

RECONSIDERATION OF APPLICATION NO. Y/H3/6
UNDER SECTION 12A OF THE TOWN PLANNING ORDINANCE

1. Background

- 1.1 On 28.8.2014, the applicants submitted a s.12A application to amend the approved Sai Ying Pun & Sheung Wan OZP No. S/H3/29 by rezoning a site at 1-7 Tak Sing Lane, Sai Ying Pun (the Site) (**Plan FZ-1**) from “Open Space” (“O”) and area shown as ‘Pedestrian Precinct/Street’ (‘PPS’) to “Residential (Group A)23” (“R(A)23”) and stipulating a building height (BH) restriction of 120mPD for the “R(A)23” zone in order to facilitate a proposed 25-storey residential development with shops on G/F to 1/F.
- 1.2 On 17.4.2015, the Metro Planning Committee (the Committee) of the Town Planning Board (the Board) considered the application (copy of MPC paper is at **Appendix FA-I**) and decided not to agree to the application for the following reasons:
- (a) given the nature and surroundings of the site, the “O” zoning for the site is considered appropriate to alleviate the congested living environment and meet the needs of the local residents;
 - (b) rezoning the site from “O” to residential use would result in a permanent loss of open space and further aggravate the shortfall of local open space provision in Sai Ying Pun and Sheung Wan area;
 - (c) there is no strong planning justification nor merit for rezoning of the site from “O” and “PPS” to “R(A)23”; and
 - (d) the approval of the application would set an undesirable precedent for similar applications in the “O” zone and the cumulative effect of which would deprive the built environment of the much needed spatial and visual reliefs.
- 1.3 An extract of the minutes of the meeting of the Committee is at **Appendix FA-II**.
- 1.4 On 16.7.2015, the applicants lodged a judicial review (JR) application against the decision of the Committee not to approve the application. The JR was heard by the Court of First Instance (CFI) on 20.9.2016 and 21.9.2016. On 12.1.2018, the CFI handed down the Judgment allowing the JR. According to the Judgment, the Court ruled that, among others, the rejection reason (d) in respect of setting an undesirable precedent for similar applications was *Wednesbury* unreasonable as the Committee had failed to explain on what basis, despite the differences between the Site and another “O” site on the same OZP, it should treat them alike for considering

rezoning applications¹. Following the CFI’s judgment, the application is to be remitted to the Committee for consideration.

- 1.5 On 19.9.2018 and 31.10.2018, the applicants submitted further information (FI) providing a revised scheme and updated technical assessments in support of the application, and suggested to revise the proposed zoning of “R(A)23” to “R(A)24” due to change in planning circumstances. The two sets of FI were published for public comments on 28.9.2018 and 9.11.2018 respectively. The application is scheduled for consideration by the Committee at this meeting.

2. The Proposal

- 2.1 According to the applicants’ latest indicative development scheme, the proposed development includes a 25-storey residential tower with shops on G/F and 1/F, an open space for public use on 1/F and a public staircase through the Site connecting Tak Sing Lane and Third Street. Tak Sing Lane will be reserved as non-building area (NBA). Entrance to the residential tower is located on G/F via Tak Sing Lane/Second Street, while the proposed open space for public use on 1/F can be accessed via the public staircase from Tak Sing Lane/Second Street and directly from Third Street. The applicants proposed to surrender the public staircase to the Government to ensure 24-hour free public access. The floor plans, section plans and photomontages are at **Drawings FZ-2 to FZ-22**. The proposed development parameters are set out below.

Site Area	495m ²
Development Area (excluding the NBA which is not owned by the applicants)	403m ²
Plot Ratio (PR) ^	8.514
➤ Domestic	7.253
➤ Non-domestic	1.261
Total Gross Floor Area (GFA)	3,431m ²
➤ Domestic GFA	2,923m ²
➤ Non-domestic GFA	508m ²
Site Coverage (SC) ^	
➤ Domestic	33.33%
➤ Non-domestic	90% (G/F), 60% (1/F), 55% (2/F), and 32.5% (3/F)
No. of Storeys	25 (including G/F)
Building Height (BH)	120mPD
No. of Residential Units	84
Average unit size	34.8m ²
Private Open Space (3/F)	84.89m ²

¹ The CFI ruled against the Board on two grounds, namely (1) the Committee’s rejection reason (d) being *Wednesbury* unreasonable as explained in the main text; and (2) procedural irregularity. The CFI found procedural irregularity as the Committee had considered a remark made by the Vice-chairman during the deliberation session about the disposition of the proposed residential tower, which had never been raised in the MPC paper or at the meeting in the presence of the applicant, hence the applicant was not able to respond to this concern before a decision was made.

Open Space for Public Use (1/F)	About 127m ²
Publicly accessible staircase (between G/F and 1/F)	About 30m ²

^ The calculation of PR and SC is based on the Development Area only.

