

Minutes of 887th Meeting of the Town Planning Board held on 15.6.2007

Present

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

Dr. Peter K.K. Wong Vice-Chairman

Mr. Michael K.C. Lai

Dr. Greg C.Y. Wong

Ms. Carmen K.M. Ch

Professor Nora F Y Tam

Mr. Nelson W Y Chan

Mr. Leslie H.C. Chen

Dr. Lily Chiang

Mr. Tony G.N. Yip

M. E. J. KUHN

BRUNSWICK LIVELINE

MR. D. W. GALT

MR. STANLEY T.T. WONG

Ms. Sylvia S.F. Yau

Ms. Maggie M.K. Chan

Professor N.K. Leung

Ms. Anna S.Y. Kwong

Mr. Felix W. Fong

Mr. Y.K. Cheng

Dr. James C.W. Lau

Ms. Starry W.K. Lee

Mr. K.Y. Leung

Deputy Director of Environmental Protection

Dr. Michael Chiu

Director of Lands

Mr. Patrick L.C. Lau

Director of Planning

Mrs. Ava S.Y. Ng

Deputy Director of Planning/District

Secretary

Miss Ophelia Y.S. Wong

Absent with Apologies

Mr. David W.M. Chan

Mr. Walter K.L. Chan

Mr. Raymond Y.M. Chan

Professor David Dudgeon

Professor Peter R. Hills

Professor Paul K.S. Lam

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

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

In Attendance

Assistant Director of Planning/Board
Mr. Lau Sing

Chief Town Planner/Town Planning Board
Mr. C. T. Ling (a.m.)
Ms. Brenda K.Y. Au (p.m.)

Senior Town Planner/Town Planning Board
Mr. Ivan Chung (a.m.)
Mr. W.S. Lau (p.m.)

1. The Chairperson extended a welcome to Members.

Agenda Item 1

[Open Meeting]

Confirmation of Minutes of the 886th Meeting held on 1.6.2007

2. The minutes of the 886th meeting held on 1.6.2007 were confirmed without amendment.

Agenda Item 2

[Open Meeting]

Matters Arising

Application for Judicial Review of Town Planning Board/Planning Department's Decision with respect to the Designation of KIL 11146 as Residential Use on the Draft South West Kowloon OZP No. S/K20/19

3. The Secretary reported that on 11.6.2007, an application for judicial review (JR) was lodged by Mr. Ng Ngau-chai (the Applicant) of the decisions of the Town Planning Board (the Board) and Planning Department (PlanD) to designate KIL 11146 at Hoi Fai Road, West Kowloon Reclamation as residential use. The subject site was zoned "Residential (Group A)2" ("R(A)2") with a permissible domestic plot ratio (PR) of 5.5 and a non-domestic PR of 1.5 when it was gazetted on the draft South West Kowloon OZP No. S/K20/1 in 1992. It was rezoned from "R(A)2" to "Residential (Group A)1" with a maximum domestic PR of 6.5 and a non-domestic PR of 1.0 in 1998. The grounds for the application for JR were that the decision of the Board and PlanD was made in breach of the statutory duty to properly follow the Town Planning Urban Design Guidelines and the spirit of the Town Planning Ordinance by selective adoption of guidelines without reasonable and objective standard and consistency.

4. The Secretary said that leave application for the subject JR was being considered by the Court. Should leave be granted, the Secretary would represent the Board on all

matters relating to the JR in the usual manner.

Agenda Item 3

[Open Meeting (Presentation and Question Session Only)]

Consideration of Representations and Comments in Respect of the
Draft Wong Nai Chung Outline Zoning Plan No. S/H7/12
(TPB Paper No. 7829)

[The hearing was conducted in Cantonese and English.]

5. The Chairperson said that on 8.12.2006, the draft Wong Nai Chung Outline Zoning Plan (OZP) No. S/H7/12 was exhibited for public inspection under s. 5 of the Town Planning Ordinance (TPO). A total of 31 representations and 9 comments were received. On 20.4.2007, the Board decided to consider the representations and comments itself and agreed to hear the 31 representations and 9 comments collectively.

Presentation and Question Session

6. The Secretary said that the following Member had declared an interest on this item:

Mr. Y.K. Cheng	- being part owner of two flats at San Francisco Towers, the Incorporated Owners of which submitted Representation No. 1
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7. The Secretary informed Members that Mr. Y. K. Cheng had not arrived to join the meeting.

8. The following Members also declared interests on this item:

Professor N. K. Leung	- for having relatives residing within the area covered by the Wong Nai Chung OZP
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Mr. Nelson W.Y. Chan - for being involved in an application for school development at King Kwong Street falling within the Wong Nai Chung OZP

Mr. Michael K.C. Lai - for his residence being within the area covered by Wong Nai Chung OZP

9. Members agreed that the above Members' interests were less direct as no representation sites were involved, they should be allowed to stay at the meeting and to participate in the discussion of this item.

10. The following representatives from the Planning Department (PlanD), the representers/representers' representatives and the commenters/commenters' representatives were invited to the meeting:

Ms. Christine Tse District Planning Officer/Hong Kong
(DPO/HK), PlanD

Mr. Tom Yip Senior Town Planner/Hong Kong, PlanD

Representation No. 1

The Incorporated Owners of San Francisco Towers

Mr. Jeffrey Ho] Representer's Representatives

Mr. Joseph Tai Chi Kit

Miss Wendy Sin

Representation No. 4

The Incorporated Owners of Ventris Terrace

Mr. Derek Sun] Representer's Representatives

Ms. Flora Lai

Mr. S.W. Lo

Mr. Patrick Sit

Mr. Chin Yuen Hung

Representation No. 5

Prestige Kingdom Ltd. and Wealthmount Co. Ltd.

Mr. Faith Tang] Representers' Representatives
Mr. Brian Law]

Representation No. 6

{ Newick Ltd.
Capital Wise Investments Ltd.
Panawin Ltd.
Join Sky Investment Ltd.
Shun On Properties Ltd.
Chain Base Ltd.

Mr. Derek Sun] Representers' Representatives
Ms. Flora Lai]
Mr. S.W. Lo]
Mr. S.L. Ng]

Representation No. 8

The Incorporated Owners of Winfield Gardens

Mr. David Lo] Representer's Representatives
Mr. Albert Kwok]
Ms. Cecilia Cheng]
Mrs. Y.Y. Ng]
Mr. Pang Kin Wai]

Representation No. 9

Ms. Pang Yim Ling

Representation No. 10

Mr. Pang Kin Wai

Representation No. 12

Mr. Peter Sit] Representer's Representative

Representation No. 13

The Incorporated Owners of Wah Chi Mansion

Ms. Theresa Yeung] Representer's Representatives
Ms. Alice Cheung]
Mr. Jon C.H. Mak]
Mr. Cedric Chan]
Mr. Phillip Ross]
Mr. Eddie Chalk]
Mr. Steven Shum]

Representation No. 15

Mr. Chow Wai Shing

Representation No. 17 and Comment No. 4

The Incorporated Owners of Blue Pool Court

Mr. Thomas Luk] Representer's Representatives
Ms. Elaine Chu]
Ms. So Wai Ling]
Ms. Zena Teoh]
Mr. Li Wai Kit]
Mr. Derek Ho]
Ms. Rosalina S.K. Law] Representative of Comment No. 4

Representation No. 23 and Comment No. 9

Mr. Wong Wang Tai, Wan Chai District Councillor

Representation No. 26 and Comment No. 1

The Incorporated Owners of Ventris Place

Mrs. Tan Tsai Shu Shu] Representer's Representatives
Mr. Yeung Chi Kwong]
Ms. Lau Kar Ming]
Mr. Kenneth To]
Ms. Pauline Lam]
Ms. Kitty Wong]

Representation No. 2

Royal Teck Ltd.

Representation No. 16

Fortune Key Ltd.

