

**Minutes of 955th Meeting of the
Town Planning Board held on 26.3.2010**

Present

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

Chairman

Dr. Greg Wong

Vice-chairman

Mr. Nelson W.Y. Chan

Mr. David W.M. Chan

Mr. Leslie H.C. Chen

Professor David Dudgeon

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. B.W. Chan

Mr. Walter K.L. Chan

Ms. Maggie M.K. Chan

Mr. Raymond Y.M. Chan

Mr. Felix W. Fong

Ms. Anna S.Y. Kwong

Ms. Starry W.K. Lee

Mr. K.Y. Leung

Mr. Timothy K.W. Ma

Dr. Winnie S.M. Tang

Deputy Director of Environmental Protection
Mr. Benny Wong

Deputy Director of Lands (Gen)
Mr. Herbert Leung

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

Director of Planning
Mrs. Ava S.Y. Ng

Deputy Director of Planning/District
Miss Ophelia Y.S. Wong

Secretary

Absent with Apologies

Mr. Y.K. Cheng

Professor Paul K.S. Lam

Dr. James C.W. Lau

Professor Edwin H.W. Chan

Mr. Rock C.N. Chen

Mr. Maurice W.M. Lee

Principal Assistant Secretary (Transport)
Transport and Housing Bureau
Mr. Fletch Chan

In Attendance

Assistant Director of Planning/Board
Mr. Lau Sing

Chief Town Planner/Town Planning Board
Ms. Christine K.C. Tse (am)
Miss H.Y. Chu (pm)

Town Planner/Town Planning Board
Ms. Johanna W.Y. Cheng (am)

Senior Town Planner/Town Planning Board
Ms. Donna Tam (pm)

Agenda Item 1

[Open Meeting]

Confirmation of Minutes of the 954th Meeting held on 12.3.2010

[The meeting was conducted in Cantonese.]

1. The minutes of the 954th Meeting held on 12.3.2010 were confirmed without amendments.

Agenda Item 2

Matters Arising (i)

[Closed Meeting]

2. This item was recorded under confidential cover.

Matter Arising (ii)

[Open Meeting]

Proposed Amendments to the Master Schedule of Notes to Statutory Plans, Definitions of Terms Used in Statutory Plans and Broad Use Terms

(MA Paper (ii))

[The Meeting was conducted in Cantonese]

3. Ms Christine Tse, Chief Town Planner / Town Planning Board (CTP/TPB), was invited to brief Members on the Paper and she made the following key points:

Purpose

- (a) to seek Members' agreement to the proposed amendments to the Master Schedule of Notes to Statutory Plans (MSN), Definitions of Terms used in statutory plans (DoTs) and Broad Use Terms (BUTs) in respect of three uses – 'Holiday House', 'Market' and 'Mini-storage';

Background

- (b) on 28.2.2003, the Town Planning Board (the Board) endorsed a set of revised MSN, DoTs and BUTs, and agreed that all the Outline Zoning Plans (OZPs) in force should be amended to incorporate the revised MSN. Several refinements to the MSN were subsequently made in 2004 and 2005. Due to changing circumstances and emerging issues in the last few years, further amendments to those documents as detailed in Annexes A to D of the Paper were considered necessary;

'Holiday House'

- (c) there were village houses on some outlying islands used as commercial guesthouses for a short period of stay by mainly local holiday makers. It was considered necessary to bring this type of use under statutory planning control. According to the Hotel and Guesthouse Accommodation Ordinance (HGAO), such accommodation fell within the definitions of 'hotel' and 'guesthouse', and required a licence or certificate of exemption from the Secretary for Home Affairs (SHA);
- (d) those commercial guesthouses were usually located within village clusters which were zoned "Village Type Development" ("V") on the relevant statutory plans, where 'Hotel' was neither a Column 1 nor a Column 2 use. As a result, while the concerned operators of guesthouses could apply to the SHA for a licence/certificate under the HGAO, there was no provision for planning application for such use under the relevant OZP;
- (e) a new definition 'Holiday House' was proposed to be included in the DoTs to differentiate it from general 'Hotel' use. The proposed definition for 'Holiday House' and corresponding amendments to the BUT for 'Hotel' were as follows:
 - (i) the proposed definition for 'Holiday house' was "*Means any premises located in village type houses where sleeping*

accommodation is provided for holidaymakers for a short period of time upon payment of a sum for the services and facilities provided” with a remark that “It excludes resort type development, high-rise hotel or guesthouse development, and residential dwelling for long-term accommodation purpose.”;

- (ii) the definition of ‘Hotel’ was proposed to be amended to include ‘holiday house’ and with “[‘Holiday House’ subsumed under this term.]” added in the remarks;
- (iii) the proposed amendment to the BUT of ‘Hotel’ was to include ‘Holiday House’ as a subsumed use term with remark amended as “Also includes boarding house, common lodging house, guesthouse, hotel-like service apartment.”
- (iv) the proposed amendments to the MSN were that the ‘Hotel (Holiday House only)’ use be added as a Column 2 use in selected “V” and “Residential (Group D)” (“R(D)”) zones after taking into account factors such as the existing land use mix in the area, proximity to existing/planned tourist spots and the views of the local residents. ‘Hotel’ use would remain not permissible, neither a Column 1 nor Column 2 use, within those two zones;

‘Market’

- (f) the DoT for ‘Market’ was currently “Means any public or private market in which foodstuff and commodities are sold. It also includes any site or area set aside as hawker centre/hawker bazaar”;
- (g) the Director of Food and Environmental Hygiene recently sought to review the above definition as it was noted that the existing stalls within public markets also provided space for small-scale services such as locksmiths, watch-repairers and herbalists;

- (h) to better reflect the range of activities conducted in markets, it was proposed to revise the definition by incorporating “*services are generally provided, by small traders*”;
- (i) as the revision to include services was only to reflect the existing activities in markets serving the daily needs of local residents, it would unlikely generate adverse impact on the surrounding area. In particular, small traders were specified in the revised definition as the main tenant type to distinguish ‘Market’ from ordinary shopping malls where big businesses, chain stores or franchised stores were commonly found;

‘Mini-storage’

- (j) mini-storage had become a popular use in existing industrial buildings. They were usually self-storage facilities that were leased to individuals, usually for storing of household goods, or to small business, usually for storing of excess inventory or archived records;
- (k) the mini-storage use was, in nature, different from the conventional warehouses that were for storage of raw materials and goods. At present, there was no definition for mini-storage use under the DoTs used in Statutory Plans;
- (l) given the nature of the mini-storage use, it was proposed that ‘Mini-storage’ use be categorised as a type of ‘Non-polluting industrial use’ in the DoTs. A Remark – “*It includes mini storage, which are usually self storage facilities lease space to individuals, usually storing household goods, or to small businesses, usually storing excess inventory or archived records, but excluding the storage of any dangerous goods as specified in section 3 of the Dangerous Goods Ordinance (Cap. 295)*” and “[*Subsumed under ‘Industrial Use’ unless otherwise specified*]” – was proposed to be added to the definition of ‘Non-polluting industrial use’;

- (m) 'Non-polluting industrial use' was always permitted in both "Industrial" ("I") and "Other Specified Use (Business)" ("OU(B)") zones. Therefore, by categorizing 'Mini-storage' use as one type of 'Non-polluting industrial use', mini-storage could continue to operate in existing industrial buildings and business buildings that were permitted within the "I" and "OU(B)" zones. It could also continue to operate within converted industrial buildings for non-industrial uses under the new policy initiatives in the Chief Executive's Policy Address in 2009-2010 on optimizing the use of existing industrial buildings;

Consultation

- (n) concerned Government departments had been consulted on the proposed amendments. No objection or adverse comments had been received. Their comments had been incorporated, where appropriate;
- (o) there was no need for consultation with the District Councils and Rural Committees on the proposed amendments at this stage. They would be consulted in accordance with established procedures when amendments were made to individual OZPs;

Amendments to Relevant OZPs

- (p) subject to the Board's agreement to the proposed amendments to the MSN, the Notes of the relevant OZPs would be amended to reflect the amendments when opportunity arose. In translating the proposed amendments to MSN to individual OZPs, the Notes of the concerned OZP might need to be suitably adjusted to take account of the local circumstances; and

4. Members generally considered that it was appropriate to update the DoTs, BUTs and MSN to reflect changing circumstances.

5. Members had the following questions in respect of the proposed amendments:

'Holiday House'

- (a) how was 'short period of time' defined under this term;
- (b) would 'bread and breakfast (B&B)' type of accommodation in overseas countries fit into this definition;
- (c) other than "V" and "R(D)" zones, would the 'Hotel (Holiday House only)' use be considered for "Government / Institution / Community" ("G/IC"), "Green Belt" ("GB") or "Conservation Area" ("CA") zones;

'Market'

- (d) whilst herbalists were permitted within markets, would food processing be allowed or licence from the Food and Environmental Hygiene Department (FEHD) be required;
- (e) would the new definition for "Market" be flexible enough to accommodate trades associated with art and creative industries;

'Mini-storage'

- (f) would 'Mini-storage' be allowed for storing polluting industrial materials;
and
- (g) 'Mini-storage' was used mostly for storage of household goods or business inventories, which were not strictly industrial use. Would it be more appropriate to classify it under a new term like 'non-polluting storage use'.

6. Ms Christine Tse responded to the questions as follows:

'Holiday Houses'

- (a) there was no specification on long or short term stay under the 'Hotel' definition. According to the HGAO, the period of stay should not be longer than 28 days. However, it was considered not necessary to specify the period of stay in terms of an exact number of days in the new definition of 'Holiday House' so as to allow more flexibility;
- (b) being different from B&B in overseas countries that were normally within homes of individuals, the type of holiday house in the Hong Kong context was a kind of guesthouse usually found occupying village houses in some outlying islands;
- (c) at the request of the Chairman, the Secretary clarified that currently 'Hotel' was neither a Column 1 nor Column 2 use in "V" zones, hence, whilst operators of holiday houses could apply for a licence under the HGAO, there was no provision for planning application for such use in the "V" zone. The 'Hotel (Holiday House only) use' was proposed to be included as a Column 2 use in selected "V" and "R(D)" zones to broaden the use and to add flexibility under those two zones. Ms Christine Tse, CTP/TPB, further indicated that the 'Hotel (Holiday House only)' use was not appropriate in "G/IC", "GB" and "CA" zones in view of their specific planning intentions;

'Market'

- (d) with regard to whether food processing would be allowed within markets, that would be controlled under the purview of FEHD;
- (e) the amended definition of 'market' which allowed the sale of commodities and the provision of services by small traders had provided flexibility to cater for the need of the art and creative industries;

‘Mini-storage’

- (f) ‘Mini-storage’ was proposed to be subsumed under the BUT of ‘Non-polluting industrial use’ and in the remarks it was explicitly stated that the storage of any dangerous goods as specified in section 3 of the Dangerous Goods Ordinance (Cap. 295) was excluded; and
- (g) ‘Mini-storage’ use was different from conventional ‘Warehouse’ use due to the difference in their nature of operations. As ‘Industrial’ use already included storage uses, it was appropriate to subsume ‘Mini-storage’ under ‘Non-polluting industrial uses’ that was a Column 1 use under “I” and “OU(B)” zones.

7. The Chairman concluded that the proposed amendments to the DoTs, BUTs and MSN to statutory plans were agreed by Members.

[Hon. Starry W.K. Lee, Ms Anna S. Y. Kwong and Dr. Daniel B.M. To left the meeting at this point.]

Agenda Item 3

[Open Meeting (Presentation and Question Session Only)]

Consideration of Representations in Respect of the Draft Mid-levels East Outline Zoning Plan (OZP) No. S/H12/11 (Representation Nos. R1 to R103)

(TPB Paper No. 8503)

[The meeting was conducted in English and Cantonese]

8. The Vice-chairman had declared an interest on this item, as his company had current business dealings with the P & T Group, the consultant of Representation no. R93. The meeting noted that the Vice-chairman had not arrived to join the meeting.

Presentation and Question Session

9. As sufficient notice had been given to the representers to invite them to attend the meeting, Members agreed to proceed with the hearing of the representations in the

absence of the other representers who had indicated that they would not attend or had made no reply. Members noted that R1 had tabled a supplementary note at the meeting.

10. The following representatives from Planning Department (PlanD), the representers and representer's representatives were invited to the meeting at this point:

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

Mr. Derek Cheung - Senior Town Planner / Hong Kong, PlanD

Representation No. R102

Miss Hwang Sok Inn Representer

Representation No. R98

Mr. Law Kam Hung Representer

Representation No. R93

Church Body of the Hong Kong Sheng Kung Hui Representer

The Revd. Koon Ho Ming, Peter Douglas Representers' Representative

Mr. Ian Brownlee

Mr. Frankie Chow Ka Yuen

Ms. Esther Y.S. Chow

Ms. Sharon P.S. Au

Ms. Chang Siu Kuen

The Revd. Leung Shau Shan Lysta

Representation No. R1

Mr. Lam Chu Ming Representer

11. The Chairman extended a welcome and explained briefly the procedures of the hearing. He then invited the representative of PlanD to brief Members on the background to the representations.

