

TOWN PLANNING BOARD

**TPB Paper No. 8936
For Consideration by
the Town Planning Board on 28.10.2011**

**REVISED DRAFT TOWN PLANNING BOARD GUIDELINES FOR
DESIGNATION OF
“OTHER SPECIFIED USES” ANNOTATED “MIXED USE” ZONE
AND
APPLICATION FOR DEVELOPMENT
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**Revised Draft Town Planning Board Guidelines for
Designation of “Other Specified Uses” annotated “Mixed Use” Zone
and Application for Development
Under Section 16 of the Town Planning Ordinance**

1. Purpose

The purpose of the paper is to:

- (a) report the views of the relevant stakeholders on the Draft Town Planning Board Guidelines for Designation of “Other Specified Uses” annotated “Mixed Use” Zone and Application for Development under section 16 of the Town Planning Ordinance (“the TPB Guidelines”);
- (b) set out the amendments in the revised draft TPB Guidelines; and
- (c) seek Members’ agreement to the revised draft TPB Guidelines at **Annex 1.**

2. Background

- 2.1 The draft TPB Guidelines was considered by the Board on 22.10.2010. The purpose of the draft TPB Guidelines was to set out the planning intention and uses permissible in different types of buildings, the main planning criteria for designation of the “Other Specified Uses” annotated “Mixed Use” (“OU(MU)”) zone, development restrictions and design requirements, as well as the considerations for assessing planning applications.
- 2.2 After discussion, the Board agreed that the draft TPB Guidelines was suitable for issue to the relevant stakeholders for consultation after refinement of the wording of the definition of User Schedule III.
- 2.3 An extract of the minutes of the TPB meeting on 22.10.2010 is at **Annex 2.**

3. Consultation with Stakeholders

- 3.1 To address the Board's concern, paragraphs 3.2 and 6.3 of the TPB Guidelines have been amended to explain more clearly when Schedule III will apply. The draft TPB Guidelines was then circulated to the Planning Sub-Committee (PSC)¹ of the Land and Development Advisory Committee (LDAC) whose members comprised representatives from the professional institutes, REDA and relevant government departments. On 24.1.2011, Members of the PSC were briefed by the representatives of Planning Department on the draft Guidelines.
- 3.2 In general, PSC Members supported the introduction of the "OU(MU)" zoning but were concerned whether the planning controls had been too detailed to step onto the building design as indicated in the draft TPB Guidelines. Others were concerned that the potential environmental nuisance caused by uses in mixed-use developments should be avoided as far as possible or properly mitigated.
- 3.3 Some PSC Members suggested that the "OU(MU)" zoning should not be confined to sites previously zoned "C/R" but should be applied to sites in other suitable areas. There were also some specific suggestions on expanding the uses to be included in Column 1 of the three user schedules while others considered that the Column 1 uses should be carefully considered to prevent potential environmental problems.
- 3.4 Planning Department has explained in the meeting that the "OU(MU)" zoning was intended to provide flexibility for mixed use developments while maintaining appropriate planning control. The building design requirements as stipulated in the TPB Guidelines would provide a framework to ensure physical segregation between

¹ The PSC of LDAC is chaired by the Director of Planning and includes Members from the Hong Kong Institute of Planners (HKIP), the Hong Kong Institute of Architects (HKIA), the Hong Kong Institute of Surveyors (HKIS), the Hong Kong Institute of Landscape Architects (HKILA), the Association of Architectural Practices Limited (AAP), the Hong Kong Institute of Engineers (HKIE), the Hong Kong Construction Association (HKCA), the Real Estate Developers Association (REDA), Development Bureau, Environmental Protection Department, Lands Department, Civil Engineering Development Department and Housing Department.

non-conforming uses within the zone, so as to minimize nuisance to sensitive uses. PSC Members were also told that the "OU(MU)" zoning would be applied in suitable areas depending on the local circumstances and it would not be restricted to the rezoning of "C/R" sites. On the detailed comment of the appropriate uses to be included under Column 1/2 of the "OU(MU)" zoning, PlanD has further examined the suggestions and the findings are reported in para. 4 below.

3.5 After incorporating the relevant comments, the revised draft TPB Guidelines was circulated to Members of the PSC on 15.6.2011 for their further consideration. Additional comments from REDA were received.

3.6 A summary of the comments of PSC Members and PlanD's responses is attached at **Annex 3**.

4. Detailed Comments on Column 1/2 Uses

4.1 REDA suggested permitting agricultural use on roof-tops of a mixed-use development as of right to encourage urban farming, and to put uses such as studio, home-office use and clinics under Column 1 for Schedule I (for non-residential building or non-residential portion of a building upon development/redevelopment/conversion).

PlanD's Responses : The growing of plants on roof-tops of any development is regarded as a type of greening and is already permitted. Clinic is subsumed under 'Shop and Services' which is already a Column 1 use under Schedule I. For studio and home-office, as these uses are residential in nature, they are regarded as 'Flat' use and should more appropriately be put under Column 2 of Schedule I.

4.2 REDA suggested including more commercial uses e.g. adult entertainment, funeral facility and creative arts for Schedule II (for residential building or residential portion of a building upon development/redevelopment/conversion).

PlanD's Responses : It might not be appropriate to incorporate the suggested commercial uses into Column 1 of the Schedule II as these uses were not compatible with the residential use.

4.3 REDA suggested that the car parking requirements for the

“OU(MU)” zone should be reduced to encourage a lower usage of cars.

PlanD’s Responses : The provision of car parking facilities within mixed-use developments should generally follow the requirements specified under the Hong Kong Planning Standards and Guidelines. Any specific requirement for a particular development would be subject to the agreement of the Commissioner for Transport.

5. Proposed Amendments to the Draft TPB Guidelines

5.1 Taking into account the concerns of the Board and the views of the PSC Members, the revised draft TPB Guidelines is at **Annex 1** for the Board’s consideration. The main amendments proposed to the draft TPB Guidelines are highlighted as follows:

- (a) paragraphs 3.2 and 6.3 have been elaborated to explain clearly the application of the three user schedules under the “OU(MU)” zone (in ***bold and italic*** type on page 2 and page 5 of the draft TPB Guidelines);
- (b) paragraph 5.6 – a qualification to the “worst case scenario” was added (in ***bold and italic*** type on page 4 of the draft TPB Guidelines);
- (c) paragraph 8.1 – a sentence was added to remind the applicant of the need to demonstrate through proper assessment that no environmental pollution or nuisance would be generated by the proposed mixed-use development (in ***bold and italic*** type on page 5 of the draft TPB Guidelines); and

5.2 It is also proposed to add a sentence to the Explanatory Statement of the “OU(MU)” zone to specify the meaning of ‘an existing building before redevelopment/conversion’ as follows:

“An existing building before redevelopment/conversion refers to an existing building that has not undergone any redevelopment/conversion after the site on which the building was built is rezoned to “Other Specified Use” annotated “Mixed Use”.”

