

RESTRICTED

**Minutes of 850th Meeting of the
Town Planning Board held on 16.12.2005**

Present

Permanent Secretary for Housing, Planning and Lands (Planning and Lands)
Mrs. Rita Lau

Chairperson

Hon. Patrick S.S. Lau

Vice-chairman

Mrs. Angelina P.L. Lee

Mr. Michael K.C. Lai

Professor K.C. Ho

Mr. S.L. Ng

Mr. C.K. Wong

Professor Nora F.Y. Tam

Mr. Tony W.C. Tse

Mr. Nelson W.Y. Chan

Mr. Leslie H.C. Chen

Professor David Dudgeon

Mr. Tony C.N. Kan

Professor N.K. Leung

Professor Bernard V.W.F. Lim

Dr. C.N. Ng

Mr. Daniel B.M. To

Mr. Stanley Y.F. Wong

Mr. Alfred Donald Yap

Principal Assistant Secretary (Transport)
Environment, Transport and Works Bureau
Ms. Ava Chiu

Assistant Director (2), Home Affairs Department
Ms. Margaret Hsia

Deputy Director of Environmental Protection
Dr. Michael Chiu

Director of Lands
Mr. Patrick L.C. Lau

Director of Planning
Mr. Bosco C.K. Fung

Deputy Director of Planning/District Secretary
Mr. Raymond T.L. Chiu

Absent with Apologies

Dr. Alex S.K. Chan

Dr. Rebecca L.H. Chiu

Dr. Peter K.K. Wong

Mr. Alex C.W. Lui

Mr. Francis Y.T. Lui

Mr. K.G. McKinnell

Dr. Greg C.Y. Wong

Ms. Carmen K.M. Chan

Mr. Erwin A. Hardy

Mr. David W.M. Chan

Dr. Lily Chiang

Professor Peter R. Hills

Mr. Edmund K.H. Leung

Ms. Sylvia S.F. Yau

In Attendance

Assistant Director of Planning/Board
Mr. P.Y. Tam

Chief Town Planner/Town Planning Board
Ms. Brenda K.Y. Au

Senior Town Planner/Town Planning Board
Mr. C.M. Li

Agenda Item 1

[Open Meeting]

Confirmation of Minutes of the 849th Meeting held on 2.12.2005

1. The minutes of the 849th meeting held on 2.12.2005 were confirmed subject to amendment to paragraph 25 of the minutes recorded under confidential cover. The amendment to the minutes was recorded separately under confidential cover.

Agenda Item 2

Matters Arising

- (i) New Town Planning Appeal Received

Town Planning Appeal No. 24 of 2005
Film Studio in “Recreation”
and “Green Belt” Zones,
Lots 289A, 289RP, 295 and 299 in DD 247,
Ho Chung, Sai Kung
(Application No. A/SK-HC/121)

[Open Meeting]

2. The Secretary reported that an appeal against the Board’s decision on an application for a film studio in a site zoned “Recreation” and “Green Belt” on the draft Ho Chung Outline Zoning Plan No. S/SK-HC/8 was received by the Town Planning Appeal Board on 5.12.2005. The planning application was approved by the Board on review on 16.9.2005 on a temporary basis for a period of three years subject to, among others, a condition that ‘no outdoor activity should be carried out within the development between 11:00 p.m. to 7:00 a.m.’. The appeal was against the temporary basis of the permission and the said condition. The appellant considered that the permission should be granted on a permanent basis without prohibiting outdoor activity. The hearing date of the appeal was yet to be fixed.

3. The minutes of sub-item (ii) were recorded under confidential cover.

Agenda Item 4

Section 12A Application No. Y/H24/1

Application for Amendment to the Approved Central District (Extension)

Outline Zoning Plan No. S/H24/6

from “Government, Institution or Community (4)”

and “Government, Institution or Community (2)” to “Open Space”,

the Former Tamar Basin Site and an Area to the North of Citic Tower

(TPB Paper No. 7483)

[Open Meeting]

[The meeting was conducted in Cantonese.]

