

BRIHANMUMBAI MUNICIPAL CORPORATION

P-9910/2021/(460)/K/E Ward/GUNDAVALI

Subject : Proposed redevelopment on land bearing CTS No. 453, 460A & 460B of Village Gundavali, Swami Nityaanand Marg, Andheri (East), Mumbai – 400069, K/East Ward.

Owner : M/s. Atharv Infra LLP. C.A. to Owner Chandrashekhar C.H.S. Ltd.

Architect : Shri. Ameet Pawar of M/s. Aakar Architects & Consultants

Ref : Plans for consideration attached in console.

4 C - REPORT ON VARIOUS CONCESSIONS SOUGHT

In this case, earlier concessions were approved on 29.11.2022 for the proposed Residential building consisting of Tower – 1 to 5 and each Tower comprising of Lower Ground Floor + Ground/Stilt floor + 1st to 12(pt.) floor + Parking Tower in lieu of plot potential + incentive FSI as per Reg. 33(7)(B) + 1.00 Admissible TDR as per Reg. 30(A) table 12 + 50% Additional FSI as per Reg. 30(A) Table 12 + Fungible Compensatory FSI as per reg. 31(3) of DCPR 2034 and by claiming staircase, lift, lift lobby area free of FSI by charging premium as per Reg. 31(1)(iv) of DCPR 2034.

The various concessions approved are as under :

1. To condone deficiency in open space to the tune of **10.00% (max.)** for F.S.I. 1.00 by Charging 100% premium and **63.54% (max.)** for full consumption of F.S.I. by charging premium as per telescopic basis and JOS to the extent of **28.19 %** on the south side without charging premium due to hardship, planning constraint and as per regulation 6(b) of DCPR 2034.
2. To allow internal staircase staircases, lifts, lift's lobby area as shown in plan attached in additional document free of FSI by charging premium, as per circular CHE/DP/000016/GEN Dat. 01/04/2017 and Reg. No. 31(1)(iv), excluding area covered under Reg. No. 31(1)(iii) of DCPR-2034.
3. To allow :
 - i) 35% fungible compensatory area for existing built-up area of residential rehab component as per Reg. 31(3) of DCPR 2034 without charging premium.
 - ii) 35% fungible compensatory area for residential and commercial sale component as per Reg. 31(3) of DCPR 2034 by charging premium as per policy.
4. To allow A.V.S proposed in Tower – 1 to 5 of inadequate area adm. min. 2.72 sq.mts. with one side of min. width 1.47m for toilets instead of required 9.00 sq.mts. area and min. width 3.00m free of FSI by charging premium and deficient

area of mechanical ventilation proposed for toilets of shops & residential flats, due to the hardships in planning as explained above and Reg.No.6(b) of DCPR 2034.

5. To allow required LOS as per reg. no. 27 in odd shape & size and paved in side open spaces touching to building line and compound wall by charging premium, due to planning constraints and as per Reg. No. 6(b) of DCPR-2034.
6. To allow winders on staircase, due to hardship and planning constraints as mentioned above & as per Reg. 6(b) of DCPR 2034.
7. To allow triplex fitness centre free of FSI connected with internal 1.50 mt. wide spiral staircase for the proposed society redevelopment due to hardship and planning constraint and as per Reg. 6(b) of DCPR-2034 as explained above.
8. To allow :
 - i) Mechanized Pit type Parking Tower systems with 10.50m below ground level at 1.50m away from plot boundary in side and rear side instead of required 3.00 mts. by charging premium and with height of 39.35m above ground level which is more than the proposed building height 38.40m.
 - ii) Mechanized parking system with one of the Two way ramp as 4.50m and Two-way driveway of min. 4.00m wide instead of required 6.00m at Ground and Lower Ground floor, due to hardships and planning constraints and as per 6(b) of DCPR 2034.
9. To allow M.S. steps in F.O.S for shop at ground floor at clear distance of 3.30mt. from plot boundary by charging premium, due to planning constraint, hardship and under reg. no. 6(b) of DCPR-2034.
10. To allow open to sky Single Electrical Sub-station of size 5.88 m (avg.) x 5.58 m (avg.) at ground level instead of required 2nos. of size 12.00m x 5.50m free of FSI subject to remarks from electric supply company due to planning constraints as per Reg. No. 31(1)(xxx) & 6(b) of DCPR-2034.
11. To allow inadequate width of habitable room as 2.25mt. as against required min. 2.40 mt., due to planning constraints as per reg. no. 6(b) of DCPR2034.
12. To allow :
 - i) Elevation features as per 37(23), 31(1)(xxxiv) & policy u/no. Ch. Eng./D.P./110/Gen. dt.2019-2020 (C-10) and reg. nos. 6(b) of DCPR 2034.
 - ii) To allow parapet wall of 1.35m height instead of required 1.50m at terrace level with a projection of 1.50m outside the building line from topmost face of the parapet wall as per reg. nos. 6(b) of DCPR 2034.