6. Advice Sought

Members are invited to:

- (a) note the results of the consultation with PSC Members as detailed in paragraphs 3 and 4; and
- (b) agree that the revised draft TPB Guidelines (**Annex 1**) is suitable for promulgation.

Attachment

Annex 1 Revised Draft TPB Guidelines for Designation of “Other Specified Uses” annotated “Mixed Use” Zone and Application for Development under section 16 of the Town Planning Ordinance

Annex 2 Extract of Minutes of the 968th Town Planning Board meeting held on 22.10.2010

Annex 3 Summary of Comments of Members of Planning Sub-Committee of the Land Development Advisory Committee and PlanD’s Responses

PLANNING DEPARTMENT
October 2011

DRAFT

TPB PG-NO. XX

**TOWN PLANNING BOARD GUIDELINES FOR DESIGNATION OF
“OTHER SPECIFIED USES” ANNOTATED “MIXED USE” ZONE AND
APPLICATION FOR DEVELOPMENT
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

(Important Note:

These Guidelines are intended for general reference only.

Any enquiry on this pamphlet should be directed to the Planning Information and Technical Administration Unit of the Planning Department, 17th Floor, North Point Government Offices, 333 Java Road, North Point, Hong Kong – Tel. No. 2231 5000.

These Guidelines are subject to revision without prior notice.)

1. Introduction

Hong Kong is a compact city and it is common to find a mixture of uses juxtaposing with one another in developments, which is permitted under a number of existing land use zonings such as “Commercial/Residential” (“C/R”), “Residential (Group A)” (“R(A)”) and “Comprehensive Development Area” (“CDA”). The Town Planning Board (the Board) recognizes that there are merits in functionally and physically integrating different types of compatible uses within a building or over a spatial area, in particular when it helps create vitality and diversity in an area. While the existing zoning mechanism could provide flexibility for mixed use development to meet changing market need, in some circumstances, mixed use developments may cause nuisance to the sensitive uses, e.g. nuisance of restaurant use to residential use in the same building. Appropriate planning control should be provided to guide mixed use development to avoid the possible nuisance and interface problem. In order to achieve both objectives of providing flexibility and maintaining planning control, the Board had introduced the “Other Specified Uses (Mixed Use)” (“OU(MU)”) zone to facilitate integrated and well planned mixed-use development.

2. Scope and Application

- 2.1 This set of Guidelines explains the planning intention of the “OU(MU)” zone and sets out the main planning criteria for the designation of this zone. It also provides guidance for use and development within this zone as well as the main consideration in assessing planning applications.
- 2.2 Mixed-use development on industrial sites is separately catered for by the “OU(Business)” zoning which allows a mix of commercial, office and clean industrial uses.

3. Planning Intention

- 3.1 The "OU(MU)" zone is intended primarily for mixed non-industrial land uses. Flexibility for the development/redevelopment/conversion of residential or other uses, or a combination of various types of compatible uses including commercial, residential, educational, cultural, recreational and entertainment uses, either vertically within a building or horizontally over a spatial area, is allowed to meet changing market needs. Physical segregation has to be provided between the non-residential and residential portions within a new/converted building to prevent non-residential uses from causing nuisance to the residents. The design requirements for physical segregation are set out in para. 7.2 to 7.7 below. Some commercial uses are always permitted in an existing mixed use building before its redevelopment/conversion.
- 3.2 To enable appropriate planning control on different types of buildings and yet give owners/developers the flexibility in developing their land for different types of uses in different mix, three separate User Schedules are applicable to this zone (**Appendix I**). *Schedules I and II will apply to all development proposals (submission of building plans or lease modification applications) involving new development/redevelopment/wholesale conversion of a building on the site which were received after it is rezoned to "OU(MU)" on the OZP. Upon completion of the development/redevelopment/wholesale conversion, any further partial conversion/change of use within the building would need to follow Schedules I and II. Schedule III will apply to cases where the development has not undergone any redevelopment/wholesale conversion after the concerned site is rezoned to "OU(MU)".*
- 3.3 For a non-residential building or the non-residential portion of a composite building upon development/redevelopment/conversion (Schedule I), a wide range of uses similar to those always permitted in the "Commercial" zone will be permitted as of right. For a residential building or the residential portion of a composite building upon development/redevelopment/conversion (Schedule II), residential use, certain Government uses and small-scale utility installations are always permitted. If it is intended to develop a composite building, the non-residential and residential portions should be physically segregated through appropriate building design to prevent non-residential uses from causing disturbance and nuisance to the residents.
- 3.4 For an existing building within the "OU(MU)" zone before its redevelopment/conversion (Schedule III), the mixed-use environment as a result of the previous zoning, especially those under "C/R" zoning, will be tolerated as far as possible. However, the list of uses always permitted will be more stringent than that provided under the "C/R" zone, and some uses such as 'Place of Entertainment' and 'Eating Place' which may generate more significant interface problems are put under Column 2 so as to allow scrutiny by the Board through the planning permission system. Similar to the provisions under the "R(A)" zone, some commercial and non-residential uses are always permitted on the lowest three floors of a building or in the purpose-designed non-residential portion of a building.

4. Definition of Terms

Residential Building

- 4.1 A residential building means a building that is constructed or intended for habitation. It may include certain elements of non-domestic accommodation for such purposes as car park, club house and plant rooms which are ancillary to the main use.

Non-residential Building

- 4.2 A non-residential building means a building that is constructed or intended for uses other than for habitation. It may include certain elements of domestic accommodation for such purposes as caretaker's quarters which are ancillary to the non-residential uses. Hotel and hotel-like service apartment, though for habitation purpose, are regarded as non-residential buildings in planning terms.

Composite Building

- 4.3 A composite building means a building that is constructed or intended for use partly for residential purposes and partly for non-residential purposes such as commercial, educational, cultural and entertainment, but excluding industrial uses. The residential portion of a composite building includes those areas for habitation and such areas as podium/sky/roof gardens, private recreational areas and plant rooms which are ancillary and directly related to the residential portion. The non-residential portion of a composite building refers to areas other than the residential portion. It may include the commercial podium or commercial floors within a composite building, public recreational facilities (as opposed to private clubhouse serving the residents) and areas dedicated for cultural, educational or community uses. Ancillary accommodation for these uses also forms part of the non-residential portion.

Existing Building

- 4.4 An "existing building" means a building, including a structure, which is physically existing and is in compliance with any relevant legislation and the conditions of the Government lease concerned.

Conversion of a Building

- 4.5 "Conversion" of a building as referred to in the User Schedules and this Guideline means wholesale conversion of an existing building, which would be equivalent to a new development and Schedules I and II would apply.

5. Main Planning Criteria for Designation of "OU(MU)" Zone

- 5.1 In general, the main planning criteria as set out in paragraphs 5.2 to 5.7 below will be used in assessing the suitability of a site for designation as "OU(MU)" zone.

Land Use Compatibility and Existing Site Conditions

- 5.2 Due consideration will be given to the local character of a site to ensure that mixed-use development will be compatible with the existing and planned land uses in the area. The "OU(MU)" zoning will be more suitable for areas where a mixture of commercial, office, residential and other uses already exists. The existing uses of the site, the surrounding area and the ownership pattern will be taken into consideration.

