

**Minutes of 935<sup>th</sup> Meeting of the  
Town Planning Board held on 15.5.2009**

**Present**

Permanent Secretary for Development  
(Planning and Lands)  
Mr. Raymond Young

Chairman

Mr. Nelson W.Y. Chan

Mr. David W.M. Chan

Mr. Leslie H.C. Chen

Professor David Dudgeon

Professor N.K. Leung

Dr. C.N. Ng

Dr. Daniel B.M. To

Mr. Stanley Y.F. Wong

Mr. Alfred Donald Yap

Ms. Sylvia S.F. Yau

Mr. B.W. Chan

Mr. Walter K.L. Chan

Ms. Maggie M.K. Chan

Mr. Raymond Y.M. Chan

Mr. Y.K. Cheng

Mr. Felix W. Fong

Ms. Anna S.Y. Kwong

Professor Paul K.S. Lam

Ms. Starry W.K. Lee

Mr. K.Y. Leung

Mr. Rock C.N. Chen

Mr. Maurice W.M. Lee

Mr. Timothy K.W. Ma

Principal Assistant Secretary (Transport)

Transport and Housing Bureau

Mr. Fletch Chan

Deputy Director (Environmental Protection)

Environmental Protection Department

Mr. Benny Wong

Assistant Director, Home Affairs Department

Mr. Andrew Tsang

Deputy Director/General, Lands Department

Mr. Herbert Leung

Director of Planning

Mrs. Ava S.Y. Ng

Deputy Director of Planning/District

Secretary

Miss Ophelia Y.S. Wong

**Absent with Apologies**

Dr. Grey C.Y. Wong

Mr. Tony C.N. Kan

Mr. Edmund K.H. Leung

Professor Bernard V.W.F. Lim

Dr. James C.W. Lau

Professor Edwin H.W. Chan

Dr. Ellen Y.Y. Lau

Dr. Winnie S.M. Tang

**In Attendance**

Assistant Director of Planning/Board (Acting)  
Ms. Christine K.C. Tse

Senior Town Planner/Town Planning Board  
Ms. Amy M.Y. Wu

**Agenda Item 1**

[Open Meeting]

Confirmation of Minutes of the 934<sup>th</sup> Meeting held on 24.4.2009

[The meeting was conducted in Cantonese.]

1. The minutes of the 934<sup>th</sup> Meeting held on 24.4.2009 were confirmed without amendments.

**Agenda Item 2**

[Open Meeting]

Matters Arising

- (i) New Town Planning Appeal Received

Town Planning Appeal No. 2 of 2008  
Proposed School (Primary School)  
in “Village Type Development” zone,  
Lot 2852 in DD 316, Pui O, Lantau Island  
(Application No. A/SLC/86)

[The meeting was conducted in Cantonese.]

2. The Secretary reported that an appeal against the decision of the Board to reject on review an application for proposed school (primary school) in “Village Type Development” zone on the approved South Lantau Coast Outline Zoning Plan (OZP) No. S/SLC/14 was received by the Town Planning Appeal Board (TPAB) on 1.4.2008. The appeal was heard by the TPAB on 13.11.2008, 20.11.2008 and 8.12.2008 and was allowed on 25.2.2009, mainly based on the following considerations:

Compatibility of School Use in a “V” Zone

- (a) the appeal site was not incompatible with its neighbourhood. It fronted on

a main road and was adjacent to some New Territories Exempted Houses (NTEHs) which were put into commercial uses such as holiday bungalows, iron-mongery and a publishing business. It was unlikely that the school would be a significant source of annoyance to the neighbourhood;

- (b) the proposed school was an international school and would not compete with the Bui O Public School which was a local school;
- (c) the school use was always permitted on the ground floor. It was difficult to accept that mere intensification of school use to the upper floors was contrary to the planning intention of the zone;

#### Technical Objections to the Proposed Extension of School Use

- (d) the Board not only might, but had to, take into account all relevant considerations such as the suitability of the building for the proposed use, like environmental, traffic, drainage, public safety impacts and other similar impacts. It was only where such impacts were unavoidable or uncontrollable that rejection of planning permission was justified;
- (e) there did not seem to be universal objection to the proposed development. Buildings Department only needed clarifications regarding some fundamental technical issues and would review the application for certificates and notices required under the Education Ordinance if a lease modification was granted. Other Government departments including Transport Department, Fire Services Department and Environmental Protection Department had no comment/no objection to subject use;
- (f) there was no firm certainty that the concerns relating to building structure and provisions of means of escape were insuperable. There was likelihood that the applicant might be able to satisfy the Education Bureau (EDB) that the three NTEHs together were suitable for school use and adequate school facilities could be provided. There was no definite statement from Lands Department that a lease modification would not be

granted for school use;

- (g) several measures had been taken by the appellant to address concerns relating to building safety, recreational facilities and to accommodate genuine concerns of the villagers. A short term tenancy for the use of government land for school playground had been granted, which would not have been possible if there were serious environmental concerns. The appellant had evidence to show that the building was structurally suitable for school use. The appellant had a proposal for fire exits which appeared to be acceptable under the Buildings Department's Practice Notes for Authorized Persons and Registered Structural Engineers;
- (h) in order to facilitate a quick resolution of these technical issues as well as the settling of the question of whether the EDB should permit the use of the building for a school, TPAB granted planning permission for the use of the appeal site as a school; and
- (i) if planning permission was refused, there was no real likelihood that the upper floors of this building would be put to residential use by indigenous villagers and they were likely to remain vacant. Furthermore, it appeared that there were no other alternative sites nearby to which the appellant could relocate.

3. Members noted that a copy of the TPAB's Decision and the summary of appeal were circulated to Members on 13.5.2009.

4. The Secretary reported and Members noted that after consulting legal advice, it was considered that the Decision would unlikely give rise to any adverse implication on the operation of the Board in considering similar planning applications.

Appeal Statistics

5. The Secretary reported that as at 15.5.2009, 24 cases were yet to be heard by the TPAB. Details of the appeal statistics were as follows:

Allowed	: 24
Dismissed	: 109
Abandoned/Withdrawn/Invalid	: 130
Yet to be Heard	: 24
<u>Decision Outstanding</u>	<u>: 0</u>
Total	: 287

[Ms. Starry W.K. Lee, Mr. David W.M. Chan, Professor David Dudgeon, Mr. Felix W. Fong, Mr. Y.K. Cheng and Mr. Nelson W.Y. Chan arrived to join the meeting at this point.]

(ii) This matter arising item was reported under confidential item.

**Agenda Item 3**

[Open Meeting (Presentation and Question Session only)]

Draft Quarry Bay Outline Zoning Plan No. S/H21/25

Further Consideration of Objections

(TPB Papers No. 8330 and 8331)

[The meeting was conducted in English and Cantonese.]

**Group 1: (Objections No. 1 to 155, 165 to 268, 269(part), 270 to 276, 277 (part), 278, 279 to 282(part), 283, 284 to 291 (part), 293 to 296)**

**(TPB Paper No. 8330)**

6. The following members had declared interests in this item:

Dr. Greg C.Y. Wong	-	owning a flat at the Orchards and Kornhill
Dr. James C.W. Lau	-	his spouse owning a flat at Tai Koo Shing
Professor Paul K.S. Lam	-	owning a flat at Nam Fung Sun Chuen
Mr. Tony C.N. Kan	-	owning a flat at Grand Promenade
Mr. Raymond Y.M. Chan	-	having business dealings with Swire Pacific Ltd. (Objector No. 296 was a subsidiary of Swire Pacific Ltd.)
Dr. Daniel B.M. To	-	being a Eastern District Council Member

[Ms. Maggie M.K. Chan left the meeting while Ms. Anna S.Y. Kwong arrived to join the meeting and Professor Paul K.S. Lam and Mr. Raymond Y.M. Chan left the meeting at this point.]

7. Members noted that Dr. Greg C.Y. Wong, Dr. James C.W. Lau and Mr. Tony C.N. Kan had tendered apology for not attending the meeting and Professor Paul K.S. Lam and Mr. Raymond Y.M. Chan had left the meeting. As the Eastern District Council did not raise objection to the proposed OZP amendments, Members considered that the interest of Dr. Daniel B.M. To was indirect and insubstantial, he could be allowed to stay at the meeting.



### Presentation and Question Session

8. The Chairman said that while Objectors No. 85, 190, 191, 216, 226 to 230, 269, 276, 293 to 296 attended the hearing, other objectors of this group had either indicated not to attend the hearing or made no reply. As sufficient notice had been given to the objectors, Members agreed to proceed with the hearing in the absence of the said objectors.

9. Members noted that a petition dated 15.5.2009 was tabled by Objection No.1 (Democratic Party) at the meeting. The objector opposed to any relaxation of building height (BH) restriction and requested the Board to protect the living environment of the residents. Members also noted that a model covering the Quarry Bay area was displayed by Planning Department (PlanD) at the meeting.

10. The following representatives from PlanD, the objectors and their representatives were invited to the meeting at this point:

Ms. Brenda Au - District Planning Officer/Hong Kong (DPO/HK),  
PlanD

Ms. Phoebe Chan - Senior Town Planner/Hong Kong, PlanD

#### **Objection No. 85**

Ms. Ng Yin Ping - Objector

#### **Objection No. 190**

Ms. Li Kwan Yui - Objector's representative

#### **Objection No. 191**

Mr. Ma Ting Sum - Objector

#### **Objections No. 216, 227 to 230**

Mr. Chong Chi Leung - Objector / Objectors' representative

**Objection No. 226**

Mr. Tam Sing Cheong - Objector  
Ms. Chan Chu Ngor - Objector's representative  
Mr. Cheung Lok Kei - Objector's representative

**Objection No. 269**

Mr. Leung Siu Sun - Objector

**Objection No. 276 (Keen Well Holdings Ltd.)**

Mr. Ian Brownlee )  
Miss Kira Brownlee )  
Mr. Guy Bradley )  
Ms. Elsa Man ) Objector's representatives  
Mr. Alex Tsoi )  
Miss Kimmy Wong )  
Mr. Alexis Wong )  
Miss Shereen Mong )  
Ms. Miranda Szeto )  
Miss. Kaman Lai )

**Objection No. 293 (Taikoo Place Holdings Ltd.)**

Mr. Ian Brownlee )  
Miss Kira Brownlee )  
Mr. Guy Bradley )  
Ms. Elsa Man )  
Mr. Alex Tsoi )  
Miss Kimmy Wong ) Objector's representatives  
Mr. Lam Wo Hei )  
Ms. Margaret Wong )  
Dr. Rumin Yin )  
Ms. Miranda Szeto )  
Miss Kaman Lai )

**Objection No. 294 (Taikoo Place Holdings Ltd. & One Island East Ltd.)**

Mr. Ian Brownlee )  
Miss Kira Brownlee )  
Mr. Guy Bradley ) Objector's representatives  
Ms. Elsa Man )  
Mr. Alex Tsoi )  
Miss Kimmy Wong )  
Ms. Miranda Szeto )  
Miss Kaman Lai )

**Objection No. 295 (Cityplaza Holdings Ltd.)**

Mr. Ian Brownlee )  
Miss Kira Brownlee )  
Mr. Guy Bradley )  
Ms. Elsa Man ) Objector's representatives  
Mr. Alex Tsoi )  
Miss Kimmy Wong )  
Ms. Miranda Szeto )  
Miss Kaman Lai )

**Objection No. 296 (Swire Properties Ltd.)**

Mr. Ian Brownlee )  
Miss Kira Brownlee )  
Mr. Guy Bradley )  
Ms. Elsa Man )  
Mr. Alex Tsoi ) Objector's representatives  
Miss Kimmy Wong )  
Mr. Lam Wo Hei )  
Ms. Margaret Wong )  
Ms. Miranda Szeto )  
Miss Kaman Lai )

11. The Chairman extended a welcome and explained briefly the procedures of the hearing. He then invited representatives from the Government to brief Members on the

background to the objections.