4. The Secretary reported that an application for amendment of the former Tamar Basin site and an area to the north of Citic Tower from “Government, Institution or Community (4)” (“G/IC(4)”) and “G/IC(2)” to “Open Space” on the approved Central District (Extension) Outline Zoning Plan (OZP) No. S/H24/1 had been received. On 25.11.2005, the Metro Planning Committee agreed that the application should be submitted to the Board for consideration in view of the wide public concern on the land use of the subject waterfront site. On 8.12.2005, the applicant requested the Board to defer a decision on the application in order to allow time for preparation of supplementary information to support the application pending the receipt of information from the Director of Administration. The Planning Department had no objection to the applicant’s request as the justification for deferral met the criteria for deferment set out in the Board’s Guidelines No. 33 on Deferment of Decision on Representations, Comments, Further Representations and Applications.

5. The Chairperson said that should the Board agree to defer a decision on the application, the applicant would be given a maximum period of two months for preparation of further information. Upon receipt of further information, the Secretary would determine whether the information would result in a material change in the nature of the application and whether it should be published for public comment. The application would be submitted to the Board for

consideration within three months upon receipt of further submission. According to the Board's Guidelines No. 33, no further deferment would be granted unless under very special circumstances.

6. After deliberation, the Board agreed to defer a decision on the application as requested.

Agenda Item 5

Draft Clear Water Bay Peninsula South Outline Zoning Plan No. S/SK-CWBS/1
Consideration of Representation No. 1
(TPB Paper No. 7485)

[Open Meeting (Presentation and Question Session Only)]

[The hearing was conducted in Cantonese.]

Presentation and Question Session

7. The Chairperson said that the draft Clear Water Bay Peninsula South Outline Zoning Plan (OZP) No. S/SK-CWBS/1 was exhibited on 22.7.2005 for public inspection for two months under section 5 of the Town Planning Ordinance. During the exhibition period, one representation was received. No comment was received during the 3-week period of publication of the representation. The subject OZP was the first plan gazetted after the commencement of the Town Planning (Amendment) Ordinance (TP(A)O) 2004, and the new procedures under the TP(A)O in regard to consideration of the representation applied.

8. Mr. Michael Chan, District Planning Officer/Sai Kung and Sha Tin of the Planning Department (PlanD), and the following representers' representatives were invited to the meeting:

Mr. Andrew Chan

Mr. Maurice Lee

Ms. Helen Lee

9. The Chairperson extended a welcome and briefly explained the procedures of the hearing. She then invited Mr. Michael Chan to brief Members on the background to the representation.

10. With the aid of Powerpoint slides, Mr. Michael Chan covered the following main aspects as detailed in the paper:

- (a) the subject of representation – submitted by Messrs. Leung Fook-chau, Wong Siu-hung and Wong Kam-hon against the “Conservation Area” (“CA”) zoning of Lots 206, 207, 208A and 208RP in DD 241, Po Toi O, Clear Water Bay. The representers proposed to rezone the representation sites to “Village Type Development” (“V”) to facilitate the development of three Small Houses (SHs). On 18.11.2005, the Board decided to hear the representation itself;
- (b) the grounds of representation – the representation sites were suitable for SH development; the representers had legitimate expectation for SH development; allowing SH development at the representation sites would help relieving the demand for SH sites in the area; and no precedent effect;
- (c) the background of representation sites – the sites were the subjects of an objection to the draft Clear Water Bay Peninsula South Development Permission Area (DPA) Plan No. DPA/SK-CWBS/1, which was lodged by the same representers and not upheld by the Board after further consideration on 17.2.2003;
- (d) departmental comments – the Architectural Services Department did not support the representation and considered that the proposed SH development would impose a significant visual impact on the surroundings due to the prominent headland location. The Director of Agriculture, Fisheries and Conservation commented that the proposed SH development would involve large-scale vegetation clearance which was undesirable, and considered the “CA” zoning for the sites appropriate to retain the existing natural character and to preserve the attractiveness and landscape value of the sites. The District Lands Officer/Sai Kung (DLO/SK) advised that the existing access connecting the representation sites with the nearby “V” zone was illegally formed. The proposed SH developments would require extension of the illegal access, which would lead to further loss of vegetation and deterioration of the existing landscape quality. Prior to the zoning of the representation sites as “CA” on the DPA Plan in July 2002, the Sai Kung District Land Office Conference (SKDLOC) had already