Accordingly, IOD was issued on 23.01.2023 for the building comprising of Tower No. 1 (T1) with Lower ground + stilt + 1st to 11th upper floors, Tower No. 2 (T2) with Lower ground + stilt + 1st to 12th upper floors, Tower No. 3 & 4 (T3 & T4) with Lower ground + stilt + 1st to 9th upper floors and Tower No. 5 (T5) with Lower ground + stilt + 1st to 10th upper floors in lieu of plot potential + incentive FSI as per Reg. 33(7)(B) + Admissible TDR as per Reg.

30(A) table 12 + 50% Additional FSI as per Reg. 30(A) Table 12 + Fungible Compensatory FSI as per reg. 31(3) of DCPR 2034 and by claiming staircase, lift, lift lobby area free of FSI by charging premium as per Reg. 31(1)(iv) of DCPR 2034. The existing building is demolished on site and C.C is not yet granted.

Now, as per the recent Supreme Court order dated 08.05.2023, regarding allowing LOS on podium was given a stay order and hence, Architect has now proposed total LOS adm. 1113.09 Sq. Mt. at ground level as against required 1111.18 Sq. Mt. The entire LOS has been proposed on ground level in side open spaces touching to building line & compound wall.

Architect has now submitted plans as per DCPR-2034 for the said proposed residential buildings by keeping the same configurations of Buildings as mentioned in the earlier approved concessions. Hence, aspects of DP 2034 Remarks / Survey Remarks, Right of Way/Access, Ownership, plot area, FSI permissible, MOEF NOC, Amenity as per Reg. No. 14 (A), Reg. No. 15, CFO NOC, Parking Remarks etc. and other such details may please be referred from the earlier approved concessions.

- **Planning Details:**

The proposed residential building comprising of **Lower Ground Floor** for car parking & services of Tower – 1 to 5, **Ground floor** for Shops & Stilt for Tower -1, (pt.) Residential flats, (pt.) Stilt for Car parking of Tower – 2 to 5, **1st Floor** for (pt.) Shop, (pt.) for residential flats of Tower – 1; Residential flats of Tower – 2 to 5, **2nd Floor** for (pt.) Shop, Society Office, Yoga, (pt.) Residential flats of Tower – 1; Residential flats of Tower – 2 to 5, **3rd Floor** for Indoor Game Room, (pt.) Residential flats of Tower – 1, Residential flats of Tower – 2 to 5, **4th Floor** for Fitness Centre, (pt.) Residential flats, Swimming pool of Tower – 1; Residential flats of Tower – 2 to 5, **5th to 7th Floor** for Residential for Residential flats of Tower – 1 to 5, **8th Floor** for Refuge Area, Residential flats of Tower – 1 to 5, **9th to 11th Floor** for Residential flats of Tower – 1 to 5, **12th(pt.) Floor** for Residential flats, Fire Tank, Domestic Tank, Flushing Tank on (pt.) terrace of Tower – 1 to 5 + Parking Tower in lieu of plot potential + incentive FSI as per Reg. 33(7)(B) + 1.00 Admissible TDR as per Reg. 30(A) table 12 + 50% Additional FSI as per Reg. 30(A) Table 12 + Fungible Compensatory FSI as per reg. 31(3) of DCPR 2034 and by claiming staircase, lift, lift lobby area free of FSI by charging premium as per Reg. 31(1)(iv) of DCPR 2034.

