

**Minutes of 941st Meeting of the
Town Planning Board held on 14.8.2009**

Present

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

Chairman

Dr. Greg C.Y. Wong

Vice-chairman

Mr. Nelson W.Y. Chan

Mr. David W.M. Chan

Mr. Leslie H.C. Chen

Mr. Tony C.N. Kan

Mr. Edmund K.H. Leung

Professor N.K. Leung

Professor Bernard V.W.F. Lim

Dr. C.N. Ng

Dr. Daniel B.M. To

Mr. Stanley Y.F. Wong

Mr. Alfred Donald Yap

Ms. Sylvia S.F. Yau

Mr. Walter K.L. Chan

Ms. Maggie M.K. Chan

Mr. Raymond Y.M. Chan

Ms. Anna S.Y. Kwong

Professor Paul K.S. Lam

Dr. James C.W. Lau

Ms. Starry W.K. Lee

Mr. K.Y. Leung

Professor Edwin H.W. Chan

Mr. Timothy K.W. Ma

Dr. Winnie S.M. Tang

Principal Assistant Secretary (Transport)

Transport and Housing Bureau

Mr. Fletch Chan

Deputy Director of Environmental Protection

Mr. C. W. Tse

Director of Lands

Miss Annie Tam

Director of Planning

Mrs. Ava S.Y. Ng

Deputy Director of Planning/District

Miss Ophelia Y.S. Wong

Secretary

Absent with Apologies

Professor David Dudgeon

Mr. B.W. Chan

Mr. Y.K. Cheng

Mr. Felix W. Fong

Mr. Rock C.N. Chen

Mr. Maurice W.M. Lee

Assistant Director (2), Home Affairs Department
Mr. Andrew Tsang

In Attendance

Permanent Secretary for Development (Planning & Lands) (Designate)
Mr. Thomas Chow

Assistant Director of Planning/Board
Mr. Lau Sing

Chief Town Planner/Town Planning Board
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 940th Meeting held on 31.7.2009

[The meeting was conducted in Cantonese.]

1. Mr. Lau Sing, Assistant Director of Planning/Board, on behalf of the Secretary, reported that a copy of the proposed amendments to paragraph 5(e) and (f) of the minutes of 940th Meeting held on 31.7.2009 had been tabled for Members' consideration. As Members had no comments on the proposed amendments, the minutes were confirmed subject to the said amendments.

Agenda Item 2

Matters Arising

[Closed Meeting]

2. This item was recorded under confidential cover.

[Miss Ophelia Wong arrived to join the meeting at this point.]

Agenda Item 3

[Open Meeting]

Public Engagement Process on "Building Design to Foster a Quality and Sustainable Built Environment" of the Council for Sustainable Development
(TPB Paper No. 8378)

[The meeting was conducted in English and Cantonese.]

3. The following representatives from Government and the Council for Sustainable Development (SDC) were invited to the meeting at this point:

Mr. Bernard Chan	Chairman, SDC
Prof. Bernard Lim	Convenor of the Support Group on Building Design to Foster a Quality and Sustainable Built

	Environment
Dr. Andrew Thomson	Programme Director of the Public Engagement
Mr. Damian Chan	Assistant Secretary (Sustainable Development), Environment Bureau
Dr. Florence Ho	Hong Kong Polytechnic University
Mr. Brian Mok	Hong Kong Polytechnic University

4. The Chairman extended a welcome to the representatives from the SDC. He said that issues on the built environment such as building bulk and height were central issues to a lot of the town planning exercises. He expressed appreciation to the SDC for taking up this challenging task to gauge public opinion on striking a balance between the provision of green features for a green and healthy environment and the need to contain the building bulk. He considered that the result of the public engagement exercise would have wide implication on the future work of the Board. He then invited the representatives from the SDC to brief Members on the background of the Paper.

5. Mr. Bernard Chan introduced the background of the public engagement process on “Building Design to Foster a Quality and Sustainable Built Environment”. He said that the SDC accepted the invitation of the Government to look into the issues relating to the building design to foster a quality and sustainable built environment which were of wide public interest. He particularly pointed out that previous experience demonstrated that GFA concession would have impact on the building height and bulk. The issue became controversial and generated a lot of discussion as, on one hand, residents of a particular building might have their living condition improved but, on the other hand, residents living nearby would suffer from the worsened living environment. As such, the SDC had issued the IR in June 2009 to facilitate public discussion on the topics. During the public engagement process, many professionals and the public expressed that the engagement process should not only confine to the three main topics, i.e. GFA concession, sustainable building design and building energy efficiency, but should extend to cover more topics including review of existing legislation and mechanism. While noting that a comprehensive study on the built environment would be required, the SDC would like to focus on the three topics first so that recommendations could be provided to the Government by mid 2010. Mr. Chan promised that all other views received outside the three topics would be followed up in the future work of the SDC. He said that the public

engagement process had already commenced and that the SDC had sent out letters to the public and stakeholders to invite their views. The SDC had already met some professionals and stakeholders including the Real Estate Developers Associations of Hong Kong and had attended two public forums. Further consultation forums were being arranged. The Polytechnic University would help collate the views gathered in the consultation.

6. With the aid of a Powerpoint presentation, Dr. Andrew Thomson made the following points:

Purpose and Scope

- (a) the public engagement exercise was undertaken by the SDC from 20 June 2009 until the end of October 2009. It aimed to stimulate community discussion on how a quality and sustainable built environment might be achieved through three areas -
 - (i) possible sustainable building design options – to follow up on the SDC’s first public engagement on Urban Living Space in 2004 on sustainable building design guidelines;
 - (ii) control options on exiting building design policy related to Gross Floor Area (GFA) – to respond to calls from the community to address excessive building height and bulk of developments especially since the Grand Promenade incident; and
 - (iii) building energy efficiency – to address the rising global challenge of climate change and energy efficiency;

- (b) the exercise focused on the design and layout of buildings within their sites, and the impact they had on the quality and sustainability of the neighbourhood. It was of five stages:
 - (i) identified the Priority Areas;
 - (ii) prepared an Invitation for Response (IR) document;
 - (iii) extensive programme of engagement events between late June and end October 2009;
 - (iv) independent analysis of views and prepared report and

- recommendations to the Government; and
- (v) Government to respond and set out views and actions to be taken.

- (c) the aim of the exercise was to seek community's views and compile the views into a report with recommendations to the Government for policy formulation. The Government had no pre-conceived views. The public engagement process was not a government consultation exercise. All views would be independently collected, analysed, treated equally and no weighting would be applied;

Engagement Activities

- (d) there were a wide range of engagement activities including an interactive website, Announcement of Public Interest (API), media coverage, radio announcement, roving exhibitions, Internet promotion, public discussion forums, briefings to major stakeholders and circulation of the IR document through partner networks, Home Affairs Department's District Offices and the Dedicated Website for the engagement exercise;

Key Issues

- (e) three key topics to be discussed in the engagement exercise:
- (i) sustainable building design – building separation, setback from narrow streets and greenery;
 - (ii) GFA – how to balance the need for essential, green and amenity features of buildings against the increase in building height and size that they created;
 - (iii) building energy efficiency – how to improve through more sustainable design;
- (f) the engagement exercise also focused on:
- (i) the existing policies and practices (e.g. the Buildings Ordinance (B(O)), the Building (Planning) Regulations (B(P)R), Practices Notes for Authorised Persons and Registered Structural Engineers

- (PNAP) and Joint Practice Notes (JPN));
- (ii) measures that were already in place to enhance energy efficiency of buildings (e.g. Building Energy Codes (BECs), a set of carbon audit guidelines for buildings, Building (Energy Efficiency) Regulation); and
 - (iii) measures that facilitated the provision of essential facilities, green and amenity features in buildings (e.g. GFA concessions);
- (g) the following examples were used to demonstrate the effect of GFA concessions on the building height and bulk of a tower of about 41 storeys:
- (i) the granting of disregarded GFA for provision of a car park and plant rooms would result in an additional 4-storey podium;
 - (ii) the granting of exempted and disregarded GFA for provision of green and amenity features would result in an increase in height by 2 storeys and 10% of the site coverage;
 - (iii) the granting of bonus, exempted and disregarded GFA for building setback and public passageway would result in an increase in building height by 7.5 storeys and a 10% increase in site coverage;
- (h) there were pros and cons of the existing approaches for incorporating green and amenity and energy efficiency features as covered in the IR attached to the Paper;

Possible Solutions

- (i) with a view to addressing public concerns over the issues regarding the built environment, a number of possible solutions were outlined as below:
 - (i) Sustainable Building Design Guidelines:
 - building separation in certain large developments (for site greater than 2 ha or with building width more than 60m, an intervening space of 20% to 33.3% of the total building frontage should be

provided);

- building setback from narrow streets (on streets less than 15m wide, new building should be set back (up to 15m in height) to provide a width of not less than 7.5m from the centre line of the street); and
- enhancing greenery in building developments (for site larger than 1,000m², fixed planting areas equivalent to 20% to 30% of the site areas should be provided);

(ii) Control on GFA Concessions:

- reviewing GFA concessions for mandatory building features;
- reviewing car-parking provisions;
- adjusting the incentive for dedicating areas for public passage or road widening;
- reviewing GFA concessions for other green and amenity features;
- capping GFA concessions;
- proposed changes to the existing GFA concession regime;

(iii) Energy Efficient Design and Installations:

- enhanced use of daylight through building windows;
- rooftop solar photovoltaic panels, rooftop greening and non-absorbing roofing; and
- use of shading device and landscape shading;

- (j) there were pros and cons of the possible solutions as covered in the IR attached to the Paper. Moreover, open-ended questions were also laid down in the IR to gauge public views on the issues.