Mr. John Davison] Representative of Representations
] No. 2 and 16

(attending but no presentation)

Representation No. 14

The Incorporated Owners of Fine Mansion

Mr. Admond Au] Representer's Representative
] (attending but no presentation)

Representation No. 28

ISS East Point Property Management Ltd.

Ms. Deby Lam] Representer's Representatives
Ms. Anissa Woo]
(attending but no presentation)

Representation No. 29

Mr. Tony Tong

Mr. Edmond Au] Representer's Representative
(attending but no presentation)

Comment No. 3

Mr. Ricky Yue

11. Members noted that sufficient notice had been given to the remaining representers and commenters. Some did not respond to the notice and some could not be contacted. For those who had responded, they indicated that they would not attend or be represented at the hearing. Members agreed to proceed with the hearing in the absence of the remaining representers and commenters.

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

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

13. With the aid of a powerpoint presentation, Ms. Christine Tse made the following main points as detailed in Paper No. 7829:

- (a) the background of the amendments to the Wong Nai Chung OZP as detailed in paragraph 4 of the Paper covered the following main points:
 - a large part of the Wong Nai Chung area was designated as Special Control Areas (SCAs) by the Government in 1972. In 1989, the SCA restrictions were incorporated in the Wong Nai Chung OZP so that they could be enforced through the statutory planning system. A major part of the Density Zone 2 areas were SCAs and hence were already subject to development restrictions in the OZP since 1989. The remaining Density Zone 2 areas at Ventris Road, Shan Kwong Road, Hawthorn Road and Holly Road were zoned “Residential (Group B)” (“R(B)”) with no development restriction in the previous OZP;
 - before the incorporation of the density zoning and SCA control onto the OZP, the density policy was largely enforced through administrative measures such as lease control. Lease control was insufficient in attaining the planning objective as some leases were unrestricted;
 - recently, redevelopment proposals within the four amendment areas for high-rise buildings (up to 56 storeys high) with plot ratio reaching the maximum permissible under the Building (Planning) Regulations were received. Most of them were out of keeping with the neighbourhood in terms of built-form, scale and massing. Given the considerable redevelopment pressure in these areas, there was an imminent need to impose building height and plot ratio restrictions on these four areas to stop the proliferation of out-of-context developments to preserve the

local character of Wong Nai Chung;

- against the above background, PlanD had carried out a review on the plot ratio and building height of the four areas mentioned above, taking into consideration the planning intention to incorporate the Density Zone 2 control onto the OZP and to preserve the well-established local character of the residential neighbourhood in the area, while allowing sufficient design flexibility for new developments and redevelopments;
 - the amendments to the OZP were considered and agreed by the Metro Planning Committee of the Board on 1.12.2006. On 8.12.2006, the OZP incorporating the amendments was exhibited for public inspection;
- (b) representations and comments – representations and comments were submitted by Incorporated Owners, property management company, private developer, Wan Chai District Council (DC), DC Member and members of the public;
- (c) subjects of representations and comments – the issues raised by the representations and comments were related to the four amendment items to the Wong Nai Chung OZP: (i) Items A1 and A2 - Rezoning of various sites along Ventris Road and Shan Kwong Road from “R(B)” to “Residential (Group B)6” (“R(B)6”) with the imposition of a maximum plot ratio of 5 and a maximum building height of 115mPD; (ii) Item A3 - Rezoning of sites at 10-12 Holly Road, 70 Sing Woo Road, 5-7 Mui Hing Street, and 2-4, 4A and 6-8 Hawthorn Road from “R(B)” to “Residential (Group B)7” (“R(B)7”) with the imposition of a maximum building height of 14 storeys including carports; and (iii) Item A4 - Rezoning of a site at 2-8 Holly Road and 74-80 Sing Woo Road from “R(B)” to “Residential (Group C)2” (“R(C)2”) with the imposition of a maximum building height of 6 storeys in addition to 1-storey carport. 7 representations were generally in support of imposing development restrictions whilst 23 representations opposed the development restrictions or requested less stringent development restrictions. The views of the representation submitted by the Wan Chai DC were diverse, both in support of and opposition to the amendments;

[Professor Bernard V.W.F. Lim left the meeting temporarily at this point.]

- (d) the grounds of representations and the representers' and commenters' proposals were summed up in paragraphs 2.3 to 3.2 and detailed in Attachments II-1 to II-31 of the Paper;
- (e) PlanD's views – planning considerations and assessments as stated in paragraph 5 of the Paper covered the following main points:
 - (i) Representation sites and their surroundings
 - the representation sites fell within the Density Zone 2 areas and were located at different parts of the Wong Nai Chung area characterised by a quiet residential and institutional neighbourhood. Existing buildings within the representation sites were mainly of low to medium-density;
 - the surroundings of the representation sites had the following characteristics: the Happy Valley Race Course and the Happy Valley Sports Ground in the centre of the valley plain were the predominant landscape features in the northern part of the Wong Nai Chung area. The southern part consisted of mainly medium-rise residential developments encircling the valley plain rising up to the higher grounds of the valley, overlooking the Race Course and Sports Ground to the north. Developments on both sides of Wong Nai Chung Road and Sing Woo Road were mainly medium-rise buildings while the buildings at the upper part of Blue Pool Road were mainly low-rise;
 - (ii) Rationale of the Proposed Development Restrictions
 - the recommended development restrictions were intended to preserve the well-established local character of the residential neighbourhood. In addition, the four areas under amendment were subject to considerable redevelopment pressure and proliferation of incompatible and out-of-keeping buildings;
 - it was insufficient to rely solely on administrative measures to control

the intensity of development within the Density Zone 2 areas;

[Mr. Patrick L.C. Lau arrived to join the meeting at this point.]

(iii) Imposition of Development Restrictions Not Justified

- in considering the appropriate development restrictions, PlanD had taken into account the development intensity for the Density Zone 2 areas and the urban design principles, which included in particular the preservation of the existing character and amenity of the area and the compatibility with the surrounding developments and environment. The imposition of development restrictions was not a result of traffic or infrastructure consideration. Rezoning of other sites to “Open Space” to address traffic/infrastructure concern was not a relevant consideration;
- in imposing the development restrictions for the amendment areas, the consideration of the SCA was irrelevant as the amendment areas were outside the SCA;
- whilst the current amendments focused only on four areas, the intention was to review the development restrictions for the whole Wong Nai Chung area. The review on the remaining areas including the “Government, Institution or Community” (“G/IC”) sites would be carried out at the next stage;
- some representers claimed that the Building Authority (BA) could reject building plans for developments which were considered incompatible in height with the surrounding buildings under s. 16(1)(g) of the Buildings Ordinance (BO). However, the stipulation of the building height restriction on the OZP would provide clear and certain planning control and a transparent mechanism for the public and affected parties to express their views on the control in accordance with the provisions of the TPO;

(iv) Impact on Building Design

- the proposed height restriction for sites along Ventris Road and Shan Kwong Road was to ensure that urban design principles would not be

compromised while still accommodating a maximum plot ratio of 5 with reasonable allowance for building design flexibility;

- there was no direct correlation between building height and monotonous/wall effect buildings. Building design was determined by a host of factors such as plot ratio, site coverage and building height, design and disposition of buildings, and configuration of the site. There was also a provision in the OZP for application for minor relaxation of the height restrictions based on design merits;
- the imposition of the building height restrictions would not pose any difficulty in complying with the requirements of the BO and the HKPSG in developing the site up to a plot ratio of 5;