12. With the aid of a powerpoint presentation, Ms. Brenda Au made the following main points as detailed in the Paper:

- (a) on 25.9.2009, the draft Mid-levels East OZP No. S/H12/11 was exhibited for public inspection under section 5 of the Town Planning Ordinance (the Ordinance). A total of 103 representations and no comment was received;
- (b) representations - the 103 representations all opposed to the building height (BH) restriction of 90 metres above Principal Datum (mPD) (including roof structures) in the "G/IC(2)" zone in respect of the St. James' Settlement site at Kennedy Road (representation site) and they could be divided into two categories :
 - (i) R1 to R92 and R94 to R103: a total of 102 representations submitted by residents of the neighbouring developments and individuals/companies asking for more stringent BH restriction; and
 - (ii) R93 submitted by the Church Body of the Hong Kong Sheng Kung Hui, the owner of the representation site, asking for removal or relaxation of the BH restriction;
- (c) the site context and the St. James' Settlement redevelopment plan : -
 - (i) the representation site was currently vacant. The previous buildings on the representation site, including St. James' Primary School, St. James' Church and St. James' Settlement with a total plot ratio (PR) of about 2.36 and a maximum BH of about 50mPD at main roof level, had already been demolished;
 - (ii) the representation site was to be redeveloped for an integrated 16-storey composite building co-locating the primary school, the welfare centre, and the church. According to the building plans approved by the Building Authority on 2.1.2009, the total PR of the proposed building was 8.389. The BH of the school

/ welfare building portion was 90mPD and that for the church portion was 100.06mPD, both including roof structures;

- (iii) on 13.2.2009, the Legislative Council Finance Committee approved the proposed development. The school portion would be redeveloped with Government subvention whilst the portion of the welfare centre and church would be developed with private funds;
- (iv) the representation site was surrounded by residential buildings, to the west were Merry Garden (16-storey) and Bamboo Grove (11 to 41-storey); to the east was Grandview Tower (36-storey); and to the south were Caine Terrace (5-storey), a 4-storey residential development and two vacant sites;
- (d) the rationale of the BH restrictions was both to preserve public view from Bowen Road along the visual corridor of Wan Chai Gap as a general principle, and to cater for committed project supported and accepted by concerned bureaux/departments such as that on the representation site;
- (e) the main grounds of R1 to R92 and R94 to R103 advocating more stringent control on BH and imposition of PR restrictions were summarised in para. 2.2.1 of the Paper and highlighted below:
 - (i) the BH should be in line with nearby buildings, and should not exceed that of the nearest building at Caine Terrace of about 62mPD; (R1, R3, R5, R8 to R92, R99 to R101)
 - (ii) PR restriction should be imposed on the representation site for low-density and low-rise development; (R1, R2, R8 to R92, R99 to R101)
 - (iii) some Column 2 uses of “G/IC” zoning were included in the redevelopment scheme making its scale and intensity incompatible with the surroundings; (R102)

- (iv) BH should not exceed 30m above ground to ensure evacuation safety during emergency; (R1, R3, R8 to R92, R94, R99 to R101)
 - (v) the redevelopment would create wall effect and have adverse visual impact; (R1, R3, R8 to R92, R95, R99 to R101, R103)
 - (vi) should avoid aggravating the adverse traffic impact on the local road network and minimizing disturbance to the existing vegetation and landscape of the vicinity; (R97)
 - (vii) Government should exert pressure on and urge St. James' Settlement not to redevelop the representation site in the form currently approved in the building plans; (R103)
- (f) the proposals of R1 to R92 and R94 to R103 were detailed in para. 2.2.2 of the Paper. Their proposals include:
- (i) tightening the BH restriction to:
 - 30m (about 62mPD) or 60mPD (including roof structures); (R1, R3, R8 to R92 and R99 to R101)
 - 65mPD (including roof structures); (R5 and R94) or
 - 70mPD; (R95)
 - (ii) impose PR restriction:
 - PR of 5 or PR of the existing developments, whichever was the smaller; (R1, R2, R8 to R92 and R99 to R101)
 - PR of 5; (R95) and
 - PR of 5 and keep the BH restriction of 90mPD (including roof structures); (R97)

- (iii) any redevelopment, addition, changes and/or alterations of the existing buildings that would change the existing BH and/or PR, should be subject to approval of the Board; (R1, R4, R6, R8 to R92, R96, R97, R98 to R101)
 - (iv) the intensity of the proposed redevelopment should be to the satisfaction of the Director of Planning (D of Plan) or of the Board; (R97)
 - (v) the design and provision of vehicular access arrangement to the satisfaction of the Commissioner for Transport (C for T); (R97) and
 - (vi) rezone the representation site to “Comprehensive Development Area (CDA)” (R102 and R103).
- (g) the main grounds of R93, advocating removal or relaxation of BH restriction were summarised in para. 2.2.3 of the Paper and highlighted below:
- (i) the BH restriction of 90mPD was arbitrary, and would not keep in range with the neighbouring buildings;
 - (ii) the revised BH restriction would stifle the flexibility in the land-use plan or in the programme plan to satisfy the growing demand for welfare services and would not be in the public interest;
 - (iii) with no BH restriction under the lease governing the representation site, the imposition of BH would be unfair to the land owner; and
 - (iv) there was no prospect to implement the proposed BH as a set of building plans with BH up to 100.06mPD had already been approved;

- (h) the proposal of R93 was to remove the BH restriction on the representation site, or rezone the representation site to “G/IC(4)” with a maximum BH restriction of 120mPD;
- (i) PlanD’s responses to grounds of the representations and representer’s proposals were detailed in paras. 4.4 and 4.5 of the Paper and the key points were:

Responses to Grounds of the Representations: R1 to R92 and R94 to R103

Development Scale

- (i) the intention of the BH restriction was to preserve the public view from Bowen Road along the major visual corridor of Wan Chai Gap;
- (ii) due to different functional requirements specific to individual types of GIC facilities, PR restrictions were, as a general practice, not imposed on “G/IC” zones to allow flexibility for provision of the required GIC facilities to serve the needs of the community;
- (iii) the surrounding residential developments were different from the GIC development in terms of land use and functional requirements, and hence it would not be appropriate to apply the PR restriction of 5 for the adjoining Residential (Group B)2 “R(B)2” zone to the representation site;
- (iv) according to the set of building plans approved by the Building Authority on 2.1.2009, uses including canteen, offices, function/activity/multi-purpose rooms, playgrounds and domestic quarters were all ancillary uses;

Evacuation safety

- (v) evacuation safety of buildings was governed by building design requirements administered by relevant government departments. Social Welfare Department required that most social welfare facilities should be located on the ground floor or lower floors of a building not more than 24m above ground. Buildings Department required that the provision of means of escape should comply with relevant requirements under the Building (Planning) Regulation 41 and related Code of Practice for the Provision of Means of Escape;

Visual Impact and Wall Effect

- (vi) with the aid of photomontages in Plans H-5a and H-5b in the Paper, it was said that redevelopment of 90mPD at the representation site was not incongruous with the neighbouring settings;
- (vii) the St. James' Settlement could implement the scheme already approved by the Building Authority in accordance with the prevailing legislation, but would need to comply with the OZP restrictions should there be any major amendments;

Impact on Traffic and Vegetation

- (viii) due to the change of all classes to whole-day schooling, the number of students of the new primary school at the representation site would be reduced. The Transport Department (TD) advised that the redevelopment at the representation site would result in less traffic as there would be fewer students and no on-street loading/unloading activities of school buses. With proper design of internal transport facilities and connection to public road, the overall traffic impact was comparable to the existing condition;
- (ix) the redevelopment would be confined to the representation site with no tree felling involved. Thus, the existing vegetation and

landscape in the vicinity would not be adversely affected;

Responses to Representers' Proposal (R1 to R92 and R94 to R103)

Redevelopment of the representation site subject to the Board's approval including rezoning to "CDA" (R1, R4, R6, R7, R8 to R92, R96, R98, R99 to R103)

- (x) the relevant Government departments had confirmed that the proposed redevelopment at the representation site would not cause any environmental, traffic and infrastructural problems;
- (xi) apart from the preservation of public views from Bowen Road which had been addressed by imposing the BH restriction, the representation site was not subject to any particular constraints/consideration that needed to be considered by the Board in the form of a Master Layout Plan submission;

To impose PR 5 and a more stringent BH restriction

(R1 to R3, R5, R8 to R92, R94 to R95, R97, R99 to R101)

- (xii) the surrounding residential developments were different from the GIC development at the representation site in terms of land use and functional requirements. More stringent restrictions would adversely impact on the provision of the needed community facilities at the representation site;

Vehicular access arrangement to the satisfaction of C for T (R97)

- (xiii) the requirement for the design and provision of vehicular access arrangement was subject to detailed scrutiny and approval at building plan submission stage;

Responses to Grounds of the R93

- (xiv) the BH restriction imposed on the representation site had already struck a balance amongst various factors including the public

interest;

- (xv) it was in the public interest that the BH restriction was imposed to preserve public view from Bowen Road along the major visual corridor in the Wan Chai Gap area and to ensure effective planning control;
- (xvi) should there be any major amendments to the approved building plans, the BH restriction on the OZP had to be complied with;

Responses to the proposals from R93

- (xvii) to maintain the planning principle of preserving public views from Bowen Road in the Wan Chai Gap area, removal or relaxation of BH restriction to 120mPD for the representation site was not supported; and
- (j) PlanD's views – as detailed in para. 6 of the Paper, PlanD recommended the Board not to uphold all the representations.

13. The Chairman then invited the representers and their representatives to elaborate on their representations.

Representation No. 102 (Ms Hwang Sok Inn)

14. Ms. Hwang responded to the Paper and made the following main points:

- (a) rezoning to “CDA” - the representation site should be re-zoned to “CDA” so that redevelopment on the representation site would be subject to planning approval of the Board and the planning intentions under the TPB Guidelines No. 17 for CDA development could be achieved;
- (b) the type of community facilities was not in keeping with the residential neighbourhood - as mentioned in para. 4.1.3 and the footnote of the Paper,

the redevelopment would be an integrated building co-locating the primary school, welfare centre and church. The facilities to be provided, as elaborated in footnotes 3 to 5 of the Paper, were not congruous with the neighbouring residential area and the provision of facilities for elderly care and mentally handicapped services or canteen for the unemployed would lower the value of the residential sites and affect an otherwise quiet neighbourhood;

- (c) development intensity - a plot ratio of 5 was imposed on the adjoining R(B) sites. It would be appropriate to also restrict development on the representation site to a plot ratio of not more than 5. The intensity of the approved redevelopment on the representation site at plot ratio of more than 8.1, would contradict the principle that GIC sites should also function as breathing space. There was no information on the gross floor area (GFA) of those so-called ancillary facilities, which might have resulted in the massive 16-storey building;
- (d) visual impact - from the photos in Plan H-5a and H-5b, it was apparent that the redevelopment would create major visual impacts on the adjacent buildings. It was understood that the composite building would have two walls, more than 60m in length, which would contravene the guidelines suggested in the “Building Design to Foster a Quality and Sustainable Built Environment” stakeholders engagement document. The Board should not just be concerned about preserving public views from Bowen Road along the visual corridor of Wan Chai Gap. The concerns of those people on Kennedy Road who suffered most should be also taken into account;
- (e) traffic impact - according to TD’s comments, the redevelopment would result in less traffic due to fewer students. However, if taking into account the additional welfare centre and church, the redevelopment would result in more traffic congestion on Kennedy Road; and

- (f) representer's proposal – the representation site should be subject to a plot ratio of 5 and BH of 60mPD, which was the existing height of Caine Terrace.

[Mr. B.W. Chan arrived to join the meeting at this point and Mr. Andrew Tsang left the meeting at this point.]

Representation No. 98 (Mr. Law Kam Hung)

15. Mr. Law made the following main points:

- (a) the redevelopment at the representation site was still subject to many uncertainties and the Board, being the last gatekeeper for developments in Hong Kong, was urged to carefully consider the representations;
- (b) the Finance Committee had already approved the funding of \$200 million for redevelopment of St. James' Primary School. However, it should be noted that Education Bureau had closed many schools in Wanchai in recent years and the Secretary for Education had announced the policy that schools would be allowed to reduce class next year because of the decreasing school children population. It was doubtful whether the primary school redevelopment was necessary and it would be a waste of public money;
- (c) there was a possibility that the redeveloped primary school would be closed in a few years' time. It might then be converted to other uses such as a 3-star hotel;
- (d) the primary school would be developed with public funding and the church and welfare centre would be developed with private funding, how could it be ensured that public funding was only used for the school development; and

- (e) in recent years, when the Board considered the redevelopment of G/IC sites, like the Union Church Hong Kong on Kennedy Road and Swatow Christian Church in Kowloon City, those redevelopments had to be compatible with the overall planning in the surrounding areas. The same principle should be applied here.

[Mr. Timothy K.W. Ma left the meeting at this point.]