- A. Height of the proposed building is 38.40mts. upto terrace floor level.
- B. 285 Nos. of cars parking spaces are proposed as against required 267 Nos.
- C. Society office admeasuring 19.76 sq.mt as against required 20.00 sq.mt is proposed at second floor claimed free of FSI, as per Reg. No. 31(1)(vii) read with Reg.no.37(9) of DCPR 2034.
- D. Since the proposal is for redevelopment of existing society building, Architect has proposed Fitness centre on Second, Third, Fourth floor admeasuring 321.79 sq.mt. as against permissible 371.23sq.mt. which is within 2% of total proposed built up area

as per Reg. 37(28) of DCPR 2034 and its area is claimed free of FSI as per Reg. 31(1) (xvii) of DCPR 2034.

- E. Architect has proposed to claim area of elevated water tank free of FSI at terrace floor as per Reg.No.31(1)(xiv) of DCPR 2034, the said area is excluded from FSI computation.
- F. Elevation features are proposed in the form of 1.20 mt.(max.) wide RCC chajja claimed free of F.S.I. as per Reg.No. 31(1)(xii) of D.C.P.R.2034 and have also proposed 1.20 mt. (max.) wide toilet ducts with service slab of 0.60 mt at a level of 0.60mt. below respective floor, claimed free of F.S.I. as per Reg. No. 31(1)(xxiii) of DCPR 2034.
- G. Entrance lobby is proposed at stilt floor and same is claimed free of FSI as per Reg. No. 31(1)(xxi) of DCPR 2034.
- H. Architect has proposed total LOS adm.1113.09 sq.mts. on Mother earth as per the recent Supreme Court Order dated 08.05.2023
- I. Battery back-up room is proposed at 12th (pt.) terrace floor adm. 5.00 sq.mts. and the same is claimed free of FSI as per Reg. 31(1)(xxxix) of DCPR 2034.

There is no change in the building configurations and are same as per the earlier approved concessions. Hence, it is requested to kindly refer the online Auto DCR scrutiny summary as mentioned in earlier approved concession report.

To approve the planning, the proposal needs relaxation from the competent authority on following points:

Sr. No	Concessions Required	Provisions of DCR	Approval required from
1.	<p>To condone deficiency in open space due to hardship, planning constraints & as per reg. no. 6(b) of D.C.P.R. 2034, as stated in List of indicative concession of Architect.</p> <p>a] To the tune of 6.01% (max.) for F.S.I. 1.00 by Charging 100% premium</p> <p>b] To the tune of 64.17% (max.) for full consumption of F.S.I. by charging premium as per telescopic basis.</p> <p>c] To the tune of JOS to the extent of 28.19 % on the south side without charging premium.</p>	Reg. 6(b)	Ch. Eng. (D.P.)/ Hon. M.C.
Justification by Architect			
<u>F.S.I. 1.00 Planning :</u>			
The details of open space calculation are calculated as below.			
<p>Height of Building – 14.65mt. L/V, H/4 – 3.66mt. D/W – 3.60mt. FOS as per DCPR 41(4) = 4.50 mt.</p>			

Side	O.S. Req.	O.S. Prop.	Def.	Def. %	Remarks
NORTH					
A-B	4.50	4.50	Nil	Nil	FOS
EAST					
B-C	3.66	3.44	0.22	6.01	L/V
C-D	3.60	3.44	0.16	4.44	D/W
SOUTH					
D-E	3.66	3.45	0.21	5.74	L/V
E-F	3.60	3.45	0.15	4.17	D/W
WEST					
F-A	3.66	6.00	Nil	Nil	L/V
	3.60	6.00	Nil	Nil	As per Reg. No. 47(1)(B)(a))

It can be seen from the above table that there is deficiency to the tune of **6.01%** (max.) for F.S.I. one by charging 100% premium.

F.S.I. 2.50 Planning including permissible fungible compensatory F.S.I

Height of Building – 38.40mt.

L/V, H/4 – 9.60mt.

D/W – 6.00mt.

FOS as per DCPR 41(4) = 4.50 mt.