12. With the aid of a Powerpoint presentation, Ms. Brenda Au, DPO/HK made the following points as detailed in the Paper :

- (a) the background to the proposed amendments as set out in paragraph 1 of the Paper. The Board would consider 272 objections under Group 1;
- (b) the major grounds of objections and objectors' proposals as detailed in paragraphs 2.2 to 2.9 of the Paper and summarized as follows:

Objections No. 1 to 154

***Opposing BH restrictions in general and asking for more stringent BH control***

- town planning in Hong Kong lacked perspectives and vision, placed too much emphasis on the interest of business sector;
- local residents' perspectives and interests should be taken into consideration;
- there was a lack of public consultation and inconsistency in the BH restrictions;

*Proposals*

- to impose more stringent BH restrictions, to protect the ridgelines and to increase the width of air paths;
- buildings within the same area should be subject to the same BH restrictions;
- to allow transfer of plot ratio (PR) from the built-up area to new development area so as to lower the development intensity in the built-up area;

Objections No. 155, 168 to 268, 269 (part), 270 to 275, 277 (part), 278, 279 to 282 (part), 283 & 284 to 291 (part)

***Opposing BH restrictions in general and asking for more stringent BH control, in particular Sai Wan Terrace***

- the BH restrictions which permitted taller buildings than existing upon redevelopment would worsen wall effect and adversely affect air ventilation, sunlight penetration, visual quality and traffic condition;
- it was neither reasonable nor necessary to allow higher floor-to-floor height upon redevelopment to meet current standards;

*Residential developments along King's Road*

- the BH restrictions represented a 50% increase in BH of existing buildings which would worsen the canyon effect;
- winds to the Kornhill and Taikoo Shing area would be blocked and this would adversely affect public health and property prices;

*Taikoo Shing (North)*

- the area located near the waterfront should be subject to a more stringent BH control;

*1-10 Sai Wan Terrace*

- a BH restriction of 120mPD would have adverse impacts on The Floridian and Kornhill;
- relaxing development intensity would lead to tree felling and increase in traffic;

*Taikoo Place and One Island East*

- the BH restriction of One Island East at 220mPD upon redevelopment could not be realised in the near future. The imposition of lower BH for Taikoo Place would be more effective in improving the environment;

*Proposals*

- Taikoo Shing (north) fronting Quarry Bay Park – to restrict BH to 70mPD or 80mPD;
- developments between Taikoo Wan Road and Taikoo Shing Road – to restrict BH to 80mPD;
- South of Taikoo Shing Road – to restrict BH to 90mPD;
- Kornhill (upper) – to restrict BH to 150mPD;
- Taikoo Place facing the waterfront – to restrict BH to 110mPD or 80mPD;
- 1-10 Sai Wan Terrace – to restrict BH to 91mPD with a plot ratio of 5.8 or 90mPD;
- minor relaxation of more stringent BH restriction could be planned for remaining old buildings with potential for redevelopment;

Objections No. 165 to 167

***Parker Court, Parker Terrace and Parker Villa***

- the site was located at the foothill surrounded by tall buildings. A BH restriction of 165mPD similar to Kornhill (upper) was more appropriate and would not affect view to the ridgelines or air ventilation;
- the imposed BH restriction of 120mPD would severely affect the owners' interest, redevelopment potential and land value;

*Proposal*

- to delete the BH restriction or relax the BH restriction from 120mPD to 165mPD;

Objection No. 276

***1-10 Sai Wan Terrace***

- the site was located on an elevated platform of 45mPD and was constrained by the MTR tunnel;
- a 120mPD BH restriction imposed on a wide area would result in a

monotonous cityscape and would undermine the redevelopment incentive;

- the BH restrictions imposed on the Shau Kei Wan OZP should be considered;
- taller buildings with smaller site coverage could avoid the constraint imposed by MTR tunnel and provide a more open view to the residents of Floridian;
- higher BH restriction could accommodate higher floor-to-floor height;

*Proposal*

- to relax the BH restriction from 120mPD to 135mPD;

Objections No. 293 to 294

***Taikoo Place, Cambridge House and One Island East***

- it was unrealistic to ignore the existing visual context provided by One Island East and Oxford House;
- the criteria for a 20% building-free zone of the ridgeline failed to take account of the views from other key vantage points;
- there was already adequate control and flexibility for development through the submission of Master Layout Plan (MLP) for Taikoo Place which was zoned “Comprehensive Development Area” (“CDA”);
- the BH restriction should take into account the approved MLP with building plans approved;
- an alternative scheme submitted by the objector could reasonably balance the heights of the approved scheme and the excessively low BH restrictions on the OZP;
- it was inappropriate to introduce the Non-building Area (NBA) in “CDA” zone;
- an “Air Ventilation Corridor” of a clear height of 16m proposed under the alternative scheme would achieve better air ventilation;

*Proposals*

- Dorset House/PCCW Tower - to relax BH restriction from 160mPD/170mPD to 170mPD;
- Warwick House – to relax BH restriction from 160mPD/170mPD to 195mPD;
- Somerset House and Cornwall House – to relax BH restriction from 130mPD/200mPD to 225mPD;
- to replace the NBA with the “Air Ventilation Corridor” and to add a requirement in the Notes to the “CDA” for an Air Ventilation Assessment (AVA) study to be submitted with the MLP;
- Cambridge House (zoned “Commercial(3)” (“C(3)”) - to remove BH restriction of 140mPD or to permit redevelopment to no greater than the existing height (159mPD);
- One Island East (zoned “C(4)”) - to remove BH restriction of 220mPD or to permit redevelopment to no greater than the existing height (301mPD);

Objections No. 295

***Cityplaza and Cityplaza One and Two***

- the imposed BH restrictions of 135mPD failed to recognize the approved building plan for the extension of Cityplaza One with a height of 190mPD and the existing height of the hotel development at 141mPD;
- the PR of 15 as permitted under the “C” zone could not be achieved under the BH restriction;
- the BH of 190mPD under the approved building plan was well below the 20% building-free zone of the ridgeline;

*Proposal*

- to relax the BH restriction for Cityplaza One (office) and Two (hotel) from 135mPD to 190mPD and 141mPD respectively;



Objections No. 296

***Related to the Board's powers under the Ordinance (also adopted by Objections No.276, 293 and 295)***

- there was no provision under the Ordinance for the imposition of BH restrictions. Imposition of height restrictions on individual sites constituted 'spot zoning', which was not permitted under s.3 and s.4 of the Ordinance. The relevant sections permitted the prescription of building features in a 'broad brush' matter, not rigid and site-specific restrictions;
- the Board failed to submit a draft amended plan to the Chief Executive in Council (CE in C) for approval within the time prescribed by s.8(2)(b) of the pre-amended Ordinance and did not have the authority to introduce new amendments under s.7 of the pre-amended Ordinance;
- there was no provision in the Ordinance for the Board to introduce NBA, which was a matter of detail and should not be shown on the Plan;
- there was no valid reason for not carrying out public consultation until after the amendments had the force of law. Justification for the need to impose BH restrictions, reasons on the particular height limits and visual impact analysis should be provided;

***Opposing deletion of "Commercial/Residential" ("C/R") zones***

- deletion of the "C/R" zone was a backward step;
- there was no reason why the "C/R" zone could not be retained for the expansion of the Quarry Bay secondary commercial/office node and for the provision of incentive for development;
- incentive scheme for the "C" zone as proposed in the Tsim Sha Tsui OZP should be introduced for relaxation of BH restrictions on application under the Quarry Bay OZP;

*Proposals*

- to withdraw the current OZP and prepare a new plan after referral of the OZP from CE in C;
  - to replace the height limits with a range of broad height restrictions;
  - to delete NBAs from the OZP;
  - to retain “C/R” zoning;
  - to relax BH restriction for specific areas (paragraph 2.9(m) of the Paper);
  - to rezone “R(A)” sites or areas bounded by King’s Road to the west of Taikoo Shing to “C/R” or “C” and to amend the Notes to the “C” zone to allow for the incentive scheme similar to the Tsim Sha Tsui OZP; and
  - to replace NBAs with ‘Air Ventilation Corridors’ and to amend the Notes to include definition of and permitted uses within the ‘Air Ventilation Corridors’;
- (c) planning considerations and assessments on the objections as detailed in paragraphs 3.1 to 3.9 of the Paper;
- (d) responses to grounds of objections and objectors’ proposals were summarized as follows:

Objections No. 1 to 155, 168 to 268, 269 (part), 270 to 275, 277 (part), 278, 279 to 282 (part), 283 & 284 to 291 (part)

***Opposing the BH restrictions in general and asking for more stringent control***

- the BH restrictions had balanced development needs and public aspirations for a better living environment. More stringent control would pose undue constraints;
- BH restrictions would not lead to relaxation of development intensity;

- transfer of PR would have significant policy ramifications and would need to be fully justified and supported by a detailed study;
- prior public consultation would result in premature release of information which would nullify the effectiveness of imposing BH restrictions;

Objections No. 165 to 167

***Parker Court, Parker Terrace and Parker Villa***

- the site was located at a much lower site platform at 20-30mPD than Kornhill (upper) at 65mPD. A lower BH of 120mPD for the site relative to that of 165mPD for Kornhill had therefore been adopted;
- piecemeal relaxation up to 165mPD as suggested by the objector would jeopardize the integrity of the stepped height profile;
- the objector might apply for minor relaxation of BH restriction with justification, if necessary;

Objection No. 276

***1-10 Sai Wan Terrace***

- the Metro Planning Committee (the MPC) on 21.11.2008 partially agreed to Sai Wan Terrace Concern Group's s.12A application and a maximum PR of 5.8 on the "R(B)" portion of the lot was imposed. MPC considered that the 120mPD BH restriction was appropriate;
- the BH restriction of 120mPD would not unduly constrain the design of future development with a maximum PR of 5.8;
- the nearby Yiu Tung Estate with a site level of 80mPD was subject to a higher BH of 190mPD;
- 120mPD was sufficient to cater for a higher ceiling for both the objection site and The Floridian and had taken into consideration the MTR tunnel underground;
- BH above 60 storeys inland was only a possible city height profile suggested by the Consultants in the process of the Urban Design Study but eventually was not incorporated into the Urban Design

Guidelines (UDG);

- piecemeal relaxation of BH would jeopardize the integrity of the stepped height profile;
- with more sensitive design, open area and visual corridor could be provided;

#### Objections No. 293 & 294

##### ***Taikoo Place***

- the BH bands for the Taikoo Place site had taken into consideration the need to preserve 20% building-free zone, the character of the area, the urban design principles and the stepped height concept;
- the BH of the approved MLP (with BH of 294.9mPD and 160mPD for two office buildings) had been taken into account. The BH of 294.9mPD (2A building) breached the ridgeline whereas the BH of 160mPD (2B building) was in line with the imposed BH restriction;
- the alternative scheme submitted by the objector (with 225mPD for 2A building and 195mPD for 2B building) would protrude into the 20% building-free zone but would not breach the ridgeline and a stepped height profile could still be created;
- the Board might consider to adopt a more pragmatic approach by taking a balanced consideration:
  - the development scheme had already been approved by the Board and building plans were approved. The Scheme was deemed to have commenced according to the relevant TPB Guidelines. The proposed height limits on the OZP might not be achievable;
  - the proposed BH under the alternative scheme would not breach the ridgeline and could still achieve a stepped height profile;
  - more spatial and visual openness to local area was provided with larger open space; and
  - air ventilation performance under OZP and the alternative scheme was comparable;

- the NBA was essential for better penetration of prevailing winds according to AVA and could improve visual permeability and hence should be retained;
- a 10m wide NBA was more desirable than a 10m wide and 16m high “Air Ventilation Corridor” proposed by the objector;

***Cambridge House and One Island East***

- the imposed BH restriction of 140mPD for Cambridge House and 220mPD for One Island East was to avoid the protrusion into the 20% building-free zone of the ridgeline;
- if the alternative scheme put forward by Objector No. 293 was accepted by the Board, there was no strong reason not to allow future redevelopment of the Cambridge House to attain existing BH of 159mPD which did not breach ridgeline;
- the existing BH of 301mPD for One Island East was excessively high, out of context and had breached the ridgeline. Redevelopment to existing BH should not be allowed;