Representation No. 93 (Other Church Body of the Hong Kong Sheng Kung Hui)

16. With the aid of a powerpoint presentation, Mr. Brownlee made the following main points:

Background

- (a) St James' Settlement had used the representation site for around 40 years. There was a need for redevelopment as the headquarters building had already been used to its full capacity, the existing facilities were not up to modern standard, the primary school had to be up-graded to meet new requirements and there was a need for expansion for the social services;
- (b) the redevelopment at 100.6mPD had been approved in accordance with all relevant legal requirements applicable prior to the BH restriction being imposed on the representation site. As part of the long term funding and services planning, the building was designed to accommodate two more floors on the top in future. However, with the 90mPD BH restriction, there was no scope for future expansion;
- (c) the redevelopment would comply with the planning intention of the "G/IC" zone and there was strong support from the Education Bureau and Social Welfare Department. The imposition of BH restriction would limit the extent to which the planning intention could be achieved;
- (d) those representations requesting for more stringent BH restrictions on the

representation site were not related to public interests;

Building Height

- (e) the representer objected to the unnecessarily low BH of 90mPD on the representation site. There was no restriction on BH / GFA / PR under the existing lease, and the BH restriction would directly affect the development rights of the owner;
- (f) the reason for the BH restriction was to protect the public view from Bowen Road, which generally followed the 120m contour line. There was dense vegetation along Bowen Road for the area to the south of the representation site, and there were actually only two locations where the representation site were visible. The views from those two viewpoints were framed by tall buildings, e.g. Bamboo Grove to the west and Grandview Tower to the east, which were at 185mPD and 144mPD respectively;
- (g) higher BH restrictions were imposed on other sites on Bowen Road - reference was made to two areas along Bowen Road with BH restriction of 120mPD, a “R(B)” zone to the west and a “CDA” zone to the east of the representation site. In comparison, the BH restriction of 90mPD on the representation site and the adjacent residential sites was unnecessarily restrictive and inconsistent with those other zones along Bowen Road with BH restriction of 120mPD. The representation site was also relatively much further from Bowen Road when compared to the “R(B)” and “CDA” zones quoted. It was therefore, appropriate to amend the BH restriction for the representation site and the adjacent residential sites to 120mPD;
- (h) the BH restriction of 90mPD (including all roof-top structures) was too low to accommodate the approved building which would be developed up to 100.06mPD. It also meant that the approved building could not be reasonably modified. It would also not be possible to accommodate the

additional two planned floors on the St James' Settlement portion; and

Representer's Proposal

- (i) the public interest of providing social services to meet community needs and the integrity of the planning intention of protecting the public views from Bowen Road could be equally achieved with a BH restriction of 120mPD. However, given the approved building with a height of 100.06mPD, if the Board considered that 120mPD was not acceptable, there were good practical and planning reasons for amending the BH restriction on the representation site and the adjacent R(B)2 sites to 110mPD.

Representation No. 1 (Lam Chu Ming)

17. Making reference to the supplementary note tabled at the meeting, Mr. Lam made the following main points:

- (a) the representer's proposals were that there should be more stringent BH restriction, plot ratio restriction should be imposed and redevelopment schemes should be subject to approval of the Board;
- (b) visual impacts created by the proposed development as viewed from a lower level, such as from the Stone Nullah Lane area, should also be assessed as views to the mountain backdrop would be completely blocked by the redevelopment;
- (c) it was not appropriate to show a photomontage of views from the roof-top of a 20-storey building (Plan H-6a), which seemed to show that mountain views could be preserved.; and
- (d) he did not agree with PlanD's response in the Paper that with the imposition of BH restriction on the representation site, there was no absolute need to require redevelopment at the representation site to be

subject to the Board's approval. The St. James' Primary School redevelopment had spent more than 10 years to negotiate with Government to come up with the current plan. He doubted why the imposition of BH on the OZP had been delayed till the redevelopment on the representation site had obtained the approval of building plans.

18. After the presentations made by the representers and their representatives, the Chairman invited questions from Members.

19. A Member asked whether there were photos of the representation site taken from the level of Stone Nullah Lane. Ms. Brenda Au stated that there was no photo taken from the level of Stone Nullah Lane. She explained that the need for preserving public view from Bowen Road along the visual corridor of Wan Chai Gap was the prime concern in formulating BH restrictions. A photomontage from King Sing House (Plan H-6a) was prepared as photos attached to some representations were also prepared at such higher levels. Ms. Brenda Au then showed Members a photo of the representation site (Plan H-3) and indicated that a full view of the redevelopment and its surrounding could not be seen from that viewpoint at Bamboo Grove.

20. Noting the concern of some representers on the traffic impact of the redevelopment, a Member asked DPO/HK to explain the transport arrangements at the representation site. Ms. Brenda Au showed Members a letter dated 13.7.2009 from the Education Bureau to The Incorporated Owners of Merry Garden, which included TD's responses to the concerns raised by the residents. Ms. Brenda Au clarified that according to TD, there would be a reduction in the overall traffic flow due to fewer number of students after the change of all classes to whole-day schooling and there would also be on-site loading/unloading areas within the development for school buses and private cars. As a result, the traffic impact would be comparable to the existing situation. TD also indicated that as schools usually started earlier, school traffic would unlikely clash with the morning peak hour traffic.

21. In response to a Member's question on whether the view from Bowen Road would be screened off by the dense vegetation along the road, Ms Brenda Au replied that some areas along Bowen Road were flanked with trees but there were intermittent views

along the road in addition to the views towards Wan Chai Gap as shown in the Paper (Plan H-5b).

22. As the representers and their representatives had finished their presentations and Members had no questions to raise, the Chairman said that the hearing procedures had been completed and the Board would then deliberate on the representations in their absence and would inform them of the decision in due course. The Chairman thanked the representers and their representatives and the Government's representatives for attending the hearing. They all left the meeting at this point.

Deliberation Session

23. In response to the Chairman's question on the approved building plans on the representation site, the Secretary advised Members that before BH restrictions were imposed on the OZP, a set of building plans had already been approved for the redevelopment on the representation site with a BH of 100.96mPD and a plot ratio of 8.389. The BH restriction imposed on the OZP would not affect the building plans already approved by the Building Authority but any subsequent major amendments to the approved building plans would have to comply with the BH restrictions as stipulated on the OZP. Members should therefore consider whether the 90mPD BH restriction for the representation site was appropriate.

[Prof. Bernard V.W.F. Lim arrived to join the meeting at this point.]

24. A Member said that although it was not a common practice to impose plot ratio on "G/IC" sites, it might be necessary to consider the proposal by some representers to impose PR for the representation site as the redevelopment scheme was massive and would have major impact on its immediate neighbourhood. It was doubtful why the development intensity had increased substantially as compared with the previous facilities. That Member supported the provision of community facilities but queried the need to rebuild the primary school as there was currently a surplus of primary school places. The Chairman said that policy support and the necessary funding had already been obtained for rebuilding the primary school, and the community facilities to be included in the redevelopment might have been requested by the Government.

25. With regard to visual impacts, a Member said that the BH restrictions would protect public views from Bowen Road. The BH restriction of 90mPD had struck a balance and any further relaxation or tightening of the BH restriction for the representation site would not be appropriate. This Member however considered that government departments had not clearly explained to the residents about their concerns on the traffic impacts brought about by the redevelopment.

26. In response to some Members' queries, Mrs. Ava Ng said that it was important to preserve public views from Bowen Road along the visual corridor of Wan Chai Gap as Bowen Road was a popular walking trail. The BH restrictions were not imposed to ensure that views from private properties would not be affected. She also advised Members that a number of consultation meetings were held with the local residents at which TD and PlanD had explained the traffic impact of the redevelopment proposal in detail. The Secretary further advised Members that the preservation of public views from Bowen Road along the visual corridor of the Wan Chai Gap had been accepted by the Board when the previous version of the Mid-levels East OZP was amended to incorporate BH restrictions for the residential zones. The previous OZP had been approved by the Chief Executive in Council.

27. A Member said that Kennedy Road was already very congested and there were doubts the redevelopment would not generate adverse traffic impact. Another Member said that although the redevelopment would have to go ahead, it was important to consider how its traffic impact could be addressed. A Member agreed to TD's view as the traffic situation could be improved with the provision of on-site loading/unloading facilities and the change of all classes in the primary school to whole-day schooling.

28. A Member indicated support to preserve public views from Bowen Road as it was not only important for the Wan Chai residents but a wider community as Bowen Road was a popular walking trail in the territory. That Member considered that the BH restriction of 90mPD had already struck a right balance and it was not appropriate to increase the BH restriction to 120mPD. A Member agreed to the BH restriction of 90mPD though some relaxation could be allowed for the spike of the church. Another Member said that Bowen Road was not totally screened by heavy vegetation and there were intermittent

viewpoints and further increase in BH restriction on the representation site was considered not appropriate.

[Mr. David W.M. Chan left the meeting at this point.]

29. The Chairman summarised Members' views that the proposal to impose plot ratio restriction was not necessary and that the BH restriction of 90mPD on the representation site was appropriate as it was formulated after considering and balancing a number of factors. There were no strong planning justifications to relax or tighten the BH restriction on the representation site as proposed by the representers. With regard to the traffic impacts, the Board agreed with TD's expert advice that the traffic impacts generated by the redevelopment would be comparable with the existing condition. As such, all the representations would not be upheld. Members agreed. Members then went through the suggested reasons for not upholding the representations as detailed in paras. 6.1 and 6.2 and considered that they were appropriate.

Representation Nos. 1 to 92, 94 to 103

30. After deliberation, the Board decided not to uphold the representations for the following reasons:

- (a) the formulation of the BH restriction for the representation site had taken into account various factors including the planning principle of preserving public view from Bowen Road along the visual corridor of Wan Chai Gap, the nature of the existing facilities on the representation site, the committed redevelopment scheme, the need for provision of the community facilities, and maintaining compatible BH profile in the local setting. Visual assessment including the preparation of photomontages in the course of the formulation of the BH restriction for the representation site had been made. The BH restriction imposed on the representation site had already struck a balance amongst the various factors including the public interest;
- (b) due to different functional requirements specific to individual types of

GIC facilities, PR restrictions were, as a general practice, not imposed on “G/IC” zones. It would also not be appropriate to apply the PR restriction of 5 for the adjoining “R(B)2” zone to the representation site;

- (c) the proposed redevelopment at the representation site would not cause any particular environmental, traffic and infrastructural problems. With the BH restriction already imposed on the representation site, there was no absolute need to require redevelopment at the representation site be subject to the Board’s approval; (R1, R4, R6, R7, R8 to R92, R96, R98, R99 to R101)
- (d) evacuation safety of the buildings at the representation site would be ensured through appropriate building design requirements administered by relevant Government departments; (R1, R3, R8 to R92, R94, R99 to R101)
- (e) the redevelopment at the representation site would result in less traffic due to fewer students and avoiding on-street loading/unloading activities of school buses. The overall traffic impact would be comparable to the existing condition. The requirement for the design and provision of vehicular access arrangement was subject to detailed scrutiny and approval at building plan submission stage; (R97)
- (f) the redevelopment would be confined to the representation site with no tree felling involved. Thus, the existing vegetation and landscape in the vicinity would not be adversely affected; (R97) and
- (g) apart from the preservation of public view from Bowen Road that had been addressed by the imposition of the BH restriction, the representation site was not subject to any particular constraints/consideration that needed to be considered by the Board in the form of a Master Layout Plan submission. As such, it was not necessary to rezone the representation site to “CDA”. (R102 and R103)

Representation No. 93

31. After deliberation, the Board decided not to uphold the representation for the following reasons:

- (a) the formulation of the BH restriction for the representation site had taken into account various factors including the planning principle of preserving public view from Bowen Road along the visual corridor of Wan Chai Gap, the nature of the existing facilities on the representation site, the committed redevelopment scheme, the need for provision of the community facilities, and maintaining compatible BH profile in the local setting. Visual assessment including the preparation of photomontages in the course of the formulation of the BH restriction for the representation site had been made. The BH restriction imposed on the representation site had already struck a balance amongst the various factors including the public interest. To maintain the integrity of the planning principle, removal or relaxation of the BH restriction for the representation site was not supported; and
- (b) it was in the public interest that the BH restriction was imposed to preserve public view from Bowen Road along the major visual corridor in the Wan Chai Gap area and to ensure effective planning control. The proposed increase in BH restriction from 90mPD to 120mPD would frustrate such planning intention.

[Dr. Greg C.Y. Wong arrived to join the meeting, Mrs. Ava S.Y. Ng left the meeting temporarily and Dr. C.N. Ng and Mr. Raymond Y.M. Chan left the meeting at this point]

Agenda Item 4

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/YL-HT/634

Temporary Open Storage of Containers with Ancillary Office for a Period of 3 Years in "Open Storage", "Recreation" and "Village Type Development" zones, Lots 1103 RP, 1104 RP, 1105, 1106 (Part), 1107, 1109, 1110 (Part), 1130 RP(Part), 1131 (Part), 1132 (Part), 1138 (Part), 1139 RP(Part), 1139 S.A RP, 1140 (Part), 1141 RP, 1142, 1143 RP (Part), 1145 (Part), 1152 (Part), 1153 (Part), 1154 RP(Part), 1155 (Part), 1156, 1157 (Part), 1158 (Part), 1161 (Part), 1162 (Part), 1163 (Part), 1164 (Part), 1165, 1166, 1168 (Part), 1169 RP(Part), 1181 (Part), 1188 RP(Part), 1189 RP (Part), 1190(Part), 1191 (Part), 1192 (Part), 1193 (Part), 1194 (Part), 1195(Part) and 1196 (Part) in D.D.125 and Adjoining Government Land, Ha Tsuen, Yuen Long
(TPB Paper No. 8508)

[The meeting was conducted in Cantonese]

32. The following representative of PlanD and the applicant's representative were invited to the meeting at this point:

Ms. Amy Cheung - District Planning Officer/Tuen Mun and Yuen Long
(DPO/TMYL), PlanD
Mr. Tang Kam Chai - Applicant's Representative

33. The Chairman extended a welcome and explained the procedures of the review hearing. He then invited Ms. Amy Cheung to brief Members on the application.