Side	O.S. Req.	O.S. Prop.	Def.	Def. %	Remarks
NORTH					
A-B	4.50	4.50	Nil	Nil	FOS
EAST					
B-C	9.60	3.44	6.16	64.17	L/V
C-D	6.00	3.44	2.56	42.67	D/W
SOUTH					
D-E	9.60	3.45	6.15	64.06	L/V
E-F	6.00	3.45	2.55	42.50	D/W
WEST					
F-A	9.60	6.00	3.60	37.50	L/V
	9.00	6.00	3.00	33.33	As per Reg. No. 47(1)(B)(a)

From the above table, it is seen that there is deficiency in 2.50 FSI for the proposed building. The deficiency in open space is **64.17%** max.

As per clause 6(b) of DCPR 2034, in specific cases where a clearly demonstrable hardship is caused, the Commissioner may for reasons to be recorded in writing, by special permission permit any of the dimension prescribed by these regulations to be modified except those, relating to floor space indices unless otherwise permitted under these regulations, provided that the relaxation will not affect the health safety, fire safety, structural safety and public safety of the inhabitant of the bldg. and neighborhood.

Accordingly, Architect has presented the following demonstrable hardship regarding this deficiency in open spaces and requested to condone the same.

• **Hardship:-**

- 1) The proposal is for re-development of existing ownership bldg. and all the existing tenants (Residential) are to be re-accommodated in the new building with their specific area requirements and car parking spaces.
- 2) To make project financially viable, it is necessary to utilize T. D. R. and permissible fungible compensatory F.S.I. as per Table No.12 of Reg.No.30 and Reg.No.31(3) of DCPR 2034 on plot u/r.
- 3) The plot under reference is in Andheri (East), which is in civil-aviation height restrictions vicinity i.e. much closer to the AIRPORT. Due to which we cannot go vertically and have to propose planning horizontally to consume max. FSI.
- 4) Moreover, if open spaces as per D.C.P.R. 2034 are provided, the plot becomes un-buildable.

Therefore, in light of above stated hardship, it is not possible to plan the building without involving the cantilevers & deficiency in open space for consumption of Full FSI. However, the condonation of deficiency in open space will not affect the safety, structural safety, fire safety as well as public/neighbourhood safety which are demonstrated below.

B] Health safety:-

Owner will appoint licensed plumber to supervise and carry out the drainage work. The drainage work will be carried out as per provision of drainage and sanitary code. Further, the completion certificate of drainage arrangement will be submitted before requesting Occupation permission to the bldg. under reference by verifying that conveyance of foul/waste is achieved speedily and effectively without risk of nuisance to the health of the occupants of the bldg. and neighbourhood

Moreover, effective disposal of rain water will be achieved by RWH and as per remarks obtained by E.E. (SWD) by providing paving around the bldg. with slope towards S.W.D, so that there will not any water logging S.W.D. completion certificate will be submitted before Occupation certificate.

In view of providing above arrangement, it is felt that due care will be taken towards the health of the occupants & neighborhood.

C] Fire Safety:-

As regards fire safety Architect has obtained CFO NOC for proposed building. As recommended by C.F.O all requirements and safety precautions as per C.F.O requirement will be insisted from the developer and final NOC from C.F.O will be submitted before requesting Occupation permission. Thus, fire safety will be ensured.

D] Structural safety:-

As per the prevailing practice, the structural part of the building is designed by Licensed Structural Engineer appointed by the Owner/developer. Structural

stability certificate will be submitted by the Licensed Structural Engineer stating therein that the structure under reference is designed by me as per the provision of various I.S Codes with seismic design (IS.1893) and the dimensions of structural members proposed are as per the structural requirements and cannot be reduced for the safety of the structure, the columns sizes beam sizes proposed therefore reduce the certain minimum dimensions of the various parts of the building as per requirements of DCPR 2034. Structural completion Certificate from Licensed Structural Engineer will be insisted before granting occupation permission to the proposed building under reference.