***Cityplaza, City Plaza One and Two***

- Cityplaza and Cityplaza One (office) was subject to the control of the Master Development Plan (MDP) under the lease and the permitted GFA under the MDP had almost been fully utilized. The proposed extension of Cityplaza One to include additional GFA would require modification to the MDP under lease;
- “C” zones were previously not subject to PR control. In early 2003, the 69-storey development (i.e. One Island East) had included the adjacent open space into the site for PR calculation, thus resulting in an excessively tall development. The imposition of PR 15 for “C” zone was to prevent the transfer of PR from one zone to another;
- the MDP for Taikoo Shing was finalized in May 2008 and approved under the lease in September 2008. The BH restrictions commensurated with the permissible development intensity under the MDP;
- relaxation of BH to 190mPD for Cityplaza One as proposed by the

- objector was excessive and incompatible with the height of the surrounding areas of 105 to 120mPD. It would defeat the intention to provide an open vista and visual/spatial relief;
- the Notes of the OZP had already allowed the height of the completed hotel development at 141mPD to be retained upon redevelopment;

Objection No. 296

***Related to the Board's powers under the Ordinance*** (also responses to Objections No. 276, 293 to 295)

- legal advice obtained was summarized as follows:
  - sections 3 and 4 of the Ordinance and the scheme of the legislation were intended to give the Board comprehensive powers to control development in Hong Kong. The Board had the power to impose BH restrictions on individual sites or for such areas within the boundaries of a plan, provided the Board had the necessary and sufficient justifications;
  - it was not considered that sections 3 and 4 only catered for positive zoning and it was debatable whether designation of NBAs on the OZP was necessarily negative. Designation of NBAs could serve a positive planning purpose;
  - an approved plan which had been referred back and amended became a draft plan. Given the Board's power in s.7, a draft plan might be amended many times before its submission to CE in C;
  - the Quarry Bay OZP had undergone a number of amendments since its approval in 2002 in accordance with the provisions and time prescribed under the pre-amended Ordinance;
- it was an established Government policy to stipulate development restrictions on OZPs where justified to improve the living environment;
- AVA study and visual assessment through preparation of photomontages had been considered by MPC;

- premature release of information might nullify the effectiveness of imposing BH restrictions;

***Proposed relaxation of BH and deletion of NBA and opposing deletion of “C/R” zoning***

- the proposed relaxation of BH restriction for a wider area east of Taikoo Shing and north of King’s Road would defeat the intention for a stepped height profile and result in incompatible and out-of-context development breaching the ridgeline and 20% building-free zone;
- One Island East should not be taken as a reference for formulating BH profile which would result in a proliferation of excessively tall buildings;
- as recommended in the Metroplan Review, “C/R” zoning should be reviewed for more effective infrastructure planning and better land use management;
- “R(A)” zoning was to reflect the residential nature of developments and “C” zoning was more compatible with the commercial developments in Taikoo Place;
- the designation of NBAs provided a clearer planning intention ensuring that the visual/air corridors would be provided and replacing them with Air Ventilation Corridors was not supported;
- application for minor relaxation of NBA requirements under exceptional circumstances might be allowed;
- introduction of incentive scheme for the “C” sites was not justified given the different local characteristics and Quarry Bay was not an identified high-rise node;

(e) PlanD’s views:

- to partially uphold Objections No. 293 by relaxing BH restrictions from 170mPD to 195mPD covering part of Warwick House and from 130mPD/200mPD to 225mPD covering Somerset House and Cornwall House in Taikoo Place having regard to the alternative scheme proposed by the objector as detailed in paragraph 5.1 of

- the Paper;
- to partially uphold Objections No. 293 and 296 by including provision in the Notes for minor relaxation of NBAs as detailed in paragraph 5.1 of the Paper;
  - to partially uphold Objection No. 294 by amending the Notes of the “C(3)” zone to allow redevelopment of Cambridge House to the existing BH as detailed in paragraph 5.2 of the Paper; and
  - not to uphold other objections and remaining parts of Objections No. 293, 294 and 296 for reasons as detailed in paragraph 5.4 of the Paper.

[Mr. B.W. Chan and Mr. Rock C.N. Chen left the meeting while Dr. Daniel B.M. To and Mr. Felix W. Fong left the meeting temporarily at this point.]

13. The Chairman then invited the objectors and their representatives to elaborate on the objections. Members noted that Objectors No. 85, 190, 216, 227 to 230 only attended the meeting and would not make any presentation.

#### Objection No. 226

14. Ms. Chan Chu Ngor elaborated on Objection No. 226 and made the following points:

- (a) she represented the residents of The Floridian and objected to the proposed development at 1-10 Sai Wan Terrace which would create a wall effect to The Floridian and affect the health of the local residents. She suggested that the proposed development should be moved towards King’s Road so that more space and sunlight would be available to the residents of The Floridian.

[Ms. Starry W.K. Lee left the meeting at this point.]



Objection No. 191

15. With the aid of some plans, Mr. Ma Ting Sum elaborated on Objection No. 191 and made the following points:

- (a) he was a resident of The Floridian and the Secretary of the Owners' Committee. The residents of the Floridian had held a meeting to discuss the OZP amendments and they considered that the proposed amendments would not improve the living environment but would impose adverse impact to the residents. Over a hundred comments from the residents had been sent to the Board via the management office;
- (b) the residents of The Floridian considered that Kornhill and Taikoo Shing had already been fully developed and the existing stepped BH profile should be respected. The proposed stepped BH profile now proposed by PlanD was impractical as it was unlikely that Taikoo Shing would be redeveloped in the near future. The residents were concerned with piecemeal re-development of tall wall-like buildings as a result of the BH restrictions imposed. It was against the revitalisation approach in urban area promoted by Development Bureau;
- (c) the existing BH of Taikoo Shing was around 80mPD. The BH restriction imposed on the OZP for Taikoo Shing with three height bands of 90mPD, 105mPD and 120mPD would lead to about 64% increase in building height for future redevelopment and was against public aspiration for lower building height and development intensity;
- (d) PlanD should only be concerned about the overall BH, development intensity and site coverage of proposed development while the floor-to-floor height should be determined by developer. The objective to impose a higher BH restriction to cater for higher floor-to-floor height (about 14 to 15 feet) for future development in Taikoo Shing was totally unreasonable and unfair to other developments in the vicinity;

- (e) PlanD's argument that the increase in BH restriction would help avoid wall effect and would not lead to increase in development intensity was not correct under the current Building (Planning) Regulations;
- (f) for the site at 1-10 Sai Wan Terrace, a BH restriction of 91m was imposed under the lease. The proposed relaxation of the BH to 120mPD under the OZP would create wall effect to the neighbouring development such as Kornhill (middle) of about 90mPD. The developer for 1-10 Sai Wan Terrace had put forward various development options of different building heights for discussion with the residents of the Floridian but were all objected by the residents as they did not see any merits in the proposals. Residents of The Floridian however did not object to the BH of 91mPD under the approved building plans; and
- (g) the proposed PR of 5.8 and a BH restriction of 91mPD put forward by the Floridian residents was a balance of development right and development potential. According to Transport Department, transport improvement measures would be required for such development scale. It was unreasonable for the Board to adopt a PR of 5.8 without taking the associated BH restriction of 91mPD put forward by the residents. PlanD needed to explain to the public why the Government's proposal was better than that of the residents.

[Ms. Anna S.Y. Kwong left the meeting temporarily while Mr. Felix W. Fong returned to join the meeting at this point.]

Objection No. 269

16. Mr. Leung Siu Sun elaborated on Objection No. 269 and made the following points:

- (a) given that a BH restriction of 80mPD was imposed on the adjacent Lei King Wan and North Point area, it was unreasonable that three BH bands

ranging from 85mPD to 120mPD should be imposed on the Quarry Bay area;

- (b) the existing stepped height profile was already distinctive and should be respected. The Board should not allow a higher height band just to cater for future development which would be higher than the existing development;
- (c) for the case in 1-10 Sai Wan Terrace, there was already a BH restriction of 91mPD under lease and the Board should not allow a relaxation of BH restriction to 120mPD without taking into consideration the adverse impact on the Floridian in its immediate neighbourhood. This would affect harmony in the community; and
- (d) relaxing the BH restriction of Somerset House and Cornwall House at Taikoo Place was not desirable as it would block the view and air ventilation of the existing old buildings along King's Road.

[Mr. David W.M. Chan and Mr. Stanley Y.F. Wong left the meeting while Dr. Daniel B.M. To returned to join the meeting at this point.]

#### Objection No. 276

17. Mr. Ian Brownlee elaborated on Objection No. 276 and made the following point:

- (a) the subject of the objection at this meeting was related to the BH restriction under the draft OZP No.S/H21/25. The imposition of PR restriction of 5.8 for 1-10 Sai Wan Terrace as stated in paragraph 3.4.3 to 3.4.7 of the Paper was related to a subsequent amendment to the OZP which was gazetted under the draft OZP No.S/H21/26. The objector had already lodged an objection to the PR restriction which would be considered by the Board at a separate hearing;

18. With the aid of a Powerpoint presentation, Mr. Alexis Wong supplemented the following points on Objection No. 276:

1-10 Sai Wan Terrace

- (a) the building plans for the proposed development of 1-10 Sai Wan Terrace was first approved in July 2006 and application for lease modification was made in 2007. It was the intention of the developer to avoid creating adverse wall effect to The Floridian by further adjusting the BH so as to create more space and better air ventilation;
- (b) there were various site constraints for the proposed development including the existing three underground MTR tunnels, a limited street frontage and the slopes and trees at the periphery of the site. The owner had been rejected three times by Buildings Department for modification of Building (Planning) Regulations for prescribed windows facing the adjoining slopes in 2007-2008;
- (c) two development options were put forward for comparison based on the existing BH restriction of 120mPD on the OZP (Option A) and a proposed relaxed BH restriction of 135mPD (Option B) by the objector. With the same total GFA, Option A would result in 2 residential towers with a higher site coverage of 33.33% whereas Option B would allow one tower with a lower site coverage of 28.2%. Option B would be more preferable in terms of providing a more open view for The Floridian, more open space and landscaped area, better air ventilation, better quality of living space with higher floor-to-floor height (3.15m) and diversity and variety in building height for visual interest; and
- (d) by relaxing the BH restriction to 135mPD, the proposed development would not contravene the stepped BH profile, after taking into consideration the BH restrictions of Cityplaza (135mPD) to the north and that of Hing Tung Estate (145mPD), Tung Hei Court (160mPD) and Yiu Tung Estate (190mPD) to the south (on the Shau Kei Wan OZP).

As seen from the cross-sections and photomontages shown at the meeting, the proposed development with a BH of 135mPD was not excessively tall as compared with a BH of 120mPD and Yiu Tung Estate with BH of 190mPD would form the backdrop when viewed from the opposite side of the Harbour.

[Mr. Maurice W.M. Lee arrived to join the meeting at this point.]

Objection No. 293

19. With the aid of a Powerpoint presentation, Mr. Guy Bradley elaborated on Objection No. 293 and made the following points:

Taikoo Place (“CDA”)

- (a) from an economic point of view, the BH restrictions for Taikoo Place would affect the development of Quarry Bay as a decentralised office node;
- (b) in imposing the BH restriction for the “CDA” zone, there was inadequate recognition of the approved MLP and building plans for the site;
- (c) there was already a good balance of planning controls and design flexibility within the “CDA” zoning. Specific height controls were not necessary;
- (d) the definition of NBA was ill-defined and the objective could be achieved by a well-designed “Air Ventilation Corridor”; and
- (e) the objector had submitted an alternative scheme which was a pragmatic compromise on the BH restrictions. Under the alternative scheme, the proposed BH restrictions would not breach the ridgeline but provide a large open space while the proposed “Air Ventilation Corridor” would improve air flow and visual permeability. The alternative scheme

would create economically viable developments.