2.2 For Members' reference, the following documents are attached:

- (a) MPC Paper No. Y/H3/6A **(Appendix FA-I)**
- (b) Extract of Minutes of the MPC Meeting held on 17.4.2015 **(Appendix FA-II)**
- (c) FI dated 18.9.2018 including a revised architectural scheme, revised development parameters, and revised technical assessments *(not exempted from publication and recounting requirements)* **(Appendix FA-III)**
- (d) FI dated 31.10.2018 providing responses to departmental comments, revised visual analysis, and supplementary information to the Air Ventilation Assessment (AVA) *(not exempted from publication and recounting requirements)* **(Appendix FA-IV)**
- (e) FI dated 16.11.2018 providing responses to departmental comments and revised pages of SIA **(Appendix FA-V)**
- (f) FI dated 21.12.2018 providing responses to departmental comments and revised pages of AVA, revised tree assessment report and revised floor layout **(Appendix FA-VI)**
- (g) FI dated 9.1.2019 providing responses to departmental comments and revised pages of AVA **(Appendix FA-VII)**

2.3 The comparison on development parameters and architectural layout of the original scheme considered by the Committee in 2015 and the revised scheme submitted via FI in 2018 are at **Appendix FA-VIII** and **Drawings FZ-3 to FZ-10** for Member's reference.

3. Justifications from the Applicant

The justifications put forth by the applicants in support of the application are detailed in the supplementary planning statement for the original application and the FI at **Appendices FA-III to FA-VII**. They can be summarised as follows:

Outdated “O” Zoning for the Site

- (a) the existing seven 3-storey residential buildings at the Site were completed in 1952 and 1953 before the Site was zoned “O” on the first OZP which was gazetted in 1970. Although there is a shortfall of overall open space provision within the Sai Ying Pun and Sheung Wan area, the proposed “O” zone involving about 495m² has negligible impact on the overall open space provision in the area. Whilst there has never been any implementation programme for the planned open space by the Government, the “permanent loss of open space” is only in terms of number without any physical loss;

Jeopardised Owners’ Development Rights

- (b) whilst the Site has been zoned “O” since 1970, there is no programme for implementing the subject open space. The prevailing “O” zone had jeopardised the development right of the land owners;

Sites zoned “O” being taken up by Other Uses

- (c) ‘a severe shortage of local open space’ was not a strong reason to retain the Site for open space which is under private ownership. It is the duty of the Government to seek suitable and available government land for development of ‘open space’. Nevertheless, there are no lack of sites which are zoned “O” but taken up by other uses such as works area and temporary FEHD offices;

In line with Government’s Housing Supply Policy

- (d) the proposed rezoning of the Site for residential use is in line with the Government’s prevailing policy on increasing supply of residential flats, in particular the small-to-medium-sized flats, to meet the pressing housing demand;

Compatible with the Surroundings

- (e) the proposed residential use with high-density development is compatible with the surrounding area which is a predominantly residential neighbourhood. The proposed maximum domestic PR of 7.253, non-domestic PR of 1.261 and a maximum BH at 120mPD is comparable with the adjoining developments within “R(A)” zones;
- (f) there are reasonable separations between the proposed residential tower and the residential portion of the surrounding developments, i.e. Yee Shun Mansion, Yue Sun Mansion and Goodwill Garden, at 6.8m, 12.1m and 6.5m respectively. As the proposed development has to comply with the statutory requirements under relevant ordinances/regulations, it will not affect the sunlight penetration, air ventilation and means of escape of the adjoining residential developments. Photomontages has been prepared to demonstrate the spatial quality of the views from Third Street, Second Street and Tak Sing Lane (**Drawings FZ-11 to FZ-17**);

Proposed Public Pedestrian Access

- (g) a staircase connecting Tak Sing Lane and Third Street is proposed along the western boundary of the Site (**Drawing FZ-4**), which would allow 24-hour public access through the Site;

No Adverse Traffic, Sewerage, Air Quality and Air Ventilation Impacts

- (h) given the limited scale of the proposed development (84 flats) and the close proximity of the future Sai Ying Pun MTR Station, there will be no provision of internal transport facilities within the Site. It is anticipated that the additional pedestrian and vehicular flows generated by the proposed development is limited. Moreover, it is not anticipated that the proposed development would generate adverse environmental impacts, including air quality and sewerage, on the surrounding area;
- (i) the AVA Report concludes that the proposed development would not cause adverse air ventilation impact on the local area; and

Preservation of Two Existing Trees

- (j) two existing trees will be preserved by reserving spaces between the trees and the residential block. The SC at 2/F and 3/F (i.e. 55% and 32.5% respectively) has been reduced and the podium structure has been setback so as to create a larger void for tree T1 (**Drawing FZ-18**).

4. Compliance with the “Owner’s Consent/Notification” Requirements

The applicants are one of the “current land owners”. In respect of the other “current land owner(s)”, the applicants have complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31) by publishing newspaper notices and posting site notices. Detailed information would be deposited at the meeting for Members’ inspection.