Rezoning should preferably be on a street-block basis, and street blocks with greater possibility for site amalgamation should have greater potential for transforming into mixed-use developments.

- 5.3 Certain greenfield sites planned for or near major activity nodes such as major railway interchanges may also be suitable for zoning to "OU(MU)" to bring vitality and vibrancy to the areas.
- 5.4 Rezoning of the core central business district (CBD) to "OU(MU)" is generally not appropriate because land in the CBD should be planned primarily for office/commercial use to support Hong Kong as an international financial and business centre. However, areas at the fringe of the CBD may be suitable for mixed-use developments.

Accessibility and Transport Capacity

- 5.5 The site should have good accessibility. It should be along major transportation routes and preferably be served by mass transit railway. The local and district transport networks should have sufficient capacity to cater for the traffic generated by mixed-use developments.

Provision of Other Infrastructures

- 5.6 The site should preferably be located in an area where there are no major constraints with respect to the provision of fresh water supply, drainage, sewerage, public utilities, etc. or where the infrastructure can be upgraded. In assessing the adequacy of infrastructure provision, planning assumptions will be made with respect to the pace of development/redevelopment and the types of mixed-use development envisaged based on a worst case scenario *under normal circumstances*.

Provision of Community Facilities

- 5.7 Under the "OU(MU)" zoning, residential development is permitted as of right for a residential building or in the residential portion of a building. It is necessary to ensure that the "OU(MU)" zone is designated in an area with adequate existing and planned provision of community facilities to cater for the needs of the residents. The development pattern in the zone should be closely monitored to provide feedback to the programme for provision of community facilities.

Land Use Reviews

- 5.8 The above planning criteria are to serve as general reference only. Land use reviews on suitably selected areas, including the existing "C/R" zones, will be carried out to ascertain the suitability of specific sites for designating as "OU(MU)". The long-term planning intention is to phase out the "C/R" zoning due to inherent problems of the zoning including unclear planning intention and proliferation of undesirable commercial elements in a residential building. Sites under such zoning will be rezoned to other appropriate zonings including "OU(MU)", "Commercial" and "Residential", depending on their location and site characteristics.

6. Permitted Developments in the Zone

- 6.1 Under the "OU(MU)" zoning, owners or developers have the flexibility in developing their land for different types of uses in different mix, and in different forms of buildings/developments.
- 6.2 For a new development/redevelopment/conversion of an existing building, the following types of buildings/developments are always permitted in the zone:

(a) Non-residential Building (Schedule I)

Non-residential buildings, which may incorporate a wide range of uses including commercial, educational, recreational, cultural and entertainment uses, are always permitted under Schedule I of the Notes. The various types of uses in different combinations may be provided on any floor/location within the building, provided that the statutory and non-statutory requirements of other relevant Government departments are met.

(b) Residential Building (Schedule II)

Residential buildings with certain Government uses and small-scale utility installations are always permitted under Schedule II of the Notes.

(c) Mixed-use development

For a horizontally mixed-use development involving both residential and non-residential buildings, but not composite buildings, User Schedules I and II can simply be applied to the respective types of buildings. If any composite building is proposed within a vertically mixed-use development, User Schedules I and II should apply to the non-residential and residential portions of the building respectively and the specific design requirements set out in paragraphs 7.2 to 7.7 below will need to be satisfied. Some illustrative drawings of 'vertical' and 'horizontal' mixed-use developments are at Appendix II and Appendix III respectively.

- 6.3 *Schedules I and II will apply to all development proposals (submission of building plans or lease modification applications) involving new development/redevelopment/wholesale conversion of a building on the site which were received after it is rezoned to "OU(MU)" on the OZP. Upon completion of the development/redevelopment/wholesale conversion, any further partial conversion/change of use within the building would need to follow Schedules I and II. Schedule III will apply to cases where the development has not undergone any redevelopment/wholesale conversion after the concerned site is rezoned to "OU(MU)".* Under Schedule III, uses that may cause more significant interface problems between residential and non-residential uses are put under Column 2 so as to ensure proper planning control through the planning permission system. Some commercial, educational, cultural, recreational and entertainment uses are always permitted on the lowest three floors of a building, taken to include basements or in the purpose-designed non-residential portion of a building, both excluding floors containing wholly or mainly car parking, loading/unloading bays and/or plant room.
- 6.4 Upon the development/redevelopment/conversion of an existing building in the "OU(MU)" zone, any development proposal should ensure that there would not be any interface problem between the residential and non-residential uses, in order to avoid

causing nuisance to the residents. No intermixing of residential and non-residential uses on the same floor will be allowed, unless otherwise permitted by way of the planning permission system.

7. Development Restrictions and Design Requirements

Development Restrictions

- 7.1 Reference should be made to the relevant Outline Zoning Plan (OZP) to find out whether there are any development restrictions, such as plot ratio and building height restrictions, applicable to each individual "OU(MU)" zone.

Design Requirements

- 7.2 Upon development/redevelopment/conversion of a building to a mixed-use development, the residential and non-residential portions within a building shall be physically segregated through appropriate building design. These building designs include the provision of separate entrances/lift lobbies/staircases and other appropriate means. The provision of residential and non-residential uses on the same floor will not be permitted. Under exceptional circumstances, relaxation of the requirement for physical segregation and no inter-mixing on the same floor may be considered by the Board on application under section 16 of the Town Planning Ordinance.
- 7.3 To prevent environmental nuisance caused by some uses in the non-residential portion of the buildings affecting environmentally sensitive uses, appropriate mitigation measures should be provided through stringent building design requirements and with reference to environmental legislation. The intention is to minimize any possible nuisance and disturbance caused by the non-residential uses to the residents in the same building.
- 7.4 When designing a composite building, particular attention should be paid to fire safety requirements and building safety considerations and other special building requirements for the relevant uses as appropriate, e.g. social welfare facilities involving residential care¹. For instance, schools should not be located at a height exceeding 24 metres above ground; residential care home for the elderly and child care centres (CCC) for children aged 2 to 3 years should not be located at a height more than 12 metres above ground; domestic accommodation should not be provided within or immediately adjoining a place of public entertainment; and schools should not be located over shops.
- 7.5 Adequate parking and loading/unloading spaces should be provided in accordance with the relevant standards in the Hong Kong Planning Standards and Guidelines (HKPSG) for the various uses proposed within the development. In order to cater for possible change of use after completion of a mixed-use development, flexibility in the provision of carparking and loading/unloading spaces should be taken into account in the design of the development. Should the provision deviate from the requirement under the HKPSG, advice from the Transport Department should be sought at the project planning stage regarding the appropriate level of provision.

¹ It includes boys'/girls' homes, residential care home for the elderly, residential home for people with disabilities, drug treatment and rehabilitation centre, half way houses, long stay care home, etc.