In view of above, as the work will be designed and supervised by Licensed Structural Engineer, it is felt that the proposed building will be structurally stable and safety of the inhabitants of the building and neighbourhood will not be affected.

e) Public Safety & Neighborhood safety:-

As the health and structural safety of the inhabitants will be ensured as explained above, the aspect of public safety will also be taken care of while redevelopment of the property. The undertaking from Owner will be submitted as per the format mentioned in ease of doing business manual version 1.1, stating that no nuisance to the public and inhabitants of the neighbourhood shall be caused due to the proposed construction of building under reference. The Janata insurance policy will be submitted upon so as to ensure the public safety/ labour safety.

Architect has submitted copy of plan, showing the open space of adjoining buildings to the plot under reference which are tabulated below:

Height of Building – 38.40mt.

L/V, H/4 – 9.60mt.

D/W – 6.00 mt.

FOS as per DCPR 41(4) = 4.50 mt.

Side	Description of bldg. on adj. plot.				
West	Ground + 10 th upper floors Ht. = 32.05 mt. L/V = 10.68 mt. D/W = 6.00 mt.				
South	Ground + 7 th upper floors Ht. = 23.35 mt. L/V = 7.78 mt. D/W = 3.60 mt.				
East	ROS 1.4 Reservation Open Plot				
North	36.60 mt. wide D.P. Road				
Side	J.O.S. Reqd.(Mt.)	J.O.S. Prop. (Mt.)	Diff. (Mt.)	Diff. (%)	Remarks
West	9.60 + 10.68 = 20.28	16.49	3.79	18.69%	L/V + L/V
South	9.60 + 7.78 = 17.38	12.48	4.90	28.19%	L/V + L/V

East	ROS 1.4 Reservation Open Plot
North	36.60 mt. wide D.P. Road
<p>It can be seen that there is a deficiency of 28.19% for joint open space. Further, the owner of the plot under reference will be asked to submit undertaking that, he will not object to the development of neighbouring plots as & when the adjoining owners will come forward for development of their plots, which may involve open space concession. The owner will be insisted to incorporate a condition in sale agreement with prospective buyers stating that, the building is constructed with deficient open space.</p>	
Comments by A.E.(B.P.) K/E Ward	
<p>Site is u/r inspected by this office staff. The justification is provided and as mentioned in 4B and Form 3B of List of Indicative Concessions. The deficiency in open space as reflected in table of list of indicative concession is in order with reference to plans for consideration. The hardship and neighbourhood safety, structural safety, health safety as stated above in respect of building under reference are justifiable. Neighbourhood safety structural safety & health safety is taken care of by appointing Structural Engineer, Site Supervisor and License plumber as stated above.</p> <p>The provision of regulation 6(b) of DCPR 2034 stipulates as, <i>“In specific cases where a clearly demonstrable hardship is caused, the Commissioner may for reasons to be recorded in writing, by special permission permit any of the dimensions prescribed by these Regulations to be modified, except those relating to floor space indices unless otherwise permitted under these Regulations, provided that the relaxation will not affect the health, safety, fire safety, structural safety and public safety of the inhabitants of the building and the neighbourhood.”</i></p> <p>Architect has requested to condone the deficiency in open space as above.</p> <p>In view of above justification and request by Architect in his indicative report, consideration of Ch.E.(D.P.)/Hon’ble M.C. is required to condone open space deficiency as per discretionary powers vested under regulation 6(b) of DCPR 2034:</p> <ul style="list-style-type: none"> a] To the tune of 6.01% (max.) for F.S.I. 1.00 by Charging 100% premium b] To the tune of 64.17% (max.) for full consumption of F.S.I. by charging premium as per telescopic basis. c] To the tune of JOS to the extent of 28.19 % on the south side without charging premium. 	
Comments by E.E.(B.P.) ‘K/E’ Ward	
<p>In view of above justification & comments of A.E.(BP) K/E Ward submitted for approval of Ch. Eng. (D.P.) / Hon’ble M.C. to condone deficiency in open space</p>	