5. Zoning History of the Site and the Previous “O” Zone Review

- 5.1 The seven 3-storey residential buildings at 1-7 Tak Sing Lane were completed in 1952 and 1953 before the Site was zoned “O” on the first statutory plan, i.e. Urban Renewal District OZP No. LH3/48 which was gazetted on 20.3.1970. In the Explanatory Statement of the OZP No. LH3/48 for Public Open Space, it was stated that ‘*There is a deficiency of public open space and recreational facilities in the district so as to provide centres of recreation within walking distance of most of the commercial/residential and residential zones. However, these sites are on private land and it may be many years before they can be acquired and used for recreational purposes.*’ Under the Notes of OZP No. LH3/48, ‘Flat’ is a Column 2 use under “O” zone.

- 5.2 On 3.3.2006², the Committee considered the proposed amendments to the approved OZP No. S/H3/20, to incorporate, inter alia, amendment to delete 'Flat' use from Column 2 of the Notes of the "O" zone in accordance with the revised Master Schedule of Notes (MSN) to statutory plans. At that time, there were 30 "O" sites of various sizes on the OZP. Out of these sites, 27 were under Government ownership whilst 3 involved private land, namely Yu Lok Lane, Ui On Lane and Tak Sing Lane (Sites 1, 2 and 3 on **Plan FZ-10**)
- 5.3 The Committee noted that the majority part of "O" site at Yu Lok Lane (Site 1 on **Plan FZ-10**) together with the adjoining area zoned "R(A)" and small area shown as 'PPS' would be rezoned to "Comprehensive Development Area" on the draft Urban Renewal Authority (URA) Yu Lok Lane/Centre Street Development Scheme Plan. The remaining part of this "O" site had been used as an open play area of Kau Yan School to the west and would be retained as "O" on the OZP.
- 5.4 For the two "O" sites at Ui On Lane and Tak Sing Lane (Sites 2 and 3 on **Plan FZ-10**), the Committee agreed on 3.3.2006 that these sites should be retained for "O" use after taking into account the findings of a review of the "O" zones in the Sai Ying Pun and Sheung Wan area. The reasons for doing so are as follows:
- (a) the site had been zoned "O" since the publication of the first OZP for the Sai Ying Pun & Sheung Wan area in 1970. The implementation of the open space development would depend on the programme of the Leisure and Cultural Services Department (LCSD);
 - (b) there was a severe shortage of local open space in the Sai Ying Pun and Sheung Wan area;
 - (c) surrounded by buildings and with no direct street frontages nor direct vehicular access, the two sites were essentially landlocked. Accesses to the sites were via stepped streets in the vicinity. The sites were considered not suitable for other types of uses other than public open space (POS) so as to alleviate the congested living environment and meet the needs of the local residents; and
 - (d) about 73% of the "O" zone at Ui On Lane was government land (**Plan FZ-4B**) which was partly used as a temporary storage area for cleansing equipment by the Food and Environmental Hygiene Department (FEHD)³ and partly as a temporary landscape area of the District Office (Central & Western). Given that the majority of the Ui On Lane "O" site was under government ownership, the "O" zoning should be retained to facilitate future implementation of the open space.

² The proposed amendments to the approved OZP covering the following three aspects were agreed by the Committee on 3.3.2006:

- (i) a technical amendment to the OZP to excise the area delineated and described in the draft Yu Lok Lane/Centre Street DSP;
- (ii) a review of the "O" sites in the Sai Ying Pun and Sheung Wan area; and
- (iii) amendments to the Notes of the OZP to reflect the revised MSN endorsed by the Board.

The draft OZP incorporating the proposed amendments was subsequently gazetted on 17.3.2006.

³ The site is currently used as FEHD's temporary offices and facilities. FEHD's offices and facilities, which were originally located next to the Centre Street Market, were temporarily relocated to the Ui On Lane site to facilitate the construction of Sai Ying Pun Station of the West Island Line. Upon completion of the station, FEHD's offices and facilities will be re-provided at the original location.

- 5.5 On 29.3.2006, the Secretary of the Board wrote to the Director of Leisure and Cultural Services (DLCS) relaying the Board's request that open space development should be expedited for both the Ui On Lane site and the Tak Sing Lane site. The Secretary of the Board also wrote to the Urban Renewal Authority (URA) relaying the Board's concern on the difficulty in implementing planned POS involving private land and a request that URA should consider developing POS as part of its urban renewal work in the area either on its own or in joint effort with LCSD. On 7.4.2006, URA replied that it recognized the opportunities offered by sites zoned "O" (without implementation programme) to be included as part of their comprehensive schemes. On 15.5.2006, LCSD replied that it would be difficult to seek funding to implement the project as resumption of private lots was involved.
- 5.6 As of today, the "O" sites on the current OZP (**Plan FZ-11**) is basically the same except the addition of two new "O" sites on government land at Pottinger Street and Graham Street⁴. On 19.10.2018, DLCS again advised that there is no programme for the implementation of the planned open space at the Site as it falls on private land. URA also reconfirmed on 18.10.2018 that redevelopment at the Site is considered not opportune without comprehensive planning, and they had no plan to include the Site as a comprehensive project. As advised by URA, under their current policy, they should avoid developing site(s) which are largely zoned "O" unless there is a significant community and/or social gain in so doing. Nevertheless, URA will continue to identify suitable sites in the old urban areas for redevelopment.