(v) Impact on Property Value/Redevelopment Potential

- the property value or redevelopment potential of a site was determined by many factors. The imposition of development restrictions did not necessarily result in a decrease of property value/redevelopment potential. The current amendments had struck a balance between meeting community aspiration for a better and sustainable living environment and protection of private development rights;
- the development potential of the representation sites was also determined by respective lease conditions;
- from Administration Law perspective, Department of Justice (D of J) advised that the degree of unreasonableness required for “irrationality” in the sense of “Wednesbury unreasonableness” was very high. Since the current amendments to the OZP were intended to preserve the existing character of the Wong Nai Chung area and to avoid the proliferation of out-of-context developments, they were considered to be valid planning considerations. The Board had also taken into account relevant information on various aspects, including Density Zone Guidelines, the existing character of the area, urban design principles, existing developments in the area, before making the amendments. The Board’s

decision to make the amendments was not unreasonable;

- from Basic Law perspective, D of J advised that Article 120 of the Basic Law (BL 120) provided that “All leases of land granted, decided upon or renewed before the establishment of the Hong Kong Special Administrative Region (HKSAR) which extend beyond 30 June 1997, and all rights in relation to such leases, shall continue to be recognized and protected under the law of the Region”. It was unlikely that the rezoning of the land in question by the Wong Nai Chung OZP would be inconsistent with BL 120 because the land was subject to the town planning regime under the TPO before the establishment of the HKSARG. It was unlikely that BL 120 would have the effect of exempting the land from the town planning regime after 30.6.1997;
- D of J also advised that BL 105 provided that “the HKSARG shall, in accordance with law, protect the right of individuals and legal persons to the acquisition, use, disposal and inherence of property and their right to compensation for lawful deprivation of their property.” A ‘de facto deprivation’ would exist if the property affected was left without any meaningful alternative use or if the restrictions had denied all economical value of the property. Given that there was no formal extinguishing of the property interest of the representation sites, it was unlikely that there was any formal deprivation;
- the owners of the buildings should be responsible for the maintenance of their buildings. It was improper to rely on a high plot ratio to provide incentives for redevelopment or maintenance;

(vi) Lack of /Inadequate Public Consultation

- the current amendments to the Wong Nai Chung OZP involved the imposition of plot ratio and building height restrictions. As an established practice, public consultation would be carried out during the exhibition period of the OZP to avoid premature release of the intended planning control which might prompt developers/landowners to accelerate the submission of building plans before the OZP came into effect. Approval

of such building plans by the BA prior to the publication of the amended OZP would become a fait accompli and thus nullify the effectiveness of imposing the development restrictions;

- the publication of the OZP itself was part of the public consultation process. During the exhibition period, any persons affected by the amendments might send representations to the Board and the Board would consider the representations in accordance with the provisions of the TPO;
- in accordance with the requirements of the TPO, notice of the amendments was published in the Gazette, two Chinese newspapers and one English newspaper every week during the two-month period. The OZP was also available for public inspection at the Secretariat of the Board, the Planning Enquiry Counters of the PlanD, the Hong Kong District Planning Office of the PlanD and the Wan Chai District Office. There was no statutory requirement under the TPO to send registered mail to all individual owners as requested by the representers;
- the amendments to the OZP were presented to the Wan Chai DC at its meeting held on 16.1.2007 during the exhibition period of the OZP;

(vii) Representations relating to Specific Sites

20 Shan Kwong Road (Representation No. 6)

- Approved Building Plans: the latest building plans for a residential redevelopment at 20 Shan Kwong Road and the adjoining lots at 1, 3 and 5 Village Terrace which were not covered by the amendment items were approved by the BA on 12.10.2006 before the zoning amendment was gazetted. As at the time of building plan submission, 20 Shan Kwong Road was not subject to any height restriction while the adjoining lots at 1, 3 and 5 Village Terrace were zoned “Residential (Group B)2” subject to the restriction of maximum 4 storeys including carports, the approved scheme had in effect transferred the unexpended plot ratio from 1, 3 and 5 Village Terrace to 20 Shan Kwong Road where there was no height restriction, thus resulting in a total plot ratio of about 7.983 and building height of about

175.55mPD (37 storeys including 7 storeys of podium);

- the OZP amendments would not affect the status of building plans already approved by the BA. For any subsequent amendments to the approved building plans which were minor in nature and immaterial in planning terms, no recommendation would be made to the BA to reject the building plans;
- the set of building plans approved by the BA on 12.10.2006 was disapproved by Lands Department (LandsD) on the ground of the non-compliance of the “not more than two houses” restriction. The representers’ statement that “lease modification is not required for construction of the building in accordance with the approved building plans” did not reflect the true situation;
- Visual Impact: Chief Town Planner/Urban Design & Landscape (CTP/UD&L) of PlanD considered that the imposition of plot ratio and height restrictions on the OZP would be an effective measure to minimize building intrusion into the valley backdrop;
- Traffic Impact: Assistant Commissioner for Transport/Urban of Transport Department (AC for T/U, TD) considered that the Traffic Impact Assessment (TIA) was too optimistic and did not properly reflect the actual traffic condition of the surrounding roads, such as Shan Kwong Road and King Kwong Street. In addition, the TIA was conducted on the subject site only and had not taken into account the cumulative traffic impact as a result of the potential increase in plot ratio from 5 to 8 for the nearby sites under the current OZP;
- Financial Position: regarding the representers’ claim that their development right had been deprived, responses in paragraph 13(e)(v) above had clarified that the imposition of development restrictions did not amount to a “de facto deprivation” of development right;

- Building Design and Visual Impact of the illustrative scheme: CTP/UD&L of PlanD considered that the design merits stated in the representer's proposal were not strong enough to justify any relaxation;
- Chief Architect/Advisory and Statutory Compliance, Architectural Services Department considered the building height of the indicative scheme appeared to be quite compatible with that of the surrounding developments. However, the building looked rather massive when it was viewed from Shan Kwong Road. He considered that a lower plot ratio and larger setback from the road would help reduce the building bulk and the adverse visual impact of the redevelopment on the surroundings;
- Traffic Impact: AC for T/U, TD considered that the TIA might not be sufficient to reflect the potential traffic impact on the surrounding road network. More assessment on the road junctions along Shan Kwong Road was considered necessary;

2-8 Holly Road and 74-80 Sing Woo Road (Representation No. 17)

- Approved Building Plans: the OZP amendments would not affect the status of the building plans already approved by the BA;
- District Lands Officer/Hong Kong East clarified that no building plan submission for the representation site had been approved by LandsD and commented that the representer's statement that “the granting of building plan approval for the redevelopment at the objection site simply implied no adverse comments were yet received by Government departments, such as LandsD” did not reflect the true situation;
- Environmental Impact: the Director of Environmental Protection considered that the main environmental issue was visual impact;
- Traffic Impact: AC for T/U, TD considered that the TIA might not be sufficient to reflect the potential traffic impact on the surrounding road network. More assessments were considered necessary;

(vii) Responses to Representers' Proposals

Reverting to “R(B)” zone (Representers No. 4, 5, 6, 7, 8, 11 to 13 and 17)

- the OZP amendments to impose development restrictions were intended to preserve the local character of the Wong Nai Chung area. The representers' proposal to revert the zoning to “R(B)” which was not subject to any plot ratio or building height restrictions would allow the proliferation of high-rise buildings which were out of keeping with the surrounding developments. Also, the development restrictions were recommended after a review of the remaining areas within the Density Zone 2. As such, the representers' proposal was considered not appropriate;

Addition of Remarks in relation to approved Building Plans in the Notes of the “R(B)6” zone (Representer No. 6)

- the amendments would not affect the status of approved building plans approved by the BA and the right to make minor modifications or amendments to the approved building plans. In fact, a set of minor amendments to the approved building plans was approved by the BA on 4.4.2007. The inclusion of the proposed remark in the Notes for the “R(B)6” zone to allow development up to the plot ratio, gross floor area and building height of the proposed development approved by the BA was considered not acceptable and would have far reaching implications. While approved building plans and its subsequent minor amendments would be allowed, major changes to the approved building plans would still need to comply with the extant OZP in order to reflect the planning intention of the OZP amendment; and

Amending the plot ratio and building height restrictions for the “R(B)6” zone in respect of 34-40 Shan Kwong Road to 7 and 145mPD respectively (Representers No. 9 and 10)

- the relaxation of the plot ratio and building height restrictions from 5 to 7 and 115mPD to 145mPD respectively would represent an increase of 40% in plot ratio and 26% in building height. The representers had not provided enough justifications to demonstrate that the proposed plot ratio of

7 and building height of 145mPD were appropriate for the representation site.