- 7.6 In proposing the uses in a mixed-use development, due regard should also be given to the projected demand for open space and Government, institution and community facilities arising from the development and the existing and planned levels of provision of such facilities in the area or wider district. Advice from the Planning Department on this aspect may be sought. Local open space within the development itself should be provided in accordance with the HKPSG.
- 7.7 In proposing the different combination of uses within the "OU(MU)" zone, consideration should be given to environmental factors with a view to minimizing any possible nuisances arising from different uses.

8. Considerations for Assessing Planning Applications

- 8.1 An application for development within "OU(MU)" zone should demonstrate that the proposed development is in line with the planning intention of the zone. The applicant should demonstrate that the proposed development is not incompatible with the surrounding land uses/other uses within the same building, would not adversely affect the character and environment of the neighbourhood, and would not overstrain the capacity of existing and planned infrastructure in the area including transport, drainage, sewerage and water supply. *The applicant should also demonstrate through proper assessment that no environmental pollution or nuisance would be created by the proposed mixed-use development.*
- 8.2 Notwithstanding para. 8.1 above, any proposed development that will bring variety of uses and enhance the character, vitality and vibrancy to the area will be given favourable consideration.
- 8.3 For any application involving a new development/redevelopment/conversion of an existing building, the applicant should demonstrate that physical segregation has been provided to separate residential uses from non-residential uses within the same building to ensure that the proposed use in either the residential portion or non-residential portion of the building would not create interface problems with uses within the other portion of the building. The building designs for physical segregation include the provision of separate access/entrance/lift lobbies/staircases and any other appropriate means.
- 8.4 For applications within an existing mixed-use building before its redevelopment/conversion, the applicant will need to come up with practical and implementable measures/proposals to minimize the nuisance or interface problems caused to other uses within the building. The Board will consider each planning application on its individual merits, taking into account comments from relevant Government departments.
- 8.5 As regards the provision of carparking and loading/unloading spaces, please refer to para. 7.5 above.
- 8.6 All other statutory and non-statutory requirements of relevant Government departments including fire safety and building safety requirements must also be met.

OTHER SPECIFIED USES**For "Mixed Use" Only**

Column 1 Uses always permitted	Column 2 Uses that may be permitted with or without conditions on application to the Town Planning Board
Schedule I: for non-residential building or non-residential portion of a building upon development/redevelopment/conversion	
Ambulance Depot	Broadcasting, Television and/or Film Studio
Commercial Bathhouse/ Massage Establishment (in non-residential building only)*	Commercial Bathhouse/ Massage Establishment (not elsewhere specified+)
Eating Place	Flat
Educational Institution	Government Refuse Collection Point
Exhibition or Convention Hall	Hospital
Government Use (not elsewhere specified)	Mass Transit Railway Vent Shaft and/or Other Structure above Ground Level other than Entrances*
Hotel	Petrol Filling Station
Information Technology and Telecommunications Industries	Residential Institution
Institutional Use (not elsewhere specified)	Social Welfare Facility (not elsewhere specified)
Library	
Market*	
Off-course Betting Centre	
Office	
Place of Entertainment	
Place of Recreation, Sports or Culture	
Private Club	
Public Clinic	
Public Convenience	
Public Transport Terminus or Station	
Public Utility Installation	
Public Vehicle Park (excluding container vehicle)	
Recyclable Collection Centre	
Religious Institution	
School	
Shop and Services	
Social Welfare Facility (excluding those involving residential care)	
Training Centre	
Utility Installation for Private Project	
Wholesale Trade	

* Add where appropriate

+ The remarks in brackets to be added only if corresponding Column 1 use is added

OTHER SPECIFIED USES

For "Mixed Use" Only (cont'd)

Column 1 Uses always permitted	Column 2 Uses that may be permitted with or without conditions on application to the Town Planning Board
Schedule II: for residential building or residential portion of a building upon development/redevelopment/conversion	
Flat	Eating Place
Government Use (Police Reporting Centre, Post Office only)	Educational Institution
House	Government Refuse Collection Point
Residential Institution	Government Use (not elsewhere specified)
Social Welfare Facility (residential care facility only)	Hotel
Utility Installation for Private Project	Institutional Use (not elsewhere specified)
	Library
	Mass Transit Railway Vent Shaft and/or Other Structure above Ground Level other than Entrances*
	Office
	Place of Entertainment
	Place of Recreation, Sports or Culture
	Private Club
	Public Clinic
	Public Transport Terminus or Station
	Public Utility Installation
	Public Vehicle Park (excluding container vehicle)
	Religious Institution
	School
	Shop and Services
	Social Welfare Facility (not elsewhere specified)
	Training Centre

* Add where appropriate

OTHER SPECIFIED USES

For "Mixed Use" Only (cont'd)

Column 1 Uses always permitted	Column 2 Uses that may be permitted with or without conditions on application to the Town Planning Board
Schedule III: for an existing building before redevelopment/conversion	
Ambulance Depot Exhibition or Convention Hall Flat Government Use (not elsewhere specified) Hotel House Library Market Office Private Club Public Clinic Public Utility Installation Public Vehicle Park (excluding container vehicle) Residential Institution School (in a free-standing purpose-designed building only) Shop and Services (not elsewhere specified) Social Welfare Facility Utility Installation for Private Project	Broadcasting, Television and/or Film Studio Commercial Bathhouse/ Massage Establishment Eating Place Educational Institution Government Refuse Collection Point Hospital Information Technology and Telecommunications Industries Institutional Use (not elsewhere specified) Mass Transit Railway Vent Shaft and/or Other Structure above Ground Level other than Entrances* Petrol Filling Station Place of Entertainment Place of Recreation, Sports or Culture Public Convenience Public Transport Terminus or Station Recyclable Collection Centre Religious Institution School (not elsewhere specified) Shop and Services (Motor-vehicle Showroom and Printing, Publishing and Allied Industries only) Training Centre

* Add where appropriate

OTHER SPECIFIED USES (cont'd)

For "Mixed Use" only (cont'd)

In addition, the following uses are always permitted (a) on the lowest three floors of a building, taken to include basements; or (b) in the purpose-designed non-residential portion of a building, both excluding floors containing wholly or mainly car parking, loading/unloading bays and/or plant room:

Eating Place
Educational Institution
Institutional Use (not elsewhere specified)
Off-course Betting Centre
Place of Entertainment
Place of Recreation, Sports or Culture
Public Convenience
Recyclable Collection Centre
Religious Institution
School
Training Centre

Planning Intention

This zone is intended primarily for mixed non-industrial land uses. Flexibility for the development/redevelopment/conversion of residential or other uses, or a combination of various types of compatible uses including commercial, residential, educational, cultural, recreational and entertainment uses, either vertically within a building or horizontally over a spatial area, is allowed to meet changing market needs. Physical segregation has to be provided between the non-residential and residential portions within a new/converted building to prevent non-residential uses from causing nuisance to the residents. Some commercial uses are always permitted in an existing mixed-use building before its redevelopment/conversion.