6. Similar Rezoning Request/Application for Amendment of Plan

- 6.1 There is no similar rezoning request or application for amendment to the OZP covering "O" zone within the Sai Ying Pun & Sheung Wan OZP.
- 6.2 For Members' reference, before 2006, there were 27 s.16 applications involving "O" zone for residential or commercial/residential developments on Sai Ying Pun & Sheung Wan OZP. Amongst them, six applications involving four sites were approved with conditions between 1975 and 1987 whilst 21 applications involving 11 sites were rejected between 1977 and 2005. For those approved applications, part of the application sites fell within "O" zone with reprovioning of open space upon redevelopment (**Appendix FA-IX**). All four approved applications were implemented and completed.

7. The Site and its Surroundings (Plans FZ-2 to FZ-4, and FZ-5 to FZ-9)

- 7.1 The Site:
- (a) involves a private lot IL 635 (P) (i.e. Tak Sing Lane) which is not owned by the applicants and is shown as a right of way on the lease plan of IL 635 (**Plan FZ-4A**);

⁴ The two "O" sites at Pottinger Street and Graham Street were rezoned from "Government, Institution or Community" ("G/IC") to "O" on the draft OZP No. S/H3/23 which was gazetted on 5.2.2010, mainly to reflect their status at the time as public open space that was already completed by the LCSD.

- (b) is occupied by seven 3-storey tenement buildings constructed in the early 1950s and Tak Sing Lane;
- (c) is surrounded by residential buildings of about 25-storey high to the north, west and south, and four 2-storey residential buildings on David Lane to the east;
- (d) has no direct street frontage nor vehicular access. Access to the Site is via a stepped street connecting to Second Street. The stepped street is an area shown as 'PPS' on the OZP; and
- (e) is well served by public transport including buses, public light buses and tram. The Site is about 30m away from an entrance of the Sai Ying Pun MTR Station which is located to the north across Second Street.

7.2 The surrounding area has the following characteristics:

- (a) mainly zoned "R(A)" and predominantly residential in nature with commercial uses such as shops and restaurants on ground floor;
- (b) there are two existing trees protruding from the retaining wall to the south of the Site (**Plan FZ-2**);
- (c) to the immediate east of the Site is an area zoned "G/IC" at David Lane which is currently occupied by four 2-storey tenement buildings, a temporary public toilet and an electricity sub-station; and
- (d) to the south across Third Street is the URA Yu Lok Lane/Centre Street project which was completed in 2016.

8. Planning Intention

The planning intention of "O" zone is intended primarily for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of the general public and visitors.

9. Comments from Relevant Government Departments

9.1 The following government departments have been consulted and their views on the application and the public comments received are summarized as follows:

Land Administration

9.1.1 Comments of the District Lands Officer/Hong Kong West and South, Lands Department (DLO/HKW&S, LandsD):

- (a) the Site falls within IL 635 s.E ss.3, 635 s.E RP, 635 s.E ss.2, 635 s.E ss.1, 635 s.B ss.1, 635 S.B RP and 635 s.B ss.2. The government lease governing the subject lots is subject to restrictions, among others, of the non-offensive trades clause and rate and range clause. If catering facilities such as bar/restaurant/cafe are provided within the Site, an

application for licence or technical modification to remove the offensive trade clause of the subject lots will be required; and

- (b) regarding paragraph 2.3.2 of the Supporting Planning Statement submitted by the applicants, please be clarified that the right-of-way at Tak Sing Lane and the staircase connected to Second Street mentioned in the document are not lease requirements.

Open Space

9.1.2 Comments of DLCS:

LCSD has no programme for the public open space development and the land resumption matters needs to be resolved before this department may proceed with the open space development. LCSD would not take up the open space within the private development.

24-hour publicly accessible staircase

9.1.3 Comments of DLO/HKW&S, LandsD:

there is no requirement under lease for the proposed surrender of land to the government for public access. It should be subject to the agreement of the Transport Department (TD), Highways Department (HyD) and Acquisition Section of LandsD.

9.1.4 Comments of the Commissioner for Transport (C for T):

the proposed public access shall be managed and maintained by the applicants and accessible by public round the clock at all times.

9.1.5 Comments of the Chief Highway Engineer/Hong Kong, HyD (CHE/HK, HyD)

it is noted that the proposed staircase will be connected to Tak Sing Lane which is not being maintained by HyD. As such, HyD will not take up the maintenance responsibility of the proposed staircase.