20. With the aid of a Powerpoint presentation, Mr. Lam Wo Hei supplemented the following points on Objection No. 293:

- (a) the objector opposed to the BH restrictions on the “CDA” site which were too restrictive and the imposition of the NBA which would frustrate the phased development of the site;
- (b) there was a MLP approved by the Board with Phase 2A and 2B buildings of height up to 294.9mPD and 160mPD respectively. Building plans for both Phase 2A and 2B buildings had been approved by the Building Authority. In practice, the developer could proceed with the development in accordance with the approved plans. The approved Phase 2A building would be similar in height to the existing One Island East of 301mPD;
- (c) taking into account public aspiration on BH and the Board’s objective in protecting the ridgeline, the objector now proposed an alternative scheme which would meet this objective and provide large parcels of open space that would transform the whole neighbourhood. The height of Phase 2A building would be reduced to 225mPD (a 70m reduction as compared with the approved building plans) while Phase 2B building would be increased to 195mPD;
- (d) as shown by the cross-sections and photomontages, the Phase 2A and 2B buildings would be significantly lower than One Island East and would form a stepped height profile with the existing buildings. Both of them would be well below the ridgeline when viewed from across the harbour. The Phase 2A building would be within the 10% building-free zone whereas the Phase 2B building would be between 5% to 20% of the building-free zone;
- (e) by reducing the BH, the size of the typical floor of Phase 2A and 2B

buildings had to increase to 2,150m<sup>2</sup> and 2,650m<sup>2</sup> respectively which was the limit acceptable by end-users in the office market;

- (f) to enable the alternative scheme to proceed, the Board would need to modify the NBA requirement as stipulated on the OZP as it would run right into the proposed Phase 2A building and cut the building into two. This would make the design of the new buildings substandard and was undesirable in urban design terms;

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

- (g) a 10m wide “Air Ventilation Corridor” with 16m clearance running on the same alignment of the NBA was proposed under the alternative scheme. The corridor would open on one side to an open space of 2,000m<sup>2</sup> for the Phase 2A building. This proposal would satisfy the two objectives of NBA by providing a visual air ventilation corridor. The corridor would provide visual connectivity from Taikoo Shing towards Tong Chong Street and the rest of Taikoo Place. An AVA report had also been submitted by the objector to substantiate the good performance of this air ventilation corridor;
- (h) with the development of Phase 2B building, the open space would be further increased from 2,000m<sup>2</sup> to 5,000m<sup>2</sup> abutting Westlands Road. Besides, there would be another 1,500m<sup>2</sup> of open space abutting Pan Hoi Street which would significantly improve the streetscape;
- (i) the objector requested the Board:
  - to relax the BH control of the “CDA” zone from 200mPD to 225mPD (covering Somerset House and Cornwall House) and from 160mPD/170mPD to 195mPD (covering Warwick House) while the BH restrictions of 130mPD (for Lincoln House) and 170mPD (covering PCCW Tower) remained unchanged; and
  - to allow minor relaxation to the NBA to permit building from 16m above the street level under this very exceptional circumstances; or

- alternatively, to consider minor re-alignment of NBA zone to the south and the objector would ensure that the building would only start at 16m above street level along the original NBA.

Objection No. 294

21. Mr. Ian Brownlee elaborated on Objection No. 294 and made the following point:

Cambridge House (“C(3)”) and One Island East (“C(4)”)

- (a) he noted that PlanD had no objection to partially uphold the objection by amending the Notes of the “C” zone to allow future redevelopment of Cambridge House to the height of the existing building. He suggested that the height of the existing building should be rounded up from 159mPD to 160mPD.

Objection No. 295

22. With the aid of a Powerpoint presentation, Mr. Ian Brownlee elaborated on Objection No. 295 and made the following point:

Cityplaza, Cityplaza One and Two

- (a) Cityplaza was zoned “C” on the OZP and the planning intention was to function as regional or district commercial/shopping centres. According to the OZP, a plot ratio of 15 was stipulated under the “C” zone. In this regard, the objector had legitimate expectation that the permissible PR of 15 for the “C” zone could be achieved. Application for lease modification in respect of the approved office building at 190mPD was made prior to the imposition of the BH control;
- (b) the BH restriction should recognise the existing hotel building of 141mPD and the BH restriction of 135mPD was unreasonable;



- (c) the objector had put forward an alternative scheme by proposing to relax the BH restriction of Cityplaza One (office) and Cityplaza Two (hotel) from 135mPD to 190mPD and 141mPD respectively while the BH restriction of 45mPD for Cityplaza (shopping centre) remained unchanged;
- (d) as shown from the photomontages with view from Sir Cecil's Ride and ex-Kai Tak Airport Runway, Cityplaza was a well-recognised focal point in the Eastern district. The alternative scheme would not breach the ridgeline and the open vista could still be maintained with the BH of 45mPD for Cityplaza. The completion of the office building would not affect the open vista;
- (e) the Phase I office building had already included structural provisions, lift and servicing for construction of additional floors. The building plans approvals should be recognised in the BH restriction; and
- (f) the PR of the "C" zone covering Cityplaza, Cityplaza One and Two would only be 12 after the completion of the new office and hotel buildings in Cityplaza One and Two and was lower than the permissible PR of 15 under the OZP.

Objection No. 296

23. With the aid of a Powerpoint presentation, Mr. Ian Brownlee elaborated on Objection No. 296 and made the following point:

- (a) the objection submitted on 16.8.2008 was to address some fundamental issues regarding the changes of the OZP and was related to all amendments to the OZP. Further submission by the objector in March 2009 was to address three issues in a comprehensive manner by looking at the impact on Quarry Bay as a whole, namely:
  - the introduction of NBA was inappropriate;

- the deletion of “C/R” zone was unnecessary; and
  - height restrictions should be appropriate, consistent and related to an Urban Design Concept.
- (b) the NBA requirement was derived from the AVA and therefore should function as an air ventilation corridor. It was not a zone and there was no schedule of permitted uses and no planning intention and control. There was a need to have a clear definition of NBA;
- (c) the objector proposed to replace NBA with “Air Ventilation Corridor” so as to clearly state the intention and purpose. Besides, an AVA study could be submitted for any proposed changes to the NBA requirement. To allow minor relaxation of NBA under very exceptional circumstances as proposed by PlanD was considered vague and unreasonable;
- (d) the incentive scheme proposed in the Tsim Sha Tsui OZP was a means to encourage better space at ground level, better ventilation, more green areas and higher quality of built environment by relaxing the BH restriction on application. The same objectives should be applied to Quarry Bay which was a recognised decentralised office node. Tsim Sha Tsui with BH restrictions of 60mPD to 130mPD, 250mPD and 386mPD were comparable to Quarry Bay with BH restrictions of 105mPD to 200mPD; and
- (e) Quarry Bay was well established as a secondary commercial/office area. The removal of “C/R” did not fit into its function as a regional or district commercial/shopping centre. The change to “R” zone was inappropriate and was an unnecessary down-zoning with a reduction in PR. The zoning of the area should be retained as “C” to be compatible with the long term planning intention.

24. With the aid of a Powerpoint presentation, Mr. Lam Wo Hei supplemented the following points on Objection No. 296:

- (a) an urban design study had been conducted for a stretch of land bounded by King's Road, Pan Hoi Street and Taikoo Shing Road, taking into account the Board's guideline of protecting the ridgeline;
- (b) the buildings were mainly of 40 to 50 years old. The air quality of the area was undesirable and there were few gaps among buildings. The objective was to look for an approach that would improve the urban environment of the district;
- (c) the BH restriction on the OZP for the area was 120mPD. By relaxing the BH restriction to a range of 130mPD to 225mPD under an alternative scheme put forward by the objector, proposed development of larger building gaps, design flexibility and more varied and interesting skyline could be allowed while respecting the general height profile of the area. All buildings would be below the ridgeline when viewed from across the harbour; and
- (d) as shown from the sketches, the alternative scheme put forward by the objector would provide very significant improvement to the existing environment, would break the wall effect of buildings along King's Road and improve air quality of the district. Given that most of the buildings were of 40 to 50 years which had great potential for redevelopment, there was an urgency for the Board to seriously consider the proposal.

25. Mr. Ian Brownlee concluded the presentation with the following point:

- a) the BH formulated for the area should be appropriate, consistent and related to an urban design concept. The alternative scheme put forward by the objector was a balance between the need for an overall improvement to the area without permitting out-of-context high-rise buildings.

26. As the presentations from the objectors and their representatives had been completed, the Chairman invited questions from Members.

Taikoo Shing and Kornhill

27. In relation to Objection No. 191, the Chairman asked PlanD to clarify why the stepped BH restrictions were different from the existing BH profile in the Taikoo Shing and Kornhill area and whether the proposed BH restrictions were to cater for a higher floor-to-floor height. Ms. Brenda Au replied that the existing BH of Taikoo Shing was about 81 to 89mPD and that of Kornhill (middle) was about 90 to 110mPD. The BH restriction of 120mPD for the Kornhill area was only slightly higher than the BH of the existing buildings. For Taikoo Shing which covered a large stretch of land, the existing BH profile was rather monotonous when viewed from across the harbour. Hence, the imposition of BH restrictions would provide an opportunity to produce a more distinctive stepped BH profile for future redevelopment of the Taikoo Shing area. In addition, she said that the average floor-to-floor height of the existing developments was about 2.6m to 2.7m. The proposed BH restrictions could provide a reasonable allowance for higher floor-to-floor height of about 3m to meet modern day standards and allow design flexibility for future development. In this regard, she said that the Board could consider whether there was a need to retain the BH profile of existing buildings or to go for a distinctive stepped BH profile which provided more design flexibility.

28. In response to Ms. Au's explanation, Mr. Ma Ting Sum (Objection No. 191) said that City Garden and Whampao Garden also covered a large stretch of land as Taikoo Shing. He doubted why a stepped BH profile with three height bands was imposed on Tai Koo Shing but only one height band was imposed on City Garden and Whampao Garden. Besides, he did not agree that the relaxation of BH of Kornhill from 110mPD to 120mPD was minor as this would affect the entire stepped BH profile. Mr. Ma showed a photo and explained that the existing stepped BH profile had also been destroyed by the new hotel development in Cityplaza and further relaxation of BH should not be allowed.

[Ms. Anna S.Y. Kwong left the meeting at this point.]

Sai Wan Terrace

29. Mr. Ma Ting Sum said that he could not understand why the relaxation of BH

restriction would not lead to increase in development intensity as stated by DPO/HK. He said that according to his calculation under B(P)R, if the BH increased by 63% (from 46m to 80m under a BH restriction of 120mPD as in the case of Sai Wan Terrace), the site coverage would only be reduced by 4%. However, there would be an increase of PR by 38% (from PR 5.8 to 8) and an increase of the building bulk by 47%. On this point, the Chairman confirmed that the increase in BH restriction would not necessarily lead to a corresponding increase in PR, GFA or site coverage under the B(P)R. Mr. Ma however reiterated that the building bulk would certainly increase with the increase in number of storeys and floor-to-floor height.

30. Ms. Brenda Au clarified that apart from the control under B(P)R, the development at Sai Wan Terrace was also controlled by the lease with a PR restriction of 5.8. The same PR restriction was also imposed in the current version of the OZP No.S/H21/26. For Taikoo Shing, it was also controlled by a MDP. Hence, the BH restriction higher than the existing BH would not lead to an increase in development intensity. She specifically highlighted that for the case of Sai Wan Terrace, there was originally no BH restriction on the OZP. The current BH restriction of 120mPD was imposed to restrict the height of the future development.

31. A Member asked Objector No. 276 whether he had considered alternative proposals to resolve the site constraints for the development at Sai Wan Terrace, other than the two-tower option presented at the meeting. Mr. Alexis Wong replied that although PlanD considered that there was scope to adjust the deposition of the buildings so as to mitigate the impact to The Floridian, the design of the development was constrained by the requirement to provide prescribed windows under the B(P)R and the need to capture sunlight.

32. The Chairman noted that Objector No. 276 requested to relax the BH restriction from 120mPD to 135mPD so that one tower instead of two towers of buildings could be developed. He asked whether there was scope to reduce the floor-to-floor height so that the one tower option would also be feasible under a BH restriction of 120mPD. Mr. Alexis replied that the floor-to-floor height under the 120mPD BH restriction was only 3m whereas that under 135mPD was 3.15m. He considered further reduction of floor-to-floor height to below 3m was a backward step and was not recommended.