	a] To the tune of 6.01% (max.) for F.S.I. 1.00 by Charging 100% premium b] To the tune of 64.17% (max.) for full consumption of F.S.I. by charging premium as per telescopic basis. c] To the tune of JOS to the extent of 28.19 % on the south side without charging premium.		
2.	To allow required LOS on mother earth as per reg. no. 27 in odd shape & size and additional LOS as paved in side & rear open spaces touching to building line and compound wall by charging premium, due to planning constraints as per recent Supreme Court order dated 08.05.2023 and Reg. No. 6(b) of DCPR-2034.	Reg. No.27 & 6(b)	Ch.Eng.(D.P.) / Hon. M.C.
Justification by Architect			
<p>The net area of plot under reference is 5555.88 sq.mts & as per regulation 27 of DCPR 2034, 20% LOS admeasuring 1111.18 sq. mts. is required to be provided. Accordingly, Architect hasproposed 100% LOS on mother adm. 1113.09 sq.mts. and additional LOS adm. 447.21 sq.mts. as paved for driveway with total LOS adm. 1560.30 sq.mts in front and side open spaces touching to building line and compound wall.</p> <p>As per Reg. 27(2) Note 2 of DCPR 2034, Out of total LOS proposed, minimum 60% of the required LOS shall be provided exclusively on the ground and at least 50% of this shall be provided on mother earth to facilitate the percolation of water and balance 40% of required LOS may be provided on podium area extending beyond the building line. Further, as per Hon'ble M.C. Sir's representation u/no. MGC/A/9127 dated 08.07.2019, the required LOS has to be proposed in 50:50 ratio of mother earth LOS & paved LOS. Now as per recent Supreme Court order dated 08.05.2023 regarding LOS on podium, Architect has proposed total LOS adm. 1560.30sq.mts. out of which 1113.09sq.mts. as required on mother earth has been completely proposed on mother earth in side open spaces touching to building line & compound wall and additional LOS adm. 447.21sq.mts. as paved LOS in side open spaces touching to building line and compound wall.</p> <p>Further, as per D.C. Reg. 27(1) (c) the minimum dimension of such layout open space shall not be less than 7.50 mts.& if the average width of such layout open space is less than 16.60 mts. the length thereof shall not exceed 2½ times that average width. In the instant case, Architect hasproposed the length of LOS which is more than 2.5 times its average width & the width of the LOS is also less than 7.50 mts. Further, the plot under reference falls in civil Aviation zone having height restriction & shape of the plot is elongated in shape and the floor plate is</p>			

	increased to consume maximum FSI permissible. Hence the LOS is proposed in odd shape & size.
	Comments by A.E.(B.P.) K/E Ward
	In view of above justification and request by Architect in his indicative concession report, approval Ch.Eng.(DP)/ Hon'ble M.C is required to allow required LOS on mother earth as per reg. no. 27 in odd shape & size and additional LOS as paved in side & rear open spaces touching to building line and compound wall by charging premium, due to planning constraints as per recent Supreme Court order dated 08.05.2023 and Reg. No. 6(b) of DCPR-2034.
	Comments by E.E.(B.P.) 'K/E' Ward
	In view of above justification and comments by A.E.(B.P.) K/E Ward, submitted for approval of Ch. Eng. (DP)/ Hon'ble M.C. to allow required LOS on mother earth as per reg. no. 27 in odd shape & size and additional LOS as paved in side & rear open spaces touching to building line and compound wall by charging premium, due to planning constraints as per recent Supreme Court order dated 08.05.2023 and Reg. No. 6(b) of DCPR-2034.

In view of above, Point no. 1 to 2 are submitted for consideration/approval of Ch. Eng. (D.P.)/Hon'ble M.C.

1. To condone deficiency in open space
 - a] To the tune of 6.01% (max.) for F.S.I. 1.00 by Charging 100% premium
 - b] To the tune of 64.17% (max.) for full consumption of F.S.I. by charging premium as per telescopic basis.
 - c] To the tune of JOS to the extent of 28.19 % on the south side without charging premium.
2. To allow required LOS on mother earth as per reg. no. 27 in odd shape & size and additional LOS as paved in side & rear open spaces touching to building line and compound wall by charging premium, due to planning constraints as per recent Supreme Court order dated 08.05.2023 and Reg. No. 6(b) of DCPR-2034.

Submitted please.

A.E.(B.P.) 'K/E' Ward

E.E.(B.P.) 'K/E' Ward

Ch.E. (DP)

Hon'ble M.C.

Sir,