Urban Design and Visual Impact

9.1.6 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

- (a) has some reservations on the application;

Urban Design/Visual Impact

- (b) the proposal is mainly to rezone the Site from “O” and area shown as ‘PPS’ to “R(A)24”. In terms of the wider cityscape, it is generally accepted that “O” zones offer valuable spatial and visual relief in densely built-up urban areas, including the Sai Ying Pun and Sheung Wan area. The loss of “O” zones for development uses would

permanently deprive the built environment of much needed spatial and visual reliefs;

- (c) the proposed open space for public use cannot fully address the permanent loss of area zoned “O” in terms of quantity, as well as the function of an open space to provide the built environment of much needed spatial and visual reliefs, particularly in this built-up urban area; and
- (d) the Site is surrounded by existing medium to high-rise composite developments with building heights ranging from about 90mPD on the southern side of Second Street to about 100mPD on the northern side of Third Street. The “R(A)8” zone to the north, west and south of the Site currently has a BH restriction of 120mPD. With considerations to the existing and planned context, the proposal would be most discernible from public views from the east. Judging from the submitted photomontages, the proposal is not considered visually incompatible with the surrounding built-up context.

9.1.7 Comments of the Chief Architect/Central Management Division 2, Architectural Services Department (CA/CMD2, ArchSD):

the Site is located in an existing residential neighbourhood of high rise and low rise buildings. Stepped building profile should be considered for the proposed residential development at the detailed design stage for a design which is more responsive to the surrounding environment

Air Ventilation

9.1.8 Comments of CTP/UD&L, PlanD:

- (a) situated within a high-rise, high-density built environment, the proposed development at the Site would not induce significant impact to the surrounding wind environment;
- (b) the Initial Study of the AVA using computational fluid dynamics has been conducted to support the current application. Two scenarios, i.e. the ~~**Existing Condition Baseline Scheme**~~ (**open space condition with no building structure**) and Proposed Scheme have been assessed in the study; and
- (c) according to the simulation results, the annual and summer local spatial average velocity ratio (LVR) and spatial average velocity ratio (SVR) of the Proposed Scheme and ~~**Existing Condition Baseline Scheme**~~ are comparable.

Tree Preservation and Landscape

9.1.9 Comments of CTP/UD&L, PlanD:

- (a) has some reservations from landscape perspective;

- (b) low to high rise residential buildings are found in the immediate vicinity and the proposed rezoning for residential development is not incompatible with the existing landscape character;
- (c) as revealed by the applicants, there is a shortfall of overall open space provision to serve the current population of Sai Ying Pun and Sheung Wan area. The applicants argue that the loss of 495m² of open space is negligible. However, the proposed rezoning would signify a permanent loss of open space and further aggravate the shortfall of open space provision within the area covered by the OZP; and

Existing Wall Tree T1

- (d) it is acknowledged that the layout for 2/F and 3/F of the proposed building was modified and therefore pruning of the main Branch A and its secondary branches of T1 will be reduced to less than 25% due to the future building development. Nevertheless, it is noted that T1 shown in Appendix VI is based on Section Plan of outdated building plan- Sep 2018. In addition, the applicants reported that branch B2 could not be clearly visible in the attached photo shown in Supplementary Section Plan whilst branch B2 which is over 210mm diameter will be significantly pruned with reference to Appendix IIB of **Appendix FA-VI**. It appears that Tree 1 shown in the above sections and the plan are inconsistent and it cannot clearly reflect the relationship between the concerned branch B2 and the future building development. In view of this, impact on the branch B2 to be pruned cannot be fully assessed. Hence, there is reservation to the applicants' tree preservation proposal; and

Existing Wall Tree T2

- (e) there is no change on the pruning proposal on T2 compared to the previous F.I. submission even though the layout of the proposed building was modified. With reference to the previous submission, two main trunks B & C of T2 with its associated branches will be entirely cut resulting in a loss of approximate 50% of tree crown. As such, its stability after proposed pruning is in doubt.

9.1.10 Comments of CHE/HK, HyD:

- (a) based on the setting out carried out on site on 30.11.2018, T1 is located outside the HyD slope feature 11SW-A/R490(2). Hence, T1 should not be maintained by HyD;
- (b) T2 grows from a brick wall adjacent to 11SW-A/R490(2). The said brick wall is within private lot. In addition, from GEO's SIS record, slope feature 11SW-A/R490(2) is a concrete wall and the wall is presented as a straight line on the plan without any parts protruding to the north. In view of this, the said brick wall is not part of 11SW-A/R490(2) and is not under jurisdiction of HyD. Hence, T2 should not be maintained by HyD.

Air Quality and Sewerage

9.1.11 Comments of the Director of Environmental Protection (DEP):

- (a) no objection to the application;
- (b) no comment on the SIA report;
- (c) it is noted that the applicants have carried out a chimney survey on 7.8.2018 to confirm that there is no more active chimney within 200m of the Site; and
- (d) insurmountable environmental impact is not anticipated from the proposed development.

9.1.12 Comments of the Chief Engineer/Hong Kong & Islands, Drainage Services Department (CE/HK&I, DSD):

no further comment on the SIA.

Building

9.1.13 Comments of the Chief Building Surveyor/Hong Kong West, Buildings Department (CBS/HKW, BD):

- (a) no objection in principle to the application; and
- (b) detailed comments on the proposal will be given at formal building plans submission stage.