Remarks

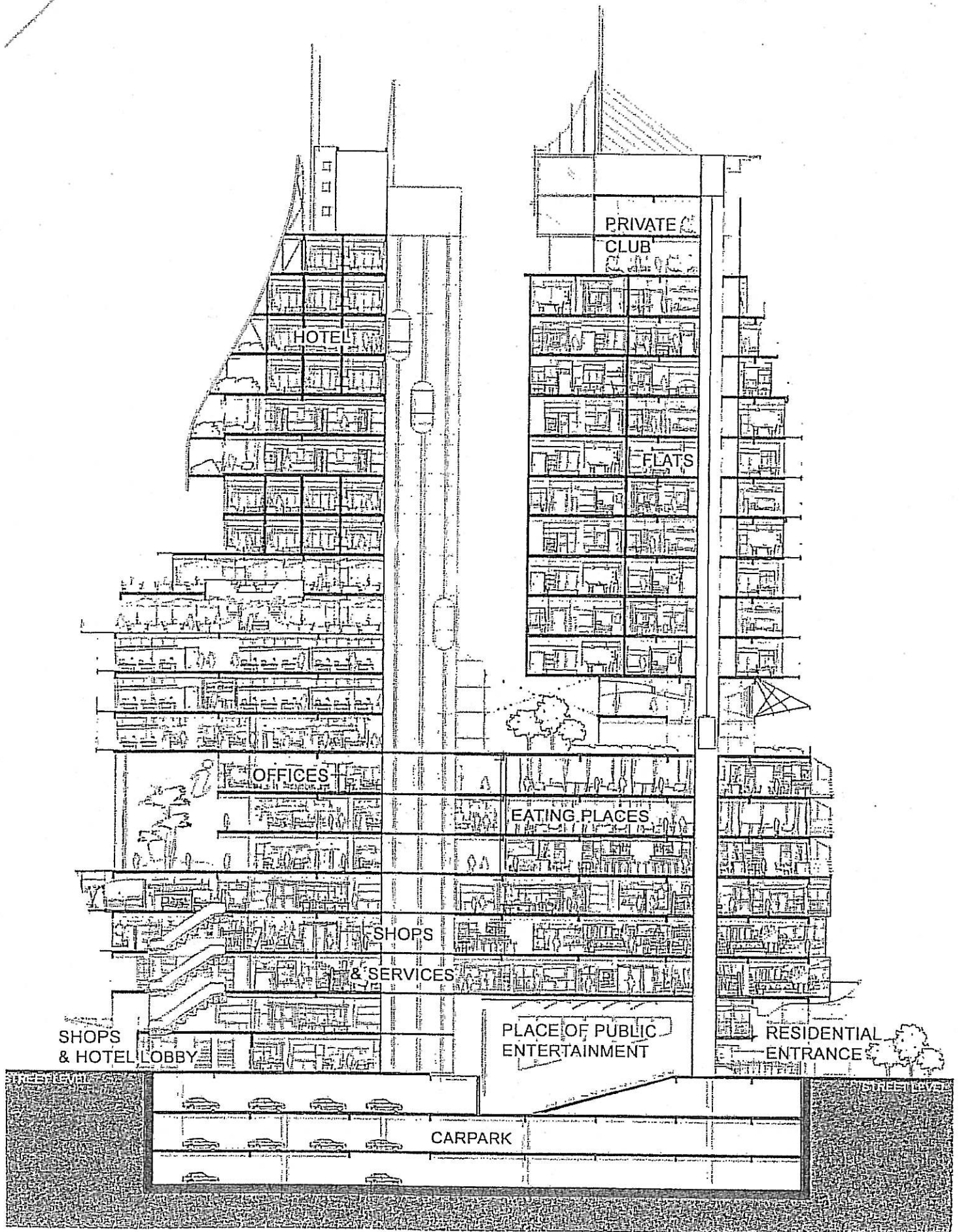
- (a) No new development, or addition, alteration and/or modification to or redevelopment of an existing building shall result in a total development and/or redevelopment in excess of a maximum domestic plot ratio/gross floor area of [xxxxx] and a total plot ratio/gross floor area of [xxxxx], and a maximum building height of [xxxxx], or the plot ratio/gross floor area and height of the existing building, whichever is the greater*.
- (b) For a building that is partly domestic and partly non-domestic, the plot ratio for the domestic part of the building shall not exceed the product of the difference between the maximum permitted non-domestic plot ratio for the building and the actual non-domestic plot ratio proposed for the building and the maximum permitted domestic plot ratio for the building divided by the maximum permitted non-domestic plot ratio for the building.+
- (c) Based on the individual merits of a development or redevelopment proposal, minor

relaxation of the *plot ratio/gross floor area** and building height restriction(s) stated in paragraph (a) above may be considered by the Town Planning Board on application under section 16 of the Town Planning Ordinance.*

- (d) Upon development/redevelopment/conversion of a building to a mixed use development, the residential and non-residential portions within a building shall be physically segregated through appropriate building design. The provision of residential and non-residential uses on the same floor will not be permitted. Under exceptional circumstances, relaxation of the requirement for physical segregation and no inter-mixing on the same floor may be considered by the Town Planning Board on application under section 16 of the Town Planning Ordinance.

**Remarks (a) and (c), and remarks in italics to be added where appropriate.*

+Remarks (b) to be added only when plot ratio restrictions are imposed.