34. 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) background - the applicant sought planning permission to use the application site for a temporary open storage of containers with ancillary office for a period of three years. The application site fell within the "Open Storage (OS)", "Recreation (REC)" and "Village Type Development (V)" zones of the approved Ha Tsuen OZP No.

S/YL-HT/10 at the time of s.16 application and currently in force;

- (b) the Rural and New Town Planning Committee (RNTPC) rejected the subject application on 24.7.2009 for the reasons set out in para. 1.2 of the Paper. The main reasons were that the extension of the container yard to the north was not in line with the planning intention of the “V” zone and the development was not in line with the TPB Guidelines No. 13E for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13E) in that the applied use in the northern portion of the application site was not compatible with the nearby village settlement, there were adverse departmental comments and the development would have adverse environmental and traffic impacts on the surrounding areas;
- (c) the application site was the subject of ten previously approved / rejected applications. The latest approval was application no. A/YL-HT/621, that covered only the southern portion of the application site falling mainly within the “OS” zone and partly with the “REC” zone;
- (d) the applicant had submitted written representation, a drainage impact assessment (DIA) and a drainage proposal in support of the review, the main justification put forth were summarised in para. 3 of the Paper and the main points were highlighted below:
 - (i) the application site was within the Category 2 area and was in line with the TPB PG-No. 13E;
 - (ii) there was no local objection and any concerns of local residents could be addressed through the implementation of approval conditions;
 - (iii) there were no major adverse departmental comments;
 - (iv) similar applications in the vicinity had been approved;

- (v) as the development was for temporary use, it would not prejudice the long term planned land use;
- (vi) Ha Tsuen had been a centre of storage yards since 1989 and it was a convenient location for open storage and other related businesses;
- (vii) the applicant was willing to amend the application site boundary by excluding the portion falling within “V” zone if the review application was approved by the Board;
- (viii) noise impact and environmental nuisance to the sensitive receivers in the vicinity should be minimal as traffic for the application site was not using the same road as the residential houses in the vicinity and sufficient control measures in accordance with the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites (COP)” had been imposed on the application site;
- (ix) the applicant would implement the accepted drainage proposal to improve the deteriorating drainage system of the adjacent vacant land if planning permission was granted;
- (x) the applicant had undertaken substantial enhancement measures including landscaping, drainage, paving and fencing and, if the review application was approved, further tree planting would be implemented;
- (xi) there would be no cumulative adverse traffic impact as the development existed since 1990; and
- (xii) the applicant was willing to shift the application site boundary to exclude the Tseung Kong Wai Archaeological Site if

archaeological work was required;

- (e) departmental comments – the departmental comments were summarised in para. 5 of the Paper. The Director of Environmental Protection (DEP) did not support the application. DEP pointed out that the review application did not comply with the pre-requisite conditions for applying COP, in that the development would generate heavy vehicular traffic and there were sensitive uses close to the application site and the access roads at Ha Tsuen Road and Tin Ha Road. The Assistant Commissioner for Transport/New Territories (AC for T/NT), TD considered that approving such similar applications would induce cumulative adverse traffic impact on the nearby road network. The Chief Engineer/ Mainland North, Drainage Services Department (CE/MN, DSD) had no in-principle objection to the review application and had provided some technical comments on the submitted DIA. The other government departments generally maintained their previous views on the application that were mainly technical;
- (f) public comment - no public comment was received during the statutory publication period; and
- (g) PlanD's view – PlanD did not support the review application for reasons detailed in para. 7 of the Paper. The main planning considerations were that even upon excluding the portion of the application site falling within the “V” zone as proposed by the applicant, half of the application site would still be within Category 2 area and in the “REC” zone; given that there were adverse departmental comments, the application did not meet the TPB PG-No. 13E. The stretch of “REC” zone was to serve as a buffer for the “V” zone to its north, approval of the application would defeat this buffering purpose as the development would still be about 78m from the village core of Tseung Kong Wai and about 6m away from the nearest residential dwellings. The north eastern portion of the application site was not used for container storage until 2001, which was a suspected unauthorised development and enforcement action was

being taken by the Planning Authority. Regarding approval of similar applications as quoted by the applicant, there were different planning considerations such as the zoning of those application sites and their further distance from the residential dwellings as detailed in para. 7.8 of the Paper. The previous application no. A/YL-HT/621 was on a smaller site and mainly covered the southern portion of the current application site, which was mostly within the “OS” zone and was some 80m away from the nearest residential dwelling. The Board / Committee had never approved any container storage in the immediate vicinity of the adjoining “V” zones. The northern part of the application site under the current application was also the subject of three planning applications rejected by the Committee. Approval of the application would set an undesirable precedent for similar applications in the area and result in cumulative adverse impacts on the surrounding environment.

35. The Chairman then invited the applicant’s representative to elaborate on the application. Mr. Tang Kam Chai made the following main points:

- (a) the case had been dragged on for more than ten years. The drainage and landscaping aspects for the entire application site of four hectares, including the northern portion, had already been approved. EPD had not raised comments in the past. Given that the drainage works, tree planting and fencing had already been implemented, there was no foreseeable problem with the current application;
- (b) with regard to traffic problem, it should have been taken into account when the Board decided to rezone the area for open storage uses as the inadequate traffic infrastructure support for Deep Bay Link was well known;
- (c) container storage uses had been operated on the application site for more than 10 years without any problem; and

- (d) the applicant was willing to exclude areas within the “V” zone and provide further setback and that might be subject to approval conditions.

36. The Chairman asked DPO/TMYL to clarify the points made by the applicant’s representative about the approval of drainage and landscape works on the application site. Ms. Amy Cheung said that there was no previous planning approval for the northern portion of the application site. The previously approved applications only covered the southern portion, which was largely within the “OS” zone. Ms. Amy Cheung added that the approval of drainage works by DSD as mentioned by the applicant’s representative should be related to the compliance of approval conditions for the previous planning permissions. Mr. Tang Kam Chai disagreed and said that it was to the knowledge of all relevant departments ten years ago that tree planting and drainage improvement works had been implemented for the whole of the application site, and the current planning application was only made because of enforcement actions taken by the Planning Authority.

37. In response to the Vice-chairman’s question, Mr. Tang Kam Chai said that the Board had only granted planning approval on the southern portion of the application site. However, the fact that relevant departments had already accepted the drainage and tree planting works on the application site would be useful reference for the Board’s consideration. The Vice-chairman said that the acceptance by government departments on certain works requirements would not pre-empt the Board in making its own decision. Mr. Tang Kam Chai also said that the applicant was once advised to divide the application site into two portions in previous applications in view of EPD’s COP, which would only apply to sites larger than two hectares. Mr. Benny Wong stated that the EPD would not advise applicants to divide applications into two portions.

38. A member asked whether PlanD and EPD would change their views on the application if the area zoned “V” was excluded from the application site. Ms. Amy Cheung said that even with the exclusion of the area zoned “V”, which was only a small portion of the application site, the boundary of the revised application site would still be very close to some existing domestic structures, i.e. 6m from the nearest residential dwelling, some 23m from a new small house under construction, and some 60 to 70m away from Tseung Kong Wai. According to the COP, EPD would not support open

storage uses within 100m from sensitive uses. Mr Benny Wong advised that EPD would maintain its view of not supporting the application even if the area zoned “V” was excluded. Mr. Tang Kam Chai indicated that there were no complaints on the applicant’s operation on the application site throughout the past ten years, and the applicant’s willingness to exclude the area zoned “V” should reduce any impacts on the surrounding residential dwellings. Mr. Tang Kam Chai further indicated that the Board could impose more stringent conditions as considered suitable and urged the Board to approve the application.

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

Deliberation Session

[Mrs. Ava S.Y. Ng returned to the meeting at this point.]

40. A Member said that the review application should be rejected. The applicant’s representative had only relied on what had been done in the past ten years without noting the change in the surrounding context and EPD’s new requirements under the COP. Even if drainage works were approved by DSD as claimed by the applicant’s representative, it would only be one of the considerations in assessing the application and the adverse comments from EPD and TD should also be taken into account. The Chairman summed up and said that the review application should be rejected on grounds that it was not in line with the TPB PG-No. 13E, the northern portion of the application site would be incompatible with the adjacent “V” zone, and the proposed development would create adverse environmental and traffic impacts on the surrounding areas. Members agreed.

41. Members then went through the reason for rejection as stated in para. 8.1 of the Paper and considered that it was appropriate. After further deliberation, the Board decided to reject the application on review and the reason was the development was not in line with the Town Planning Board Guidelines No. 13E for Application for Open Storage and Port Back-up Uses in that the applied use at the northern portion of the application site was not compatible with the nearby village settlements, in particular the residential dwellings to the east and the cluster of village type developments to the north, there were adverse departmental comments, and the development would have adverse environmental and traffic impacts on the surrounding areas.

Agenda Item 5

[Open meeting (Presentation and Question session only)]

Review of Application No. A/YL-PH/579

Petrol Filling Station in "Village Type Development" Zone, Lots 2095 S.B RP, 2096 S.B RP and 2097 S.B RP in D.D. 111, Kam Tin Road, Wang Toi Shan, Pat Heung, Yuen Long (TPB Paper 8509

[The Meeting was conducted in English and Cantonese]

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

Ms. Amy Cheung	- DPO/TMYL, PlanD
Mr. Terry Tang	- Applicant
Mr. Philip Nunn	- Applicant's Representative
Mr. Christopher Robinson	- Applicant's Representative
Mr. Brian Law	- Applicant's Representative
Ms. Algie Leung	- Applicant's Representative
Mr. Tang Che Yin	- Applicant's Representative
Ms. Chan Wai Ying	- Applicant's Representative

43. The Chairman extended a welcome and explained the procedures of the review hearing. Members noted the information tabled by the applicant. He then invited Ms. Amy Cheung to brief Members on the application.

44. 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) background - the applicant sought planning permission to use the application site for a petrol filling station (PFS) on a permanent basis. The application site was zoned “V” on the approved Pat Heung OZP No. S/YL-PH/11 at the time of application and currently in force;
- (b) the RNTPC rejected the subject application on 8.5.2009 for the reasons set out in para. 1.2 of the Paper. The main reasons were that the PFS use would be incompatible with the neighbouring village houses under construction; and a number of village houses were located in close proximity to the application site and the development would result in interface problem and adverse environmental impact;
- (c) the applicant had submitted further information with the previous noise and odour impact assessment, and further justifications in support of the review. The main justifications put forward were summarised in para. 3 of the Paper and the main points were highlighted below:
 - (i) the application site had permission for use as a PFS before the publication of the Pat Heung OZP. The PFS use was a pre-Interim Development Permission Area (IDPA) use and should have enjoyed the “tolerated” status as Certificates of Exemption were issued on 23.1.1990 and 24.7.1990, respectively well before the gazetting of IDPA plan of Pat Heung on 5.10.1990;
 - (ii) the issue of ‘existing use’ was not only a legal issue but had relevance to the grounds of objection, so that issue could not be ignored by the Board;

- (iii) Lands Department and PlanD should not have allowed the new village houses to be erected so close to the subject PFS use. Wider buffer area should have been reserved;
- (iv) the application site was only a small site and would have minimal impact on the area as a whole;
- (v) the existing building licence on-site was already for permanent non-industrial use and regardless of whether the current application was approved, the non-industrial use was already a permanent one and DLO/YL had full knowledge of the PFS use on the application site. The discrepancies in height/area of the structures covered by the Short Term Waiver issued in respect of Lot 2095 S.B RP were minor concerns;
- (vi) the applicant's noise and odour impact assessment confirmed that, after certain mitigation works, noise from the PFS would comply with Hong Kong Planning Standards and Guidelines requirements. There was no statutory provision and guideline in Hong Kong or other countries to define the "noise nuisance" concerned by DEP. According to the analysis, noise nuisance from the PFS should not be significant compared with the traffic noise of the main road;
- (vii) there were PFS sites in Yuen Long with village houses very close to them and one of the sites had planning permission from the Board; and
- (viii) as far as the applicant was aware of, the only objection came from a person who was not a resident in the locality. The villagers in the immediate locality had all been consulted and there were no objections to the application;

- (d) departmental comments – the departmental comments were summarised in para. 5 of the Paper. The Director of Environmental Protection (DEP) had reservation on the application and noted that the technical deficiencies and discrepancies in the noise and odour impact assessment were not yet addressed. DLO/YL indicated that given the PFS and the ancillary structures were operated as a whole and were proposed to be permanent in nature, should the Board approve the planning application on permanent basis, a land exchange was required and would be considered according to the current land policy. DLO/YL also advised that in the vicinity of the application site, a total of 12 number of Small House applications were in waiting status and a total of 19 number of Building Licences were granted. According to the prevailing Small House Policy, the area was reserved for Small House developments by indigenous villagers. Other departments had no objection nor other technical comments;

- (e) public comment - a public comment was received from a villager of Wang Toi Shan at the s.16 and review stages, opining that the PFS was close to the neighbouring village houses and would create noise and odour nuisance;

- (f) PlanD's View – PlanD did not support the review application for reasons detailed in para. 7 of the Paper. The main planning considerations were that the approval of the PFS on permanent basis would frustrate the long-term planning intention of the “V” zone that should be preserved for Small House development by indigenous villagers. The PFS was incompatible with the gradually increasing number of village houses in its close proximity. DEP still had reservation on the application as their technical comments on the impact assessment and potential noise nuisance were not yet addressed, approval for a permanent PFS use was not appropriate but a short term approval for two years alike the previous application (A/YL-PH/572) might be considered so that the situation could be monitored. The applicant quoted examples of PFS located close to

village houses in the New Territories. However, those planning applications for the PFSs at Shek Po Tsuen, Hung Shui Kiu and Ping Ha Road, Yuen Long were granted at the time when the residential dwelling in the vicinity were not yet fully developed and the PFS at San Hi Tsuen Street, Tong Yan San Tsuen was an existing use that was tolerated. However, each case should be assessed on individual basis / merits and different site circumstances. With regard to the applicant's claim of the PFS use on-site as a use before the gazetting of the Pat Heung IDPA on 5.10.1990 (i.e. an 'existing use'), it was outside the jurisdiction of the Board to determine any claims in relation to 'existing use'. Local objection had been received from a villager of a nearby village commenting about odour and noise nuisance from the PFS.