Fire Safety Aspect

9.1.14 Comments of the Director of Fire Services (D of FS):

- (a) no in-principle objection to the application subject to fire service installations and water supplies for firefighting being provided to the satisfaction of D of FS. Detailed fire safety requirements will be formulated upon receipt of building plans or referral from licensing authority; and
- (b) the applicants should be reminded that the arrangement of emergency vehicular access shall comply with the *Code of Practice for Fire Safety in Buildings* which is administered by the BD.

District Officer's View

9.1.15 Comments of the District Officer (Central and Western), Home Affairs Department (DO(C&W), HAD):

the previous comments of DO(C&W) on the application made in 2014 are still valid which are reiterated as follows:

“the concerned District Council member of the subject constituency, together with residents/owner associations in the district, have raised objection against the application. At the Food, Environment, Hygiene & Works Committee (FEHWC) of the Central & Western District Council (C&WDC) held on 23.10.2014, members have strong reservation to the application given the adverse impacts on visual, environment, air ventilation, possible blockage to emergency vehicular access and privacy. The minutes of meeting is at **Appendix FA-X**. Furthermore, two petition letters were handed to the Director of Planning during his visit to C&WDC on 4.12.2014 (**Appendix FA-XI**).”

9.1.16 The following government departments have no objection to/no comment on the application:

- (a) Commissioner of Police;
- (b) Project Manager (South), Civil Engineering and Development Department;
- (c) Head of Geotechnical Engineering Office, Civil Engineering and Development Department;
- (d) Chief Engineer/Development (2), Water Supplies Department;
- (e) Chief Engineer/Railway Development 2-1, Railway Development Office, Highways Department;
- (f) Director of Electrical and Mechanical Services; and
- (g) Director of Food and Environmental Hygiene.

10. Public Comments Received During Statutory Publication Period

10.1 During the statutory publication periods of the application (ended on 26.9.2014), and its subsequent FIs (ended on 19.12.2014, 6.3.2015, 19.10.2018 and 30.11.2018), a total of 1,301 public comments were received. Amongst the public comments received, there are 7 supporting comments, 1,290 opposing comments and 4 comments from individuals containing no content. The breakdown of the public comments received in 2014/2015 and 2018 is as follows:

	Support	Oppose	No content	Total
2014/2015	3	887	N/A	890
2018	4	403	4	411
Total	7	1,290	4	1,301

10.2 The supporting comments are submitted by members of the general public, while the opposing comments were received from members of the general public, local residents, Legislative Council member Hon HUI Chi-fung, C&WDC members, Democratic Party, Designing Hong Kong Limited, Incorporated Owners/Owners Committee of nearby buildings (including Goodwill Garden and Yee Shun Mansion). A full set of the public comments received are at **Appendix FA-XII** for Members' reference.

10.3 The major grounds of public comments received in 2014/2015 are described in paragraph 10.2 of **Appendix FA-I**, and those received in 2018 can be summarised as follows:

Supporting Comments

- (a) as the government has no plan of turning the Site into open space, it should allow the owners to redevelop the Site;
- (b) the proposed redevelopment can increase housing supply;
- (c) the Site can be redeveloped as subsidised housing or “Starter Homes” Pilot Scheme for Hong Kong residents; and
- (d) the existing two-storey buildings are not optimising the use of land.

Opposing Comments

- (e) the proposed development is not compatible with the surrounding environment;
- (f) the proposal has increased the development intensity of the Site and would increase the population in the area where the community facilities are already inadequate. The proposed BH of 120mPD is excessive resulting in infill of a tall building within a small site;
- (g) the proposed development is too close to the surrounding buildings, which will cause adverse impacts on traffic, environment (air, noise, hygienic), visual, natural lighting, air ventilation and fire safety. It will create wall effect and block the views of the nearby buildings, create security and privacy concerns, and affect the living standard of the nearby residents;
- (h) the proposed development is not in line with the planning intention of “O” zone. As open space and other community facilities are insufficient in the district, the Site should be developed for open space or other community uses such as education centre and children/elderly recreational facilities to meet the needs of the neighbourhood;
- (i) the Government should consider resuming the land and developing the Site as POS, or an area for cultural and recreational use;
- (j) the land should be developed as a POS through acquisition and urban renewal as the provision of open space is an established public purpose;
- (k) the flat sizes of the proposed residential development are too small. It is more desirable for a comprehensive redevelopment with the surrounding lots. The Government should consider developing the Site together with the neighbouring David Lane as POS;
- (l) the neighbourhood including the existing buildings on the Site represents a link to the city’s past, a visible heritage of times past so it is of historical value;
- (m) construction works would create nuisances to the nearby residents;
- (n) the proposed development would destroy the unique character of the area, and the existing historical setting and the low-rise nature at the Site should be preserved;

- (o) the supply of 84 unit of flats in the proposed development is insignificant to the Government's initiative of increasing housing supply. The benefits of neighbourhood should not be sacrificed for the insignificant supply of housing unit; and
- (p) the proposed development will adversely affect the two existing trees near to the existing buildings.