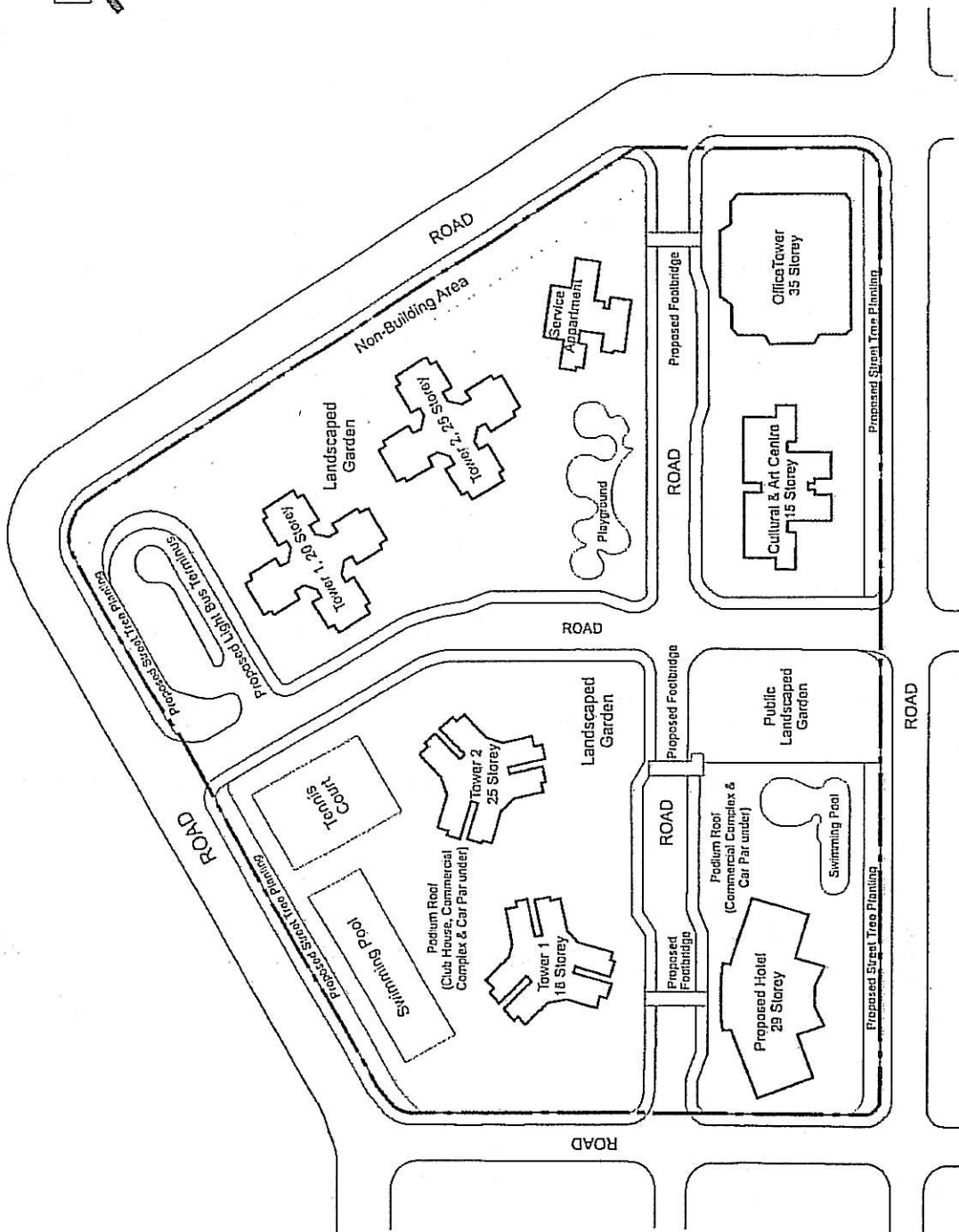




TOWN PLANNING BOARD SECTION
PLANNING DEPARTMENT

Proposed "Other Specified Use (Mixed Use)" Zone
Horizontal mix of uses over a spatial area

0 20 40 60 80 Meters



Extract of Minutes of the 968th Town Planning Board Meeting held on 22.10.2010

Agenda Item 3

[Open Meeting]

Draft Town Planning Board Guidelines for Designation of
“Other Specified Uses (Mixed Uses)” Zone and
Application for Development under Section 16 of the Town Planning Ordinance
(TPB Paper No. 8652)

[The meeting was conducted in Cantonese.]

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

Ms. Christine Tse - Chief Town Planner/Town Planning Board

4. The Chairman extended a welcome and invited Ms. Christine Tse to brief Members on the Paper.

5. With the aid of a Powerpoint presentation, Ms. Christine Tse briefed Members on the background to the draft Town Planning Board (TPB) Guidelines for Designation of “Other Specified Uses (Mixed Uses)” (“OU(MU)”) Zone and Application for Development under Section 16 of the Town Planning Ordinance, as follows:

- (a) on 21.6.2002, the Board considered the Review of Master Schedule of Notes (MSN) to Statutory Plan and agreed in principle to the new zoning of “OU(MU)” to meet changing market needs;
- (b) on 28.2.2003, the Board considered the results of the consultation with stakeholders on the new “OU(MU)” zone and requested that a separate submission on the detailed control mechanism together with a set of draft

TPB Guidelines on the "OU(MU)" zone should be made to the Board;

- (c) the draft TPB Guidelines set out the planning intention and uses permissible in different types of buildings, the main planning criteria for designation of the "OU(MU)" zone, the development restrictions and design requirements, as well as the considerations for assessing planning applications;
- (d) the planning intention of the "OU(MU)" zone was to provide flexibility for the development of a combination of compatible uses including commercial, residential, educational, cultural, recreational and entertainment uses either vertically within a building or horizontally over a spatial area to meet changing market needs;
- (e) to cater for different types of developments within the "OU(MU)" zone, three user schedules were applicable for the zone: User Schedule I was applicable to a non-residential building or the non-residential portion of a composite building upon development/redevelopment/conversion; User Schedule II was applicable to a residential building or the residential portion of a composite building upon development/redevelopment/conversion; and User Schedule III was applicable to an existing building before its redevelopment/conversion;
- (f) User Schedules I and II and the planning intention of the "OU(MU)" zone had already been incorporated in the MSN since 2002, while User Scheduled III was newly proposed. The "OU(MU)" zone had been incorporated in the Kai Tak OZP covering some greenfield sites. It had also been recently incorporated in the Wan Chai OZP and the Causeway Bay OZP covering sites in the existing built up areas;
- (g) the major planning criteria for designation of "OU(MU)" zone were:
 - mixed-use development on an "OU(MU)" site should be compatible

with the existing and planned land uses in the area;

- area with a mixture of commercial, office, residential and other uses already in existence at the fringe of the Central Business District (CBD) could be considered for rezoning to "OU(MU)". However, the core CBD should not be considered for such purposes as land in the CBD should be reserved primarily for office/commercial use to support Hong Kong as an international financial and business centre;
- "OU(MU)" sites should have good accessibility along major transportation routes and there were no major constraints in the provision of water supply, drainage, sewerage and other public utilities; and
- as residential development was permitted as of right under User Schedule II in the "OU(MU)" zone, areas designated should have adequate existing and planned provision of community facilities to cater for the residential development;

[Ms. Anna S.Y. Kwong arrived to join the meeting at this point.]

(h) the major development restrictions and design requirements in the "OU(MU)" zone were:

- the residential and non-residential portions within a building should be physically segregated through appropriate building design, including provision of separate entrances/lift lobbies/staircases;
- provision of residential and non-residential uses on the same floor would not be permitted;
- the development should meet relevant fire safety and building safety requirements; and

- adequate parking and loading/unloading facilities should be provided;

(i) the major considerations for assessing planning applications were:

- any application would need to demonstrate that the proposed development was in line with the planning intention, compatible with the surrounding land uses/other uses within the same building, would not adversely affect the character and environment of the neighbourhood, and would not overstrain the capacity of existing and planned infrastructure in the area;
- any proposed development that would bring variety of uses and enhance the character, vitality and vibrancy to the area would be given favourable consideration;
- for new development/redevelopment/conversion of an existing building, the applicant should demonstrate that physical segregation, in the form of separate access/entrance/lift lobbies/staircases and any other appropriate means, had been provided to separate residential uses from non-residential uses within the same building;
- for any application within an existing mixed-use building before its redevelopment/conversion, the applicant would need to come up with practical and implementable measures/proposals to minimize any nuisance or interface problems caused to other uses within the building; and

(j) should the Board agree to the draft guidelines, the relevant stakeholders including relevant professional institutes, REDA, and other relevant advisory committees would be consulted before their finalization for promulgation.

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

6. A Member said that the existing mixed-use developments were mostly buildings in the old built-up areas with fragmented ownership. As the proposed new zoning and control mechanism in the draft TPB Guidelines would affect redevelopment of these sites, the incorporated owners committees of these buildings should be consulted. A Member however said that he did not see the relationship between the two.