PlanD recommended the Board to note Representations No. 20, 21 and 31 which were in support of the imposition of plot ratio and building height restrictions. For the remaining representations (No. 1-19 and 22-30), PlanD did not propose any amendments to the Plan to meet these representations.

14. With the aid of computer simulation, Ms. Christine Tse demonstrated a fly-through presentation of the representation sites under different scenarios, viz. existing situation, with and without development restrictions. After the presentation, she added that further information (FI) submitted by Representatives No. 11, 24 and 29 on 12.6.2007 had been tabled for Members' reference. As there was no provision under the TPO for the Board to accept FI for representation submitted to the Board after the expiry of the relevant statutory time limits for making submission, the FI should be treated as not having been made. Members agreed.

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

[Mr. Felix W. Fong left the meeting temporarily at this point.]

Representation No. 1 (The Incorporated Owners of San Francisco Towers)

16. With the aid of photos, Mr. Jeffrey Ho made the following main points:

- (a) the owners all along were very concerned about the development of new buildings, particularly the high-rise ones, in the Wong Nai Chung area. However, they were never given sufficient information or a complete picture on the scale and height of planned developments in the area. For example, they were not informed in advance about the scale of the development of The Ellipsis at the junction of Ventris Road and Blue Pool Road, the HK Sanatorium & Hospital extension and the planned "R(C)1" development at Blue Pool Road;

- (b) there would be “wall effect” if building height restriction was only imposed on the sites along Ventris Road but not for those along Wong Nai Chung Road;
- (c) there was no reason given on the exclusion of 17 Ventris Road from the current height control; and
- (d) an overall picture on the planned building height and plot ratio control should be provided to demonstrate to the public the need to impose such restrictions in the Wong Nai Chung area.

Representation No. 4 (The Incorporated Owners of Ventris Terrace)

17. With the aid of a powerpoint presentation, Mr. Derek Sun made the following main points:

- (a) there were currently two towers of 12 residential floors atop 3-basement carport at Ventris Terrace, the representation site at 25-27 Ventris Road. The buildings were now 43-year old and in a dilapidated condition, e.g. falling external wall tiles which required renovation or redevelopment;
- (b) the representation site was surrounded by high-rise buildings, including San Francisco Tower with a height of 101.24mPD and Ventris Place with a height of 130.4mPD;

[Dr. Lily Chiang arrived to join the meeting at this point.]

- (c) the density zoning system had been established for 40 years without amendments and was only publicised in the HKPSG without statutory effect. The density zoning plan at a scale of 1:70,000 was broad-brush in nature and many buildings within the Density Zone 2 areas had already exceeded a plot ratio of 5. Given the changes in circumstances and aspirations of the community over years, it was difficult for the public to follow the density zoning system. It would be reasonable for the public to

follow the planning restrictions and zoning boundaries as detailed in the OZP prepared at a scale of 1:5,000;

- (d) the character of residential neighbourhood was not clearly defined and there were no statistics and study report to back up the current restrictions in the OZP;
- (e) selective amendments would not be conducive to the preservation of local character and were extremely unfair to the representer. Ventris Terrace was being surrounded by Ventris Place and San Francisco Towers, and would be further surrounded by the “R(A)” development to its immediate west. For example, The Ellipsis at the junction of Ventris Road and Blue Pool Road had been developed up to 140mPD with a plot ratio of 8. This would create a “bowl-shape” development, contrary to the stepped height profile and causing adverse impact in terms of visual, sunlight penetration and air ventilation. PlanD’s photomontage was misleading as the effect of redevelopment within “R(A)” and “R(B)” zones without development restrictions had not been taken into consideration;
- (f) the lack of prior public consultation was not justified. The current amendments to the Wong Nai Chung OZP were not comparable to similar amendments to other OZPs. For example, amendments to the Kowloon Tong and Shek Kip Mei OZPs mainly involved imposition of building height restrictions without plot ratio control. On the other hand, amendments to the OZPs for the Kowloon Peninsula, Tsuen Wan and Kwai Chung were based on infrastructural considerations and also supported by detailed planning studies;
- (g) the rationale of preserving the local character of Happy Valley was very subjective, without any support from planning study and/or consultation with the local residents and the public.
- (h) the proposed amendments would reduce incentive for redevelopment which would in turn result in a “planning blight” of the area as Ventris Terrace was already in a dilapidated condition; and

- (i) it was suggested that before the completion of the urban design and building character study of the area and relevant public consultation, the representation site should be reverted from “R(B)6” to “R(B)”. Another alternative was to amend the Notes of the OZP to impose height restrictions of 115mPD only which would not create any significant adverse visual impacts.

Representation No. 5 (Prestige Kingdom Ltd. and Wealthmount Co. Ltd.)

18. Mr. Brian Law made the following main points:

- (a) the publication of the OZP for public inspection was not a genuine consultation as the OZP once gazetted would serve as a statutory guide for government departments;
- (b) the amendment would adversely affect the property value of the flats in Wah Chi Mansion as the reduction of plot ratio from 8 to 5 represented a loss of about 37.5% in development intensity;
- (c) there were no justifications or studies to support the proposed restrictions;
- (d) the area was currently surrounded by high-rise buildings at Tai Hang Road and Wong Nai Chung Road and it was doubtful if the proposed restrictions would really help preserve any special character of the Wong Nai Chung area. Also, the proposed reduction of plot ratio from 8 to 5 would unlikely bring about any tangible benefits to the area; and
- (e) the representation site should be rezoned to “R(B)”. Alternatively, the representatives would accept the proposed restrictions if a plot ratio of 8 could be reinstated.

[Dr. Lily Chiang left the meeting temporarily at this point.]

Representation No. 6 (Newick Ltd., Capital Wise Investments Ltd., Panawin Ltd., Join Sky

Investment Ltd., Shun On Properties Ltd. and Chain Base Ltd)

19. With the aid of a powerpoint presentation, Mr. Derek Sun made the following main points:

- (a) a set of buildings plans with a plot ratio of 7.983 and a building height of 175.55mPD was already approved for the representation site (20 Shan Kwong Road) and the adjoining lots at 1, 3 and 5 Village Terrace on 12.10.2006. The representers were entitled to develop the site in accordance with the approved building plans, and then demolish and rebuild up to the plot ratio and building height of the “existing building”;
- (b) with the approved building plans, the building height and plot ratio restrictions stipulated on the Notes for the “R(B)6” zone would be misleading to the public as it did not reflect the development intensity that could be developed on the representation site;
- (c) the photomontage prepared by PlanD was misleading. Should the redevelopment within other “R(A)” and “R(B)” zones without restrictions be incorporated in the photomontage, the representation site would be among those high-rise developments in the “R(A)” and “R(B)” zones;
- (d) the character of the Wong Nai Chung area was not well-defined in the Notes of the OZP. The rationale for the amendments based on the character of the area was unclear without any objective and scientific basis;
- (e) there was no public consultation before the imposition of development restrictions for the representation site into the OZP. DC had not been consulted. There was a lack of relevant statistics or studies to support the proposed restrictions;
- (f) the current density zoning system had been established for 40 years without amendments and was only publicised in the HKPSG without statutory effect. The density zoning plan at a scale of 1:70,000 was broad-brush in nature and many buildings within the Density Zone 2 areas had already

exceeded a plot ratio of 5. Given the changes in circumstances and aspirations of the community over years, it was difficult for the public to follow the density zoning system. It would be reasonable for the public to follow the planning restrictions and zoning boundaries as detailed in the OZP prepared at a scale of 1:5,000;

- (g) the density zoning system was obsolete and should not be used as a tool to justify phased imposition of development restrictions on the OZP. Imposition of development restrictions required thorough study and public consultation whilst respecting approved development plans;
- (h) though LandsD indicated that the approved building plans did not conform to the lease because of “not more than two houses restriction”. Such a view was considered not valid because there were precedent developments on land with similar conditions. The owners’ lawyers had already made representations to LandsD as shown in a letter tabled at the meeting. Besides, technical details of the lease were irrelevant to the consideration of representation under the TPO;
- (i) in terms of visual implication, the proposed development up to the development parameters of the approved building plans would unlikely create adverse impact as only a small portion of the building could be observed at a few viewpoints; and
- (j) the representers should be given the right to design the building up to a plot ratio of 7.983 and building height of 175.55mPD as permitted under the approved building plans. The site should either be rezoned to “R(B)” or a special residential zoning so as to reflect the approved parameters in the remarks of the Notes of the “R(B)6” zone.