[Ms. Starry W.K. Lee and Professor Edwin H.W. Chan arrived to join the meeting at this point.]

7. The Chairman thanked the representatives of the SDC for the presentation and then invited questions/comments from Members.

8. A Member concurred with the SDC's approach to focus the public engagement exercise on the three important issues, in particular GFA concessions. This Member opined that the IR contained many technical information and asked if there was a simplified version for better understanding of the public. The Member also asked if a Chinese version was available. Mr. Bernard Chan replied that a Chinese version for the IR was available and copies could be provided to Members after the meeting if necessary. He shared the view of the Member that the document which contained quite a number of technical terms would be difficult for the general public to understand. He however considered that the public would find the document highly educational, especially on architectural and building design aspects, after reading it in detail. Given the rather complicated issues involved in the present exercise and to avoid giving the public an impression of any pre-conceived views from the Government or SDC, no specific questions had been set out at this stage. Specific questions would be put forth at the next stage after collating and analysing the views from the public and stakeholders. As the issues in the subject topics involved professional matters which were highly technical and complicated, the document could not be simplified too much so as to avoid any misunderstanding on the matters concerned. He hoped that Members would understand the difficulty involved in the process.

9. A Member opined that it was common for developers to maximise the GFA obtained by making the best use of GFA concessions, e.g. the use of prefabricated materials in construction. The Member considered that apart from the general public, the SDC should also consult the stakeholders and the developers who were more familiar with the practices of the construction industry. In the engagement process, all parties involved should honestly reflect their views and seek a balanced solution that would be acceptable to the community and the industry.

10. A Member considered that the review of GFA concessions was a balancing exercise. In order to avoid inflated, bulky and excessively tall building, the Member considered it necessary to gauge public views on the GFA cap proposal. The Member considered that an overall cap on the GFA concessions would be more desirable than a cap for individual items, e.g. set back and public passageway. The Member also stressed that the provision of space for public enjoyment, e.g. greening, arts and cultural space in a

development, was important for better integration of people and the environment, and the provision of building setback, public transport interchange and public passage could also be considered with a view to creating a modern metropolitan city.

11. Referring to the examples shown in pages 24 and 25 of the IR, a Member suggested using some real world cases to illustrate the effect on the building height and bulk as a result of the granting of GFA concessions, e.g. a residential development at Prince Edward Road where the car parking podium and the sky garden together were already taller than the surrounding buildings. Moreover, the Member said that any proposed guidelines should not be applied in a blanket approach as some features such as the setback requirement might spoil the local character of districts with narrow streets and alleyways.

12. A Member said that if the street shadow area requirement which was provided under the B(O) before mid 1980s was still valid, it would not result in tall and wall-like buildings being built up in narrow streets. The Member considered that a reversion of such a requirement would help resolve the problems.

13. A Member said that, as reflected in the public comments or representations relating to planning applications and OZP amendments, the public were generally more concerned with the excessive building height and wall effect of development than the issue on building design and energy efficiency matters. The Member agreed that the review on GFA concession was a balancing exercise. The public would tend to accept the granting of GFA concessions for the purpose of public interest, e.g. the provision of building setback and road widening, but not for that which would only benefit the developers, owners or residents of a particular building, e.g. the provision of balconies as green features. As such, the Member considered that it might be more acceptable to the public if the claim for bonus plot ratio was for cases of public interest but when the bonus claim was purely for the benefit of the owners, it might not be acceptable.

[Mr. Edmund K.H. Leung left the meeting temporarily at this point.]

14. In response, Mr. Bernard Chan said that Members' views would be followed up by the SDC. He stated that in some earlier meetings with the professional institutes

and stakeholders, similar views as mentioned by some of the Members were received. Some stakeholders suggested that the public engagement process should also involve government departments as they should be well aware of the implication on their current mechanism of granting approvals. Some stakeholders commented that the processes in obtaining approval for the provision of green features were too long. Mr. Chan said that the issue on public spaces as raised by a Member had also generated a lot of discussion and would be followed up by the SDC.

15. On a Member's request to provide real world examples to demonstrate the effect of GFA concession on building height and bulk, Dr. Andrew Thomson stated that the examples presented in the IR document were in fact real world examples taking from the Government's study on 97 buildings located within three residential zones and one non-residential zone. The relevant study and Legislative Council (LegCo) papers were stated in the Appendix of the IR document with hyperlinks provided for public information. He added that the examples included in the IR document were typical and indicative examples. Moreover, he pointed out that the SDC was aware of the importance of balancing the need of the present and future generations and the need of people living in the luxury blocks and those in the overshadowing blocks. This was in line with the central tenet of the sustainability principle. The public engagement exercise would also involve a wide range of stakeholders and professionals from different sectors of the community so as to gauge views from a wider perspective. All the views and suggestions made by Members at the meeting would be considered by the SDC.

16. The Chairman said that the review study on the 97 buildings was undertaken by BD after the Grand Promenade incident. The initial recommendations of the review had been presented to LegCo last year. The LegCo paper had contained many examples of inflated buildings, which were readily available for public information.

17. A Member said that all along, the Government would provide incentives to encourage developers to help achieve certain purposes, e.g. to reduce the use of wood by using precast units and the provision of more car parks to avoid on-street parking. The Member considered that the public should be well informed of such a mechanism in the public engagement exercise as the mechanism had been quite effective in the implementation of certain government objectives.

18. A Member agreed that the general public would be more concerned on the issue of GFA concession as it would directly affect their property and living environment. The Member asked the SDC to consider highlighting matters, with the use of examples which were of relevance to the daily life of the public, e.g. the price they paid for the balcony of their flat, so as to encourage the public to submit their views. The Member also opined that the GFA concession for car parks should be reviewed noting that there were currently surplus car parks in many residential developments in the territory. In response, the Chairman said that the Transport and Housing Bureau had already been requested to review the planning standards and guidelines on the provision of car parks in residential areas. The findings of the review would form a useful input to the current exercise.

[Ms. Maggie M.K. Chan left the meeting while Mr. Leslie H.C. Chan arrived to join the meeting at this point.]

19. Noting that the title of the exercise was on sustainability, a Member advised the SDC to get prepared to respond to issues which might not be directly related to sustainability during their consultation with the local residents. The Member said that the issues that were of major local concern included the accuracy of the saleable floor area as provided by the developer, public open space, the content of sales brochures, wall effect of buildings and the objection to having public housing nearby. The Member opined that the public generally had a pre-conception that GFA concessions only gave benefits to the developers instead of providing incentives for them to improve building design.

20. A Member opined that the public would generally welcome the provision of green features and building separation. However, GFA concession should not be invariably or automatically granted for these provisions. Rather, the Government should look into the quality and merits of these provisions and whether they would enhance the quality of the living environment before granting the concession.

21. A Member considered that the granting of GFA concession for sites in old districts should be treated differently from those in new districts as sites in old districts could be redeveloped to a maximum domestic plot ratio of 8 whereas the maximum plot

ratio for development in new districts would normally be restricted to a lower level. The granting of GFA concession to development in old district would inflate the already high plot ratio and generate adverse impact to the surrounding area. This Member also commented that under the current mechanism, the Board would not be able to control the total GFA under a planning application as the GFA concession was subsequently granted by the Building Authority (BA) at his own discretion. The Member opined that consideration should be given for the Board to cap the GFA concession in granting its planning approval. Furthermore, the Member agreed that GFA concessions could provide incentive for developers to provide facilities in a proper manner, e.g. car parks and plant rooms of a reasonable size. The Member also advised that the public engagement activities should be tailor-made for the different sectors of the community to enable more useful views to be collected.

22. A Member appreciated the effort made by the SDC in taking up the public engagement exercise of this controversial subject. The Member considered that the issue of GFA concession would become the main focus in the public engagement exercise. The granting of GFA concession tended to give the public an impression that the Government had provided benefits to the developers. The public might be of the view that it was the responsibility of the developers to provide facilities to produce a good quality building development. Lastly, to facilitate the public to understand the issue, the SDC might consider inviting architecture students from the universities to help explain to the public through road shows or roving exhibitions in different districts.

23. A Member referred to the two examples of bonus GFA granted for corner splay setback at Entertainment Building and public passageway at HSBC Headquarters on page 23 of the IR. The Member said that the SDC could use these real world examples to explain more clearly to the public the impact of granting GFA concessions, i.e. the additional number of storeys generated as a result of the bonus claim.

24. A Member considered that it would be difficult for members of the public to understand how energy efficiency installations could complement building design and how building materials could help reduce light pollution and carbon emission and affect human health. Architects could design a building with windows at both sides to facilitate air ventilation and to reduce the need for air conditioning. Architects should also be

reminded to avoid the chimney effect in their building design. The Member considered the IR a well-written document and requested the SDC to consult District Councils in the exercise.