Area north of King's Road

33. A Member asked PlanD to comment on the alternative proposal and urban design concept put forward by Objector No. 296 in relation to the relaxation of the BH restrictions for a large stretch of land north of King's Road. Ms. Brenda Au said that the concept of the objector's proposal was to relax the BH restrictions of the area so that more open space at ground level would be available to improve air ventilation. She agreed that the proposed disposition of buildings in a north-south direction under the alternative scheme would to a certain extent help improve air ventilation, taking into account the prevailing wind in a north-south direction in the summer. However, she pointed out that there was no guarantee (and in fact quite unlikely) that such design layout would be implemented with the relaxation of BH restrictions and it would much depend on the extent of site amalgamation and future design. She added that the current BH restriction of 120mPD along King's Road for the "R(A)" zone had already allowed adequate design flexibility for future redevelopment.

NBA in Taikoo Place

34. The Chairman asked PlanD to respond to the allegation of Objection No. 296 that there was no basis for the imposition of NBAs on the OZP. Ms. Brenda Au replied the objector doubted the power of the Board to impose NBA on the OZP from a legal perspective and PlanD's responses to these legal arguments had been provided in paragraph 3.9 of the Paper. On the technical aspect, as clearly stated in the Paper, the designation of NBAs on the OZP was to provide air/visual corridors and developments were only permitted below ground. She said that based on the information submitted by the objector, PlanD considered that the NBA was more desirable than the objector's proposed Air Ventilation Corridor of 16m high and 10m wide underneath a proposed building as the latter provided less visual permeability. On air ventilation performance, it was considered that the performance of the OZP complying scheme and the alternative scheme was generally comparable and was both better than the existing air ventilation condition.

35. Mr. Lam Wo Hei opined that by providing an open space of 2,000m<sup>2</sup>, the Air

Ventilation Corridor proposed by the objector would certainly perform better than the NBA sandwiched between two buildings in terms of air ventilation and visual permeability. Mr. Ian Brownlee supplemented that apart from the design aspect, the Board should also look into the definition of NBA and its function. He stated that while there was currently no clear definition of the NBAs on the OZP, the Air Ventilation Corridor proposed by the objector had already achieved the objective of better air ventilation.

#### Cambridge House and One Island East

36. The Chairman referred Members to the grounds of objection and proposals put forward by Objector No. 294 and PlanD's responses as stated in paragraphs 3.6.1 to 3.6.3 of the Paper and asked Members if they had any questions or comment. Members had no question or comment.

#### Cityplaza One and Two

37. The Chairman referred to the presentation of Objector No. 295 who claimed that after the completion of the new office and hotel buildings in Cityplaza One and Two, the PR for the site covering Cityplaza, Cityplaza One and Two would only be 12 which was lower than the permissible PR of 15 under "C" zone of the OZP. He asked PlanD to comment on this aspect. Ms. Brenda Au replied that the objector claimed that even the PR including the approved office building of 190mPD would be 12, LandsD would normally allow lease modification to align with the OZP restrictions. She said that the background of imposing the PR restriction of 15 for "C" zone had been covered in paragraph 3.7.3 and 3.7.4 of the Paper. She considered the maximum PR of 15 for the "C" zone covering Cityplaza was not appropriate and opportunity would be taken to review the PR under a separate exercise. The proposed amendment would be submitted to the Board for consideration in due course. She however said that the Board's main concern at this stage was whether the BH restriction of 190mPD proposed by the objector was appropriate at the subject location.

38. In response, Mr. Ian Brownlee stated that any future proposed amendment to the PR of the "C" zone was irrelevant to the consideration of the objection at this meeting. He said that the Board should consider the subject objection within the context of the

current OZP, i.e. a PR of 15 under the “C” zone.

39. The Chairman added that the Board would not only consider the PR of the site but also the visual impact before deciding on the appropriate BH restriction.

#### “C/R” zoning

40. Members noted the grounds of objection and proposals put forward by Objection No. 296 in relation to the deletion of “C/R” zoning and PlanD’s responses in paragraph 3.8.4 to 3.8.8 of the Paper. Members had no question or comment.

41. As the objectors and their representatives had finished their presentation and Members had no further questions, the Chairman said that the hearing procedures had been completed and the Board would deliberate on the objections in their absence and would inform them of the Board’s decision in due course. The Chairman thanked them and the Government’s representatives for attending the hearing. They all left the meeting at this point.

[The meeting adjourned for a short break of 5 minutes.]

#### Deliberation Session

42. The Chairman invited Members to consider the objections and reminded Members to take into consideration all the written submissions, the oral representations made at the hearing and questioning session and all the materials presented by the objectors at the meeting.

#### Taikoo Shing and Kornhill

43. A Member agreed with the comment of Objector No. 191 that the stepped BH concept with three height bands covering Taikoo Shing and Kornhill might not be achievable because of the different timing for redevelopment of different sites within the area. There would be cases when buildings redeveloped up to the maximum BH restriction would be taller than the surrounding buildings at a lower existing BH, thus



disturbing the stepped BH concept. This Member suggested that for these cases, a provision should be included in the OZP requiring developer to submit proposal to demonstrate compliance with the stepped BH profile or to submit MLP for the Board's consideration.

44. The Chairman opined that under the current zoning, the Board did not have the power to request the developer to submit MLP. Ms. Ava Ng said that the stepped BH concept had generally been applied to many other areas and it was a matter of fact that redevelopment of individual building would emerge at different locations at different stages. The stepped BH profile was a concept that would be realized by phases. The Secretary said that the Quarry Bay area involved many sites under multiple ownership. As redevelopment was a long-term process, she said that the stepped BH concept would not lead to monotonous BH profile due to the different timing of redevelopment of individual sites.

#### Sai Wan Terrace

45. A Member considered that there were merits in the alternative proposal put forward by Objector No. 276 for 1-10 Sai Wan Terrace as the one tower option with a BH restriction of 135mPD would provide a more open view to The Floridian and also improve air ventilation for the area. This Member however considered that the Board should decide whether this should be implemented through amendments to the OZP or through the minor relaxation mechanism. The Secretary explained that the Board would lose control on the design and disposition of the future development if amendment were made to relax the BH restriction from 120mPD to 135mPD on the OZP. The mechanism requiring an application to the Board for minor relaxation of BH restriction would allow the Board to have a better control on the layout and disposition of the future development.

46. Another Member considered that the previous MPC's decision for a BH restriction of 120mPD should continue to be upheld. This Member considered that any relaxation of the BH restriction should be controlled through the planning application system and considered by the Board on individual merits. This would allow the Board to retain control on the development of the site and the public would also be fully aware of any proposal for relaxation.

### Taikoo Place

47. Members considered the alternative proposal put forward by Objector No. 293 (i.e. proposed relaxation of BH restrictions from 160mPD/170mPD to 195mPD covering the whole Warwick House, from 130mPD/200mPD to 225mPD covering Somerset House and Cornwall House, from 160mPD to 170mPD covering Dorset House and replacement of the NBA by the “Air Ventilation Corridor”) and noted PlanD’s responses in paragraph 3.5 of the Paper. A Member considered the alternative proposal put forward by Objector No. 293 acceptable as it was a balanced consideration of the BH restriction and development need. However, this Member said that the specific BH restriction for the sub-areas within the “CDA” zone should be indicated clearly on the further amendments to the OZP. After discussion, Members generally agreed to PlanD’s recommendation to partially uphold the objection by relaxing the BH restrictions with respect to the height bands to from 170mPD to 195mPD covering part of the Warwick House site and from 130mPD/200mPD to 225mPD for the area covering Somerset House and Cornwall House in Taikoo Place having regard to the alternative scheme proposed by the objector.

### NBAs

48. In relation to the allegation of Objection No. 296, a Member asked whether the Board had the legal power to impose NBA requirement on the OZP. The Secretary explained that according to legal advice from Department of Justice (DoJ), the Board had power under the Ordinance to impose development restriction including NBA on the OZP, provided that it had necessary and sufficient justifications and the NBA could serve a positive planning purpose. She stated that Objector No. 296 had also put forward a technical argument that there was no clear definition for the NBAs on the OZP. She further explained that the current intention of NBAs under the OZP was different from that under the lease as basement development was normally not allowed for NBA imposed under the lease. The NBA requirement under OZP was imposed with purposes relating to air ventilation and visual impact, hence, underground development was permitted. The Secretary said that the Secretariat would amend the “Definition of Terms used in Statutory Plans” to provide a clearer definition on NBAs and would submit to the Board for consideration at a separate meeting.

### Cambridge House and One Island East

49. Members noted the grounds of objection and proposals put forward by Objector No. 294 and PlanD's responses as stated in paragraph 3.6.1 to 3.6.3 of the Paper. Members agreed to PlanD's recommendation to amend the Notes for the "C" zone to allow future redevelopment of Cambridge House under the "C(3)" zoning (with a BH restriction of 140mPD) to the height of the existing building (i.e. 159mPD) and agreed not to allow the claim of existing BH for One Island East (i.e. 301mPD) under the "C(4)" zoning (with a BH restriction of 220mPD) which had already breached the ridgeline.

### Cityplaza One and Two

50. In response to the claim of Objector No. 295 that he had legitimate expectation to achieve the PR as permitted under the OZP for Cityplaza One and Two and that he had already made an application for lease modification, Mr. Herbert Leung advised that whether the lease modification would be approved would be at the discretion of LandsD and such matter should not affect the determination of the Board on the objection.

### Area north of King's Road

51. On the alternative proposal put forward by Objector No. 296 to relax BH restrictions for a large stretch of land north of King's Road, Members generally considered that the disposition of buildings in a north-south direction could unlikely be implemented unless the whole area was redeveloped comprehensively. As such, the justifications put forth by the objector for the relaxation of the BH restrictions were not accepted.

### "C/R" zoning

52. In response to Objector No. 296's comment that the deletion of the "C/R" zoning was a backward step given that mixed uses were now advocated in other places outside Hong Kong, Ms. Ava Ng commented that the development context of Hong Kong including Quarry Bay was very different from other places where commercial and residential uses were clearly segregated. In Hong Kong, mixed uses were allowed in

“R(A)” zone where commercial uses were permitted as of right at the lowest three floors. Hence, the objector’s argument that the deletion of “C/R” zoning would affect the development of mixed uses in Hong Kong was not sound.

53. The Secretary supplemented that apart from rezoning the “C/R” sites to either “R” or “C”, the “Other Specified Uses” annotated “Mixed Use” (“OU (Mixed Use)”) zoning could also be considered in the review of “C/R” zones. Under the “OU (Mixed Use)” zoning, a clear vertical or horizontal segregation of uses within a development would be required and this zoning had first been applied in the Kai Tak OZP. However, this zoning was considered not applicable for the Quarry Bay area. In the Quarry Bay area, the sites that were rezoned to “R(A)” covered developments which were predominantly residential in nature whereas the sites rezoned to “C” covered sites with potential for redevelopment into commercial uses in the vicinity of Taikoo Place (which was pure commercial in nature). Regarding the objector’s concern on the reduction in PR as a result of the rezoning from “C/R” to “R” which would deprive the owners’ development right, she explained that the rezoning would have to take into consideration the overall land use suitability. In response to a Member’s query, the Secretary confirmed that retail uses would be always permitted under the lowest 3 floors of the “R(A)” zone.

54. The Chairman then asked Members to go through whether the reasons for not upholding Objections No. 1 to 155, 165 to 268, 269 (Part), 270 to 276, 277 (Part), 278, 279 to 282 (Part), 283, 284 to 291 (Part) and 295 and parts of Objections No. 293, 294 and 296 as stated in paragraph 5.4 of the Paper to see if they were appropriate and whether any amendment to the suggested reasons was necessary. After deliberation, Members generally considered that amendment was not necessary and agreed to adopt the reasons as stated in paragraph 5.4 of the Paper.