Representation No. 8 (The Incorporated Owners of Winfield Gardens)

20. With reference to a written submission including two photos tabled at the meeting, Mr. David Lo made the following main points:

- (a) despite the claim to preserve the overall character of the Wong Nai Chung area, the restrictions on building height and plot ratio were selectively imposed on the four amendment areas only;
- (b) the character of the Wong Nai Chung area was not well-defined. It was not sure whether such character was the spatial dimension created by low-rise buildings, a plot ratio of 5 or the presence of “G/IC” uses or the designation of SCA;
- (c) the HK Sanatorium & Hospital extension currently under construction was already out of context in the Wong Nai Chung area. Explanation should be provided as to the exclusion of “G/IC” use, Village Road area and 17 Ventris Road from the current restrictions;
- (d) the choice of vantage points should be objective and precise, in accordance with the HKPSG. In the planning for the Wong Nai Chung area, such a choice was arbitrary, particularly with reference to the proposed building height for Winfield Gardens. The photomontage prepared by PlanD had not shown that the building height of the HK Sanatorium & Hospital extension had already exceeded the ridgeline;
- (e) it was inappropriate to compare the Amendment Item A2 area with development in Blue Pool Road and Briar Avenue. Instead, it was more appropriate to compare with those development in Village Road and Tsui Man Street;
- (f) Winfield Gardens had a higher formation level, i.e. 45mPD, and if the restriction of 115mPD could be relaxed taking account of the presence of the slope and the formation level, there would be more scope to optimise the potential of the site;
- (g) the Government had undertaken an overhaul of the height control for all uses (including “G/IC”) in North Point, a similar comprehensive review should be carried out for the Wong Nai Chung area;

- (h) the current down-zoning would undermine the confidence of the public in the property market; and
- (i) there was no in-principle objection to planning but it had to be conducted in a fair manner and tied in with the expectations of the affected residents.

[Dr. Lily Chiang returned to join the meeting at this point.]

Representation No. 9 (Mr. Pang Kin Wai)

Representation No. 10 (Ms. Pang Yim Ling)

21. With the agreement of Ms. Pang Yim Ling, representer of Representation No. 10, Mr. Pang Kin Wai made the following main points for Representations No. 9 and 10:

- (a) to facilitate the public to better understand the planning considerations of the TPB Paper, both Chinese and English version should be provided by the Secretariat;

[Dr. Daniel B.M. To and Mr. Felix W. Fong returned to join the meeting at this point.]

- (b) the Government was arbitrarily taking away the redevelopment rights of their property and it was against the Basic Law which promised property right to remain the same as before 1997;
- (c) the down-zoning would affect the property value and redevelopment potential of the old building at the site. The argument in paragraphs 5.13(a) and (h) of the TPB Paper No. 7829 had not been supported by any convincing justifications;
- (d) contrary to paragraph 8.4(e) of the TPB Paper No. 7829, the down-zoning would adversely affect the market value of the properties and deprive the land rights;
- (e) the amendments were not just, fair, open and transparent. The affected owners had not been consulted and their views had not been sought before

the amendments;

- (f) in response to PlanD's comments that the representers had not provided sufficient justifications to support their proposed plot ratio of 7 and building height of 145mPD, the representers were just laymen and not professionals. Moreover, the representation form only required the representers to spell out their proposed amendments with no specific requirement for providing justifications; and
- (g) to amend the plot ratio and building height restrictions of the representation site to 7 and 145mPD respectively would help enhance visual effect of the overall townscape and reduce wall effect.

Representation No. 12 (Mr. Lew Car Chi)

22. With reference to a written submission tabled at the meeting, Mr. Peter Sit made the following main points:

- (a) the rezoning was procedurally improper as no sufficient nor clear reasons had been given by the Board in the OZP and its Explanatory Statement and in the TPB Paper in respect of the zoning amendments to the OZP;
- (b) the rezoning might be contrary to the legitimate expectation of the representer that the representation site should remain to be zoned as "R(B)" with a plot ratio of 8;
- (c) the Board's decision on amending the OZP and the consultative process should be subject to the limitations imposed by the TPO and the rules of procedural fairness. As stated in a previous Court of Appeal case, if the Board had volunteered to give reasons for its decision, the reasons given should be adequate. "Should be" in the present context meant "have to be";
- (d) in the present case, the Board had given its reasons in the Explanatory Statement of the OZP. Although the Explanatory Statement was not part

of the statutory OZP, it was a material document and could not be disregarded;

- (e) the reasons given by the Board regarding the rezoning were far from clear and sufficient for the representer to appreciate why a down-zoning should be made to the site. It was stated in the Explanatory Statement that in respect of several areas, *inter alia*, Shan Kwong Road, the restrictions on plot ratio and/or building height “are mainly based on the need to maintain the character of the areas and the restriction previously imposed administratively in the Special Control Area due to poor access of the areas.” As such, the apparent reasons in the Explanatory Statement were to maintain the character of the areas (“First Reason”) and to maintain the restrictions previously imposed administratively in the SCA due to poor access of the areas (“Second Reason”);
- (f) the Board had apparently withdrawn from its position on the Second Reason as paragraph 5.11(b) of the TPB Paper had stated that “...the SCA designation was not taken into consideration as the amendment areas were outside the SCA....”;
- (g) as to the First Reason, the Explanatory Statement did not spell out what character of the areas had to be maintained, why such character had to be maintained, what was meant by the “previous restrictions” imposed administratively, why it was difficult to access the site and the sort of access the Board had in mind, and the exact scope of areas that the above explanations were applicable;
- (h) with reference to Plans H-14, H-15 and H-16 of the TPB Paper, the present character of the area in question was defined by high-rise buildings like The Summit, Fortuna Court, High Cliff and HK Sanatorium & Hospital extension. The addition of two new buildings at 18 Shan Kwong Road (the representation site) and 20 Shan Kwong Road could not affect the overall characteristics now defined by these buildings;
- (i) the density zoning system conceived 40 years ago was broad-brush in

nature and only provided some guiding principles. Doubts were cast on why the restrictions under the Density Zone 2 areas had not been imposed as a statutory control for 40 years;

- (j) as to the legitimate expectation, about 90% of the owners of the representation site had agreed to the redevelopment of the site and BD had previously had no objection to the classification of the site as a Class A site subject to a plot ratio of 8 and without building height restriction upon the enquiry made by the consultants appointed by the owners of the representation site. The Government should clarify whether the down-zoning of the site was prompted by the redevelopment proposal of the representation site as the down-zoning had frustrated the representer's legitimate expectation; and
- (k) the representation site should be rezoned to "R(B)" with a plot ratio of 8.