45. The Chairman then invited the applicant's representative to elaborate on the application, the applicant's representatives tabled some information (including an aerial photo of the application site taken in 1988, debit notes for professional services in 1989 and correspondences between DLO/YL and the applicant in 2009 and 2010) and made the following main points:

- (a) As introduction, Mr. Philip Nunn said that in addition to their submitted written papers, their presentation would elaborate on the following key issues:
 - (i) the application site was an existing use and had been in use for almost 20 years, the new developments around the PFS were developed after the existing PFS;
 - (ii) a detailed noise and odour impact assessment had been prepared and concluded that there would be no major environmental impacts, and the minor outstanding technical comments would be addressed in the presentation;
 - (iii) there were comparable cases for approved planning applications for PFS uses; and

- (iv) Mr. Tang Che Yin, Chairman of the Wang Tai Shan Village Committee, would advise on the public comment and explain that there was no objection from villagers in the immediate vicinity of the PFS.
- (b) in response to comments made by DLO/ YL, Mr Christopher Robinson made the following main points:
- (i) a licence was issued in 1994 for a small house development for “non-industrial” purposes on Lot 2096 S.B. RP in DD111. The licence permitted a building for non-industrial use, which included PFS use. The licensee was lawfully using the land covered by the building licence for a PFS for some 18 years to the certain knowledge of DLO/YL and many other government departments;
 - (ii) with regard to comments that the ancillary structures, including a sale office and a switch room, were in breach of the short term waiver conditions, no warning letter was issued to request the applicant to purge the breach; and
 - (iii) in granting the application for small houses surrounding the PFS, LandsD should have considered the presence of the existing PFS and if there were any genuine concern, the permission to build the new small houses should have been refused;
- (c) with regard to the question of ‘existing use’, Mr. Philip Nunn referred Members to an aerial photo (taken on 13.12.1988) in the information tabled by the applicant and said that when the Pat Heung IDPA Plan was gazetted, the application site was already cleared for construction of the PFS although the PFS was not physically on the application site then. Debit notes for professional services were also included in the tabled information to show that works for the PFS were underway since 1989. Although the Paper said that the question of ‘existing use’ was outside

the jurisdiction of the Board, the information was considered relevant as houses built in the immediate vicinity should have taken into account the long established 'existing use' of a PFS on the application site;

- (d) in response to the comments from EPD on the noise and odour impact assessment in Annex E of the Paper, Mr. Philip Nunn referred Members to section 5 of the assessment and highlighted the conclusion that no significant noise and odour impact was anticipated upon the effective incorporation of all the noise and odour mitigation measures for the PFS under the planning application. Mr. Brian Law, speaking on behalf of the environmental consultant who prepared the assessment, elaborated on the responses to EPD's comments as detailed in Annex H of the Paper as below:
 - (i) according to the environmental consultant, the sound level meters used complied with European standards and were considered suitable for assessing noise impacts of the PFS;
 - (ii) the noise assessment had assumed that vehicles would switch off their engines whilst servicing, however, the environmental consultant had estimated that even if assuming engines were left on during servicing, the noise impact would still comply with the noise standards;
 - (iii) to address EPD's concern on noise from tank refilling operations, the modelling could be reassessed assuming the noise levels to be equivalent to two large vehicles;
 - (iv) the applicant confirmed that if the application was approved, the transparent panels proposed as mitigation measure in the noise impact assessment would be installed and a quantitative assessment would be submitted to demonstrate that the noise criteria would be complied with after installation of the panels;
and

- (v) Mr. Philip Nunn pointed out that the PFS was very small in scale and, according to the PFS operator, the tanks would only be filled up once or at most twice a week, the refilling would be done during the day time and would take around 10 to 15 minutes each time. Noise impact from the refilling would therefore be minimal. In general, it was considered that comments from EPD were minor in nature and could be resolved;

- (e) Mr. Brian Law further elaborated on the comparable cases of PFS applications, which had been approved by the Board on sites close to village houses as detailed in para. 3(g) of the Paper. With the aid of Plan R-6b, Mr. Brian Law drew Members' attention to the fact that when the PFS at Shek Po Tsuen was approved in the early 1900s, it was already known that the surrounding lots, though vacant at the time, were old scheduled lots that would be used for house developments in future. For the PFS at Ping Ha Road, Mr. Brian Law indicated that the sheds near the PFS were with village house building licence and in recent years there were more and more village houses being built around the PFS. Mr. Brian Law concluded that the planning intention of avoiding PFS being too close to village houses, as applied to this application, was not consistently applied in those comparable cases. Mr. Brian Law also indicated that there were no complaints from locals on those small scale PFS;

- (f) with regard to the local objection from a villager in Wang Toi Shan, Mr. Tang Che Yin indicated that the villager who had submitted a public comment on the review lived very far away from the PFS and would not be affected by the PFS. The person who made the comment did not live in Lo Uk Tsuen and had not consulted the local villagers. Therefore, the commenter had no basis to claim to represent the villagers in Lo Uk Tsuen. Further, being the Village Committee Chairman, Mr. Tang Che Yin said that he was not aware of the approvals for new houses mentioned in the public comment. Mr. Tang Che Yin also indicated

that no villagers had complained about the PFS;

- (g) Mr. Philip Nunn concluded by saying that the existing use of the PFS had been on the application site for a long time, the houses constructed around the PFS should not be an obstacle to the application, the EIA had concluded that there would be minimal noise and odour impacts on the environment, the comparable cases showed that there were co-existence of PFS and village houses which were similar to this case, and there was actually no objection from people in the locality.

46. A Member asked DPO/TMYL whether there was information about the demand and supply of land for small houses for the nearby villages. Ms. Amy Cheung said that DLO/YL had advised that there was no small house application on the private lots of the application site. However, she had no data in hand on the demand and supply of land for small houses within the subject "V" zone. With the aid of Plan R-2, Ms. Amy Cheung showed the location of lots with building licences issued around the application site and other lots to the south of Kam Tin Road with small house applications waiting to be processed. That indicated that there was demand for small houses in the locality.

47. A Member asked whether EPD had any further comment on the applicant's response to their comments on the noise impact assessment and whether EPD would maintain its reservation on the application. Mr. Benny Wong said that there was insufficient information in the noise impact assessment and EPD was not able to form a conclusive view. He asked whether the applicant would submit further written responses for EPD's consideration as there were still points requiring clarifications. On the points made in the presentation, he said that the comment about the sound meter was mainly a technical clarification, and the applicant should clarify which particular European standard was referred to. He further indicated that the applicant should separate the noise generated from different steps - vehicle arrival, departure and servicing for the noise assessment, otherwise, EPD was not able to judge whether the calculations were reasonable. Regarding the applicant's environmental consultant's suggestion to assume that noise from refilling by the road tanker was equivalent to two heavy vehicles, Mr. Benny Wong said that such assumption needed to be supported by relevant examples and / or confirmed by the oil companies on the type of oil tanker to be used. As the noise

standards for daytime and nighttime were different, the refilling time might have to be subject to appropriate planning conditions if the application was to be approved. Details about the transparent panels proposed to mitigate noise nuisance should also be submitted for EPD's approval. In response to EPD's comments above, Mr. Philip Nunn said that they could submit written submission to respond to EPD's comments.

48. A Member said that one of the issues was the claim for 'existing use' of the PFS at the time when the Pat Heung IDPA plan was gazetted. However, it was difficult to ascertain the site conditions from the aerial photo tabled or the invoices of 1989 submitted. Mr. Philip Nunn showed Members another aerial photo and said that the application site was cleared but the PFS was not physically in existence on the application site. He explained however, that the tabled information was to demonstrate the point that the planning and construction of the PFS was well underway at that time.

49. As the applicant's representatives 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 them of the Board's decision in due course. The Chairman thanked the representative of PlanD, the applicant and his representatives for attending the meeting. They all left the meeting at this point.

Deliberation Session

50. A Member asked whether EPD was able to form a view without the additional information from the applicant, and whether it was appropriate for the Board to make a decision at this meeting pending the submission of additional information on the noise impact assessment. Mr. Benny Wong replied that the query on the sound meter was only technical but the noise impact assessment submitted, which did not include detailed information as pointed out earlier in the meeting, was too general to allow EPD to form a view.

51. The Chairman said that Members should consider the land use compatibility of a permanent PFS with adjacent small houses in the "V" zone. With regard to the applicant's claim for 'existing use', the Secretary explained that under the Town Planning

Ordinance, 'existing use' had to be a use physically "in existence" before the first IDPA plan was gazetted. She also advised that the Town Planning Appeal Board had indicated that the claim for 'existing use' was outside the jurisdiction of the Town Planning Board and there would be no need to make planning application to the Board if the use applied for was an 'existing use' under the Town Planning Ordinance. Regarding the comparable cases quoted by the applicant where PFS co-existed with residential developments, the Secretary said that each of these cases was considered based on their own merits. On the subject application, Members would need to consider whether the environmental impact generated by the PFS was an over-riding concern and whether PFS use was a compatible use in the area. For the Board's consideration that PFS was a compatible use, it would be necessary for the applicant to submit detailed information on the environmental assessment to demonstrate that there would be no adverse environmental impact caused by the PFS.

52. The Vice-chairman said that as submitted by the applicant's representative, the application site was vacant and the PFS was not physically in existence on the application site in 1990. It was obvious that the PFS could not be considered as an 'existing use' under section 1(A) of the Ordinance. Further, the applicant should have admitted that the PFS did not have an 'existing use' status, otherwise, they would not have submitted the current and previous planning applications to the Board.

53. The Vice-chairman further indicated that it was more important to consider if the application site was suitable for the permanent PFS use from a land use perspective. The area had been designated as "V" zone since 1990 for small house development and permanent development of village houses was expected to increase gradually within the "V" zone. The PFS had only existed as a temporary use and he considered that the application for permanent PFS use should be rejected given the permanent village houses development nearby.

54. Another Member said that comparing to the heavy traffic on Kam Tin Road, the noise impact generated by the PFS would be relatively minor, hence, it might not be appropriate to reject the application on noise impact grounds. A Member sought clarification and the Chairman confirmed that even if the application was rejected, the applicant could still apply to the Board for temporary PFS use.

55. A Member said that given the information provided and the explanation by the applicant, the PFS should not be regarded as an 'existing use' under the Town Planning Ordinance. This Member noted from the site photos in the Paper that the PFS was located very close to a number of village houses and the PFS use was considered incompatible. Given that the application site was within a "V" zone, this Member did not support the application and considered that it was not necessary to request for further information on the noise impact assessment.

56. A Member expressed some sympathy on the applicant's application noting that there were examples of PFS located close to residential development in the urban area and there had been no complaints on the subject PFS. This Member indicated that whilst a permanent PFS use was considered not suitable on the application site, an application for temporary PFS use, could be considered favourably. Another Member agreed that the permanent PFS use was incompatible with the "V" zone and, should the Board decide that noise impact was not a concern, the suggested rejection reason (b) in para. 8.1 of the Paper might need to be amended or deleted. The Secretary said that in considering the PFS use, irrespective of whether it was a permanent or temporary use, the environmental impacts on the neighbouring developments should be of similar concern. Members might need to consider if the PFS use was still acceptable at the application site given the increase in village houses development in the vicinity. The Secretary also indicated that Members might also wish to note that the permanent development of PFS would take up land designated for small house development in "V" zone, which might aggravate any problem of shortage of land for small house development.

57. The Chairman concluded that Members generally agreed to reject the review application for the reason that the permanent PFS use was considered incompatible with the surrounding environment in the "V" zone. Members agreed.

58. Members then went through the reasons for rejecting the application as stated in para. 8.1 of the Paper. After further deliberation, the Board decided to reject the application on review and the reason was that the PFS use was incompatible with the newly occupied village houses next to the application site and would be incompatible with neighbouring village houses to be built in the vicinity.

59. The Board also agreed to advise the applicant that it was outside the jurisdiction of the Town Planning Board to determine any claims in relation to 'existing use' and the applicant might contact the Central Enforcement and Prosecution Section of the Planning Department for further information on this matter.