11. Planning Considerations and Assessment

- 11.1 The application is to rezone the Site from "O" and area shown as 'PPS' to "R(A)24" with a maximum BH restriction of 120mPD to facilitate a proposed 25-storey residential development with shops on G/F and 1/F. According to the latest indicative scheme, an open space for public use on 1/F and a public access connecting Third Street and Second Street will be provided within the Site. The Site is currently occupied by seven 2-storey residential buildings which are built in the 1950s.
- 11.2 As mentioned in paragraph 5 above, the Site was zoned "O" on the first OZP gazetted on 20.3.1970, with a view to providing POS and recreational facilities through acquisition of private land. Upon review of the "O" zones in the Sai Ying Pun and Sheung Wan area in 2006, the subject "O" zone was retained in view of the long-term planning intention for the Site to be used as POS since the first OZP, the land-locked location of the Site with no direct vehicular access, and severe shortage of local open space in the Sai Ying Pun and Sheung Wan area.

Land Use Compatibility

- 11.3 The Site is enveloped in a residential neighbourhood where shops are located on G/F. Three sides of the Site are surrounded by high-rise residential blocks, namely Yue Sun Mansion of 92.23mPD, Yee Shun Mansion of 87.05mPD and Goodwill Garden of 106.78mPD (**Drawing FZ-2**). All these residential developments are under "R(A)8" zone with a maximum BH restriction of 120mPD⁵ on the OZP. To the immediate east of the Site are four 2-storey residential buildings on David Lane which are currently under "G/IC" zone on the OZP. In view of the above, the proposed 25-storey residential development with shops in the 2-storey commercial podium and open space for public use on 1/F is considered not incompatible with the surrounding neighbourhood.
- 11.4 There are two strips of land located to the north and south of the Site currently shown as 'PPS' on the OZP. They are intended to serve as an access to the planned "O" zone from Third Street and Second Street respectively. In this regard, the applicants' proposal to provide a 24-hour public accessible staircase within the Site which will link up the existing staircase at Second Street (i.e. the area shown as 'PPS' to the north on **Plan FZ-2**) and the existing pedestrian access on Third Street (Photo 9 of **Plan FZ-9**) may be regarded as a planning gain of the proposed development to further enhance the pedestrian connectivity of the area. The applicants also proposed

⁵ According to the Notes of the OZP, a maximum BH of 140mPD would be permitted for sites with an area of 400m² or more.

to surrender the proposed public access within the Site to the Government. It should be noted that Tak Sing Lane (i.e. IL 635 (P)) is not owned by the applicants (**Plan FZ-4A**) and the Site is virtually unrestricted except non-offensive trade clause and rate and range clause. In order to ensure that the provision of the proposed public access within the Site can be materialized, it is considered that suitable control for such provision would be required on the OZP, should the Committee agree to the application.

Open Space Provision

- 11.5 Although the planned open space at the Site has been zoned on the OZP since 1970, LCSD has indicated that there is no programme to resume private land for open space development. In this regard, the prospect for implementation of the planned open space at the Site is slim.
- 11.6 For the area covered by the Sai Ying Pun & Sheung Wan OZP, based on the standard provision of local open space of 10ha per 100,000 persons (i.e. 1m² per person) in accordance with the requirements of the Hong Kong Planning Standards and Guidelines (HKPSG), the provision of existing and planned local open space is currently at a deficit of 5.06ha and 4.99ha respectively. Despite the deficit, there was an increase in the provision of local open space by about 0.5ha between 2015 and 2018, which includes public open space provided at the URA Yu Lok Lane/Centre Street development (about 1,303m²) and the Former Central Police Station Compound (Tai Kwun) (about 3,430m²), and some smaller open spaces and sitting-out areas in other parts of Sai Ying Pun and Sheung Wan area (about 256m²).
- 11.7 From the wider district council perspective, the provision of existing and planned open space in the Central & Western District is currently at a surplus of 14.95ha and 17.17ha. Besides, the applicants have proposed to provide an open space for public use of about 127m² on 1/F, with direct access from Third Street.

Housing Land Supply

- 11.8 The 2013 Policy Address stated that the top priority for the Government was to tackle the housing problem and supply shortage lied at the heart of the prevailing housing problem. In this regard, the Government has adopted a multi-pronged approach to increase and expedite housing land supply in the short-, medium- and long-term through various OZP amendments and planning applications. While the proposed development will provide only 84 flats, the proposed rezoning would increase the housing land and is in line with the prevailing housing policy.

Technical Considerations

- 11.9 The proposed rezoning would substantially increase the BH of the development at the Site and would inevitably affect the existing visual relief space of the surrounding buildings. While the Site may not be the most ideal location for high-rise residential development from the urban design perspective, the proposed development is considered not incompatible visually with the surrounding built-up context. The technical submissions provided by the applicants including SIA, AVA, and visual appraisal also indicate that the proposed development would have no adverse sewerage, air ventilation and visual impacts on the surrounding developments. Moreover, the future development at the Site is subject to the compliance with

statutory requirements under relevant ordinances and regulations, including the Buildings Ordinance. Hence, the natural lighting and means of escape of the future development will be subject to the approval of the Building Authority and acceptance of D of FS. Concerned departments including Environmental Protection Department, BD and Fire Services Department have no adverse comments on the proposed development.