Representation No. 13 (The Incorporated Owners of Wah Chi Mansion)

23. With the aid of a powerpoint presentation, Ms. Theresa Yeung made the following main points:

- (a) being non-statutory in nature, the density zoning system was broad-brush and non-site specific without taking account of local characteristics. With the change of circumstances and other considerations pertaining to traffic and visual aspects, there were doubts on its relevance to the current aspirations of the community;
- (b) the representation site had never been included in any SCA which had been conceived due to such considerations as maintaining character and amenity, poor access for sites, inadequate infrastructural services and need to preserve public views;
- (c) the representation site was located in a well-established medium to high-rise residential neighbourhood with medium to high density developments. Building plans for two 32-storey residential blocks over a

7-level podium had been approved for the adjoining 20 Shan Kwong Road. The HK Sanatorium & Hospital extension would add 20 more storeys to the existing 15-storey building. The Summit and the High Cliff respectively had a height of 69-storey over 4-level podium and 59-storey over 9-level podium. The new height limit for the representation site was 115mPD only which equalled to about 27-storey, which was not comparable to the aforesaid buildings in the same neighbourhood;

[Dr. James C.W. Lau left the meeting temporarily at this point.]

- (d) an indicative scheme for a residential redevelopment with a plot ratio of about 8 and building height of about 115mPD had been prepared for the representation site. The proposed building would be set back from the existing pedestrian pathway for planting purpose and streetscape enhancement. The building setback and the greening provision would create a pleasant pedestrian environment along Shan Kwong Road and facilitate better ventilation and sunlight penetration;
- (e) the proposed development at a plot ratio of 8 and a building height of about 115mPD would have no adverse visual impact to local visually sensitive receivers as viewed from several view points at Bowen Road and Happy Valley Recreation Ground; and
- (f) the representation site should be rezoned to “R(B)” or the plot ratio restriction should be removed while retaining the building height restriction of 115mPD.

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

Representation No. 15 (Mr. Chow Wai Shing)

24. With the aid of photos, Mr. Chow Wai Shing made the following main points:

- (a) the representer only received the Chinese version of the TPB Paper on 12.6.2007 and there was not sufficient time to go through departments'

comments on the grounds of representations;

- (b) the building height restriction would adversely affect the redevelopment potential of the site and the maintenance of the existing building;
- (c) there were no statistics or detailed justifications to support the imposition of plot ratio and height restrictions other than stating the need to preserve the ridgeline and maintain low-density character; and
- (d) there was no consultation prior to the publication of the draft OZP in December 2006.

[Dr. James C.W. Lau returned to join the meeting at this point.]

Representation No. 17 (Incorporated Owners of Blue Pool Court, also Commenter of Comment No. 4)

25. With the aid of a powerpoint presentation, Mr. Thomas Luk made the following main points:

- (a) the imposition of a maximum building height of 6 storeys in addition to 1-storey carport was unfair and was based on outdated lease conditions made in 1950;
- (b) compared with the current restrictions in the Density Zone 2 in the HKPSG and the Building (Planning) Regulations, the representation site should be allowed to be developed with a plot ratio of 5 and with a building height of 17 storeys;
- (c) the height restriction would limit the development intensity of the representation site and undermine the flexibility for the future redevelopment of the exiting building;
- (d) as to the concern to preserve the stepped height development profile of the area, there were existing buildings found not compatible with others located

at the same stepped height. Even along Holly Road, developments within “R(B)7” under Amendment Item A3 would be higher than “R(C)2” under Amendment Item A4. However, such a discrepancy had not been explained by PlanD;

- (e) under the current height restrictions of the OZP, new building at the representation site could only be developed up to 72.3mPD which was much lower than the adjoining buildings including Unique Villa (85.8mPD), Holly Court (99.8mPD) and Waiga Mansion (84.3mPD);
- (f) sites on the other side of Blue Pool Road at a higher site formation level e.g. Moulin Court had already developed up to more than 10 storeys. The representation site at a lower site formation level was only allowed to develop with less number of storeys. This was unfair to the owners of the site;
- (g) the Blue Pool Court had not been included in SCA, similar to the neighbouring Unique Villa and Holly Court which were allowed to be developed up to 14 storeys under the “R(B)7” zone. In this regard, it was unclear why the restrictions imposed on the representation site were not aligned with those of Unique Villa and Holly Court rather than those areas falling within the SCA;
- (h) within the same “R(B)” zone, number of sites having obtained approved building plans was limited and therefore, the concern on the proliferation of out-of-context development was not warranted. Even without redevelopment of the representation site, there were already many out-of-context buildings, e.g. Ventris Place and The Summit, in the Wong Nai Chung area;
- (i) if the intention was to preserve the stepped height development profile, it was unclear why there was a provision in the OZP allowing application for minor relaxation of the height restrictions;
- (j) the proposed restriction would reduce the development potential of the site

making it impossible to achieve the plot ratio of 5 which was permissible within the Density Zone 2 and resulting in incompatibility with the neighbouring development;

- (k) the Government had not imposed height restrictions on “G/IC” and “Other Specified Uses” zones, within which high-rise buildings might be developed under Column 1 without any need to obtain planning approval. The Government should put these zonings under similar control;
- (l) the Board should make prior consultation with public, similar to the Kai Tak Planning Review, before proceeding with the amendments. The current consultation arrangement through gazetting the amended OZP was considered “tokenism”;
- (m) suggested amendments included: (i) to rezone to the original “R(B)” zone; or (ii) to amend the Notes of the OZP to enable the implementation of the redevelopment scheme approved by the BA; or (iii) to rezone to “R(C)3” allowing a maximum building height of 89mPD; or (iv) to rezone to “R(B)7” with a maximum building height of 14 storeys; and
- (n) the said amendments would have the merits of maintaining the stepped height development profile, allowing development up to a plot ratio of 5 as permitted under the Density Zone 2, optimising the development potential of the site, preserving the local character, providing flexibility for the future redevelopment and balancing the private property rights and public interests.

26. Ms. Elaine Chu made the following main points:

- (a) the redevelopment programme for the representation site started in August 2005, long before the current down-zoning of the representation site. With the agreement of the majority of the owners, a consultant had been appointed to examine the feasibility of redeveloping the Blue Pool Court. In January 2006, a set of building plans for a 34-storey building was approved by the BA. A feasibility study based on the approved building

plans had been prepared by the consultant and several developers had approached the Incorporated Owners of the Blue Pool Court expressing an interest in the redevelopment proposal;

- (b) without prior consultation, the current amendments had suddenly down-zoned the representation site while the owners were actively studying the feasibility of the redevelopment proposal. This was unfair to the owners of the Blue Pool Court and contrary to their legitimate expectation of the development potential of their sites under the original “R(B)” zone; and
- (c) under the restrictions of the current zoning, the redevelopment value was broadly similar to the existing value of the Blue Pool Court and there was hardly any incentive to redeveloping the existing dilapidated building. Deterioration of building condition would unlikely be beneficial to the environment of the Wong Nai Chung area.

27. With reference to a written submission tabled at the meeting, Ms. Rosalina S.K. Law, representative of Comment No. 4, made the following main points:

- (a) the redevelopment plan of the Blue Pool Court had been initiated more than 10 years ago. A set of building plans was already approved by the BA;
- (b) given the age and dilapidated condition of the building, redevelopment was the only practical solution to improve the current condition of the building;
- (c) the establishment of the Urban Renewal Authority (URA) in 2001 was aimed at speeding up the urban renewal process, improving the built environment and optimising land uses of the urban area. However, URA was mainly tasked with the large-scale renewal projects and redevelopment of small-scale private property would have to rely on the initiative of the concerned owners;
- (d) the Government had all along allowed a higher plot for the URA projects as well as for the land sale sites in West Kowloon. On this premise, the

current down-zoning not only discriminated against the private property right of the Blue Pool Court owners but also hampered their self-initiated effort to redevelop their property;

[Ms. Sylvia S.F. Yau and Professor N.K. Leung left the meeting at this point.]