60. The meeting was resumed at 3:00 p.m.
61. The following Members and the Secretary were present in the afternoon session:

Mr. Thomas Chow
Dr. Greg C.Y. Wong
Mr. Nelson W.Y. Chan
Mr. Tony C.N. Kan
Mr. Edmund K.H. Leung
Professor Bernard W.F Lim
Dr. C.N. Ng
Ms. Sylvia S.F. Yau
Mr. Walter K.L. Chan
Ms. Anna S.Y. Kwong
Professor Paul K.S. Lam
Mr. Benny Y.K. Wong
Mrs. Ava S.Y. Ng

Agenda Item 6

[Open Meeting (Presentation and Question Session Only)]

Review of Application No. A/YL-ST/379

Temporary Container Storage Yard and Container Vehicle Park with
Ancillary Vehicle Repair Area and Site Office for a Period of 3 Years
in “Other Specified Uses” annotated “Comprehensive Development to include
Wetland Restoration Area” Zone,
Lot 796 (Part) in DD 99, San Tin, Yuen Long
(TPB Paper No. 8510)

[The hearing was conducted in Cantonese.]

Presentation and Question Session

62. The following representative of the Government and the applicant were invited to the meeting at this point:

- | | | |
|-------------------|---|--|
| Ms. Amy Cheung | - | District Planning Officer/Tuen Mun and Yuen Long (DPO/TMYL), PlanD |
| Mr. Raymond Leung | - | Applicant's Representative |
| Ms. Li Yee Ting | - | Applicant's Representative |
| Mr. Lam Tim Kit | - | Applicant's Representative |

63. 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.

64. 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 applicant sought planning permission for a temporary container storage yard and container vehicle park with ancillary vehicle repair area and site office for a period of three years in an area zoned "Other Specified Uses" annotated "Comprehensive Development to include Wetland Restoration Area" ("OU(CDWRA)") on the approved San Tin Outline Zoning Plan (OZP);
- (b) the site had an area of about 16,406m². It was accessible at the south of the site via a local track leading to Castle Peak Road – San Tin. The site was currently used for the applied use without planning permission. Enforcement action was being undertaken by the Planning Authority;
- (c) the site fell within Category 4 areas under the TPB Guidelines No. 13E for "Application for Open Storage and Port Back-up Uses". In Category 4 areas, applications for open storage and port back-up uses would normally be rejected except under exceptional circumstances. The intention was to encourage the phasing out of non-conforming uses as early as possible;

- (d) the site was located within the Wetland Buffer Area (WBA) as defined under the TPB Guidelines No. 12B for “Application for Developments within Deep Bay Area”. The intention of the WBA was to protect the ecological integrity of the fish ponds and wetland within the Wetland Conservation Area (WCA) and prevent development that would have a negative off-site disturbance impact on the ecological value of the fish ponds;
- (e) the application was rejected by the Rural and New Town Planning Committee (RNTPC) on 4.12.2009 for the reasons that the development was not in line with the planning intention of the “OU(CDWRA)” zone which was to encourage the phasing out of sporadic open storage and port back-up uses, and to provide incentive for the restoration of degraded wetlands adjoining existing fish ponds; the development at the application site, which fell within the WBA, did not comply with the TPB Guidelines No. 12B in that the applicant failed to demonstrate that the development would not have a negative off-site disturbance impact on the ecological integrity and ecological value of the fish ponds within the WCA in the Deep Bay area; and the development was not in line with the TPB Guidelines No. 13E in that there were adverse departmental comments and the applicant failed to demonstrate that the development would not have adverse ecological, environmental and traffic impacts on the surrounding areas;
- (f) the applicant had not submitted any planning justification in support of the review application;
- (g) the site was the subject of six previous applications (No. A/YL-ST/93, 149, 220, 250, 273 and 298) for container tractor/trailer park and open storage uses submitted by different applicants. The first previous approval was granted on 27.8.1999 when the site was zoned “Residential (Group D)”. No submission had been received from the applicant to comply with the approval conditions and the planning permission lapsed on 27.8.2000. Another approval was granted on 10.12.2000 for a period of three years.

The site had been zoned “OU(CDWRA)” at that time. The planning permission was revoked on 27.4.2002 due to non-compliance with approval conditions on landscape and drainage aspects. The last approval was granted on 10.12.2004 for a shorter period of 12 months to provide time for relocation of the development to other suitable location. The planning permission was revoked on 10.11.2005 due to non-compliance with approval conditions on drainage and traffic aspects;

- (h) three other previous applications including the latest application No. A/YL-ST/298 had been rejected by the Board upon review mainly on the grounds that the development was not in line with the planning intention of the “OU(CDWRA)” zone; the development did not comply with the TPB Guidelines No. 12B; there was insufficient information in the submission to demonstrate that the development would not have adverse drainage and environmental impacts on the surrounding areas; and the approval of the application would set an undesirable precedent for other similar applications;

- (i) departmental comments – the departmental comments were summarized in paragraph 4 of the Paper. The Director of Environmental Protection (DEP) did not support the application because there were sensitive receivers in the vicinity of the site and near the access road. Environmental nuisance was expected. The Director of Agriculture, Fisheries and Conservation (DAFC) commented that the proposed use did not comply with the planning intention of the zone which was to allow an appropriate level of residential/recreational development which served as incentives to displace the open storage and/or to restore degraded wetlands. He also indicated that there were fish ponds within the WCA abutting the eastern boundary of the application site. It would be desirable to discourage continual use of the site for the use so as to minimize off-site disturbance impacts to the fish ponds in the WCA in the long run. The Transport Department (TD) indicated that the width of the access road leading to Castle Peak Road might not be adequate for manoeuvring of container vehicles;

- (j) one public comment were received, but the commenter submitted a letter to withdraw the comment on 23.3.2010. The commenter's letter was tabled at the meeting for Members' reference;

- (k) PlanD's views – PlanD did not support the review application based on the assessments set out in paragraph 6 of the Paper which were summarized below:
 - (i) the planning intention of the “OU(CDWRA)” zone was to encourage the phasing out of sporadic open storage and port back-up uses, and to provide incentive for the restoration of degraded wetlands adjoining existing fish ponds. Approval of the current application was not in line with the planning intention and would inevitably render it difficult to realize the planning intention to restore degraded wetlands adjoining existing fish ponds;

 - (ii) the development was not in line with the planning intention of the WBA as defined under the TPB Guidelines No.12B, which was to prevent development that would have a negative off-site disturbance impact on the ecological value of the fish ponds in the WCA. The site was abutting the WCA and four continuous large ponds were located within the adjoining WCA to the immediate east of the site. DAFC had ecological concerns on the continuation of the development within the WBA in the long run;

 - (iii) the application site was located in Category 4 areas under the TPB Guidelines No. 13E and the application was not in line with the Guidelines in that in addition to the concern of DAFC, there were adverse departmental comments on traffic and environmental aspects and there was also one local objection against the application on ecological and traffic grounds;

 - (iv) while one previous application was approved when the site was zoned “R(D)”, the other two applications were approved to allow for a

timely review of the land uses in the area or to provide time for relocation of the development to other suitable location. The remaining three previous applications were rejected mainly on the grounds that the developments were not in line with the planning intention of the “OU(CDWRA)” zone; they did not comply with the TPB Guidelines No. 12B; there was insufficient information to demonstrate no adverse drainage and environmental impacts on the surrounding areas; and the approval would set an undesirable precedent for similar applications. Moreover, no similar applications within the “OU(CDWRA)” zone had been approved in the past four years. Since there was no significant change in planning circumstances, there was no strong justification to depart from the RNTPC’s or the Board’s decisions.

65. The Chairman then invited the applicant’s representatives to elaborate on the application.

[Mr. Walter K.L. Chan left the meeting at this point.]

66. With the aid of a Powerpoint presentation, Mr. Raymond Leung made the following points:

- (a) the subject container storage yard was to provide temporary storage space for containers as there was a short-term shortage of spaces in the container port in Kwai Chung. The containers currently stored on the application site would be moved to Kwai Chung in the second or third quarter of this year when more spaces were expected to be available there. Hence, although the application was for a period of three years, an approval for a shorter period, say, six months, would be adequate for allowing the applicant to move the containers to Kwai Chung;
- (b) the planning intention of the “OU(CDWRA)” zone was noted. However, the applied use, which was only a temporary use of the site to mitigate the short-term container storage spaces in Kwai Chung, would not frustrate the

planning intention of the site. Moreover, previous approvals for temporary storage of containers on the site had been granted;

- (c) the total number of container vehicles going through the Lok Ma Chau corridor had been reduced from about 20,000 in the peak years to about 15,000 per day at the present time. It was expected that the container activities would be gradually moved to the area along the Western Corridor;
- (d) the number of containers stored in the site as well as in the adjacent areas had in fact been reduced recently as more spaces were now available at Kwai Chung. A similar application at Ngau Tam Mei was withdrawn as the applicant could manage to relocate the container storage to Kwai Chung area before the review hearing by the Board;
- (e) although land had been reserved/zoned for open storage use in the Ngau Tam Mei area, applications for such uses might not be approved by the Board. Operators had genuine difficulties in identifying interim storage spaces pending the availability of spaces in Kwai Chung area;
- (f) according to a consultancy study undertaken for a previous application for storage of container vehicles, the off-site disturbance impact on the ecological integrity and ecological value of the fish ponds within the WCA was not significant. The short-term impacts were only very minor;
- (g) the DAFC did not object to the application. He only stated that it would be desirable to discourage continual open storage use at the site so as to minimize off-site disturbance impacts to the fish ponds in the WCA in the long run. There was no conflict between the applied use and the existing fish ponds as it was the intention of the applicant and other operators to phase out container storage activities in the area. The site was only used for temporary storage of containers and there were only about 30 to 40 container vehicles going in and out of the site per day;
- (h) regarding the two residential dwellings mentioned by DEP, one was

surrounded by its adjacent container storage yards. Another one was located to the south of the site near the road junction. These residential dwellings were affected by existing open storage activities and traffic noise, but not the container storage use under application;

- (i) TD did not have any adverse comment on the application, but was only concerned about the width of the access road and the need for swept path analysis. An approval condition could be imposed to address TD's concern;
- (j) landscape proposal had been submitted and would be implemented if the application was approved by the Board. The Drainage Services Department also had no objection to the application as operators had done a lot to improve the drainage facilities in the area over the years;
- (k) regarding the local objection, this was only a misunderstanding from the Tso Tong manager as the applicant had paid rent to the Tso Tong for using the access road. Upon clarification with the Tso Tong manager, the local objection was withdrawn; and
- (l) the TPB Guidelines No. 13E had been generally complied with as there were no adverse comments from the Government departments and local villagers.

67. In response to a Member's question, Mr. Raymond Leung said that because of the financial tsunami and poor business conditions, many containers were retained in the container port in Kwai Chung. This had resulted in a lack of container storage spaces in Kwai Chung. The situation was improved with the improvement of the financial situation of Hong Kong. More container storage spaces were available in Kwai Chung in recent months. The applicant intended to move the containers out of the application site to Kwai Chung in six months' time.

68. 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 PlanD and the representatives of the applicant for attending the meeting. They all left the meeting at this point.

Deliberation Session

69. A Member said that if the application was rejected, the container storage yard might still remain at the application site for some time as enforcement action would take a few months. However, granting approval to the subject application might set a precedent for similar activities in the area.

70. Some Members considered that as the applicant had indicated that spaces would be available at Kwai Chung in the second quarter of this year, a shorter permission period of six months could be granted to allow the applicant to move the containers to Kwai Chung. This view was shared by other Members.

71. The Chairman suggested and Members agreed that the applicant should be advised that a temporary approval of six months was granted in order to allow time for the applicant to relocate the container storage yard. The Board would not grant any further permission for the use at the application site.