7. Some Members raised the following questions:

- (a) the reason why “an existing building” was confined to that “before redevelopment/conversion” in Schedule III;
- (b) how to define “conversion” in the user schedule;
- (c) whether private clinic was a permissible use in the zone; and
- (d) whether privately run residential care home for the elderly was permitted in the zone.

8. In response, Ms. Christine Tse made the following points:

- (a) an “existing building” was defined in the covering Notes of the OZP as a “building, including a structure, which was physically existing”. Upon redevelopment of a building, the new building would become an “existing building” under the definition in the covering Notes. User Schedule III of the “OU(MU)” zone was, however, only intended for the existing buildings which had not yet been redeveloped or wholly converted after the concerned site was zoned “OU(MU)”. Once the building was redeveloped or wholly converted, User Schedules I or II would be applicable to the redeveloped/converted building;
- (b) “conversion” of a building was defined in paragraph 4.5 of the draft TPB

Guidelines. It referred to wholesale conversion of an existing building, which would be equivalent to a new development and User Schedules I and II would apply;

- (c) private clinic was regarded as "Shop and Services" use under the Definition of Terms (DoT) used in Statutory Plans and was always permitted in a non-residential building or non-residential portion of a composite building under User Schedule I and an existing mixed-use building under User Schedule III before redevelopment/conversion; and
- (d) according to the DoT, facilities which might be operated by the Social Welfare Department or non-governmental organizations or any other organizations as approved/recommended by the Director of Social Welfare were regarded as "Social Welfare Facility". Social welfare facility without residential care was always permitted in a non-residential building or non-residential portion of a composite building under User Schedule I, while social welfare facility for residential care facility only was always permitted in a residential building or residential portion of a composite building under User Schedule II. As for an existing mixed-use building, social welfare facility (with or without residential care) was always permitted under User Schedule III.

9. The Secretary supplemented that elderly housing provided not as a form of social welfare facility was regarded as "Residential Institution" under the DoT. The use was also permitted as of right in a residential building or residential portion of a composite building under User Schedule II and an existing mixed-use building before redevelopment/conversion under User Schedule III.

[Ms. Annie Tam arrived to join the meeting at this point.]

10. A Member noted that the proposed User Schedule III was applicable for an existing building before redevelopment/conversion. This Member raised a concern that the definition of this Schedule was not clear as once a building was redeveloped, it would

become an existing building. It was not clear which User Schedule should be applicable for a redeveloped building or a building which had been wholly converted. This Member suggested that the wording of the definition in this user schedule be refined. This Member's suggestion was agreed by other Members.

11. After further deliberation, Members agreed that the draft TPB Guidelines with the refinement of the wording of the definition of User Schedule III was suitable for issue to the relevant stakeholders for consultation.

12. The Chairman thanked the representative of PlanD for attending the meeting. She left the meeting at this point.

**Summary of Comments of Members of Planning Sub-Committee
of the Land and Development Advisory Committee and PlanD's Responses**

Comments	PlanD's Responses
1. General	
(a) The "OU(MU)" zoning was welcomed as mixed-use development was a world-wide trend. However, the implementation of the concept would be very difficult. The TPB Guidelines should provide more incentive and flexibility and impose less control. There was also concern that the rezoning procedures took time and would freeze the associated development within the zone until the statutory planning process was completed. (REDA)	(a) Noted. The intention of the "OU(MU)" zone was to provide flexibility for mixed-use developments while maintaining appropriate planning control.
2. Control on Building Design	
(a) Supported the concept of a mixed-use zoning but was concerned that the "OU(MU)" zone would not really bring about mixed-use developments because of the large number of building design requirements on physical segregation between different uses. In view of the planning requirements given in Schedule III, most of the existing buildings within the "OU(MU)" zone would unlikely be redeveloped. (HKIA)	(a) The "OU(MU)" zoning tried to strike a balance between enhancing vibrancy and diversity, while at the same time minimising nuisance to sensitive uses. The proposed guidelines were not intended to limit design flexibility but to provide a framework to ensure physical segregation between non-conforming uses within the zone.

Comments	PlanD's Responses
<p>(b) Planning control should not step into building design issues. The building design requirements laid down under para. 7 of the draft Guidelines would be another set of control on building development in addition to those currently required by the Building Authority. The APs would need to obtain approval from different authorities for the same set of building plans. The TPB Guidelines should set out clearly the corresponding approving authorities to avoid any duplication of work. (HKIA) Government should ensure the building design requirements associated with mixed-use developments would not result in duplication of approving authorities in processing building plan submissions. (REDA)</p>	<p>(b) The "OU(MU)" zoning was not something totally new, but was an improvement to the previous "C/R" zoning. Under the "C/R" zoning, the Government had little control on the interface problems and "OU(MU)" zone was proposed with specific building design requirement to prevent such problems. The requirement on physical segregation had a planning dimension as, based on previous experience, the provision of separate entrances/lift lobbies/staircases could help resolve the interface problems arising from non-residential uses which could cause nuisance to residential uses within the same building. It has always been the Government's intention to avoid any duplication of approving authorities.</p>
<p>(c) As staircases were for emergency exit purpose, there was no need to provide separate staircases for the non-residential and residential uses unless the non-residential use involved the discharge of large groups of people all at one time, such as an auditorium and a concert hall. The security concern of residents in mixed-use developments should be dealt with by suitable building management measures such as one-way</p>	<p>(c) Residents living in a mixed-use building were generally concerned with the security problem that might arise when non-residents might gain access to the residential portion through the common staircase.</p>

Comments	PlanD's Responses
door locks rather than by building design. <i>(HKIA)</i>	
3. To Prevent Environmental Nuisances	
(a) Whether there were any guidelines on the type of mitigation measures required to prevent some uses from creating environmental nuisance to the other sensitive uses. <i>(HKIS)</i>	(a) For the types of mitigation measures required, the APs should make reference to the environmental legislation and EPD should be consulted on individual cases.
(b) For "OU(MU)" cases which require the approval of the TPB and the above draft TPB Guidelines would apply, it is suggested to elaborate in the draft TPB Guidelines that the applicants should demonstrate to the TPB through proper assessments that no environmental pollution or nuisance would be created by the proposed mixed developments. <i>(EPD)</i>	(b) Noted. A clause requiring applicants to demonstrate that no environmental pollution or nuisance would be generated by the proposal has been added to paragraph 8.1 of the TPB Guidelines.
(c) Chapter 9 of the Hong Kong Planning Standards and Guidelines (HKPSG) on "Environment" stipulates the provision of sufficient separation between polluting uses and environmentally sensitive uses. In particular, the Guidelines as presented in the HKPSG should be applied at the local planning level to ensure high quality environmental living standards are achieved. Any polluting uses should not be located close to sensitive uses so as to avoid creating any more environmental	(c) Noted.