25. Mr. Bernard Chan said that District Councils would be consulted during the public engagement process. In the consultation forums held, he noted that the views of the general public and the stakeholders were very diverse. As pointed out by some Members, the public generally considered that it should be the responsibility of the developers to provide the required facilities so as to improve the development and that there was no reason why GFA concession had to be granted to the developers. However, from the developers' perspective, they would only consider providing those facilities unless GFA concession was granted. He added that though there was another choice, i.e. to make them mandatory requirements under legislation, that would create other problems. Again, he welcomed all the views expressed from different perspectives and would follow up the issues in the process.

26. Professor Bernard Lim shared the views of some Members that the current exercise was a balancing act and that was what the IR intended to seek. He said that the original intention of granting GFA concessions was to improve building design and the living environment by the provision of green and amenity features. However, with the rising concern on building bulk, there was a need to gauge public views on the need of such facilities and a review of the mechanism in granting GFA concession. Though the general public might not fully understand the technical terms in the IR, they could still express their views on general issues such as the building height, bulk and energy efficiency matters. He said that with the support of more than 30 partner organisations, the SDC would arrange district forums and reach out to different sectors and schools so as to ensure an extensive exchange of views on the subject. He thanked Members for their valuable and in-depth comments at this meeting, which would be taken into account by the SDC in due course.

27. Members had no further questions and comments. The Chairman thanked the SDC and its representatives for attending the meeting. Members noted the public engagement exercise and the issues and proposals raised in the IR.

Agenda Item 4

[Open Meeting (Presentation and Question Session only)]

Consideration of Representations in Respect of the Draft Tsing Yi Outline Zoning Plan No. S/TY/23

(TPB Paper No. 8372)

[The hearing was conducted in Cantonese.]

28. Dr. Winnie S.M. Tang, being a Member of Kwai Tsing District Council, had declared interest on this item. Members noted that Dr. Tang had not yet arrived at the meeting.

Presentation and Question Session

29. The Chairman said that while Representer No. R4 would attend the meeting, other representers had either indicated that they would not attend the hearing or made no reply. As sufficient notice had been given to the representers, Members agreed to proceed with the hearing in the absence of other representers.

30. The following representatives from the Government and the representer's representative were invited to the meeting at this point:

Ms Heidi Chan - District Planning Officer/Tsuen Wan and West Kowloon (DPO/TWK), Planning Department (PlanD)

R4 (Tai Yui Keung, Grand Horizon Owners' Committee Member)

Mr. So Chun Wah - Representer's representative

31. The Chairman extended a welcome and explained the procedures of the hearing. He then invited the representative from the Government to brief Members on the background to the representations.

32. With the aid of a Powerpoint presentation, Ms. Heidi Chan made the following

main points as detailed in the Paper:

- (a) the background of the proposed amendments as set out in paragraph 1 of the Paper. During the exhibition of the draft Tsing Yi OZP No. S/TY/23, a total of 5 representations were received including:
- R1 : Leung Wai Man, Kwai Tsing District Councillor
R2 : Tong Shing Yan, Tsing Yi (South West) Area Committee Member
R3 : Tai Yui Keung, Tsing Yi (South West) Area Committee Member
R4 : Tai Yui Keung, Grand Horizon Owners' Committee Member
R5 : Hong Wing House Mutual Aid Committee
- (b) the subject of the representations as related to the opposition to amend the user term from 'Concrete Batching Plant' to 'Asphalt Plant/Concrete Batching Plant' under Column 2 of the Notes for the "Industrial" ("I") and "Other Specified Uses" ("OU") annotated "Boatyard and Marine-oriented Industrial Uses" zones;
- (c) the main grounds of the representations were summarised in paragraph 2.2 of the Paper, which were on environmental pollution, health, traffic and noise nuisance. The representers had not proposed any amendment to the OZP;
- (d) PlanD's responses to grounds of representations as detailed in para. 4.3 of the Paper. 'Asphalt Plant' was a use akin to 'Concrete Batching Plant' due to their similar environmental impacts and planning implications. To put it beyond doubt and to make provision for 'Asphalt Plant' use, the Metro Planning Committee (MPC) agreed on 11.5.2007 (when considering Application No.A/TY/96 for the two uses in the "I" zone) to amend the Notes of the "I" zone currently with provision for 'Concrete Batching Plant' to 'Asphalt Plant/Concrete Batching Plant' under

Column 2 of the Notes and also noted on 28.9.2007 (when considering Application No.A/TY/101 for concrete batching plant in the “I” zone) that amendment would be made to all OZPs currently with provision for ‘Concrete Batching Plant’ under the Notes to change the use from ‘Concrete Batching Plant’ to ‘Asphalt Plant/Concrete Batching Plant’. That was a technical amendment in relation to the amendment to the Master Schedule of Notes. As ‘Asphalt Plant/Concrete Batching Plant’ was a Column 2 use, their potential traffic and environmental impacts would be scrutinised by concerned departments and the Board at the s.16 planning application stage. The applicant would be required to submit relevant technical assessments and public views collected would also be presented to the Board for consideration during the application stage;

- (e) departmental consultation as detailed in paragraph 5 of the Paper. Assistant Commissioner for Transport/New Territories, Transport Department (AC for T/NT, TD) had no objection to the amendment from traffic management consideration. Director-General of Trade and Industry (DG of TI) considered that the revision could provide more options on land use in the concerned industrial zones. Director of Health (D of Health) had no comment on the representations as the operation of asphalt plant required environment permit or licence from the Environmental Protection Department (EPD). Other relevant bureaux and departments had no comment on the representations;
- (f) PlanD’s views - PlanD did not support the representations for reasons as detailed in paragraph 6(a) and (b) of the Paper.

33. The Chairman then invited the representer’s representative to elaborate on the representation.

34. Mr. So Chun Wah made the following points:

- (a) on behalf of Mr. Tai Yui Keung (R4) who was the Chairman of Grand Horizon Owners’ Committee, he would like to express the concern of the

local residents on the proposed amendments especially the view of the residents of Grand Horizon; and

- (b) there were too many industrial uses located in Tsing Yi including a treatment centre for Dioxin, shipyards, asphalt plant which resulted in traffic congestion and environmental pollution problems to the local residents.

35. As the presentation from the representer's representative had been completed, the Chairman invited questions from Members.

36. In response to the Vice-chairman's questions on the planning control of asphalt plant use under "I" and "OU" annotated "Boatyard and Marine-oriented Industrial Uses" zones, Ms. Heidi Chan explained that asphalt plant was a Column 2 use under the two zones which required planning permission from the Board. Applicant for asphalt plant use had to submit relevant traffic and environmental impact assessments in his planning application for the Board's consideration. She added that a Specified Process Licence was also required from EPD for such use.

37. Another Member asked if the applicant's representative was satisfied with the planning control mechanism as explained by PlanD and whether he had liaised with the relevant government departments regarding the residents' concern on traffic and environment condition in the area. Mr. So replied that as he was only representing the representer, he was not sure if the representer had consulted other government departments.

38. As the representer's representative had finished his presentation and Members had no further questions, the Chairman said that the hearing procedures had been completed and the Board would deliberate on the representations in his absence and would inform him of the Board's decision in due course. The Chairman thanked him and the Government's representative for attending the hearing. They all left the meeting at this point.

Deliberation Session

39. Members generally considered that there was no strong justification to uphold the representations as the potential traffic and environmental impacts of the asphalt plant use, which were the main concerns of the representers, would be scrutinised by the concerned departments and assessed by the Board at the planning application stage.

40. The Chairman then asked Members to consider the reasons for not upholding Representations No. R1 to R5 as proposed by PlanD in paragraphs 6(a) and (b) of the Paper.

41. After further deliberation, the Board decided not to uphold Representations No. R1 to R5 for the following reasons:

- (a) the amendments to the Notes of the “I” zone and “OU” annotated “Boatyard and Marine-oriented Industrial Uses” zone were intended to clearly define concrete batching plant and asphalt plant uses, and make provision for application for asphalt plant use in the above two zones subject to the approval of the Board; and
- (b) concrete batching plant and asphalt plant uses were Column 2 uses which required planning permission from the Board. They would be scrutinized by the concerned departments and the Board when an application was submitted to the Board for consideration and each application would be considered on individual merits of the case.

[The meeting adjourned for a break of five minutes.]

[Mr. Fletch Chan left the meeting at this point.]

Agenda Item 5

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/K15/85

Proposed Flat in “Residential (Group E)” zone, Yau Tong Inland Lot (YTIL) 27, No. 28 Sze Shan Street, Yau Tong, Kowloon

(TPB Paper No. 8373)

[The hearing was conducted in Cantonese.]

Presentation and Question Session

42. The following representatives of the Government, the applicant and his representatives were invited to the meeting at this point:

Mr. Eric Yue - District Planning Officer/Kowloon (DPO/K),
Planning Department (PlanD)

Mr. Samuel Ko - Applicant

Mr. C.C. Tang)

Miss Regina Chang) Representatives of the Applicant

Mr. Kevin Lau)

43. The Chairman extended a welcome and explained the procedures of the review hearing. He then invited Mr. Eric Yue to brief Members on the background to the application.