#### Objections No. 293 and 296

55. After further deliberation, the Board decided to partially uphold Objection No. 293 by relaxing the BH restrictions with respect to the height bands to 195mPD covering part of the Warwick House site and 225mPD for the area covering Somerset House and Cornwall House in Taikoo Place having regard to the alternative scheme proposed by the objector. The Board also decided to partially uphold Objections No. 293 and 296 by including a provision in the Notes of the relevant zones in the OZP to allow for application

for minor relaxation of the NBAs.

Objection No. 294

56. After further deliberation, the Board decided to partially uphold Objection No.294 by amending the Notes for the “C” zone to allow future redevelopment of Cambridge House under the “C(3)” zoning to the height of the existing building.

57. After further deliberation, the Board decided not to uphold Objections No. 1 to 155, 165 to 268, 269 (Part), 270 to 276, 277 (Part), 278, 279 to 282 (Part), 283, 284 to 291 (Part) and 295 and the remaining parts of Objections No. 293, 294 and 296 for the following reasons:

***Objections asking for more stringent BH control***

- (a) the BH restrictions on the OZP, which had taken into account relevant considerations including the Urban Design Guidelines, existing topography, stepped BH concept, local characteristics, the waterfront/Quarry Bay Park and foothill setting, existing BH profile, site formation levels and site constraints, the zoned land uses of the sites concerned, development potential and to allow a reasonable floor-to-floor height upon redevelopment, had struck a balance between development needs vis-à-vis the aspirations of the public for a better living environment and to meet the present-day living standard. More stringent BH control would pose constraints on future developments/redevelopments (**Objections No. 1-155, 168-275, 277-291**);
- (b) the BH restrictions would not imply relaxation of development intensity upon developments/redevelopments. An increase in BHs alone would not increase in development intensity. There was no change in the PR/GFA restrictions for the Area (**Objections No. 168-268, 277-291**). The objectors’ suggestion of ‘transfer of PR’ to another area would have significant policy ramifications and would

need to be fully justified and supported by a detailed study (**Objections No. 1-154**);

- (c) any premature release of information before exhibition of the amendments to the OZP may prompt developers/landowners to accelerate submission of building plans for development/redevelopment on the affected sites to establish a “fait accompli” situation and thereby nullifying the effectiveness of imposing the BH restrictions. The BH restrictions and the designation of NBAs were supported by the AVA Study and photomontages showing the stepped BH profile, which had been incorporated in the paper submitted to the MPC and is available for public inspection (**Objections No. 1-154, 178, 233, 255 and 263**);

***Opposing BH restrictions on specific sites***

**2-16 Mount Parker Road (Objections No. 165-167)**

- (d) the imposition of BH restrictions was to preserve and reinforce the existing stepped height profile in the Area and to avoid out-of-context developments to meet the public aspirations for a better living environment;
- (e) the site had a much lower site formation platform at about 20-30mPD than Kornhill (upper) at 65mPD. A lower BH band of 120mPD relative to that of 165mPD for Kornhill (upper) had been adopted to maintain a discernible stepped height with Kornhill taking the development potential into consideration. Piecemeal relaxation of BH restriction for an individual site would jeopardize the integrity of the stepped height profile and have implications on other sites within the same height band. There was provision for application for minor relaxation of the BH restrictions under the OZP and each case would be considered on its individual merits;

- (f) the BH restrictions were intended to avoid future developments with excessive height, the development intensity of sites would not be affected. The BH of 120mPD was sufficient to accommodate the permissible development intensity on the site;

**1-10 Sai Wan Terrace (Objections No. 168-275 and 277-291)**

- (g) the BH limit of 120mPD was considered appropriate for Sai Wan Terrace taking into consideration the site level at 45mPD, the BH of The Floridian, the local character and the need to achieve a discernible stepped height profile with BH bands for development to its north and its southwest, while at the same time allowing design flexibility (**Objections No. 168-291**);
- (h) the proposal of restricting the site to 91mPD (**Objections No. 168-275**) or 90mPD (**Objections No. 277-291**) would result in an overall stepped height profile of less diverse variations;
- (i) the PR restriction of 5.8 was incorporated in the OZP and gazetted on 27.2.2009. This would ensure the development on the site to be more compatible in scale and character with the surrounding developments;

**Objections submitted by Swire and its subsidiary companies (Objections No. 276, 293-296)**

*More relaxed BH control*

- (j) the imposition of BH restrictions was to preserve and reinforce the existing stepped height profile in the Area and to avoid out-of-context developments to meet the public aspirations for a better living environment. The BH restrictions were to ensure that the urban design principles of stepped height concept and preservation of ridgeline were adhered to. Deletion of or piecemeal relaxation of the BH restrictions for individual sites

would jeopardize the integrity of the stepped BH profile and could result in proliferation of high-rise developments, which was not in line with the planning intention. To allow flexibility for site-specific circumstances and schemes with planning and design merits, there was provision for application for minor relaxation of the BH restrictions under the OZP and each application would be considered on its individual merits;

Prior public consultation

- (k) any premature release of information before exhibition of the amendments to the OZP might prompt developers/landowners to accelerate submission of building plans for development/redevelopment on the affected sites to establish a “fait accompli” situation and thereby nullifying the effectiveness of imposing the BH restrictions. The BH restrictions and the designation of NBAs were supported by the AVA Study and photomontages showing the stepped BH profile, which had been incorporated in the paper submitted to the MPC and was available for public inspection;

Redevelopment rights

- (l) the current amendments to the Quarry Bay OZP mainly involved the incorporation of BH restrictions and no PR/GFA restrictions had been imposed on the various zones. The BH restrictions were intended to avoid future developments with excessive height, the development intensity of sites as permitted under the leases would not be adversely affected;

**1-10 Sai Wan Terrace (Objection No. 276)**

- (m) the BH limit of 120mPD was considered appropriate for Sai Wan Terrace taking into consideration the site level at 45mPD, the BH of The Floridian, the local character and the need to achieve a discernible stepped height profile with BH bands for development to



its north and its southwest while at the same time allowing design flexibility. It had also taken into consideration the existence of the MTR Tunnel underneath the site. It would not adversely affect the development intensity of the site under the lease;

- (n) the BH of 120mPD was more compatible with the surrounding developments in the local context and could contribute to a more discernible stepped BH profile. Piecemeal relaxation of BH restriction for an individual site would jeopardize the integrity of the stepped height profile and had implication on other sites of the same height band. With more sensitive design, sufficient open area and visual corridor could also be provided for the adjacent developments. The objector's proposal of 135mPD would not meet the planning objectives;
- (o) the BH of 120mPD had also provided allowance for a higher floor height for The Floridian upon redevelopment. Moreover, there was provision for application for minor relaxation of the BH restrictions under the OZP and each case would be considered on its individual merits;
- (p) the BH of 30-40 storeys on the waterfront and above 60 storeys inland on both sides of Victoria Harbour was only one of the recommendations for a possible city height profile made by the consultants of the Urban Design Study in the study process, which had not been included into the UDG incorporated into the HKPSG. In considering the BH for the Area, more detailed analysis had been carried out taking various factors including the local characteristics, existing height profile, topography, site constraints, stepped height concept, urban design and air ventilation aspects, and the protection of the ridgeline was only one of the considerations. A stepped BH concept with lower developments along the waterfront and taller buildings in the inland had been adopted for the Area;

**“CDA” site at Taikoo Place (Objection No. 293)**

*Planning intention of the “CDA” zone*

- (q) the “CDA” zoning was to facilitate appropriate planning control over the development mix, scale, design and layout of development, taking account of various environmental, traffic, infrastructure and other constraints. In addition, the imposition of BH restrictions and the designation of the NBA would provide clearer planning intention and guidance for the development in the “CDA” zone in respect of the permissible BH to protect the ridgeline and the need to provide air/visual corridor for improvement of the local environment;

*NBA versus ‘Air Ventilation Corridor’*

- (r) the NBA through the site currently occupied by Somerset House is designated based on the recommendation of the AVA study for connecting Taikoo Wan Road with Tong Chong Street, which was essential for better penetration of the prevailing easterly wind to the downstream western part of the Area. It would also provide an east-west visual corridor to improve visual permeability, and was more desirable than the Air Ventilation Corridor proposed by the objector;
- (s) relaxation of the BH restrictions of the northern and western parts of the “CDA” zone was considered not necessary as the objector’s proposal was to maintain the BH restriction for Lincoln House at 130mPD, and the area designated 160mPD on the OZP covered a proposed open space under the objector’s Alternative Scheme;
- (t) development proposals with special site constraints and/or planning and design merits could be considered by the Board on individual merits under section 16 for minor relaxation of BH restrictions. A mechanism to allow application for minor relaxation of the NBA requirement under very exceptional circumstances would also be

incorporated into the OZP;

*Lack of assessments*

- (u) an AVA Study and visual assessment through preparation of photomontages had been prepared in the course of formulation of the BH restrictions for the Area. The photomontages showing the general stepped height profile had been incorporated in the paper submitted to the MPC. The findings of the AVA Study had also been presented to the MPC. The MPC Paper could be inspected by the public at Planning Enquiry Counters of Planning Department and the AVA Study Report was available on PlanD's website;

***One Island East (Objection No. 294)***

- (v) the BH of the One Island East site was restricted to a maximum of 220mPD upon redevelopment in the long run to avoid breaching the ridgeline as a matter of principle and claim of existing BH was not allowed. There was provision for application for minor relaxation of the BH restriction under the OZP and each case would be considered on its individual merits;

***Cityplaza, Cityplaza One and Two (Objection No. 295)***

- (w) apart from the protection of the ridgeline, factors like local characteristics and the relationship with the surrounding buildings were equally important. The existing height for the "C" zone covering the shopping mall of Cityplaza was retained with a BH restriction of 45mPD in order to provide an open vista and a visual relief for the surrounding residential developments. The remaining part of the "C" site was subject to a BH restriction of 135mPD to be in line with the stepped BH profile, with sufficient allowance to cater for the development intensity permitted under the lease;
- (x) the proposed BH of 190mPD for Cityplaza One was considered

excessive and incompatible with the surrounding areas. It would defeat the planning intention to provide an open vista and visual relief for the adjacent residential developments. For Cityplaza Two, the height of the newly completed hotel development at 141mPD could be claimed upon future redevelopment;

**Objection No. 296**

*BH consideration for commercial node*

- (y) the proposed relaxation of the BH restrictions for a wider area would defeat the stepped height profile for the Area and result in incompatible and out-of-context developments breaching the ridgeline and the 20% building-free zone substantially, which was undesirable from the urban design perspective. The heights of excessively tall developments such as One Island East at 301mPD should not be taken as reference for formulating the BH profile. Otherwise, it would result in a proliferation of excessively high-rise buildings and had adverse visual impacts on the ridgeline and the existing townscape of the Area;

*Opposing rezoning of “C/R” sites*

- (z) the review of the “C/R” zoning was to ensure more effective infrastructure planning and better land use management. The rezoning of the “C/R” sites to “R(A)” reflected the residential nature of developments in the Area whilst the rezoning of the two sites at Pan Hoi Street and Hoi Wan Street to “C” was to achieve greater compatibility of future developments with the commercial developments in Taikoo Place. Retaining the “C/R” zoning on the OZP was not considered appropriate;
- (aa) the objector’s alternative proposal to rezone the relevant sites to “C” would permit commercial developments as of right before any improvements could be made to the local traffic and infrastructures. Office or other commercial developments in the “R(A)” zone might

be permitted on application to the Board under section 16 of the Ordinance and each case would be considered on its individual merits;

*NBAs versus 'Air Ventilation Corridors'*

- (bb) the designation of NBAs provided a clearer planning intention for ensuring that the visual/air corridors would be provided upon redevelopment for the benefit of the general public in accordance with the recommendations in the AVA. It would also improve the visual permeability by providing more visual openness and connectivity. It was considered not appropriate to replace all the NBAs with 'Air Ventilation Corridors' without any specific scheme demonstrating that there would be no adverse impacts. A mechanism to allow application for minor relaxation of the NBA requirements under very exceptional circumstances would be incorporated into the OZP;