rejected the applications for SH development at the representation sites on 18.4.2001 due to visual impact, difficult site formation and illegal access. DLO/SK maintained his objection to the proposed SH developments at the representation sites. The Civil Engineering and Development Department advised that the stability of the slopes affecting or affected by the proposed SH developments should be assessed. The long access to the representation sites formed by illegal excavation, cutting and formation could lead to landslide. The representation sites were not suitable for SH development; and

- (e) PlanD's view – the representation was not supported as the sites were not suitable for SH development due to adverse visual, landscape and geotechnical impacts, sufficient supply of SH sites in the Clear Water Bay Peninsula South area, and setting of an undesirable precedent.

11. The Chairperson then invited the representers' representatives to elaborate on the representation.

12. With the aid of photos and plans, Mr. Andrew Chan made the following main points:

- (a) the representation was made by three local villagers who wished to construct three SHs at the representation sites;
- (b) the representers' responses to the Paper were as follows:
 - i. paragraphs 4.1(b) and 4.5(b) – the representation sites were covered by overgrown shrubs, grassland and weeds which were not valuable or worthy of conservation. No significant tree felling would be required and adequate tree planting and screening would be provided to enhance the visual environment. Under the Notes of the "CA" zone, 'Agricultural Use (Other than Plant Nursery)' and 'On-farm Domestic Structure' were always permitted. Similar to SH development, these two uses would entail clearance of land and erection of structures;
 - ii. paragraphs 4.1(c) and 4.5(c) – the sites were accessible by an existing footpath which was typical in the New Territories. The adverse comments

from the relevant departments were not fair. Only an ordinary footpath would be sufficient to serve the subject three SHs, and any technical issues in relation to footpath construction could easily be resolved. In fact, there were many SH developments in Hong Kong which had no vehicular access;

- iii. paragraph 4.5(a) – the sites were located on the top of a small hill overlooking Clear Water Bay. They were not on hillslopes. Extensive site formation works for the proposed SH developments was not required. Also, the proposed development was small in scale and could be well-integrated with the surrounding areas through sensitive landscape treatment and careful disposition of buildings. Compared to the 10m high buildings in the nearby Clear Water Bay Golf and Country Club, the proposed SHs at 8.23m would not have adverse visual impact on the area;
- iv. paragraph 4.5(d) – the representation sites were on a gently sloping ground of about 15°. As demonstrated in the geotechnical assessment report tabled at the meeting, the proposed SH development would not adversely affect the adjacent slopes and vice versa;
- v. paragraph 4.6 – the SKDLOC rejected the applications for SH development at the representation sites due to visual impact, difficult site formation and illegal access, which could all be resolved. Unlike the land administration procedures which had no channel for appeal, the provisions for representation in the Town Planning Ordinance had given the villagers the statutory right to show their case to the Board;
- vi. paragraph 4.7 – the Paper had clearly pointed out that the supply of SH sites within Po Toi O Village was a bit stringent, and the land reserved in the village was slightly inadequate to meet the estimated demand by 2014. At present, indigenous villagers of Po Toi O Village had to wait for several years to obtain a piece of Government land for SH development. Rezoning the representation sites to “V” could help relieve the demand for SH development in the area; and
- vii. paragraph 4.8 – the number of private lots within the subject “CA” zone and

the Po Toi O area was rather limited. The representers' lots were the only private land within the 'village environs' ('VE') and outside the "V" zone of Po Toi O. Thus, rezoning the sites from "CA" to "V" would not set an undesirable precedent for similar requests in the area. The mere fact that there was only one representation against the subject OZP had clearly indicated that there was no similar case in the area.

[Professor David Dudgeon and Mr. Patrick L.C. Lau arrived to join the meeting.]