- (e) with the deprivation of the redevelopment prospect by the down-zoning, the building condition of the Blue Pool Court would further deteriorate;
- (f) in response to the Government's rationale to carry out the down-zoning, the consultant appointed by the Blue Pool Court had confirmed that the redeveloped building would not create adverse traffic and environmental impacts;
- (g) as to land use compatibility, many areas in Jardine's Lookout, Tai Hang Road and Broadwood Rood were already characterised by mixture of high-rise and low-rise buildings, without creating any compatibility problems. Land use compatibility could not be taken as a over-riding reason for the Government to down-zone the Blue Pool Court;

[Mr. Felix W. Fong left the meeting at this point.]

- (h) every site was unique in itself and therefore, every planning application had to be considered on its own merits and would not set a bad precedent for other cases; and
- (i) even if the Blue Pool Court was rezoned to "R(B)", the future redevelopment would not create an adverse visual impact as it was located in the midst of high-rise buildings. Instead, it would help improve air ventilation and enhance the landscape of the area. Premium to be paid to the Government was also in the interest of the public.

Representation No. 23 (Mr. Wong Wang Tai, Wan Chai District Councillor, also Commenter of Comment No. 9)

28. Mr. Wong Wang Tai made the following main points:

- (a) the Government had all along neglected the planning of Wan Chai and it was surprised to note the sudden attention paid to the preservation of the local character as exemplified by the current amendments to the OZP;
- (b) there was doubt on whether the preservation of the stepped height development profile really catered to the need of the local residents. The local residents might not share the same feeling and attitude towards the development of high-rise buildings. Also, no prior consultation had been undertaken before the gazetting of the amended OZP;
- (c) during the discussion of the subject amendments at the Wan Chai DC meeting in January 2007, many DC members had stressed the importance to respect the development rights of the concerned owners;
- (d) a comprehensive review of the land use zonings of the Wan Nai Chung area should be undertaken by the Government with a view to reaching a consensus among the local residents before imposing any restrictions on any specific areas. The proposed amendments to the OZP currently under consideration was only an ad hoc and piecemeal approach without the support of any objective studies and detailed justifications; and
- (e) redevelopment of the Mt. Nicholson site and Ex-Lingnan College site would bring about more traffic congestion problem than the currently proposed redevelopment within the four amendment areas.

Representation No. 26 (The Incorporated Owners of Ventris Place, also Commenter of Comment No. 1)

29. With the aid of a powerpoint presentation, Mr. Kenneth To made the following main points:

- (a) rezoning of the representation site from “R(B)” to R(B)6” with the incorporation of plot ratio and building height restrictions was opposed as it

would constrain building design and disposition upon redevelopment;

- (b) more reasonable headroom space could not be provided upon redevelopment and there would be a departure from the present standards in adopting a floor to floor height of 3m or above;
- (c) the current restriction would likely result in a larger site coverage, creating wall effect blocking view and ventilation. It would limit the provision of private open space and recreational facilities on the podium level;
- (d) there was no height restriction imposed on the “R(A)” zone on Wong Nai Chung Road and Blue Pool Road. For example, the Ellipsis had been developed up to 131mPD. With a permitted plot ratio of 8 to 10, tall buildings could be erected within the “R(A)” zone along Wong Nai Chung Road creating wall effect, adversely affecting visual quality, air ventilation and sunlight penetration. Above all, it would nullify any effect of the down-zoning from “R(B)” to “R(B)6” of the subject site;
- (e) the proposed amendment from “R(B)” to “R(B)6” did not help achieve the urban design objective and therefore the down-zoning was not justified. The height restriction might make the overall townscape even worse due to constraints in building design; and
- (f) the representation site should be reverted back to “R(B)” zone and a comprehensive review of the building height with stepped height profile for Happy Valley should be initiated.

[Professor Nora F.Y. Tam left the meeting at this point.]

30. The Chairperson then invited the commenter to elaborate on his comments on the representations.

Comment No. 3 (Mr. Ricky Yue)

31. Mr. Ricky Yue made the following main points:

- (a) there was no prior consultation with the affected residents on the proposed amendments and no detailed justifications had been provided to support the proposed restrictions. The down-zoning was carried out by the Board in a hasty manner without public participation;
- (b) for the past ten years, the population of Wan Chai had been decreasing, i.e. from 172,000 in 1996 to 155,000 in 2006. An ageing of the local population was also observed: in 1996, the median age of the population of Wan Chai was 36 years old and in 2006, the same figure was 41 years old, ranked second after Wong Tai Sin. If nothing was done, Happy Valley would become an area marked by the concentration of aged population in the next ten years;
- (c) the overall decrease in the population as a result of the population changes described in (b) above and the lowering of population quantum of the representation sites due to down-zoning could facilitate a more intensive property development in connection with the MTR Island South Extension to Happy Valley;
- (d) the proposed amendments had not given due regard to the owners' property rights and the building plans already approved by the Buildings Department. According to the rulings of some court cases in the United States of America, the relevant authorities were obliged to compensate the landowners if their development rights were affected. If the amendments were to stay, the Government should compensate the owners of the Blue Pool Court for the loss of redevelopment potential; and
- (e) having regard to the neighbouring developments e.g. Unique Villa and Holly Court which enjoyed a much higher building height, the Board should allow the Blue Pool Court to be redeveloped up to 12 storeys even the down-zoning was to remain.

32. After hearing all the representers and commenters, some Members asked the following questions:

- (a) whether similar development restrictions would be extended to the remaining areas within the Wong Nai Chung area and if yes, the time frame; and
- (b) the feasibility to allow variation in height restrictions for sites within Amendment Item A2 area with a view to allowing a stepped height profile;

33. Ms. Christine Tse made the following responses:

- (a) whilst the current amendments focused only on four areas, the intention was to review the development restrictions for the whole Wong Nai Chung area. Since the review exercise would take time and resources to complete, the amendment work had to be carefully prioritised. The review on the remaining areas including the “G/IC” sites would be carried out at the next stage, the exact time frame of which could not be released due to its sensitivity and avoidance of fait accompli development; and
- (b) the representatives had not provided detailed justifications to support their claim for the relaxation of building height. Also, taking account of the sloping topography of Shan Kwong Road, it was considered appropriate to maintain the current restrictions of 115mPD for the Amendment Item A2 area. Besides, there was a provision in the OZP allowing application for minor relaxation of the height restrictions based on design merits and there was no fixed percentage on the extent of relaxation considered to be minor by the Board as each case would be considered on its individual merits.

34. In response to a Member’s enquiry on the validity of the approved building plans after the gazetting of the amended OZP, Ms. Christine Tse responded that the OZP amendments would not affect the status of building plans already approved by the BA. According to PlanD’s practice, for any subsequent amendments to the approved building plans which were minor in nature and immaterial in planning terms, no recommendation would be made to the BA to reject the building plans.

[Mr. Leslie H.C. Chen left the meeting at this point.]

35. The Chairperson asked if PlanD had explained the above to the owners of the Blue Pool Court. Ms. Christine Tse said that the validity of the approved building plans for the Blue Pool Court had been clearly spelled out in the TPB Paper No. 7829 passed to the representers and commenters prior to the meeting. Mr. Thomas Luk, representative of Representation No. 17 (Blue Pool Court), confirmed their awareness of the validity of the approved building plans and added that PlanD representatives had met with the owners of the Blue Pool Court to explain the subject matter. However, as advised by LandsD, despite the BA's approval of the building plans, the existing 6-storey restriction in the lease could not be modified because of the OZP amendments. Ms. Elaine Chu, representative of Representation No. 17, also responded that the owners of the Blue Pool Court were aware of such validity but were dissatisfied with the unexpected announcement of zoning amendments which had interrupted their intended lease modification.

36. Given the BA's approval of a set of building plans, the Chairperson asked if LandsD would normally agree to modify the lease of the Blue Pool Court in removing the 6-storey restrictions. Ms. Christine Tse clarified that LandsD had to process the application according to their policy and an automatic approval should not be assumed.