*Incentive scheme for redevelopment to be in line with the Tsim Sha Tsui OZP*

- (cc) the introduction of incentive scheme for the "C" sites in the Area was not justified given the different local characteristics and that Quarry Bay was not an identified high-rise node. There was provision for application for minor relaxation of BH restrictions under the OZP;

***The Board's powers under the Ordinance (Objections No. 276 and 293-296)***

- (dd) as regards the ultra vires issue and "spot zoning", sections 3 and 4 of the Ordinance and the scheme of the legislation were intended to give the Board comprehensive powers to control development in any part of Hong Kong. With a purposive approach which our courts were prepared to adopt for construing sections 3 and 4, it would be reasonable to find that there should be power in the Board to impose BH restrictions on individual sites or for such area within the boundaries of a plan, provided the Board had the necessary and

sufficient justifications (e.g. visual and air ventilation considerations) to impose the BH restrictions;

- (ee) it was not considered that sections 3 and 4 only catered for positive zoning in the sense put forward by the objector, and it was debatable whether designation of NBAs on the OZP was necessarily negative. Depending on circumstances and facts as well as planning justifications, designation of NBAs on the OZP could serve a positive planning purpose and might have other positive planning benefits such as to improve air ventilation in the area. Thus, the Board might call upon sections 3 and 4 to designate NBAs for planning control purposes;
- (ff) a reference back under section 12(1)(b)(ii) only applied to an 'approved' plan. An approved plan which was referred back and amended become a draft plan. There was no provision in the Ordinance which stated that the draft plan which had incorporated the amendment intended by the reference back could not be further amended under section 7 as the Board saw necessary. Given the Board's power in section 7 of the Ordinance, it was clearly intended that, if required, a draft plan might be amended many times before its submission to the CE in C for approval;
- (gg) the Quarry Bay OZP had undergone a number of amendments since its approval in 2002, which was in accordance with the provision and time prescribed under the pre-amended Ordinance; and
- (hh) it should also be noted that it was announced Government policy to stipulate development restrictions on plot ratio, site coverage and/or building height where justified to improve the living environment.

[Ms. Sylvia S.F. Yau, Mr. Walter K.L. Chan and Mr. Maurice W.M. Lee left the meeting at this point.]

**Group 2: Objections No. 156 to 164, 269 (part), 277 (part), 279 to 282 (part), 284 to 291 (part) and 292**  
**(TPB Paper No. 8331)**

58. The following members had declared interests in this item:

- |                         |   |                                            |
|-------------------------|---|--------------------------------------------|
| Dr. Greg C.Y. Wong      | - | owning a flat at the Orchards and Kornhill |
| Dr. James C.W. Lau      | - | his spouse owning a flat at Tai Koo Shing  |
| Professor Paul K.S. Lam | - | owning a flat at Nam Fung Sun Chuen        |
| Mr. Tony C.N. Kan       | - | owning a flat at Grand Promenade           |
| Dr. Daniel B.M. To      | - | being a Eastern District Council Member    |

59. Members noted that Dr. Greg C.Y. Wong, Dr. James C.W. Lau and Mr. Tony C.N. Kan had tendered apology for not attending the meeting and Professor Paul K.S. Lam had left the meeting. As the Eastern District Council did not raise objection to the proposed OZP amendments, Members considered that the interest of Dr. Daniel B.M. To was indirect and insubstantial, he could be allowed to stay at the meeting.

**Presentation and Question Session**

60. The Chairman said that while Objector No.164 attended the hearing, other objectors of this group had either indicated not to attend the hearing or made no reply. As sufficient notice had been given to the objectors, Members agreed to proceed with the hearing in the absence of the said objectors.

61. The following representatives from PlanD, the objectors and their representatives were invited to the meeting at this point:

- |                 |   |                                                     |
|-----------------|---|-----------------------------------------------------|
| Ms. Brenda Au   | - | District Planning Officer/Hong Kong (DPO/HK), PlanD |
| Ms. Phoebe Chan | - | Senior Town Planner/Hong Kong, PlanD                |

**Objection No. 164 (Incorporated Owners of Kam Shan Building and ex-LegCo Members Yeung Sum and Martin C.M. Lee)**

Mr. Chan Fat Hay	)	
Mr. Wong Ping Wing	)	
Mr. Lau Fei	)	
Ms. Siu Kwok Fong	)	
Mr. Cheung Pak Keung	)	
Mr. Leung Chun Wah	)	
Mr. Yu Sze Hung	)	
Mr. Cheung Chor Yin	)	
Mr. Yu Chi Wing	)	
Ms. Cheung Lai Ha	)	Objector's representatives
Ms. Lau Yuk Ching	)	
Ms. Leung Kan Kwan Sin	)	
Ms. Chan Fei	)	
Ms. Chan Kwok Fan	)	
Mr. Ng Kam Kin	)	
Ms. Li Mei Lay	)	
Mr. Yan Wai Shui	)	
Mr. Ma Sui Nang	)	
Ms. Kwok Tai Ho	)	
Mr. Chan Puen	)	
Mr. Tam Yue Chow	)	
Mr. Leung Wei Ho	)	

62. The Chairman extended a welcome and explained briefly the procedures of the hearing. He then invited representatives from the Government to brief Members on the background to the objections.

63. With the aid of a Powerpoint presentation, Ms. Brenda Au of PlanD made the following points as detailed in the Paper :

- (a) the background to the proposed amendments as set out in paragraphs 1 of the Paper. The Board would consider the 24 objections collectively



under this group;

- (b) the major grounds of objections and objectors' proposals as detailed in paragraph 2.3 of the Paper and summarized as follows:

Objections No. 156 to 163

***Opposing rezoning the sites from "C/R" to "R(A)"***

- development potential and land value of the sites would be adversely affected by the rezoning;
- the rezoning was in the developers' interests and at the expense of private owners' right;

*Proposal*

- to retain the original "C/R" zoning;

Objection No. 164

***Opposing rezoning Kam Shan Building from "C/R" to "R(A)"***

- Kam Shan Building was over 48 years old and the high cost of repair and maintenance was hardly affordable by the residents;
- acquisition of the building for redevelopment was put on hold by the developer after rezoning of the site to "R(A)" and the residents' rights and interest had been adversely affected without compensation;
- the site was abutting King's Road and susceptible from noise, air and traffic problems and was no longer suitable for residential use;

*Proposal*

- to rezone the site to "C"; and
- to remove or relax the BH restriction from 120mPD to 140mPD;

Objection No. 292

***Opposing rezoning Westlands Gardens from “C/R” to “R(A)”***

- there was no BH restriction under the lease for Westlands Gardens. The imposition of the BH restriction on the site would affect development rights and property value;
- the site was surrounded by commercial buildings and the BH restrictions were inconsistent;

Objection No. 269 (part)

***Opposing rezoning two sites at Pan Hoi Street and Hoi Wan Street from “C/R” to “C”***

- the rezoning was at the developers’ interest and would adversely affect the local small business and livelihood of senior citizens;

*Proposal*

- redevelopment of residential sites for commercial use should be considered by the Board through the planning application system on a case-by-case basis;

Objections No. 277 (part), 279 to 282 (part) & 284 to 291 (part)

***Opposing the “G/IC(1)” zone for a site to the south of ‘Woodside’***

- there was a lack of soccer pitch and basketball facilities in the neighbourhood;

*Proposal*

- to rezone the site to “Open Space”;

- (c) planning considerations and assessments on the objections as detailed in paragraphs 3.1 to 3.2 of the Paper;
- (d) responses to grounds of objections and objectors’ proposals were

summarized as follows:

***Opposing Rezoning of “C/R” sites in General***

- as recommended in the Metroplan Review, the “C/R” zoning should be reviewed for more effective infrastructure planning and better land use management;
- BH restriction had followed the stepped BH concept, with flexibility for building design to meet modern standards;
- “R(A)” zoning was appropriate to reflect the residential nature of Kam Shan Building and Westlands Gardens;
- “C” zoning of the two sites at Pan Hoi Street and Hoi Wan Street was more compatible with the commercial developments in Taikoo Place;

***Opposing the “G/IC(1)” zone for a site to the south of ‘Woodside’***

- development in “G/IC(1)” zone required planning permission which would ensure a compatible development with surrounding green environment and adjacent historic building and address the possible impacts; and
- there was sufficient open space for the area.

- (e) PlanD’s views – PlanD did not support the Objections No. 156-164, 269 (Part), 277 (Part), 279-282 (Part), 284-291 (Part) and 292 and considered that the objections should not be upheld, for reasons as detailed in paragraph 5.1 of the Paper.

64. The Chairman then invited the representatives of Objection No. 164 to elaborate on the objection.

Objection No. 164

65. Mr. Chan Fat Hay elaborated on Objection No. 164 and made the following points:

- (a) he was one of the flat owners of Kam Shan Building; and

- (b) there was no development restriction and commercial use was permitted under the lease when he bought the flat. The current rezoning and BH control however had imposed new restrictions to the site and hindered the sale of the flat. He requested the Board to relax the OZP restriction so as to protect the interest of small owners.

66. Mr. Wong Ping Wing elaborated on Objection No. 164 and made the following points:

- (a) he was one of the flat owners of Kam Shan Building;
- (b) most of the residents in the building were of old age and they had entered into a contract with a developer for the redevelopment of the building last year. However, the deal was put on hold by the developer after the rezoning; and
- (c) given that the lease was unrestricted, he requested the Board to relax the OZP restriction so that the developer would continue the contract for acquisition.

67. Mr. Lau Fei elaborated on Objection No. 164 and made the following points:

- (a) he doubted under what provision of the Ordinance that the Board had power to amend the development restriction of the site. There was originally no restriction under the lease but now it was only restricted for residential use under the OZP;
- (b) if it was the intention of the Government to improve urban amenity, more flexibility should be provided for the redevelopment of the site e.g. to allow redevelopment to an office building; and
- (c) the elderly residents was very disappointed after the deal for acquisition of the site for redevelopment was put on hold. The Board should

consider relaxing the restriction to meet the residents' aspiration.

68. Ms. Siu Kwok Fong elaborated on Objection No. 164 and made the following points:

- (a) she was one of the flat owners of Kam Shan Building;
- (b) majority of the residents in Kam Shan Building were of old age of about 80 years old and was incapable to attend the hearing. The living condition of these elderly residents was very poor;
- (c) given that the acquisition of the site for redevelopment by a developer was put on hold after rezoning of the site, the Government should consider remedial measures for the owners and residents;
- (d) the Government should give adequate reasons for the sudden change of land use and restriction for site. It seemed that the Government only acted on the interest of rich people by allowing relaxation of BH control in Taikoo Place without taking care of the interest of the poor; and
- (e) the site were surrounded by commercial development in the vicinity especially along Westlands Road and along King's Road towards Shau Kei Wan. The Westlands Gardens were the only residential development nearby and might also be developed for commercial use in future. The site should be rezoned to "C" so that it would be compatible with the adjacent commercial development.

69. Mr. Leung Chun Wah elaborated on Objection No. 164 and made the following points:

- (a) he was working in the real estate sector and bought his first flat in Kam Shan Building about 30 years ago. The profit was then used to buy a number of other flats within the same building as he believed that there was an opportunity for redevelopment of the site. There was no BH

restriction and commercial uses were allowed on the site at that time;

- (b) a contract was signed between the owners of Kam Shan Building and a developer for the redevelopment of the site for commercial use in July 2008. However, the deal for acquisition was put on hold after the OZP amendments. He would go bankrupt if there was no compensation from the Government;
- (c) Kam Shan Building was over 48 years old and its design/facilities were not up to standard. The living environment of the residents was very bad. The building had no lift and the sewerage facilities always broke down. The Board should have a better understanding of the poor livelihood of the elderly residents and exercise its discretion to relax the restriction; and
- (d) it was unfair for the Board to partially upholding the objections submitted by Swire by relaxing the restriction while ignoring the need of the poor people.

[Mr. Benny Wong left the meeting at this point.]