13. In response to Member's questions, Mr. Michael Chan made the following main points:

- (a) the development proposal of the Clear Water Bay Golf and Country Club was approved in end 1970s before the gazettal of the DPA Plan for the area in July 2002;
- (b) ten SHs to the southwest of the representation sites were approved by the SKDLOC in August 1996. They were about 200m lower than the representation sites. The "V" zoning of these SH sites was to reflect the approval that had already been granted. So far, no SH development in that "V" zone had been undertaken due to the geotechnical constraints;
- (c) 7.5 ha of private land was within the 'VE' in the Clear Water Bay Peninsula South area, majority of which was located in proximity to Tai Au Mun and Ha Yeung and zoned "GB" on the OZP. Apart from the representation sites, there was no private land within the subject "CA" zone near Tai Wong Kung; and
- (d) it was a standard requirement of the Fire Services Department (FSD) that for ten or more SH developments, a vehicular access to allow emergency vehicles to reach within 30m from any building should be provided. Such a requirement might be waived if the number of SHs was less than ten.

14. Mr. Patrick L.C. Lau said that according to the 'New Territories Exempted Houses – A Guide to Emergency Vehicular Access Requirements' of the Lands Department, consideration as to whether or not to impose the emergency vehicular access (EVA) requirement would depend on local circumstances and development potentials. If there was no vehicular access because of

topographical or land ownership constraints or if improvement to a sub-standard vehicular access was hindered by site constraints, the District Lands Officer would, in consultation with the FSD, consider such application on individual merits and assist the applicant to explore the possibility of providing other viable fire safety alternatives like provision of street fire hydrants, water tanks and pump systems, hose reel systems, fire detection systems, and fire extinguishers.

15. In response to a Member's questions, Mr. Andrew Chan said that the sites were suitable for SH developments in terms of topography and lot configuration. Prior to the gazettal of the Clear Water Bay Peninsula South DPA Plan, the major criterion for SH development was whether the land in question was within 'VE'. It was based on this understanding that the representers had purchased the sites for SH development.

16. As the representers' representatives had finished the presentation and Members had no further question to raise, the Chairperson informed the representers' representatives that the hearing procedures for the representation had been completed, and the Board would deliberate on the representation in their absence and inform the representers of the Board's decision in due course. The Chairperson thanked the representatives of the representers and PlanD for attending the meeting. They all left the meeting at this point.

Deliberation Session

17. The Chairperson remarked that the general planning intention for Clear Water Bay Peninsula South was to conserve the rural and natural character of the area by protecting the natural landscape, topographical features and ecologically sensitive areas from encroachment by development. The Board should take a broad view in considering the representation, having regard to the physical environment and planning intention of the area. SH developments at the representation sites were not in line with the planning intention of the "CA" zone. Members agreed.

18. After further deliberation, the Board decided not to propose any amendment to the Plan to meet the representation for the following reasons:

- (a) the representation sites were located on top of a prominent headland in Clear Water Bay. The proposed Small House developments on the representation sites would visually intrude and alter the existing landscape character of the area;

- (b) the representation sites were part of a well-vegetated and scenic knoll overlooking the Clear Water Bay and Po Toi O. The “Conservation Area” (“CA”) zoning of the representation sites was appropriate to protect the natural landscape, the topographical features and the scenic value of the area;
- (c) the proposed rezoning to “Village Type Development” (“V”) for Small House developments as well as provision of access would result in substantial vegetation clearance and site formation adversely affecting the landscape environment and visual quality at a prominent location;
- (d) the representation sites were located on a sloping ground and the stability of the slopes affecting or affected by the proposed development had not been assessed. There was insufficient information in the submission to address the potential slope instability problem arising from the proposed Small House development;
- (e) sufficient land had been reserved in the “V” zones in the Clear Water Bay Peninsula South area to meet the estimated Small House demand of Po Toi O Village. It was not necessary to rezone additional land to “V”; and
- (f) the proposed rezoning of the representation sites from “CA” to “V” would set an undesirable precedent for similar requests for rezoning. The cumulative effect of approving these requests would lead to adverse impacts on the natural landscape, visual quality, environment, traffic and infrastructural provisions in the area.