44. With the aid of the Powerpoint presentation, Mr. Eric Yue presented the application and covered the following main points as detailed in the Paper:

- (a) the background of the application as set out in paragraph 1 of the Paper. The application site fell within an area zoned “Residential (Group E)” (“R(E)”) and was the subject of a previous application (No. A/K15/61) for residential/commercial use with a building height (BH) of 120.95mPD approved on 14.6.2002. The planning permission had

expired on 14.6.2006. The current application was a fresh application submitted on 4.12.2007 for residential/commercial development with a BH of 139.725mPD. There was no BH restriction under the “R(E)” zone for the site at the time of application. On 23.5.2008, the draft Cha Kwo Ling, Yau Tong, Lei Yue Mun OZP No. S/K15/16 incorporating the BH restriction for Yau Tong Industrial Area (YTIA) including the application site was exhibited for public inspection. 8 objections related to the YTIA were received. All the objections were not upheld by the Board including the one lodged by the applicant who proposed to increase the BH restriction on the site from 100mPD to 120mPD. The OZP was approved by the CE in C on 31.3.2009 and exhibited for public inspection on 24.4.2009;

- (b) on 23.5.2008 (the same day when the draft OZP No.S/K15/16 was gazetted), the Metro Planning Committee (MPC) rejected the application on the ground that there was insufficient planning merits to justify the proposed 41-storey development with a BH of 139.725 mPD which was considered excessive at the waterfront location and the applicant had failed to demonstrate that the proposed development would be environmentally acceptable and that the potential industrial/residential interface problems would be satisfactorily addressed;
- (c) the applicant had submitted a revised scheme and written representation with justifications in support of the review application as summarised in paragraphs 2 and 3 of the Paper. Compared with the proposal submitted in the s.16 application, the revisions to the scheme were summed up below:
- no change in site area, plot ratio, GFA, number of blocks and local open space;
 - an increase in domestic site coverage from 18% to 22%;
 - a reduction in BH by 19.725m (-14.7%) (from 139.725mPD to 120mPD) and number of storeys by 4 storeys (-9.8%) (from 41 to 37 storeys);
 - a reduction in number of flat units by 46 units (-33.8%) (from 136

- to 90 units) and an increase in flat size by 36.505m² (+48.2%) (from 75.75m² to 112.255m²); and
- an increase in car parking spaces by 11 spaces (+20.4%) (from 54 to 65);
- (d) departmental comments – the departmental comments were summarised in paragraph 5 of the Paper. Director of Environmental Protection (DEP) commented that the proposed development was subject to industrial/residential interface problem and incompatible with the existing industrial uses surrounding it. The noise level in the revised Noise Impact Assessment could meet the noise standards as stipulated in the Hong Kong Planning Standards and Guidelines (HKPSG). Buildings Department (BD) commented that the openable part of the prescribed window of some living rooms under the revised scheme did not comply with the requirement of Building (Planning) Regulations (B(P)R). Chief Town Planner/Urban Design and Landscape (CTP/UD&L), PlanD had strong reservation on the revised scheme as the proposed BH of 120mPD was considered excessive at the waterfront location and would affect the intactness of the height band of 100mPD and the stepped height profile. The podium and the disposition of the residential tower would occupy the entire south-eastern edge of the application site, which was undesirable from visual and air ventilation point of view. Other relevant government departments had no objection to/no comments on the application;
- (e) public comments - during the statutory publication period, 18 public comments were received. Among them, one supported the application whereas 17 comments objected to the application on the grounds that the proposed height was excessive, the building block was too close to the adjacent residential building, the development would lead to adverse visual impact, wall effect and air ventilation problem as well as affect tourism development in Lei Yue Mun; and
- (f) PlanD's view – PlanD did not support the application based on the

assessment and reason as stated in paragraphs 7 and 8.1 of the Paper. The proposed 120mPD BH represented an increase of 20m (+20%) in comparison with the 100mPD BH restriction. It was considered excessive at the waterfront location and would affect the intactness of the stepped BH profile for YTIA. It could not be demonstrated that the communal sky garden and podium garden could not be provided without increasing the BH to 120mPD. The disposition of the residential tower occupying the entire south-eastern edge of the site would block the sea breeze from the south and was undesirable from the visual and ventilation points of view. Although the BH of 120mPD was the same as the previous planning approval expired on 14.6.2006, once planning permission had expired, any new application should be considered afresh based on prevailing planning circumstances. The argument that the application could be considered as a renewal of the expired planning permission was unfounded. BD advised that the openable part of the prescribed window did not comply with the requirement of the B(P)R. The public had concern on the possible wall effect, adverse visual impact and air ventilation problem caused by the development and considered that the BH restriction of 100mPD should be maintained.

45. The Chairman then invited the applicant and his representatives to elaborate on the application. Members noted that a physical model prepared by the applicant was displayed at the meeting.

46. With the aid of some plans, photos and the physical model, Mr. C.C. Tang made the following points:

- (a) according to the B(P)R, a site coverage of 100% was permissible for development up to 15m in height. However, the applicant had provided a voluntary setback of the building at the waterfront side, and hence the bulk of the podium would be reduced. A landscape area would be provided to ensure compatibility with the adjacent development and to create a better quality residential development;

- (b) given the same domestic GFA, the BH had been reduced by 20m and the number of domestic storeys had been reduced from 30 to 29 in the revised scheme and hence the building bulk was actually smaller. The increase of domestic site coverage from 18% under the previous scheme to 22% in the revised scheme (as shown in Annex F of the Paper) was only a result of the fine-tuning of the calculation method according to BD's requirement. The actual site coverage had actually been reduced;

- (c) the disposition of the residential tower would not block the sea breeze. The site was a Class C site surrounded by streets on three sides. The proposed single residential tower was of a normal width of 38m (even less than that of Canaryside of 41m). With three units per floor, the average unit size was about 112m² (about 1,200 sq. ft). Besides, the provision of a sky garden at a level same as that of San Ka Tsuen Recreation Ground nearby would also enhance air ventilation and visual permeability; and

- (d) generally speaking, a tall building would not necessarily result in a built form that would create adverse impact on air ventilation or visual quality of the surrounding area. It would not be necessary to increase the building bulk to accommodate the same amount of GFA for a taller building. As shown in the photomontages, by comparing a proposed building at a height of 120mPD and 100mPD, a building of 120mPD would be in line with the stepped height concept with Canaryside at 140mPD to its northeast and sites of BH restrictions of 100mPD and 80mPD to its southwest. On the other hand, a building at a height of 100mPD would be fatter and shorter, creating adverse visual impact along the waterfront. In addition, the floorplate of the residential tower had to be enlarged to accommodate the proposed sky garden with a reduced BH of 100mPD and hence would affect ventilation in the north-south direction.

47. With the aid of some plans, Miss Regina Cheng made the following points:

- (a) the findings and recommendations of the BH review in YTIA were considered by the MPC on 9.5.2008. The MPC agreed on a distinct stepped BH profile with descending BH towards the harbourfront and the incorporation of the recommended BH restrictions on the OZP. The draft OZP was gazetted on 23.5.2008. However, the BH review was not made known to the applicant before the gazetting of the OZP. The BH restriction was imposed after the subject application was submitted to the Board on 4.12.2007. Hence, holding up the consideration of the review of the application until the stepped BH profile concept was established was unfair to the applicant;
- (b) it was too late to impose the BH control in YTIA. Since the transformation of YTIA by rezoning sites to “R(E)” zones on the OZP in March 2000, five residential developments had been approved in the area with the BH exceeding the proposed height bands. Those approved schemes had already affected the stepped BH concept introduced. The developments were:

	<u>Date</u>	<u>Approved</u> <u>BH</u>	<u>BH Restriction</u> <u>on OZP</u>
A/K15/74	3.2.2006 (approved)	147mPD	100mPD
Canaryside	2006 (completed)	139.1mPD	120mPD
The Spectacle	11.8.2000 (approved)	149.85mPD	140mPD
A/K15/69	19.12.2003 (approved)	148.15mPD	140mPD
A/K15/76	15.9.2006 (approved)	148.92mPD	140mPD

- (c) the proposed scheme of 120mPD was in line with the planning intention of the BH review in YTIA as it could still achieve a distinct stepped BH profile with descending BH towards the harbourfront;
- (d) there was a possible bias against the application due to the delayed process. The application was submitted on 4.12.2007 but was considered and rejected on 23.5.2008 which was the same day when the OZP with BH restrictions incorporated were gazetted. The applicant applied for

s.17 review on 19.6.2008 but the consideration was deferred by the MPC on 12.9.2008 on the grounds not to pre-empt the Board's consideration of the objections on the BH restrictions on the OZP. The s.17 review was hence considered 14 months later at the meeting when everyone would tend to assess the application with reference to the latest OZP restriction;

- (e) the applicant would like to emphasize that the application should not be considered based on the current statutory BH restriction. The proposed development of 120mPD could meet the concept of stepped BH profile with descending BH towards the waterfront and the applicant had reduced the BH from 139.725mPD to 120mPD (-14.12%) which was even slightly lower than that of the previously approved scheme;
- (f) there were sufficient planning merits of the proposed development including:
 - a lower BH when compared to the approved scheme;
 - urban design improvement with the incorporation of green features including communal sky garden and podium garden; and
 - physical appearance of good quality with greening and landscaping features; and
- (g) it was the last chance for the Board to approve a good quality building with better design and green features at the site which would meet the planning intention of the "R(E)" zone by encouraging the phasing out of non-conforming industrial uses and to accelerate the transformation of YTIA.