70. Mr. Cheung Chor Yin elaborated on Objection No. 164 and made the following points:

- (a) Kam Shing Building was of old age with severe maintenance problem. There was also no lift within the building which created access problem for the elderly residents; and
- (b) the site was considered more suitable for commercial use. The developer also assumed that the site could be developed for commercial use in assessing its redevelopment value. The deal for acquisition for redevelopment was now put on hold due to the rezoning. The Board should rezone the site for commercial use. Residential use was not suitable because of the traffic noise along King's Road.

[Professor David Dudgeon left the meeting at the point.]

71. Mr. Yu Chi Wing elaborated on Objection No. 164 and made the following point:

- (a) he had been living in Kam Shan Building for 30 years and seldom open the windows of his flat due to significant traffic noise impact from King's Road. The site was more suitable to be rezoned to "C" as commercial building with non-openable windows could help mitigate the traffic noise impact.

72. Ms. Cheung Lai Ha elaborated on Objection No. 164 and made the following points:

- (a) Kam Shan Building was an old building. No insurance company was willing to issue an insurance policy against indemnity of the building. The owners and residents were under severe pressure as they needed to bear the high maintenance and repairing cost of the building; and
- (b) in planning the use and BH restriction of the site, the Government should consider how to improve the living environment of the residents and the amenity of the area.

73. Ms. Lau Yuk Ching elaborated on Objection No. 164 and made the following point:

- (a) the living environment of the elderly residents within the building was very poor. Due to the lack of lift facilities, air and traffic noise problem, these elderly residents were not able to walk down the building or open their windows. Their daily need could only be met with the assistance of the volunteer workers of the Owners Committee. The Board should be requested to give more sympathy to these elderly residents.

74. Ms. Chan Fei elaborated on Objection No. 164 and made the following point:

- (a) she had been living in Kam Shan Building with her mother-in-law of 90

years old for more than 20 years. The condition of the building was not suitable for elderly residents as there was no lift within the building. The Board should give more sympathy to the elderly residents.

75. Ms. Chan Kwok Fan elaborated on Objection No. 164 and made the following points:

- (a) she was one of the flat owners of Kam Shan Building. The current building condition was very poor and the residents had to bear a very high maintenance cost; and
- (b) she considered the site more suitable for commercial use than residential use and did not understand why the site should be rezoned to “R(A)”. As a result of the rezoning, the original redevelopment plan of the site was put on hold. With the change in use and restriction, the Government should pay compensation to the small owners to buy another flat.

76. Mr. Ng Kam Kin elaborated on Objection No. 164 and made the following points:

- (a) he was one of the flat owners of Kam Shan Building and was working in the real estate sector;
- (b) the Central district and Admiralty were the major office centres in Hong Kong. However, according to his understanding, Swire Properties Ltd. would like to establish an commercial/office node in Taikoo Place. Kam Shan Building was also one of the targets for redevelopment by a developer. In this regard, commercial use instead of residential use should be more appropriate for the Quarry Bay area; and
- (c) the residents of Kam Shan Building had suffered from substantial financial loss (about \$2 million dollars) due to the rezoning of the site to “R(A)”. The Board should give sympathy to the residents and review the zoning.



77. Ms. Li Mei Lay elaborated on Objection No. 164 and made the following points:

- (a) she was one of the flat owners of Kam Shan Building and agreed to most of the points raised by other owners;
- (b) Kam Shan Building was an old residential building located at a site abutting major roads which was not a good planning of the city; and
- (c) in view of the poor condition of the building and lack of proper facilities, the owners and residents welcomed the acquisition of the site by the developer for redevelopment. However, the plan was put on hold due to the rezoning of the site to “R(A)”. Without compensation from the Government, this had led to substantial financial loss to the residents.

78. Mr Yan Wai Shui elaborated on Objection No. 164 and made the following points:

- (a) he was one of the owners of Kam Shan Building. Both he and his wife were of 70 years old. The building without lift facilities and susceptible to significant noise impact from the tramway along King’s Road was not suitable for elderly residents. The living environment of the building was very poor and no insurance company was willing to issue an insurance policy against indemnity of the building;
- (b) he had originally signed a contract with the developer for redevelopment of the site and intended to buy a new flat with lift facilities. However, the redevelopment plan was put on hold after the rezoning; and
- (c) the Board should visit the site so that it could have a better understanding of the problems suffered by the residents.

79. Mr. Ma Sui Hang elaborated on Objection No. 164 and made the following points:

- (a) he was one of the owners of Kam Shan Building and had been living in the building for about 30 years. In the past, the site used to be a

tranquil place but was now no longer suitable for residential use. It should be more appropriate to rezone the site for commercial use; and

- (b) he had planned to buy a village house in the New Territories upon acquisition of the building by the developer and was very disappointed that the redevelopment plan was put on hold after the rezoning.

80. Mr. Leung Chun Wah elaborated on Objection No. 164 and made the following points:

- (a) he requested the Board to rezone the site back to commercial use, or alternatively, the Development Bureau should consider helping the owners and the elderly residents to improve their living environment; and
- (b) the rezoning of the site had deprived the development right of the owners, especially those who had invested most of their money on the building. The Board should consider visiting the site so that it could have a better understanding of the poor living condition of the residents.

81. As the presentations from the objectors and their representatives had been completed, the Chairman invited questions from Members.

82. A Member asked about the details of the contract between the developer and the owners of Kam Shan Building. Mr. Leung Chun Wah said the contract was on the condition that the completion of sale of the property must take place. The developer had paid a deposit of HK\$200,000 to each owner but the cheques were kept by the solicitors.

83. A Member commented that the site might not be very suitable for residential use noting the traffic noise it had exposed to and asked why the site was rezoned to "R(A)" but not "C". Ms. Brenda Au agreed that the existing Kam Sha Building of 48 years in age had potential for redevelopment. The site was rezoned from "C/R" to "R(A)" mainly because the surrounding area which comprised Westlands Gardens, Sunway Garden and Wai Lee Building were predominantly of residential in nature. However, she noted that

the site was adjacent to Taikoo Place and did not preclude the possibility that the site could be developed for commercial use in the long-term. In response to another Member's query, she stated that there was no PR or BH restriction for the original "C/R" zone.

84. Ms. Siu Kwok Fong did not agree that the site was within a residential neighbourhood. She said that except Westlands Gardens, almost all the sites along King's Road towards the east and along Westlands Road were occupied by commercial development. Given that the site was surrounded by commercial development on three sides, she considered that the site should be rezoned to "C". She also added that the site was very small and not suitable for redevelopment into residential use.

85. A Member asked about the difference between "C/R" and "R(A)" zone in this case and whether commercial uses were allowed in "R(A)" zone. Ms. Brenda Au replied that according to the Notes of the OZP, commercial uses were permitted as of right on the lowest three floors of the "R(A)" zone. She reckoned that the residents and owners of Kam Shan Building was more concerned of the difference in the maximum permissible PR for "R(A)" and "C" zones.

86. As the representatives of the objector had finished their presentation and Members had no further questions, the Chairman said that the hearing procedures had been completed and the Board would deliberate on the objections in their absence and would inform them of the Board's decision in due course. The Chairman thanked them and the Government's representatives for attending the hearing. They all left the meeting at this point.

#### Deliberation Session

87. The Chairman invited Members to consider the objections and reminded Members to take into consideration all the written submissions, the oral representations made at the hearing and questioning session and all the materials presented by the objectors at the meeting.

Objection No.164

88. A Member expressed sympathy to the grievances of the residents and owners of Kam Shan Building but considered that the poor living environment of the building was a social problem. This Member asked if Urban Renewal Authority should be asked to take up the redevelopment of the building. On whether the site should be rezoned to “C”, this Member considered that a more comprehensive assessment on the surrounding land uses and the site condition should be undertaken. With regard to this Member’s suggestion to provide a setback to help reduce the traffic impact, other Members considered that the site was too small and the requirement for a setback area would seriously constrain the future redevelopment.

89. The Chairman said that the “C/R” zone was an obsolete zoning and hence should be rezoned to an appropriate use. On whether the site for Kam Shan Building should be rezoned to “C”, the Board should take into account traffic and infrastructural capacity and relevant planning considerations. Given that the site was very small, he did not consider that it would create any traffic and infrastructural problem if it was rezoned to “C”. In addition, after hearing the objectors’ views, he opined that residential use might not be the most appropriate use for the site due to the considerable traffic noise and air pollution.

90. A few Members agreed that the site was not very suitable for residential use, given its small size and its location abutting a major road and hence susceptible to serious traffic noise problem. Members agreed that the site was suitable for a commercial development and should be rezoned to “C”. The deal of acquisition of the site for redevelopment was however a separate matter between the developer and the owners. One of these Members said that the BH restriction of 120mPD should be retained even if the site was rezoned to “C”.

91. Noting the hardship faced by the elderly residents of Kam Shan Building, a Member suggested asking Home Affairs Department to look into the matter and see if assistance could be provided to the owners and residents. Mr. Andrew Tsang replied that he would convey this Member’s views to his Department for consideration. The Chairman said that a building renewal project (“Operation Building Bright”) had recently

been launched by Development Bureau. He would ask Buildings Department to follow up on the building services problem of Kam Shan Building. Another Member supplemented that funding scheme might also be available from the Hong Kong Housing Society to assist owners to improve their building condition.

#### Other Objections

92. Members considered the grounds of Objections No. 156-163, 269 (Part), 277 (Part), 279-282 (Part), 284-291 (Part) and 292 and the objectors' proposals and considered that there was no justification for the Board to uphold these objections. The Chairman invited Members to go through the reasons for not upholding these objections as stated in paragraph 5.1 of the Paper to see if they were appropriate and whether any amendment to the suggested reasons was necessary. After deliberation, Members generally considered that amendment was not necessary and agreed to adopt the reasons as stated in paragraph 5.1 of the Paper.

93. After further deliberation, the Board decided to partially uphold Objection No. 164 by rezoning the site covering Kam Shan Building to "C". The Board decided not to uphold remaining part of Objection No. 164 in relation to the opposition of the BH restriction of 120mPD for the following reason:

- (a) the BH restriction of 120mPD was appropriate for the site, which had followed the stepped BH concept with flexibility for building design to meet the modern standard. Piecemeal relaxation of BH restriction for individual sites would jeopardize the integrity of the stepped height profile and had implications on other sites within the same height band.

94. After further deliberation, the Board decided not to uphold Objections No. 156 to 163, 269 (Part), 277 (Part), 279-282 (Part), 284-291 (Part) and 292 for the following reasons:

- (a) the review of the "Commercial/Residential" ("C/R") zoning was to ensure more effective infrastructure planning and better land use management. The rezoning of the "C/R" sites to "R(A)" reflected the residential nature

of developments in the Area whilst the rezoning of the two sites at Pan Hoi Street and Hoi Wan Street enclosed by the commercial area zoned “C” and “CDA” at Taikoo Place to “C” is to achieve greater compatibility of future developments with the commercial developments in Taikoo Place (**Objections No. 156-163, 269 (Part) and 292**);

- (b) the Westlands Gardens were located within the existing residential neighbourhood of the Area. The “R(A)” zoning for the site was considered appropriate to reflect their existing use. The BH restriction of 120mPD was appropriate for the site, which had followed the stepped BH concept with flexibility for building design to meet the modern standard. Piecemeal relaxation of BH restriction for individual sites would jeopardize the integrity of the stepped height profile and had implications on other sites within the same height band. To cater for site-specific circumstances, office or other commercial developments in the “R(A)” zone might be permitted with or without conditions on application to the Board under section 16 of the Ordinance and each case would be considered on its individual merits (**Objection No. 292**); and
- (c) the “G/IC(1)” zoning requiring application for planning permission and the submission of layout plan for consideration by the Board was to ensure a compatible development with the surrounding green environment and to address the various possible impacts properly. There was an overall surplus of 10.88ha of open space for the Quarry Bay Planning Scheme Area, taking into account all existing and planned provision (**Objections No. 277 (Part), 279-282 (Part), 284-291 (Part)**).

#### **Agenda Item 4**

- 95. This item was reported under confidential item.

**Agenda Item 5**

Any Other Business

[Open Meeting. The meeting was conducted in Cantonese.]

96. There being no other business, the meeting was closed at 2:00 p.m.