[Mrs. Angelina P.L. Lee arrived to join the meeting at this point.]

Agenda Item 6

Draft Jardine’s Lookout and Wong Nai Chung Gap Outline Zoning Plan No. S/H13/10
Consideration of Representations No. 1 to 3 and Comments No. 1 to 3
(TPB Paper No. 7484)

[Open Meeting (Presentation and Question Session Only)]

[The hearing was conducted in Cantonese.]

Presentation and Question Session

19. The Secretary said that sufficient notice had been given to the commenters of comments No. 1 to No. 3 but they had indicated that they would not attend the hearing. The Board agreed to conduct the hearing in their absence.

20. Ms. Christine Tse, District Planning Officer/Hong Kong of the Planning Department (PlanD), and the following representers and their representatives were invited to the meeting at this point:

Representer No. 1

Mr. Kan Tsz-wing - Representer's representative

Representer No. 2

Mr. George W.W. Wong - Representer

Mrs. Wong Luk Wing-yan - Representer's representative

Representer No. 3

Mr. Steve Y.F. Chan - Representer

21. The Chairperson extended a welcome and briefly explained the procedures of the hearing. She then invited Ms. Christine Tse to brief Members on the background to the representations and comments.

22. With the aid of plans and photos, Ms. Christine Tse covered the following main aspects as detailed in the Paper:

- (a) the subject of the three representations – against the inclusion of ‘School’ and ‘Social Welfare Facility’ under Column 2 of the Notes for the “Commercial” (“C”) zone;
- (b) the grounds of representations – incompatibility with the planning intention of the “C” zone and the surrounding tranquil residential environment, adverse traffic

impact, and sufficient provision of social services. Representers No. 1 and 2 had not proposed any amendment to the draft Jardine's Lookout and Wong Nai Chung Gap Outline Zoning Plan (OZP) No. S/H13/10. Representer No. 3 proposed to delete 'School' and 'Social Welfare Facility' uses from Column 2 of the Notes for the "C" zone;

- (c) the subject of comments – Commenter No. 1 stated that the amendments to the OZP would aggravate the already congested road junction at the Dairy Farm Perkins Road Shopping Centre. Commenter No. 2 was in support of the view of Representer No. 1. Commenter No. 3 had no comment on the representations;
- (d) the background to the amendments to the OZP – the Metro Planning Committee (the Committee) agreed to a request for amendment to the OZP to include 'School' and 'Social Welfare Facility' as Column 2 uses in the Notes for the "C" zone in January 2005. The amendments to the OZP were to take forward the Committee's decision;
- (e) departmental comments – the Transport Department advised that the Government was carrying out road improvement works at Tai Hang Road and Lai Tak Tsuen Road roundabout to enhance its capacity to cope with the new developments on Tai Hang Road. The traffic jam mentioned by the representers was temporary in nature. The Environmental Protection Department advised that it would assess the environmental impacts of development proposals at the planning application stage; and
- (f) PlanD's view – the OZP should not be amended as the inclusion of the 'School' and 'Social Welfare Facility' uses under Column 2 of the "C" zone would provide flexibility to meet the potential future demand of the immediate neighbourhood for such uses in future. The two uses were under either Column 1 or Column 2 of the "C" zones for most local shopping centres on the other OZPs. Any potential traffic, environmental and social impacts generated by the two uses could be thoroughly scrutinized by the Board through the planning application system.

23. The Chairperson then invited the representers and their representatives to elaborate on their representations.

24. Representers No. 1 and No. 2 had no presentation to make at the meeting.

25. With the aid of photos, Mr. Steve Y.F. Chan (Representer No. 3) made the following main points:

- (a) ‘School’ and ‘Social Welfare Facility’ covered a wide range of uses, some of which might not fit in well with the tranquil character of the high class residential environment in the area. The inclusion of these two uses under Column 2 was not in line with the planning intention of the “C” zone which was primarily for commercial developments functioning as local shopping centres to serve the immediate neighbourhood, and would result in the loss of retail facilities for the residents;
- (b) the traffic in the Jardine’s Lookout area had reached its capacity. The inclusion of the two uses would attract more visitors and users and worsen the traffic condition in the area;
- (c) the Board should delete the two uses from Column 2 of the Notes for the “C” zone; and
- (d) the amendments to the OZP had generated very strong local sentiment. The Board should follow the approach used in revising the planning brief for the Lee Tung Street redevelopment scheme by consulting the local community widely before making a decision on the representations. This would be in line with the Chief Executive’s policy objective to foster harmony in the community.