- 11.10 As for the landscape perspective, the applicants will retain the two existing wall trees (i.e. T1 and T2) in the proposed development (**Plan FZ-2**). Comparing the revised scheme in 2018 with the original scheme in 2015, the footprint of the podium on G/F to 3/F is reduced and the residential tower above the podium is setback to create more room for preserving T1 (**Drawings FZ-3 to FZ-10**). According to the Tree Preservation Proposal submitted by the applicants, the amount of crown pruning for T1 would be about 25% in the revised scheme (**Drawing FZ-18**). Nonetheless, the revised scheme has shifted the development eastwards, which would result in 50% loss of T2's tree crown (**Drawing FZ-19**). As the proposed crown pruning of about 50% for T2 may have implications on tree stability after pruning, CTP/UD&L has some reservations from landscape perspective.

Precedent for other "O" zone on private land

- 11.11 As mentioned in paragraph 5.4(d) above, there is another "O" zone involving private land on the same OZP, i.e. the "O" zone at Ui On Lane. Of the site area of about 988m², only about 27% (266m²) is private land, i.e. the majority of the "O" site is still government land (**Plan FZ-4B**). Although the subject application may set a precedent for the private land portion of the "O" site at Ui On Lane⁶, provision of open space at the remaining government land within the "O" site at Ui On Lane would not be affected by the current application.

Public Comments

- 11.12 Regarding the adverse public comments, the assessment in paragraphs 11.3 to 11.11 above and the comments of the relevant government departments in paragraph 9 above are relevant. As for the historic value of the Site, it should be noted that the existing buildings at the Site are not graded historic buildings. While some public comments claimed that the flat size of the proposed development was too small, the proposed average flat size of about 34.8m² is considered not unreasonable. For the possible nuisances to the nearby residents during construction, they are subject to the control of relevant legislations/regulations.

12. Planning Department's Views

- 12.1 Based on the assessment made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10, PlanD has no in-principle objection to the application and recommends the Committee to partially agree to the application by rezoning the Site to an appropriate sub-zone of "R(A)" with stipulation of a

⁶ There were proposals for residential development at the private land portion submitted to the Board for consideration in or before 2006, namely s.16 planning applications no. A/H3/335, A/H3/337, A/H3/351 and A/H3/364. All of them were rejected. There is now no provision for s.16 planning application for residential use at the site after 'Flat' was deleted from Column 2 of the Notes of the "O" zone in 2006.

maximum BH of 120mPD and the requirement for provision of a 24-hour public access through the Site on the OZP.

- 12.2 Should the Committee decide to agree/partially agree to the application, the relevant proposed amendments to the draft Sai Ying Pun & Sheung Wan OZP No. S/H3/32 would be submitted to the Committee for agreement prior to gazetting under the Town Planning Ordinance.
- 12.3 Alternatively, should the Committee decide not to agree to the application, the following reasons are suggested for Members' reference:
- (a) given the Site is surrounded by buildings and landlocked with no direct street frontage nor direct vehicular access, the proposed "R(A)24" zoning would result in a more congested living environment; and
 - (b) rezoning of the Site from "O" to residential use would result in a permanent loss of open space and further aggravate the shortfall of local open space provision in Sai Ying Pun and Sheung Wan area.

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to agree, partially agree, or not to agree to the application.
- 13.2 Should the Committee decide to partially agree/not to agree to the application, Members are invited to advise what reason(s) for the decision should be given to the applicant.

14. Attachments

Appendix FA-I	MPC Paper No. Y/H3/6A
Appendix FA-II	Extract of Minutes of the MPC Meeting held on 17.4.2015
Appendix FA-III	FI dated 18.9.2018
Appendix FA-IV	FI dated 31.10.2018
Appendix FA-V	FI dated 16.11.2018
Appendix FA-VI	FI dated 21.12.2018
Appendix FA-VII	FI dated 9.1.2019
Appendix FA-VIII	Comparison on Development Parameters of Original Scheme (2015) and Revised Scheme (2018) s.16 applications in "O" zone before 2006
Appendix FA-IX	Minutes of C&WDC FEHWC meeting on 23.10.2014
Appendix FA-X	Petition letters handed to Director of Planning on 4.12.2014
Appendix FA-XI	
Appendix FA-XII	Public comments
Drawing FZ-1	Applicants' Proposed amendments to the OZP and Notes
Drawings FZ-2 to FZ-22	Drawings submitted by the Applicants
Plan FZ-1	Location Plan
Plan FZ-2	Site Plan
Plan FZ-3	Aerial photo

Plans FZ-4A to FA-4B
Plan FZ-5 to FZ-9
Plans FZ-10 to FZ-11

Land Status Plans
Site photos
“O” zones on OZPs No. S/H3/20 and S/H3/32

PLANNING DEPARTMENT
JANUARY 2019