48. With the aid of a plan and in response to BD's comment, Mr. C.C. Tang supplemented that the provision of the prescribed window under the revised scheme complied with the B(P)R and that point had been clarified in the further information submitted by the applicant on 3.8.2009 at Annex F of the Paper.

Impact of Car Park Provision on BH

49. A Member noted that the proposed number of flats was reduced by 46 units but the total number of car parking spaces was increased by 11 under the revised scheme. The Member asked why there was a difference in car parking ratio used under the two schemes. In view of the Government's policy to encourage the use of public transport, the Member queried the need for the large number of car parking spaces and asked if that would lead to an increase in number of storeys. Mr. C.C. Tang replied that the car parking ratio used was in accordance with the Hong Kong Planning Standard and Guidelines (HKPSG) and it varied with the flat size. The car parking provision was agreed by Transport Department. He said the same number of storeys was required for a smaller number of car parking spaces as the floor plate of the development was constrained by the setback area for pavement widening and the proposed car parking layout was already a minimum requirement for proper manoeuvring of cars.

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

50. In response to another Member's enquiry on the possibility of incorporating the car parking spaces and other retail facilities at the basement so as to reduce the BH, Mr. C.C. Tang replied that the site was on a sloping ground and there was already water seepage problem in some lower levels of the site due to its proximity to the waterfront. In addition, locating facilities at the basement level was against the principle of environmental conservation as additional lighting and air ventilation facilities would be required. Hence, the applicant had not considered the basement option.

Existing and Proposed Developments in breach of the BH Restrictions

51. A Member asked PlanD to explain on the existing height bands of YTIA as stipulated on the OZP with reference to those developments with BH exceeding the height bands as shown in the applicant's presentation. The Member also asked the applicant if there was any difficulty to accommodate the permissible plot ratio in the proposed development with a BH restriction of 100mPD for the site. Mr. Eric Yue stated that under the current OZP, a stepped BH profile was adopted in the YTIA with the highest

height band of 140mPD near Cho Yuen Street descending to height bands of 120mPD, 100mPD and 80mPD towards the waterfront. The application site was located within the 100mPD height band. He explained that although the heights of Canaryside and the Spectacle had both exceeded the BH restrictions stipulated under the OZP, those schemes were approved in 2000 before the imposition of the BH restrictions in 2008. As such, it was not appropriate to compare their heights with the current BH restrictions. He added that there were still many sites in YTIA zoned “Comprehensive Development Area” (“CDA”) and “R(E)” which were not yet redeveloped and the current BH restrictions on the OZP should be adhered to so as to ensure that the height profile of YTIA could be achieved.

52. Mr. C.C. Tang stated that the proposed scheme of 120mPD at the application site could achieve the stepped height profile intended for YTIA with the adjacent Canaryside at 140mPD and the future development at the “CDA” zone restricted to BH of 100mPD and 80mPD towards the waterfront. He however emphasised that the application was submitted in 2007 before the imposition of the BH restrictions on the OZP in 2008. Given that there was no statutory BH restriction on the site at the time of the application, it was unfair to the applicant if the current BH restriction of 100mPD was taken into consideration by the Board. He added that it was all along the intention of the applicant to provide a good quality design for the development. By referring to the physical model displayed at the meeting, he pointed out that a BH of 100mPD for the proposed development would affect the design and disposition of the building and have adverse impact on air ventilation of the surrounding area due to the need to extend the footprint of the residential tower, whereas a BH of 120mPD with the provision of a double-storey sky garden would help improve air ventilation in the area.

Impact of Provision of Sky Garden on BH

53. The Chairman and a Member asked if the BH could be reduced if there was no provision of sky garden. Mr. C.C. Tang replied that the BH would be reduced by about 4m (one storey) from 120m to 116m but this was not in line with the intention to provide a good quality residential development. He added that the applicant had tried to avoid a bulky and fat building by not maximising the permissible site coverage under the B(P)R.

54. A Member asked PlanD if the provision of a sky garden could be considered as a planning merit and why it was stated in paragraph 7(c) of the Paper that the proposed transfer structure, communal sky garden and podium garden resulting in a height of 11.65m (9.7% of the total height) had not been fully justified. Mr. Eric Yue said that the provision of a sky garden as a green feature to enhance living environment was always welcome by PlanD. However, as the sky garden was only about 4.65m in height, the applicant could not demonstrate why there was a need to increase the BH from 100mPD to 120mPD. Moreover, according to the drawing submitted by the applicant, the total height of the transfer structure, communal sky garden and podium garden was 11.65m. The applicant had not explained the proposed height and PlanD considered that there was scope to further reduce the height so that the overall height could be reduced.

55. Miss Regina Cheng reiterated that there was no statutory BH restriction on the application site when the application was submitted and hence the applicant had no statutory obligation to fulfill the BH restriction of 100mPD. She added that the applicant aimed to develop a good quality scheme so as to improve the living environment and visual amenity of the surrounding area. Mr. C.C. Tang supplemented that though there was no statutory requirement to comply with the BH restriction, the applicant and his consultant team had spent a lot of effort in striving for a good quality development scheme and the 120mPD scheme was developed in accordance with the sustainability principle. He explained that the original design of the sky garden under the 140mPD scheme was more preferable but was subsequently abandoned in view of the adverse comment from PlanD. To avoid further delay in the consideration of the application, the applicant had struck a balance by adopting a reduced BH of 120mPD under the current scheme which would also achieve the stepped height profile. He said that the proposed double-storey sky garden, together with the podium garden and the transfer plate, would enhance the visual attractiveness of the development when viewed from Lei Yue Mun and would also improve air ventilation in the surrounding area. He said that if the Board supported the proposed scheme, the applicant would comply with all the approval conditions recommended including the provision of a sky garden.

Impact on Ridgeline

56. A Member asked about the visual impact of the proposed development when

viewed from Hong Kong Island and whether the ridgeline from Ng Kwai Shan to Kowloon Peak would be affected. The Member also asked whether the redevelopment of those existing buildings with height exceeding the BH restriction on the OZP would need to comply with the BH restriction and whether there was any provision to allow flexibility. Mr. Eric Yue replied that based on the vantage point at Quarry Bay Park on Hong Kong Island, the site fell outside the view fan of the vantage point and the proposed development would not affect the ridgeline. He said that future development should adhere to the BH restrictions on the OZP or the height of the existing buildings, whichever was greater. He added that a minor relaxation clause for BH restrictions had been incorporated into the OZP to allow flexibility for application to be made to the Board for developments with design and planning merits.

Disposition of Building

57. A Member asked the applicant whether he had considered further setting back the development towards the north (i.e. to the middle of the site) in view of PlanD's comment that the current location of the residential tower abutting the southern frontage was undesirable from visual and air ventilation point of view. Mr. C.C. Tang said that further setback of the development to the north would adversely affect the wind corridor and would not widen the distance between the proposed building and the neighbouring development (i.e. Canaryside). As a result of the further setback, the proposed development would not be able to meet the requirement to have the main building façade reached by fire engines. Moreover, the design of the building was to maximise the number of flat units facing the south-east so as to ensure better air ventilation and living environment.

58. As the representative of the applicant had no further comment to make and Members had no further question, the Chairman informed him that the hearing procedures for the review application had been completed. The Board would further deliberate on the application in his absence and inform the applicant of the Board's decision in due course. The Chairman thanked the representative of the PlanD and the representative of the applicant for attending the meeting. They all left the meeting at this point.

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

Deliberation Session

59. A Member noted that the applicant had expressed strong grievances on the imposition of statutory BH restrictions on the proposed redevelopment. However, the Member did not consider that the proposed scheme had sufficient merit which warranted a relaxation of the BH restriction from 100mPD to 120mPD. The Member considered that there was scope for the applicant to reduce the overall height of the building noting that the permissible site coverage was not yet maximised.

60. Another Member opined that the incorporation of BH restrictions on the OZP had gone through a due statutory process of public inspection and consideration of representations and comments by the Board. The Board had the responsibility to ensure that the BH restrictions were duly complied with and relaxation could only be allowed with sufficient design and planning merits. The Member pointed out the strong public concern on the height of development at the waterfront and noted that there were objections from the public to the application. After consideration, the Member did not support the application as the proposed development might affect the ridgeline when viewed from Quarry Bay. The BH restriction of 100mPD should be adhered to with a view to maintaining the stepped BH profile in the area.

61. Another Member commented that Lei Yue Mun was a major vantage point and the excessive height of Canaryside had been criticised by the residents of Lei Yue Mun area. The Member said that the imposition of the BH restriction of 100mPD was based on a planning concept and minor relaxation should only be allowed with strong justifications. The Member noted that the permissible plot ratio could still be accommodated for a development at a BH of 100mPD and considered that the applicant had not provided adequate justification on the need to relax the BH. The car parking storeys and the sky garden would raise the level of the podium so as to ensure a better sea view for the flats at the upper floors. It also reflected that the exemption of GFA for car park, green features and other ancillary facilities had led to an inflated building with an increase in overall BH. As such, this Member did not support the application.

62. After some discussion, Members generally agreed that the applicant had not

provided sufficient planning justifications for the proposed relaxation of the BH restriction from 100mPD to 120mPD. After further deliberation, the Board decided to reject the application on review and the reason was:

there are insufficient planning merits to justify the proposed 37-storey development with a building height of 120mPD, which represents an increase of 20m (+20%) in comparison with the building height restriction of 100mPD for the application site. The proposed development with a building height of 120mPD is considered excessive at the waterfront location.