72. After further deliberation, the Board decided to approve on review the application on a temporary basis for a period of 6 months until 26.9.2010 on the terms of the application as submitted to the Town Planning Board and subject to the following conditions:

- (a) no night-time operation between 6:00p.m. and 9:00a.m., as proposed by the applicant, was allowed on the site during the planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicant, was allowed on the site during the planning approval period;
- (c) no stacking of containers within 5m from the peripheral fencing of the site during the planning approval period;

- (d) the stacking height of containers stored on the site should not exceed 7 units during the planning approval period;
- (e) the submission of landscaping and tree preservation proposals within 3 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 26.6.2010;
- (f) in relation to (e) above, the implementation of landscaping and tree preservation proposals within 3 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 26.6.2010;
- (g) the submission of drainage proposals within 3 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 26.6.2010;
- (h) in relation to (g) above, the provision of drainage facilities proposed within 3 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 26.6.2010;
- (i) the submission of vehicular access proposals including swept path analysis for the site within 3 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 26.6.2010;
- (j) in relation to (i) above, the implementation of the vehicular access proposal within 3 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 26.6.2010;
- (k) the submission of fire service installations proposals within 3 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 26.6.2010;
- (l) in relation to (k) above, the provision of fire service installations proposed

within 3 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 26.6.2010;

- (m) if any of the above planning conditions (a), (b), (c) or (d) was not complied with during the planning approval period, the approval hereby given should cease to have effect and should be revoked immediately without further notice;
- (n) if any of the above planning conditions (e), (f), (g), (h), (i), (j), (k) or (l) was not complied with by the specified date, the approval hereby given should cease to have effect and should on the same date be revoked without further notice; and
- (o) upon the expiry of the planning permission, the reinstatement of the application site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

73. The Board also agreed to advise the applicant on the following:

- (a) prior planning permission should have been obtained before commencing the applied use at the application site;
- (b) shorter approval period of six months and compliance periods were granted so as to allow relocation of the use to another suitable site and to closely monitor the fulfillment of approval conditions. No further permission would be granted;
- (c) to resolve any land issue relating to the development with the concerned owner(s) of the application site and the vehicular access road;
- (d) to note DLO/YL's comments that the lot within the site was Old Schedule Agricultural Lot held under Block Government Lease under which no structures were allowed to be erected without prior approval from his Office; there were unauthorized structures (including converted containers) within

the application site. His Office reserved the right to take enforcement against these irregularities, if indeed found in due course; the registered owner(s) of the lot concerned should apply to his Office for a Short Term Waiver (STW) to regularize the irregularities on-site. Should no STW application be received/approved and the irregularities persisted on-site, his Office would consider taking appropriate lease enforcement action against the registered owner(s) according to the prevailing programme of his Office in this regard; and the site was accessible through informal village tracks on private land and Government Land (GL). His Office did not provide maintenance service on GL nor guarantee right-of-way;

- (e) to follow the latest 'Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites' issued by the Environmental Protection Department to minimize potential environmental impacts on the surrounding areas;
- (f) to note CHE/NTW, HyD's comments that HyD was not/should not be responsible for the maintenance of any existing vehicular access connecting the application site and Castle Peak Road – San Tin;
- (g) to note CBS/NTW, BD's comments that existing structures that apparently had not obtained approval under the BO should be removed; the proposed site office was considered as temporary building and would be subject to control under Building (Planning) Regulations Pt. VII; provision of emergency vehicular access was applicable under Building (Planning) Regulations 41D; formal submission under BO was required for any proposed new works, including any temporary structures; and if the site was not abutting on a specified street having a width not less than 4.5m, the development intensity should be determined under Building (Planning) Regulations 19(3) at building plan submission stage;
- (h) to note DSD's detailed comments are indicated in Appendix V of Annex A of the Board paper;

- (i) to note D of FS' comments that fire service installations (FSI) were required in consideration of the design/nature of the proposed structures. The applicant was advised to submit relevant layout plans incorporated with the proposed FSI to his Department for approval. In formulating the FSI proposal for the proposed structures, the applicant should observe the requirements as indicated in Appendix VI of Annex A of the Board paper. The applicant should also note other advices of FSD in Appendix VI of Annex A of the Board paper;
- (j) to note DEMS' comments that the applicant should approach the electricity supplier for the requisition of cable plans to find out whether there was any underground cable (and/or overhead line) within or in the vicinity of the site. Based on the cable plans obtained, if there was underground cable (and/or overhead line) within or in the vicinity of the application site, the applicant should carry out the measures as prescribed in Appendix VII of Annex A of the Board paper; and
- (k) to note CE/Dev(2), WSD's comments that water mains in the vicinity of the site cannot provide the standard fire-fighting flow.

Agenda Item 7

[Open Meeting (Presentation and Question Session Only)]

Review of Application No. A/ST/687

Shop and Services (Retail Shop) in "Industrial" Zone,

Unit 6F(Part), G/F, Leader Industrial Centre

57-59 Au Pui Wan Street, Fo Tan, Sha Tin

(TPB Paper No. 8504)

[The hearing was conducted in Cantonese.]

Presentation and Question Session

74. The following representative of the Government and the applicant were invited to the meeting at this point:

Mr. W.K. Hui - District Planning Officer/Shu Tin, Tai Po and North (DPO/STN), PlanD

Mr. Yip Yiu Leung - Applicant

75. The Chairman extended a welcome and explained the procedures of the review hearing. He then invited Mr. W.K. Hui to brief Members on the background to the application.

76. Mr. W.K. Hui presented the application and covered the following main points as detailed in the Paper:

- (a) the applicant sought planning permission for using the application premises as a retail shop. The premises was on the G/F of an industrial building falling within an area zoned "Industrial" ("I") on the draft Sha Tin Outline Zoning Plan (OZP);
- (b) the application premises was about 7.2m² in size and was currently being used as a retail shop fronting a corridor within the industrial building. The G/F of the industrial building was occupied by mixed industrial and commercial uses, including godown, warehouse and factory, fast food shops, electric appliance shop, local provisions store, office, stationary shop, bakery shop and hardware shop;
- (c) the Rural and New Town Planning Committee (RNTPC) rejected the application on 4.12.2009 for the reason that the proposed development did not comply with the TPB Guidelines No. 25D for 'Use/Development within "I" Zone' in that no separate means of escape (MoE) completely separated from the industrial portion was provided for the application premises. The proposed retail shop was unacceptable from fire safety point of view;

- (d) the written representation submitted by the applicant in support of the review application was summarized in paragraph 3 of the Paper;

- (e) departmental comments – the departmental comments were summarized in paragraph 4 of the Paper. The Director of Lands (D of Lands) stated that the applied retail shop use would constitute a breach under the lease governing the subject lot. Lease enforcement action had been taken against the subject unit being used for retail shop purpose. With regard to the three occupants along the same corridor of the subject industrial building as mentioned by the applicant, they were considered as factory canteen, which was allowed under the lease with certain requirements. With regard to the claim of the applicant that Lands Department (LandsD) should have informed the applicant about the fact that no planning permission had been granted for retail shop with access only from corridor, instead of asking him to make an application to the Board, D of Lands clarified that their suggestion for planning application was only an advice to the applicant. The Director of Fire Services advised that according to his record, there were occupancies of workers/staff canteen and fast food counters licensed as “food factory” on the G/F of the subject industrial building, but there was no occupancy licensed as “general restaurant”. He advised that separate MoE completely separated from the industrial portion was not a mandatory requirement for workers/staff canteen and fast food counter licensed as “food factory”. Fire Services Department (FSD) did not support the application as no MoE completely separated from industrial portion of the subject industrial building was provided for the retail shop at the subject premises. The Director of Food and Environmental Hygiene also confirmed that the type of food business licence issued with the three occupants as mentioned by the applicant were factory canteen licence. Neither general restaurant licence nor light refreshment restaurant licence had been issued for other existing food business at the G/F of the subject industrial building;

- (f) public comment – during the statutory publication period, no public comment on the application was received;

- (g) PlanD's view – PlanD did not support the application based on the planning considerations and assessments of the application set out in paragraph 7 of the Paper. According to the TPB Guidelines No. 25D, the FSD should be satisfied on the risks likely to arise or increase from the proposed commercial use under application. In all cases, separate MoE should be available for the commercial portion. The subject premises, however, was fronting a corridor within the industrial building with no MoE completely separated from the industrial portion of the subject industrial building. In this regard, the application was not supported by FSD and was not in line with the TPB Guidelines No. 25D. Furthermore, as advised by FSD, the three restaurants along the corridor of the same industrial building were not general restaurants. They were licensed as “food factory” (including workers/staff canteen) for which MoE completely separated from industrial portion was not mandatorily required. However, retail shop was different from food factory (including workers/staff canteen) and needed MoE completely separated from the industrial portion. There was no such provision in the application.

77. The Chairman then invited the applicant to elaborate on the application.

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

78. Mr. Yip Yiu Leung made the following main points:

- (a) the applicant operated a workshop on G/F of the subject industrial building and planned to use the application premises for retail sales of his products;
- (b) along the same corridor of the subject industrial building, there were three existing restaurants with their front doors opening onto the corridor. There were existing fire hoses along the corridor as fire service installations. The applicant had no idea why FSD had allowed the operation of those restaurants but not the retail shop under application. Clarification and confirmation from FSD that his premises for retail shop use was not safe

from fire safety point of view should be required. He considered that it was a matter of injustice; and

- (c) he was advised by PlanD that there had been no previous approval for retail shops with access only from corridor inside the industrial building. However, LandsD still advised him to make an application to the TPB.

79. As 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 him of the Board's decision in due course. The Chairman thanked the representative of PlanD and the applicant for attending the meeting. They all left the meeting at this point.

Deliberation Session

80. The Chairman said that relevant departments had confirmed that the three restaurants mentioned by the applicant were factory canteens. According to FSD, it was not a mandatory requirement for factory canteen to have MoE completely separated from the industrial portion. However, the retail shop under application was intrinsically different from factory canteen and according to fire safety requirements of FSD, MoE completely separated from the industrial portion of the building should be provided. Members agreed that the application did not comply with the TPB Guidelines No. 25D as it did not meet FSD's fire safety requirements in that no separate MoE was provided. Members then went through the reason for rejection as stated in paragraph 8 of the Paper and considered that it was appropriate.

81. After further deliberation, the Board decided to reject the application on review and the reason was:

The proposed development did not comply with the Town Planning Board Guidelines No. 25D in that no separate means of escape completely separated from the industrial portion was provided for the application premises. The proposed retail shop was unacceptable from fire safety point of view.

Agenda Item 8

[Open Meeting (Presentation and Question Session Only)]

Review of Application No. A/NE-TKL/328

Proposed Temporary Open Storage of Construction Materials for a Period of 3 Years

in “Agriculture” and “Open Storage” Zones,

Lots 2114RP and 2115RP in DD 76, Ping Che

(TPB Paper No. 8506)

[The hearing was conducted in Cantonese.]

Presentation and Question Session

82. The following representative of the Government and the applicant were invited to the meeting at this point:

Mr. W.K. Hui - District Planning Officer/Shu Tin, Tai Po and North (DPO/STN), PlanD

Mr. Hau Wai Shing - Applicant

83. The Chairman extended a welcome and explained the procedures of the review hearing. He then invited Mr. W.K. Hui to brief Members on the background to the application.

84. Mr. W.K. Hui presented the application and covered the following main points as detailed in the Paper:

- (a) the applicant sought planning permission for proposed temporary open storage of construction materials on the application site for a period of three years. The site was zoned “Agriculture” (“AGR”) (about 97.8%) and “Open Storage” (“OS”) (about 2.2%) on the draft Ping Che and Ta Kwu Ling Outline Zoning Plan (OZP);

- (b) the Rural and New Town Planning Committee (RNTPC) rejected the application on 4.12.2009 for the reasons that the proposed development was not in line with the planning intention of the “AGR” zone and there was no strong justification in the submission for a departure from the planning intention even on a temporary basis; the proposed use did not comply with the TPB Guidelines No. 13E for “Application for Open Storage and Port Back-up Uses” in that no previous planning approval had been granted to the application site and there were adverse departmental comments on the application and local objections against the application; and the proposed use would generate adverse environmental, landscape and traffic impacts on the surrounding areas;
- (c) the applicant had not submitted any written representation in support of the review application;
- (d) departmental comments – the departmental comments were summarized in paragraph 4 of the Paper. The Director of Agriculture, Fisheries and Conservation (DAFC) did not support the application from agricultural point of view as the application site and the surrounding area had a high potential for agricultural rehabilitation and could be reverted to agricultural uses such as greenhouses and plant nurseries. Approval of the application would set an undesirable precedent for similar applications within the “AGR” zone. The Director of Environmental Protection (DEP) did not support the application as there were sensitive receivers in the vicinity of the application site and environmental nuisance was expected. The Chief Town Planner/Urban Design and Landscape, PlanD had reservation on the application from landscape planning point of view as active farmland and scattered trees/tree groups were predominant in the surrounding area of a natural and tranquil character. Although some open storage uses were located in the further southern and eastern sides of the site, they were well separated from the site by woodland and Tan Shan River. The proposed use was considered not quite compatible with the adjacent rural environment and approval of the subject application might attract similar applications that would further deteriorate the landscape quality and affect the intactness of

the “AGR” zone. The Assistant Commissioner for Transport/New Territories, Transport Department (AC for T/NT, TD) did not support the application at this stage as there was no vehicular access but a footpath leading to the application site. The applicant should justify whether the “existing service road” as stated in the application could be used as a vehicular access and provide details such as road width, road conditions and land status of the “service road” as well as details of parking, loading/unloading and manoeuvring spaces for vehicles within the application site;

- (e) public comments – during the statutory publication period of the review application, one public comment was received. It raised concern that there was no formal access road leading to the application site and it was not convenient for storage purpose. The District Officer/North advised that the Chairman of the Fanling District Rural Committee cum Resident Representative (RR) of Ko Po Village, Indigenous Inhabitants Representative (IIR) of Ko Po Village, IIR and RR of Hung Leng Village had raised objection to the application mainly on grounds that the overloading traffic would lead to traffic congestion on Sha Tau Kok Road, and the approval of the application would lead to further deterioration of the rural environment, affect livelihood and health of villagers;
- (f) PlanD’s view – PlanD did not support the review application based on the planning considerations and assessments as set out in paragraph 6 of the Paper and summarized below:
 - (i) the proposed development was not in line with the planning intention of the “AGR” zone which was primarily to retain and safeguard good agricultural land/farm/fish ponds for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. In this regard, the DAFC did not support the application from the agricultural point of view;
 - (ii) the DEP did not support the application as there were domestic

structures in the vicinity of the application site. The loading/unloading activities within the site might impose adverse impacts on the nearby domestic structures. The CTP/UD&L, PlanD had reservation on the application from landscape planning point of view. There was no information in the submission to demonstrate that the proposed use would not cause adverse environmental and landscape impacts on the surrounding areas. AC for T/NT, TD did not support the application as there was no proper vehicular access leading to the application site. There were also public comments and local objections against the subject review application; and

(iii) the application site fell largely within Category 3 areas under the TPB Guidelines No. 13E for “Application for Open Storage and Port Back-up Uses”. The proposed development did not comply with the TPB Guidelines No. 13E in that no previous approval had been granted for the application site and there were adverse departmental comments and local objections against the proposed development.