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

26. In response to the Chairperson’s question on local consultation, Ms. Christine Tse said that the amendments were to take forward the Committee’s decision in January 2005 with regard to a request for amendment to the OZP. The rezoning request had been circulated to the Wan Chai District Office for local consultation. According to the comments from the District Officer (Wan Chai), members of the District Council and concerned Area Committee had been consulted, and majority of them had no objection to the rezoning request. Two of the consultees expressed

concerns on the possible increase in traffic as a result of the proposed rezoning. They pointed out that the area was a low density residential area and ‘Social Welfare Facility’ did not fit in well with this area. The results of local consultation had already been considered by the Committee in the context of the rezoning request. Ms. Tse added that the consultation results could be passed to the representers for reference.

27. Ms. Christine Tse went on to say that the subject amendments were exhibited for public inspection for two months under section 5 of the Town Planning Ordinance. Representations received during the exhibition period had also been published for public comment in accordance with the Town Planning Ordinance and the Board’s relevant Guidelines.

28. Mr. Steve Y.F. Chan queried the method for collecting public views and the weighting of public views in the decision-making process. He requested the Board to defer a decision on the representations so that he could have time to go over the public views on the previous rezoning request. The representations were raised because the inclusion of ‘School’ and ‘Social Welfare Facility’ uses in Column 2 for the Notes of the “C” zone would mean that such uses might eventually materialize. However, there was no evidence on the need for these two uses in the area. The amendments had not obtained clear support from the Education Department and Social Welfare Department.

29. In response, the Chairperson said that the amendments to the OZP had been duly exhibited for public representation and comment in accordance with the statutory provisions. Under the Town Planning Ordinance, the Board was required to consider the representations and comments within a statutory time limit. There should be very strong ground for the Board to defer making a decision on the representations. The inclusion of ‘School’ and ‘Social Welfare Facility’ uses under Column 2 of the “C” zone would provide flexibility to meet the potential future demand of the immediate neighbourhood for such uses in future. As any development for these two uses would require planning permission, the Board could thoroughly examine the planning applications to ensure that no adverse traffic, environmental and other nuisances would be generated.

30. As the representers and their representatives had finished the presentation and Members had no further question to raise, the Chairperson informed the representers and their representatives that the hearing procedures for the representations and comments had been completed, and the Board would deliberate on the representations and comments in their absence and inform the representers and commenters of the Board’s decision in due course. The Chairperson thanked the representers,

their representatives and PlanD's representative for attending the meeting. They all left the meeting at this point.

[Mr. Leslie H.C. Chen arrived to join the meeting at this point.]

Deliberation Session

31. The Chairperson said that the Board would need to consider whether there were sufficient grounds for the amendments. As pointed out by the PlanD, the objective of the amendments was to provide flexibility to meet the potential future demand of the immediate neighbourhood for 'School' and 'Social Welfare Facility' uses in future. These two uses were under either Column 1 or Column 2 of the "C" zone for most local shopping centres on the other OZPs. There was no intention to give a blanket approval to these two uses in the "C" zone. Any development for such uses could be scrutinized by the Board through the planning application system.

32. A Member shared the Chairperson's view and said that the results of public consultation on the previous rezoning request was not really relevant to the consideration of the representations and comments.

33. After further deliberation, the Board decided not to propose any amendment to the Plan to meet the representations for the following reasons:

- (a) the inclusion of 'School' and 'Social Welfare Facility' as Column 2 uses for "Commercial" zone could provide flexibility to accommodate potential future demand for these uses to serve the immediate neighbourhood; and
- (b) the concerns on the potential traffic and environmental impacts and land use compatibility could be scrutinised thoroughly by the Board through the planning application system.