49. The Chairman also added that public comments should be related to the planning context of the application and submitted in accordance with the relevant provisions of the Ordinance. In considering the planning application, the Committee would take into account all relevant issues, including the public comments received. As a general principle, TPB would consider the substance of the public comments in relation to the proposed schemes.

Deliberation Session

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

- (a) the submission and implementation of fire service installations and water supplies for fire fighting in the application premises, within six months from the date of the approval to the satisfaction of the Director of Fire Services or of the TPB by 12.5.2011; 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.

51. The Committee also agreed to advise the applicant to consult an Authorized Person to ensure compliance with Buildings Ordinance, in particular, the provision of means of means of escape and the provision of access and facilities for persons with a disability.

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

[Miss Annie K.W. To, STP/K, was invited to the meeting at this point.]

Agenda Item 12

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/K13/262 Shop and Services
 in "Other Specified Uses" annotated "Business" zone,
 Workshop No. 4B on Ground Floor, Wing Fat Industrial Building,
 12 Wang Tai Road, Kowloon Bay
 (MPC Paper No. A/K13/262)

Presentation and Question Sessions

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

- (a) background to the application;
- (b) the shop and services with a floor area of about 30.6m² on the ground floor of Wing Fat Industrial Building, Kowloon Bay;
- (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 (Kwun Tong);
and

- (e) the Planning Department (PlanD)'s views – PlanD had no objection to the application based on the assessment in paragraph 11 of the Paper. The shop and services use at the application premises was considered generally in line with the planning intention of “Other Specified Uses” annotated “Business” (“OU(Business)”) zone which was intended for general business uses. It allowed for greater flexibility in the use of the existing industrial or industrial-office buildings provided that the use would not result in adverse fire safety and environmental impacts. The ‘Shop and Services’ use at the application premises was not incompatible with other uses within the same building. It complied with the ‘Town Planning Board Guidelines for Development within “OU(Business)” Zone’ (TPB PG-No. 22D) in that it would not induce significant adverse fire safety, traffic, environmental and infrastructural impacts to the developments within the subject building and the adjacent area. Relevant government departments including the Fire Services Department, Lands Department, Buildings Department and Transport Department had no objection to or adverse comments on the application.

53. Members had no question on the application.

Deliberation Session

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

- (a) the submission and implementation of fire safety measures, including the provision of a means of escape completely separated from the industrial portion and fire service installations in the subject premises within six months from the date of the approval to the satisfaction of the Director of Fire Services or the TPB by 12.5.2011; 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.

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

- (a) to apply to the District Lands Officer/Kowloon East, Lands Department for a temporary waiver or lease modification;
- (b) to appoint an Authorized Person to submit Alterations and Additions proposal to the Building Authority to demonstrate compliance with the Buildings Ordinance, in particular, that :
 - (i) the subject premises should be separated from the remaining portion of the premises with walls having 2 hours fire resistance period pursuant to Building (Construction) Regulation 90 and Code of Practice for Fire Resisting Construction paragraphs 8.1 and 9;
 - (ii) access and facilities for persons with a disability should be provided in accordance with Building (Planning) Regulation 72 and Design Manual: Barrier Free Access 2008;
- (c) to comply with the requirements as stipulated in the Code of Practice for Fire Resisting Construction which was administered by the Buildings Department; and
- (d) to follow the procedures set out in the Guidance Note on Compliance with Planning Condition on Provision of Fire Safety Measures for Commercial Uses in Industrial Premises issued by the TPB.

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

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

Agenda Item 15

Any Other Business

Section 16A Application No. A/H15/200-2

[Open Meeting]

A/H15/200-2 Application for Extension of Time for Commencement of the Approved Hotel Development under Application No. A/H15/200 for a Period of 12 Months until 7.11.2011 in “Other Specified Uses” annotated “Business(2)” zone, 23 Yip Kan Street, Wong Chuk Hang (Aberdeen Inland Lot 399)
(MPC Paper No. A/H15/200-2)

59. The Secretary reported that an application for extension of time for commencement was received on 5.11.2010. The application was approved by the Committee with conditions on 7.11.2003. On 23.10.2007, the Director of Planning under the delegated authority of TPB approved the application (No. A/H15/200-1) to extend the validity of the planning permission for three years until 7.11.2010. As the application for extension of time for commencement was received on 5.11.2010, that was only two days before the deadline for commencement, TPB would have no power to extend time in respect of a planning permission that had ceased to have effect at the time of consideration.

60. After deliberation, the Committee agreed that the application for extension of time for commencement could not be considered for reason that the time limit for commencement had already expired on 7.11.2010, and the planning approval for the subject application had ceased to have effect, the Committee could not consider the section 16A application as the planning permission no longer existed at the time of consideration.

61. There being no other business, the meeting closed at 12 noon.