Comments	PlanD's Responses
issues arising from incompatibility uses. (EPD)	
4. Replace all C/R and R(A) Zones with OU(MU) Zone	
Whether it was PlanD's intention to replace all the "C/R" zone with the "OU(MU)" zone and whether the "R(A)" zoning would also be replaced by the "OU(MU)" zoning. (HKILA) The "OU(MU)" zone should not be confined to sites previously zoned "C/R" but should include other suitable areas. (REDA)	The "OU(MU)" zoning was an improvement to the "C/R" zoning but whether a particular "C/R" site would be rezoned to "OU(MU)" would depend on the local circumstances of that site. If the site concerned was within the central business district (CBD), it might be more appropriate to rezone the site from "C/R" to "C" to reflect the character of the area. However, if the concerned site was located at the periphery of the CBD, it might be more appropriate to rezone it to "OU(MU)". Whether "R(A)" sites would be rezoned to "OU(MU)" would depend on the local character of the area concerned.
5. Specific Column 1 Use in the three Schedules	
(a) Why Recyclable Collection Centre was always permitted on the lowest three floors of a building under User Schedule III of "OU(MU)" zone. (HKIS)	(a) A 'Recyclable Collection Centre' was for community-based recycling activities and was different from large-scale, purpose-designed collection centre.
(b) Some uses proposed under Columns 1 and 2 of the three User	(b) It might not be appropriate to incorporate the suggested

Comments	PlanD's Responses
<p>Schedules should be re-considered. For example, agricultural use on roof-tops of a mixed-use development should be permitted as of right to encourage urban farming. For Schedule I, uses such as studio, home-office use and clinics might be put under Column 1. For Schedule II, more commercial uses, e.g. uses for adult entertainment, funeral facility and creative arts, etc., might also be considered. In order to encourage a lower usage of cars, the carparking requirements for this special zoning should be reduced. (REDA)</p>	<p>commercial uses into Column 1 of the Schedules as this would turn these sites into commercial sites rather than sites for mixed-use developments.</p>
<p>(c) How PlanD would ensure that a proposed development complied with the statutory requirements under the "OU(MU)" zone. Extreme care should be taken in compiling the Column 1 uses as these uses were always permitted and would not have to be scrutinised by TPB. In OU(MU) zones, "residential" uses are allowed to mix horizontally and vertically with "non-residential" uses. If not properly planned and controlled, potential environmental problems would be resulted when sensitive residential uses are mixed with polluting non-residential uses. Therefore, the Column 1 uses of the "OU(MU)" zone should not contain any uses which have a potential to cause environmental pollution and nuisance. This should apply to the three user schedules for "residential", "non-residential" as well as "existing buildings"</p>	<p>(c) For any mixed-use development, if the uses proposed within the non-residential and residential portion of that building were Column 1 uses under Schedule I and II respectively and physical segregation was provided between the two portions, planning application would not be required. In the process of vetting building plans, PlanD would advise BD whether the proposed mixed-use development complied with the statutory requirements under the "OU(MU)" zone. The TPB guidelines were intended to provide guidance for use and development within the "OU(MU)" zone and to facilitate developers to decide how to design their development and whether</p>

Comments	PlanD's Responses
respectively. (EPD)	planning permission would be required for their proposals.
6. Plot Ratio Restriction	
Clarification on the plot ratio restriction for the "OU(MU)" zoning. (Hong Kong Institute of Surveyors (HKIS))	There was no particular plot ratio restriction on the "OU(MU)" zoning itself. However, plot ratio restriction would be imposed on the "OU(MU)" zoning for those OZPs which included plot ratio control on the development zones. For a development that was partly domestic and partly non-domestic, the composite formula for calculating plot ratio would be applicable. If there was no plot ratio restriction in the OZP, then the plot ratio control under the Building (Planning) Regulations would prevail.
7. Others	
(a) It was important to consider bridging modern development with local heritage in the urban fabric. Moreover, the cityscape should not be too orderly planned and designed and that some degree of mixed land uses was desirable in enhancing vibrancy. (AAP)	(a) Noted.
(b) Apart from introducing the "OU(MU)" zoning, PlanD should consider providing greater flexibility in the "R(A)" and "C" zoning to encourage	(b) Noted.

Comments	PlanD's Responses
mixed-use developments in these zones. (REDA)	
<p>(c) "Rezoning should preferably be on a street-block basis" (para. 5.2 of the TPB Guildelines) – This statement is generally supported. However, for the individual sites in the various commercial or residential zones which may also satisfy the main planning criteria as under the OU(MU) Zone should receive similar favourable planning considerations for the non-commercial or non-residential uses respectively through the s16 planning application mechanism. (REDA)</p>	<p>(c) When the Board considered a planning application for non-residential within a residential zone or non-commercial uses within a commercial zone, it would need to consider the planning intention of the zone under concern and the individual merits of the application. As the planning intention of the commercial zones and residential zones would inherently be less flexible than that of the "OU(MU)" zone, it would not be appropriate for the Board to give favourable consideration to these applications as though they were under the "OU(MU)" zone. Nevertheless, the Board could consider each case on its individual merits including whether the non-residential uses adjoined other non-residential uses in the same building, whether physical segregation was provided, etc.</p>
<p>(d) "Worst case scenario" (para. 5.6 of the TPB Guidelines) – It would perhaps give greater encouragement to the potential applicants who are seeking planning approvals if the phrase is slightly rephrased "reasonably worst-case scenario under normal conditions". (REDA)</p>	<p>(d) Noted. To address the concern, it was suggested to amend the last sentence of paragraph 5.6 to read as "In assessing the adequacy of infrastructure provision, planning assumptions will be made with respect to the pace of</p>

Comments	PlanD's Responses
	development/redevelopment and the types of mixed-use development envisaged in the worst case scenario under normal circumstances.”
<p>(e) In some old districts with small lots characteristics, vertical mixing of uses is common and most activities are under temporary tenancies for just few years. The inter-changeability of these temporary uses may be frequent and may contribute positively or negatively to the vibrancy of the neighborhood. How can this TPBG assist the small business or home owners to understand the land use planning process and to determine whether a planning application is required ? (REDA)</p>	<p>(e) Schedule III was prepared to cover those existing mixed-use developments before its redevelopment/conversion where mixed use would be tolerated as far as possible. The list of uses always permitted was more stringent than that provided under the “C/R” zone as those uses which may generate significant interface problems were put under Column 2. However, similar to the provision under the “R(A)” zone, some commercial and non-residential uses were always permitted on the lowest three floors of a building or in the purpose-designed non-residential portion of the building. The subject TPB Guidelines was drawn up to provide guidance for use and development in this zone. It also clearly explained the purpose and planning control under the 3 Schedules. Anybody who needed assistance could always contact or approach the TPB Secretariat or the Planning Enquiry Counters of the Planning Department.</p>

Comments	PlanD's Responses

Abbreviations:

Hong Kong Institute of Surveyors (HKIS)

Hong Kong Institute of Architects (HKIA)

Hong Kong Institute of Landscape Architects (HKILA)

Association of Architectural Practices (AAP)

Real Estate Developers Association of Hong Kong (REDA)

Environmental Protection Department (EPD)