[Dr. Daniel B.M. To left the meeting at this point.]

Agenda Item 6

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/SLC/92

Proposed House (New Territories Exempted House - Small House) in "Green Belt" zone,
Government Land in Mong Tung Wan, Lantau Island
(TPB Paper No. 8374)

[The hearing was conducted in Cantonese.]

Presentation and Question Session

63. Members noted that the World Wide Fund Hong Kong (WWF) had submitted comment on the application. Professor David Dudgeon, being a member of the the Mai Po Management and Development Committee, and Dr. James C.W. Lau and Professor Paul K.S. Lam, being ex-members of WWF, had declared interest. Members noted that Professor Dudgeon had tendered apologies for not being able to attend the meeting while Dr. Lau and Professor Lam were ex-members of WWF, that their interests were indirect and not substantial and that they could be allowed to stay in the meeting.

64. The following representatives of the Government and the applicant's representative were invited to the meeting at this point:

- Mr. Alfred Lau - District Planning Officer/Sai Kung and Islands North (DPO/SKI), Planning Department (PlanD)
- Mr. C. T. Lau - Town Planner/Islands
- Mr. Fan Wai Kuen - Representative of the applicant

65. The Chairman extended a welcome and explained the procedures of the review hearing. He then invited Mr. C. T. Lau to brief Members on the background to the application.

66. With the aid of the Powerpoint presentation, Mr. C. T. Lau presented the application and covered the following main points as detailed in the Paper:

- (a) the Rural and New Town Planning Committee (RNTPC) rejected the application on 17.4.2009 for the reasons that the proposed house was not in line with the planning intention of the “Green Belt” (“GB”) zoning. The application did not comply with the Town Planning Board Guidelines for ‘Application for Development within “GB” zone under section 16 of the Town Planning Ordinance’ (TPB-PG No.10) and the “Interim Criteria for Consideration of Application for New Territories Exempted House(NTEH)/Small House in the New Territories” in that there was no information in the submission to demonstrate that the proposed development would have no adverse traffic, landscape and geotechnical impacts on the surrounding areas. The approval would set an undesirable precedent for similar applications within the “GB” zone;
- (b) the details of the applicant’s proposal as set out in paragraph 1 of Annex A of the Paper and the applicant had not submitted further written representation in support of the review application;
- (c) departmental comments – the departmental comments were summarised in paragraph 4 of the Paper. Director of Agriculture, Fisheries and Conservation (DAFC) did not support the application from tree

presentation point of view. Assistant Commissioner for Transport/New Territories (AC for T/NT) had reservation on the application as NTEH development should be confined within the “Village Type Development” (“V”) zone with existing and planned traffic and transport facilities. Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) had objection to the application as it would cause adverse landscape impact to the existing green belt and affect the quality of the natural landscape. Head of Geotechnical Engineering Office of Civil Engineering and Development Department (H(GEO), CEDD) had objection to the application as the site was located below steep natural hillside and a natural terrain hazard study (NTHS) and a Geotechnical Planning Review Report were required to assess the natural terrain hazard and to provide suitable mitigation measures;

- (d) public comments - during the statutory publication period, 4 public comments on the review application were received from Kadoorie Farm and Botanic Garden Corporation, Green Lantau Association and WWF objecting to the application, as the proposal would involve clearance of vegetation, have detrimental effect on landscape and potential landslip risk. The development should be contained within the “V” zone; and
- (e) PlanD’s view – PlanD did not support the application based on the assessment in paragraph 6 of the Paper. The proposed development did not meet the Interim Criteria for assessing planning applications for NTEH/Small House development. There was sufficient land in the “V” zone of Mong Tung Wan Village (5 ha of land equivalent to about 200 Small House sites) to meet the demand of indigenous villagers for Small House development (the 10-year Small House demand forecast was 5 and there was no outstanding Small House application). The proposed development was not in line with the planning intention of the “GB” zoning for the area which was to define the limits of development areas, to preserve existing well-wooded hillslopes and other natural features, as well as to provide passive recreational outlets. There was a

general presumption against development within the zone. There was no strong justification for a departure from the planning intention. The site was a woodland. The proposed house might affect a number of native trees and involve clearance of vegetation. The development did not comply with the TPB PG No.10 as there was no information in the submission to demonstrate that the proposed development would have no adverse landscape and geotechnical impact on the surrounding areas. The approval of the application would set an undesirable precedent and result in encroachment of “GB” zone.

67. The Chairman then invited the representative of the applicant to elaborate on the application.

68. Mr. Fan Wai Kuen made the following points:

- (a) he was a local villager of the Mong Tung Wan Village. According to Lands Department (LandsD), the application site was within the village boundary and it was demarcated by him with the agreement of LandsD;
- (b) the Mong Tung Wan area comprised mainly steep slopes. The site was selected by him because it was near the Tsz Tong of the village and his place of birth. He did not understand why the “V” zone did not cover the village area if the Government was to preserve the village character;
- (c) while he was not permitted to build the village house at the application site, he did not understand why approval was given to a site at Lot 183, about 5 to 10 metres away from his site, for house development. Besides, approval was also given by the Government for the house developments of the Bliss Lodge which were located on very steep slopes and were constructed on stilt structures;
- (d) given that most of the land within the “V” zone was on steep slopes, he requested PlanD to find him a site which was suitable for development

within “V” zone; and

- (e) he did not understand why the Kadoorie Farm & Botanic Garden Corporation raised objection to his application as the Kadoorie Farm was far from the application site. On the ecological impact, he stated that as the Mong Tung Wan Village area was well vegetated with trees, any development within the village area would affect the existing trees. The trees were common species planted by local villagers for the purpose of preventing mosquitoes. He was aware of the need for nature conservation but considered that any development or construction of road and utility works would have some impact on the existing vegetation. He noted that there was no objection from conservation point of view for the large scale road works involved in building South Lantau Road to Tung Chung.

69. In response to Mr. Fan’s enquiry, Mr. Alfred Lau said that the boundary for the “V” zone of the Mong Tung Wan Village was defined taking into consideration not only the boundary of the “VE”, but other considerations including the topography, the existing uses, the ecological condition and the Small House demand. He explained that some dilapidated houses in the Mong Tung Wan Village were not included in the “V” zone because they had been left vacant for a long time. He also added that the “GB” zone was intended to provide a buffer for the Country Park. Mr. Fan however considered that PlanD’s definition of the “V” zone boundary was very vague. He said that the houses were left vacant because of the lack of road access. The Government had rejected the villagers’ proposal to construct a road linking Mong Tung Wan Village to Pui O on the ground of nature conservation. Though a pier was subsequently built, most of the villagers had already left the village. He complained that the Government had never consulted the village representatives on the “V” zone boundary.

70. Members had the following questions:

- (a) where was the approved house development at Lot 183 and the reason and date for its approval;

- (b) when was the Mong Tung Wan village relocated;
- (c) whether the 5 ha of land available within the “V” zone to meet future housing demand were all vacant Government land subject to sloping problem; and
- (d) why was the Tsz Tong located outside the “V” zone as normally Tsz Tong was located within the village area.

71. Mr. Alfred Lau said that he had no available information on the location of Lot 183 but according to his record, there was no planning approval for the development of NTEH/Small House in the area. With the aid of a plan, Mr. Fan indicated to Members the location of the approved house at Lot 183. He said that the approval was granted by LandsD in 1980s but the house was not yet built. He also advised that the village was relocated in around 1975 as it was inaccessible and the construction of access road to the village was not approved by the Government.

72. Mr. Alfred Lau said that the 5 ha of land within the “V” zone was sufficient to meet the demand of indigenous villagers for Small House development. Some flat land along the existing footpath and around the pier was suitable for Small house development. Mr. Fan stated that all the land within the “V” zone was on steep slopes as shown by the site plan and the villagers could not afford the expensive slope formation cost for house development. He also reckoned that the Government would unlikely approve house development with stilt structures on slopes.

73. Mr. Alfred Lau said that the old Tsz Tong was located within the “V” zone, which was defined to cover the residential cluster near the pier and the old Tsz Tong. He added that the new Tsz Tong was located only marginally outside the “V” zone boundary which might be due to the small scale of the OZP. Mr. Fan however stated that the old and new Tsz Tong were only a few steps apart and hence the old Tsz Tong also fell outside the “V” zone boundary. In response to the Chairman’s query, Mr. Fan stated that the application site was about 20 metres from the Tsz Tong and next to a stream course but the proposed development would not have adverse impact on the stream.

74. As the representative of the applicant had no further comment to make and Members had no further question, the Chairman informed him that the hearing procedures for the review application had been completed. The Board would further deliberate on the application in his absence and inform the applicant of the Board's decision in due course. The Chairman thanked the representatives of the PlanD and the representative of the applicant for attending the meeting. They all left the meeting at this point.

Deliberation Session

75. A Member did not support the application as it did not meet the Interim Criteria for assessing planning applications for NTEH/Small House development. The Member considered that the matter should be resolved by means of a rezoning application instead of a planning application.

76. A Member considered that the "V" zone boundary was not appropriate in that the land within the zone was on steep slope, whereas flat land including the Tsz Tong and the application site were located outside the boundary. The Member considered that the "V" zone boundary should be reviewed.