85. The Chairman then invited the applicant to elaborate on the application.

86. Mr. Hau Wai Shing made the following main points:

- (a) Lots 2114 and 2115 within the application site and the adjacent Lot 2099 as well as the domestic structures in the vicinity were all owned by the same Tso Tong;
- (b) the local villagers had been living in the area for more than 40 years and had no intention to move. They had also indicated that they would not rehabilitate the land for agricultural use and hence had returned the lots within the application site to Tso Tong for other uses;
- (c) the area to the west of the application site was occupied by drainage works and the application site was surrounded by open storage uses;

- (d) the tenant of the open storage yard at Lot 2099 had also paved a 18-foot wide road as the access to the application site; and
- (e) while at present there was about 100,000sq.ft of land area used for open storage purpose, the application site only had an area of about 20,000sq.ft. It would not generate adverse traffic and landscape impacts on the surrounding area.

87. As 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 him of the Board's decision in due course. The Chairman thanked the representative of PlanD and the applicant for attending the meeting. They all left the meeting at this point.

Deliberation Session

88. The Chairman said that the proposed use did not comply with the planning intention of the "AGR" zone, was not in line with the TPB Guidelines No. 13E, and would generate adverse environment, landscape and traffic impacts on the surrounding areas. Members agreed. Members then went through the reasons for rejection as stated in paragraph 8 of the Paper and considered that they were appropriate.

89. After further deliberation, the Board decided to reject the application on review for the following reasons:

- (a) the proposed development was not in line with the planning intention of the "AGR" zone in the Ta Kwu Ling area which was primarily to retain and safeguard good agricultural land/farm/fish ponds for agricultural purposes. It was also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There was no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis;

- (b) the proposed use did not comply with the TPB Guidelines No. 13E for “Application for Open Storage and Port Back-up Uses” in that no previous planning approval had been granted to the application site and there were adverse departmental comments on the application and local objections against the application; and
- (c) the proposed use would generate adverse environmental, landscape and traffic impacts on the surrounding areas.

Agenda Item 9

[Open Meeting]

Request for Deferral for Review of Application No. A/TP/439

Proposed 14 Houses (New Territories Exempted Houses (NTEHs) – Small Houses)

and Utility Installation for Private Project (Sewage Treatment Plant) in “Green Belt” Zone,

Lots 251 (Part), 252 (Part), 253 (Part), 254, 255 (Part), 258 (Part), 259 (Part), 260s.A (Part) and 260 RP (Part) in DD 20 and Adjoining Government Land,

Lo Lau Uk, Tai Po

(TPB Paper No. 8507)

[The meeting was conducted in Cantonese.]

90. The Secretary reported that on 12.3.2010, the applicant’s representative submitted a request for deferment of consideration of the review application for two months so as to allow time for soliciting comments/views on the supplementary statement submitted and preparation of responses in support of the application. The justifications for deferment met the criteria set out in the TPB Guidelines No. 33 in that the applicant needed more time to consult relevant Government departments and to prepare further responses, the deferment period was not indefinite and the deferment would not affect the interest of other relevant parties.

91. After deliberation, the Board decided to defer a decision on the review application as requested by the applicant pending the submission of further information from the applicant. The Board agreed that the application should be submitted to the Board for consideration

within three months upon receipt of the further submission from the applicant. The Board also agreed to advise the applicant that two months were allowed for the preparation of the submission of further information and no further deferment would be granted unless under very special circumstances.

Agenda Item 10

[Open Meeting]

Request for Deferment of the Hearing Date

Draft Cha Kwo Ling, Yau Tong, Lei Yue Mun Outline Zoning Plan No. S/K15/18

Consideration of Representations

(TPB Paper No. 8514)

[The meeting was conducted in Cantonese.]

92. The Secretary reported that on 9.10.2009, the draft Cha Kwo Ling, Yau Tong, Lei Yue Mun Outline Zoning Plan (OZP) No. S/K15/18, incorporating amendments to rezone an area at the southern coast of Lei Yue Mun Village from “Village Type Development” (“V”) to “Open Space” (“O”), and to include its adjacent two pieces of land and proposed reclaimed land into the planning scheme boundary and zone them as “O” and “Other Specified Uses” annotated “Breakwater”, was exhibited for public inspection under section 5 of the Town Planning Ordinance. During the two-month exhibition period, a total of 95 representations, including one supporting and 94 objecting to or having adverse comments on the zoning amendments, were received. No comment on the representations were received. Consideration of the representations by the Town Planning Board (the Board) was originally scheduled for 16.4.2010. On 16.3.2010, all the representers were notified of the hearing arrangement and the scheduled hearing date. Mr. Paul Zimmerman of Designing Hong Kong Limited (Representer No. 95) wrote to the Secretary of the Board on 16.3.2010 requesting to defer the hearing of the representations by the Board as Designing Hong Kong Limited would only be available after 16.4.2010 and as most of the comments on the OZP were generated via Designing Hong Kong Limited. The Secretary said that Mr. Paul Zimmerman had been invited to attend the meeting to explain to the Board about his request for deferment of the hearing date. However, Mr. Paul Zimmerman had declined the invitation.

93. The Secretary said that the TPB Guidelines No. 33 on Deferment of Decision on Representations, Comments, Further Representations and Applications made under the Town Planning Ordinance was relevant to the consideration of the request made by the Representer No. 95. According to the TPB Guidelines No. 33, deferment of consideration of representations and comments might affect the submission of the draft OZP to the Chief Executive in Council (CE in C) for approval and other parties involved in the hearing. Hence, such request should not be entertained unless with the consent of all other concerned parties and there were very strong reasons to do so. If it was absolutely unavoidable, the Board might only adjourn the meeting for a period up to a maximum of four weeks (counting from the original hearing date) taking into account all relevant considerations and circumstances of the cases.

94. In response to the Chairman's question, the Secretary said that the justifications provided by Representer No. 95 for requesting to defer the hearing date were that Designing Hong Kong Limited would only be available after 16.4.2010 and that the other representations were generated by Designing Hong Kong Limited. The Secretary also informed Members that although most of the representations received were not submitted via Representer No. 95, they were in the form of a standard letter.

95. The Secretary said that as stipulated in the TPB Guidelines No. 33, request for deferment of consideration of representations should not be entertained unless with the consent of all concerned parties. Hence, if any one of the representers objected to the request for deferral, the hearing had to be held on 16.4.2010 as scheduled. The Chairman suggested and Members agreed that the hearing could be deferred for two weeks, subject to the consent of all other representers.

96. After further deliberation, the Board decided to defer the hearing of the representations to the draft Cha Kwo Ling, Yau Tong, Lei Yue Mun OZP for two weeks to 30.4.2010, subject to consent of all representers. The Board also agreed that if any one of the representers objected to the deferral, the hearing would be held on 16.4.2010 as scheduled.

Agenda Item 11

[Open Meeting]

Information Note and Hearing Arrangement for Consideration of Representation to Draft Sham Chung Outline Zoning Plan No. S/NE-SC/2
(TPB Paper No. 8511)

[The meeting was conducted in Cantonese.]

97. The Secretary briefly introduced the Paper. On 18.12.2009, the draft Sham Chung OZP No. S/NE-SC/2 was exhibited for public inspection under section 7 of the Town Planning Ordinance. One supporting representation was received. No comment on the representation was received. Because of the significant conservation interests of the Sham Chung area, it was recommended that the representation should be considered by the full Board. Since there was only one representation, the question of individual or collective hearing did not arise.

98. After deliberation, the Board agreed that the representation should be considered by the full Board, with the hearing accommodated in the Board's regular meeting. A separate hearing session would not be necessary.

Agenda Item 12

[Open Meeting]

Submission of the Draft Tung Chung Town Centre Area
Outline Zoning Plan No. S/I-TCTC/17A to the Chief Executive in Council for Approval
under Section 8 of the Town Planning Ordinance
(TPB Paper No. 8512)

[The meeting was conducted in Cantonese.]

99. The Secretary briefly introduced the Paper.

100. After deliberation, the Board:

- (a) noted that no representation was received during the two-month exhibition period and hearing of representation was not required;
- (b) agreed that the draft Tung Chung Town Centre Area OZP No. S/I-TCTC/17A and its Notes at Annexes I and II respectively of the Paper were suitable for submission under section 8 of the Town Planning Ordinance to the Chief Executive in Council (CE in C) for approval;
- (c) endorsed the updated Explanatory Statement (ES) for the draft Tung Chung Town Centre Area OZP No. S/I-TCTC/17A at Annex III of the Paper as an expression of the planning intention and objectives of the Town Planning Board (the Board) for the various land use zonings on the draft OZP and to be issued under the name of the Board; and
- (d) agreed that the updated ES was suitable for submission to the CE in C together with the draft OZP.

Agenda Item 13

[Open Meeting]

Submission of the Draft Lung Yeuk Tau and Kwan Tei South
Outline Zoning Plan No. S/NE-LYT/13A
to the Chief Executive in Council for Approval
under Section 8 of the Town Planning Ordinance
(TPB Paper No. 8515)

[The meeting was conducted in Cantonese.]

101. The Secretary briefly introduced the Paper.

102. After deliberation, the Board:

- (a) agreed that the draft Lung Yeuk Tau and Kwan Tei South OZP No. S/NE-LYT/13A and its Notes at Annexes I and II respectively of the Paper

were suitable for submission under section 8 of the Town Planning Ordinance to the Chief Executive in Council (CE in C) for approval;

- (c) endorsed the updated Explanatory Statement (ES) for the draft Lung Yeuk Tau and Kwan Tei South OZP No. S/NE-LYT/13A at Annex III of the Paper as an expression of the planning intention and objectives of the Town Planning Board (the Board) for the various land use zonings on the draft OZP and to be issued under the name of the Board; and
- (d) agreed that the updated ES was suitable for submission to the CE in C together with the draft OZP.

Agenda Item 14

[Closed Meeting]

Information Note and hearing Arrangement for Consideration of Further Objections to Draft Clear Water Bay Peninsula North Outline Zoning Plan No. S/SK-CWBN/1 (TPB Paper No. 8505)

[The meeting was conducted in Cantonese.]

103. Mr. Edmund K.H. Leung had declared interests on this item as he owned three plots of land in Sai Kung. Since the item was procedural in nature, Members agreed that Mr. Edmund K.H. Leung could stay at the meeting.

104. The Secretary briefly introduced the Paper. On 18.3.2005, the draft Clear Water Bay Peninsula North OZP No. S/SK-CWBN/1 was exhibited for public inspection under section 5 of the Town Planning Ordinance (the pre-amended Ordinance). After giving preliminary and further considerations to the objections, the Board decided not to propose any amendment to meet the objections. On 31.10.2006, the Chief Executive in Council (CE in C) under section 9(1)(a) of the pre-amended Ordinance, approved the draft OZP. In February 2006 and January 2007, the objector of Objection No. 1 lodged a judicial review of the Town Planning Board's (the Board) decision not to propose amendment to the draft OZP No. S/Sk-CWBN/1 to meet his objection, and of the CE in C's decision to approve the OZP

respectively. On 6.11.2007, the Court of First Instance granted an order of certiorari to bring up and quash the decision of the Board not to amend the draft OZP to meet the objection. On 31.7.2009, the Board reconsidered the objection under section 6(6) of the pre-amended Ordinance and decided to propose amendments to the draft OZP to partially meet the objection. The proposed amendments were notified in the gazette under section 6(7) of the pre-amended Ordinance on 29.1.2010 and seven further objections were received. Since the further objections were on similar or related grounds, it was recommended that the further objections should be considered collectively by the full Board.

105. After deliberation, the Board agreed that the further objections should be considered collectively by the full Board without resorting to the appointment of a committee. The hearing would be accommodated in the Board's regular meeting and a separate session would not be necessary.

Agenda Item 15

[Closed Meeting]

106. The item was recorded under confidential cover.

Agenda Item 16

[Open Meeting]

Any Other Business

[The meeting was conducted in Cantonese.]

107. The Chairman said that this was the last meeting of the current term (2008-2010) of the Town Planning Board (the Board). 14 Members would retire by the end of March 2010, and 16 Members would be reappointed for the coming new term (2010-2012). The Chairman proposed and Members supported that a vote of thanks be given to those retiring Members, namely, Mr. Greg C.Y. Wong, Mr. Nelson W.Y. Chan, Mr. Leslie H.C. Chen, Professor N.K. Leung, Professor Bernard W.F. Lim, Mr. Daniel B.M. To, Ms. Sylvia S.F. Yau, Ms. Starry W.K. Lee, Mr. Alfred Donald Yap, Mr. David W.M. Chan, Professor David

Dudgeon, Mr. Tony C.N. Kan, Mr. Edmund K.H. Leung and Dr. C.N. Ng, for their contribution to the work of the Board in the past years, and also to the Members to be reappointed for their continuous contribution to the work of the Board in the coming two years.

108. There being no other business, the meeting was closed at 4:00 p.m.