77. Mrs. Ava Ng said that the subject OZP with the incorporation of the "V" zone was prepared in 1980s and might not adopt the same practice as of today in defining the "V" zone boundary. She agreed that the "V" zone boundary would need to be reviewed, in consultation with the relevant rural committee and village representatives.

78. A Member had reservation on the extension of the "V" zone boundary to the south to cover the densely vegetated area for the development of a large number of village houses to cater for the possible increase in population. The Secretary said that according to the advice of LandsD, the 10-year Small House demand forecast for the village was only 5 and that the land reserved in the "V" zone was 5 ha and most of the land was steep slopes. That demonstrated that the "V" zone would need to be reviewed. A Member also agreed to review the "V" zone boundary as it included densely vegetated slopes which seemed unreasonable.

79. After some discussion, the majority of the Members did not support the

application but agreed to request PlanD to review the subject “V” zone boundary. The Chairman said that if the revised “V” zone boundary included the application site, NTEH/Small House development would always be permitted. The applicant would be informed of the Board’s decision. The current review application, however, would need to be considered on the extant OZP zoning.

80. After further deliberation, the Board decided to reject the application on review and the reasons were:

- (a) the proposed house (New Territories Exempted House - Small House) was not in line with the planning intention of the “GB” zone which was primarily to define the limits of development areas, to preserve existing well-wooded hillslopes and other natural features, as well as to provide passive recreational outlets. There was a general presumption against development within this zone. There was no strong justification in the submission for a departure from this planning intention;
- (b) the application did not comply with the TPB Guidelines No. 10 for ‘Application for Development within “Green Belt” zone under section 16 of the Town Planning Ordinance’ and the interim criteria for assessing planning application for NTEH/Small House development in that there was no information in the submission to demonstrate that the proposed development would have no adverse traffic, landscape and geotechnical impacts on the surrounding areas; and
- (c) approval of the application would set an undesirable precedent for similar applications within the “GB” zone. The cumulative effect of approving such applications would result in the encroachment of “GB” zone and have adverse traffic and landscape impacts on the surrounding areas.

81. The Board also decided to request PlanD to review the boundary of the V” zone on the OZP.

Agenda Item 7

[Open Meeting]

Request for Deferral for Review of Application No. A/SK-PK/162

Proposed Minor Relaxation of Plot Ratio, Site Coverage and Building Height Restrictions in "Residential (Group C) 1" and "Residential (Group C) 3" zones, Lot 1107 and Extension to Lot 1107 in D.D. 217, Pak Sha Tou, Sai Kung

(TPB Paper No. 8375)

[The meeting was conducted in Cantonese.]

82. The Secretary reported that on 29.7.2009, the applicant's representative wrote to the Secretary of the Board requesting the Board to defer making a decision on the review application for 2 months in order to fine-tune the building design and layout to address relevant comments from Planning Department (PlanD). The justifications for deferment meet the criteria for deferment as set out in the Town Planning Board Guidelines on Deferment of Decision on Representations, Comments, Further Representations and Applications (TPB PG-No. 33).

83. After deliberation, the Board decided to agree to defer a decision on the review application and the review application would be submitted to the Board for consideration within 3 months upon receipt of the further submission from the applicant. The Board also decided to advise the applicant that the Board had allowed 2 months for preparation of submission of further information and no further deferment would be granted unless under very special circumstances.

[Mr. Edmund K.H. Leung return to join the meeting at this point.]

Agenda Item 8

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/YL-PS/298

Temporary Warehouse and Workshop for Metal, Plastic and Construction Materials for a Period of 3 Years in "Village Type Development" zone, Lots 93 (Part) and 94 (Part) in D.D. 127, and Adjoining Government Land, Hung Uk Tsuen, Ping Shan, Yuen Long
(TPB Paper No. 8376)

[The hearing was conducted in Cantonese.]

Presentation and Question Session

84. The following representative of the Government and the applicant's representatives were invited to the meeting at this point:

Ms. Amy Cheung - District Planning Officer/Tuen Mun Yuen Long
(DPO/TMYL), Planning Department (PlanD)

Mr. Ko Kim Ching) Representative of the Applicant

Ms. Tang Pik Yiu) Representative of the Applicant

85. Members noted that a replacement page for Plan R-2 of the Paper was tabled at the meeting. The Chairman extended a welcome and explained the procedures of the review hearing. He then invited Ms. Amy Cheung to brief Members on the background to the application.

86. With the aid of a Powerpoint presentation, Ms. Amy Cheung presented the application and covered the following main points as detailed in the Paper:

- (a) the Rural and New Town Planning Committee (RNTPC) rejected the application on 17.4.2009 for the reasons that the development was not compatible with the surrounding residential uses and no justification had been given in the submission to justify a departure from the planning

intention of the “V” zoning. There was no information to demonstrate that the development would not pose adverse environmental impact on the surrounding areas. The approval of the application would set an undesirable precedent for similar uses which would result in a general degradation of the environment of the area;

- (b) the details of the applicant’s proposal as set out in paragraph 1 of Annex A of the Paper. The applicant had submitted written representation with justifications in support of the review application as summarised in paragraph 3 of the Paper;
- (c) departmental comments – the departmental comments were summarised in paragraph 5 of the Paper. Director of Environmental Protection (DEP) did not support the application as there were sensitive uses in the vicinity and environmental nuisance was expected. Buildings Department (BD) served an order to demolish the unauthorised structure on site and instigation of prosecution was being undertaken as the order was not complied with after expiry. No drainage proposal was submitted. Other departments maintained their previous views which were mainly technical;
- (d) public comments - during the statutory publication period, 5 public comment was received. Residents of Hung Uk Tsuen and Flowery Garden objected to the application because the development was unauthorised, not compatible with village-type development, generated environmental nuisances and had adverse impact on fung shui, traffic and drainage system; and
- (e) PlanD’s view – PlanD did not support the application based on the assessment and reasons in paragraphs 7 and 8.1 of the Paper. The warehouse and workshop uses were not in line with the planning intention of the “V” zone. While the site was granted Short Term Waiver/Short Term Tenancy in 1976, the previous owners did not proceed with the operation and the proposal could not be regarded as an

“existing use”. There were residential dwellings within 50m and the nearest was 9m away. The warehouse structure of 752m² and 6.1m high was substantial and not in keeping with village houses. DEP did not support the application as there were sensitive uses including residential dwellings close to the site and there would be industrial/residential interface problem in particular noise nuisance. Warehouse and workshop should be accommodated in industrial-related zoning. 10ha and 12ha of land were zoned “Industrial” and “Industrial (Group D)” (“I(D)”) on the Ping Shan OZP. There were public concerns on the environmental impact on the surrounding areas.

87. The Chairman then invited the representatives of the applicant to elaborate on the application.

88. Mr. Ko Kim Ching made the following points:

- (a) he had been involved in the manufacturing business for about 47 years. His factory for home electrical appliances used to operate in the Mainland but, due to environmental regulations tightened, he needed to seek an alternative site to continue his business. He had renovated the existing dilapidated warehouse at the application site to continue his business and provide job opportunities for his 1,150 employees;
- (b) the economy of Hong Kong in 1960s depended mainly on the industrial sector. Rural workshops and factories were commonly found in the Hung Uk Tsuen area in 1950s/60s. Throughout the years, the industrial activities would have been changed to suit the market need. The Government should not stop the business if it had complied with the environmental regulations on noise impact or sewage discharge;
- (c) the site was occupied by a factory but was suddenly zoned “V” by the Government in 1996. As the occupants were not indigenous villagers, the site could only be left vacant and the environment would deteriorate if other uses were not allowed;

- (d) although PlanD claimed that there was land reserved for industrial use to the north, the land was not owned by the applicant. The applicant only made use of the existing warehouse already built and the application was made to regularise the use. It was unfair to penalise the applicant who tried to comply with the law by making an application whereas those unauthorised development in the adjoining area could continue their operation without planning permission;
- (e) as the factory had been operating since 1950s, it was unfair for the Government to reject the application on traffic, environmental or drainage grounds. It should be the responsibility of the Government to improve the road network and drainage system to overcome the problem in the Hung Uk Tsuen area; and
- (f) the Government should recognise the importance of the industrial sector as a nurture ground for young people and provide more support to this sector.

89. As the representatives of the applicant had no further comment to make and Members had no further question, the Chairman informed them that the hearing procedures for the review application had been completed. The Board would further deliberate on the application in their absence and inform the applicant of the Board's decision in due course. The Chairman thanked the representative of the PlanD and the representatives of the applicant for attending the meeting. They all left the meeting at this point.

Deliberation Session

90. Members did not support the application on the consideration that the development was not compatible with the surrounding residential uses and there was no planning justification for a departure from the planning intention of the "V" zone. The approval would also set an undesirable precedent for similar uses and result in the degradation of the environment of the area.

91. A Member noted that the applicant had submitted the application to regularise the use but that was rejected whereas other unauthorised uses in the vicinity could continue their operation without planning permission. The Member opined that if enforcement action had to be taken for the subject application after it was rejected, for the sake of fairness, other unauthorised uses in the area should also be subject to enforcement action. Miss Annie Tam stated that the site included Old Schedule Agricultural Lots held under the Block Government Lease under which no structures were allowed to be put up without prior approval from District Lands Officer/Yuen Long (DLO/YL). The applicant had submitted application to DLO/YL to regularise the use and the DLO/YL had already replied to him that the application would not be considered without a planning permission for the Board. In that regard, enforcement action would be undertaken for the site. For the other unauthorised uses in the neighbouring areas, she would ask DLO/YL to take note of the matter and carry out appropriate action, if necessary. Mrs. Ava Ng said that appropriate enforcement action would also be undertaken by PlanD if the unauthorised uses were found.

92. After further deliberation, the Board decided to reject the application on review and the reasons were:

- (a) the development was not compatible with the surrounding residential uses and no planning justification had been given in the written representation to justify a departure from the planning intention of the “V” zoning, which was to designate both existing and recognised villages and areas of land considered suitable for village expansion, even on a temporary basis;
- (b) there was no information to demonstrate that the proposed development would not pose adverse environmental impact on the surrounding areas; and
- (c) approval of the application would set an undesirable precedent for other similar uses to proliferate in the “V” zone. The cumulative effect of approving such applications would result in a general degradation of the environment of the area.

Agenda Item 9

[Open Meeting]

Request for Deferral for Review of Application No. A/ST/675

Proposed Private Garden for Flats in "Green Belt" zone, Lots 2 (Part) and 671 (Part) in D.D.
181, Pak Tin Village, Sha Tin

(TPB Paper No. 8377)

[The meeting was conducted in Cantonese.]

93. The Secretary reported that on 29.7.2009, the applicant's representative wrote to the Secretary of the Board requesting the Board to defer making a decision on the review application for 2 months in order to allow time to prepare further information in response to comments raised by relevant departments. The justifications for deferment met the criteria for deferment as set out in the Town Planning Board Guidelines on Deferment of Decision on Representations, Comments, Further Representations and Applications (TPB PG-No. 33).

94. After deliberation, the Board decided to agree to defer a decision on the review application and the review application would be submitted to the Board for consideration within 3 months upon receipt of the further submission from the applicant. The Board also decided to advise the applicant that the Board had allowed 2 months for preparation of submission of further information and no further deferment would be granted unless under very special circumstances.

Agenda Item 10

[Open Meeting]

Request for Deferral for Review of Application No. A/H20/159

Proposed Comprehensive Residential Development with a Public Transport Terminus (Proposed Amendments to an Approved Scheme) Former China Motor Bus Depot at 391 Chai Wan Road, Chai Wan Road Bus Terminus, and a Section of Sheung On Street in Chai Wan

(TPB Paper No. 8379)

[The meeting was conducted in Cantonese.]

95. Mr. Raymond Y.M. Chan, having business dealings with Swire Properties Ltd, and Dr. Daniel To, being a member of the Eastern District Council (EDC) (the Planning, Works and Housing Committee of EDC had passed a motion against the proposal), had declared interest. As the application was for deferral, Members agreed that Mr. Chan and Dr. To should be allowed to stay at the meeting.

96. The Secretary reported that on 3.8.2009 the applicant wrote to the Secretary of the Board requesting the Board to defer making a decision on the review application for 2 months to allow sufficient time to address the technical questions raised by relevant departments. The justifications for deferment met the criteria for deferment as set out in the Town Planning Board Guidelines on Deferment of Decision on Representations, Comments, Further Representations and Applications (TPB PG-No. 33).

97. After deliberation, the Board decided to agree to defer a decision on the review application and the review application would be submitted to the Board for consideration within 3 months upon receipt of the further submission from the applicant. The Board also decided to advise the applicant that the Board had allowed 2 months for preparation of submission of further information and no further deferment would be granted unless under very special circumstances.

Agenda Item 11

[Open Meeting (Presentation and Question Session only)]

Proposed Revision to the Town Planning Board Procedure and Practice and Guidelines No. 35A on Extension of Time for Commencement of Development
(TPB Paper No. 8381)

[The meeting was conducted in Cantonese.]

98. The following representative of the Government was invited to attend the meeting:

Mr. Ivan Chung - Chief Town Planner/Town Planning Board 2
(CTP/TPB2), Planning Department (PlanD)

99. The Chairman extended a welcome and then invited Mr. Ivan Chung to brief Members of the background to the Paper.

100. With the aid of a Powerpoint presentation, Mr. Ivan Chung made the following points:

- (a) the paper was to seek Member's agreement to the proposed revisions to the Town Planning Board Procedure and Practice (the TPB P&P) relating to the declaration of interests and the TPB Guidelines No.35A on Extension of Time for Commencement of Development;

TPB P&P

- (b) during the past meetings of the Board and its Planning Committees (PCs), individual Members had sought clarifications on business dealings and membership of an advisory body in the declaration of interests and had come to some consensus views on these issues;

Business dealings

- (c) Member or his/her spouse as the employee of the applicant/ representer/ commenter/ further representer/ his agent or consultant had to declare interest and withdraw from the meeting;
- (d) Member or his/her spouse as the employer of the applicant/ representer/ commenter/ further representer/ his agent or consultant and Member or his/her spouse working with the applicant/ representer/ commenter/ further representer/ his agent or consultant in a project consultancy team not related to the subject matter under consideration had to declare interest and it was up to the Board or PCs to decide whether the Member should withdraw from the meeting. Normally, there should be no need for the concerned Member to withdraw from the meeting;

Advisory Body

- (e) Member of an advisory body (e.g. District Council, Advisory Council on the Environment, District Advisory Committee of the Urban Renewal Authority), which had expressed views on the matter under consideration without passing a motion or submitting any comment/representation to the Board on the subject matter, should only be requested to declare interest but did not have to withdraw from the meeting;

TPB Guidelines No.35A

- (f) At the Board's meeting on 3.4.2009, Members noted the legal advice that the Board did not have power to extend time of a planning permission when it had ceased to have effect and considered that the wording of the existing TPB Guidelines No.35A was inconsistent with the legal advice and a revision of the Guidelines was necessary;
- (g) Paragraph 3.3 of the TPB Guidelines No.35A was proposed to be revised as follows:

~~“An application submitted less than 6 weeks before the expiry of the specified time limit may not be processed for consideration of the Board. If the approved development is not commenced by the specified time limit as imposed by the Board, the planning permission will lapse. The Board does not have power under the Ordinance to extend time for a planning permission that has lapsed and ceased to have effect. Therefore, The Board will not consider such application if the permission has lapsed at the time of consideration, despite that an application is submitted before the expiry of the specified time limit, the Board will have no power to extend time in respect of a planning permission that has ceased to have effect at the time of consideration. Under such circumstances, a fresh s.16 planning application for the development in accordance with the provision of the extant statutory plan will be required.”~~

- (h) Members were invited to agree:
 - (i) to endorse the proposed revisions to TPB P&P and TPB Guidelines No.35A as detailed in Annexes 6 and 7 of the Paper respectively; and
 - (ii) to promulgate the revised TPB P&P and TPB Guidelines No.35A to the public for information.

101. As the presentation from the PlanD's representative had been completed, the Chairman invited questions from Members.

102. Members had the following questions:

- (a) for the revised TPB P&P, why there was a different arrangement in declaration of interest for Member or his/her spouse being the employee or employer of an applicant (see paragraphs 3.2(a) and (b) of the Paper); and
- (b) for the revised TPB Guidelines No.35, why should the 6-week requirement for the applicant make submission be deleted (first sentence of the original paragraph 3.3 of the Guidelines)?

103. Mr. Ivan Chung explained that as an employee, the concerned Member would have a subordinate relationship with the applicant. As that might involve a pecuniary interest, the concerned Member should be requested to withdraw from the meeting. However, if the Member was an employer of the applicant, the concerned Member would still have to declare interest but it would be up to the Board to decide if the Member's interest was so substantial that the Member should withdraw from the meeting. According to the experience in the past meetings, there was no need for the concerned Member to withdraw from the meeting.

104. The Secretary supplemented that the proposed revision to the TPB P&P was based on a previous discussion at the MPC meeting. At that meeting, Members generally agreed that if a Member or his/her spouse was the employee of the applicant or its consultancy firm, he/she had to withdraw from the meeting. However, if a Member or

his/her spouse employed the applicant or its consultancy firm, there was no need to withdraw from the meeting. In view of the ambiguity, a Member said that the point should be clarified by refining the wording in the revised TPB P&P as the relationship should be principal and agent. The Secretary agreed and suggested that examples of different scenarios could be given in the revised TPB P&P for Members' reference.

105. On the proposed revision to the TPB Guidelines No.35, Mr. Ivan Chung replied that the first sentence in the original paragraph 3.3 which related to the 6-week requirement for submission of the application was deleted, as the same requirement had already been stated in paragraph 3.2 of the said Guidelines.

106. After further deliberation, Members decided to agree to endorse and promulgate the revised TPB P&P and TPB Guidelines No.35A for public information subject to further refinement in relation to the declaration of interest on the TPB P&P.

Agenda Item 12

[Closed Meeting]

107. This item was recorded under confidential cover.

Agenda Item 13

Any Other Business

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

Vote of Thanks

108. Members noted that it was the last meeting for the Chairman who would soon be posted out of the Development Bureau. The Chairman thanked Members for their support in the past two years. On behalf of Members, the Vice-Chairman also thanked the Chairman for his chairmanship to the Board and wished him every success in his future career.

109. There being no other business, the meeting was closed at 1:50 p.m.

CHAIRMAN
TOWN PLANNING BOARD