37. The Chairperson explained to the representers and commenters that under the current development control system, any development proposal had to comply with the relevant provisions under the planning, buildings and lands policies and practices. For the redevelopment proposal of the Blue Pool Court, the owners not only had to secure the BA's approval of building plans but also needed to go through the required lease modification procedure. Approval of building plans by the BA did not necessarily mean that the subject development could go ahead without complying with other relevant legislation and procedures.

38. In response to a Member's enquiry, Mr. Derek Sun, representative of Representation No. 6 (20 Shan Kwong Road), said that the representers' approved building plans included both the representation site (20 Shan Kwong Road) and the neighbouring lots at 1, 3 and 5 Village Terrace. They were covered by two separate leases without restrictions on building height and plot ratio which were different from the lease of the Blue Pool Court.

Lease modification for the amalgamation of the relevant lots for redevelopment would be a technical modification that the representers needed to take up with LandsD.

39. In response to certain remarks and allegations made by some representers and commenters over the function and integrity of the Board, the Chairperson said that the Board was an independent body empowered by the TPO to prepare statutory town plans to govern the land use planning and development in Hong Kong. In order to best serve the public interest of Hong Kong, it was incumbent upon the Board to impose development controls where appropriate having regard to the community needs and aspirations, infrastructural capacities, urban design and other relevant land use considerations. Allowing land use development without appropriate regulation and proper planning control was unacceptable and would be detrimental to the sustainable development of Hong Kong. She added that in discharging its statutory duty, the Board would seek to strike a balance between protecting private development rights and the public interest. Whilst the representers and commenters might feel aggrieved by the zoning amendments, the Chairperson explained that all the Board Members had been acting on the principle of equity and fairness and observing the statutory requirements under the TPO and the provisions in the Basic Law in respect of private property rights. The operation of the Board was open and transparent and no private interests were involved.

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

[Mr. Patrick L.C. Lau returned to join the meeting at this point.]

Deliberation Session

41. Based on the presentations of the representers and commenters, the Chairperson summed up the following issues in relation to the amendments to the Wong Nai Chung OZP as below.

Rationale of Imposed Development Restrictions

42. The Chairperson said that the four amendment areas were subject to considerable redevelopment pressure. There was a need to impose development restrictions in these areas to stop the proliferation of incongruous developments and to preserve the well-established local character of the residential neighbourhood for the public interest. In considering appropriate development restrictions for the four areas, the Board had taken into account the development intensity for the Density Zone 2 area and the urban design principles, including the preservation of the existing character and amenity of the area and the compatibility with the surrounding developments and environment. The imposition of development restrictions was justified in the light of the above. Members agreed.

Stepped Height Development Profile for the Amendment Item A2

43. Whilst supporting the rationale of imposing development restrictions on the amendment areas, a Member commented that the Shan Kwong Road area covered by Amendment Item A2 was located further up the valley and comprised six individual lots arranged in two rows. The current imposition of same building height restriction of 115mPD for the six lots might result in all buildings being built to a flat height and if so, could not be conducive to air ventilation and sunlight penetration. Based on the current restriction of a plot ratio of 5, this Member suggested that the Board should consider providing some design flexibility by relaxing the building height of 20, 24 and 34-40 Shan Kwong Road from 115mPD to 130mPD to facilitate a stepped height development within the area covered by Amendment Item A2. This Member's view was shared by some other Members who considered such flexibility was beneficial to the building design. The Chairperson concurred and considered that a variation and minor relaxation as proposed would help enhance the stepped height development profile and was compatible with the neighbouring developments. She added that the proposed amendment should be published for further representations in accordance with the provisions of the TPO.

Impact on Property Value/Redevelopment Potential

44. As to the general concern about the adverse impact on property value, the Chairperson said that based on legal advice, the current rezoning could not be considered nor

tantamount to a deprivation of private property right. Members agreed.

Review of Development Restrictions for Other Areas

45. In response to the representers' and commenters' concern about selective rezoning, some Members considered that it was only fair and equitable for the review of the development restrictions including "G/IC" sites for the whole Wong Nai Chung area to be proceeded with immediately. Mrs. Ava Ng clarified that the current amendments focused only on sites within the Density Zone 2 area not yet subject to development restrictions in the OZP and the intention was to review the whole Wong Nai Chung area including the "R(A)" and "G/IC" zones. The next stage of review was now underway. She added that in order to enable the Chief Executive in Council (CE in C) to have a complete picture of the whole Wong Nai Chung area, the draft Wong Nai Chung OZP would only be submitted to CE in C for approval upon completion of the remaining review with all necessary amendments incorporated in the OZP. The Chairperson agreed that rather than presenting the review in an ad hoc manner, it was important to ensure the draft OZP when submitted for approval should clearly spell out the overall and underlying planning considerations. Members agreed to the proposed arrangement.

46. In response to a Member's suggestion of imposing some interim control on the existing land uses pending the outcome of the comprehensive review, the Chairperson said that the current provisions of the TPO did not empower the Board to impose such interim controls. If owners could get the BA's approval of the buildings plans prior to the introduction of new planning restrictions, the approval would be respected according to the established practice.

47. On the on-going review, some Members raised the following views:

- (a) traffic assessments of the new development restrictions should be included;
and
- (b) the planning vision for Happy Valley should be clearly set out with a view to winning public support of the review findings and the related amendments.

48. Noting Members' suggestions, Mrs. Ava Ng responded that the current traffic impact of the planned developments had been taken into account in the current zonings of the OZP. The height restrictions to be reviewed would have little impact on the traffic generation of the area.

Representations No. 1 & 15

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

- (a) the recommended development restrictions for the four amendment areas had taken into account the Density Zoning policy, urban design principles and the local character. The areas were under considerable redevelopment pressure and there was an imminent need to impose appropriate development restrictions to stop further proliferation of incongruous developments which would spoil the existing character of the residential neighbourhood;
- (b) the stipulation of statutory development restrictions in the Outline Zoning Plan (OZP) was an effective measure to regulate the building mass/height profile of the built environment. The OZP would provide clear and certain planning control and a transparent mechanism for the public and affected parties to express their views on the control in accordance with the provisions of the Ordinance;
- (c) the intention was to review the appropriate development restrictions for all the development sites in the Wong Nai Chung area. In terms of time and resource requirements, works had to be prioritised. Review work for the remaining areas would be proceeded with in the next stage;
- (d) there was no direct correlation between building height and monotonous/wall effect buildings. Building design was determined by the interplay of a host of factors such as plot ratio, site coverage and building height, design and disposition of buildings, and geometry of the site. The proposed height restriction for sites along Ventris Road and Shan Kwong Road was to ensure that urban design principles would not be negated while still accommodating the maximum plot ratio of 5 with reasonable allowance for building design flexibility; and

- (e) the recommended plot ratio and/or building height restrictions for the Wong Nai Chung area had taken into account the Density Zoning policy, urban design principles and the local character. The current amendments had struck a balance between meeting community aspiration for a better and sustainable living environment and protection of private development rights.

Representations No. 2 & 3

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

- (a) the recommended development restrictions for the four amendment areas had taken into account the Density Zoning policy, urban design principles and the local character. The areas were under considerable redevelopment pressure and there was an imminent need to impose appropriate development restrictions to stop further proliferation of incongruous developments which would spoil the existing character of the residential neighbourhood;
- (b) the stipulation of statutory development restrictions in the Outline Zoning Plan (OZP) was an effective measure to regulate the building mass/height profile of the built environment. The OZP would provide clear and certain planning control and a transparent mechanism for the public and affected parties to express their views on the control in accordance with the provisions of the Ordinance;
- (c) the intention was to review the appropriate development restrictions for all the development sites in the Wong Nai Chung area. In terms of time and resource requirements, works had to be prioritised. Review work for the remaining areas would be proceeded with in the next stage;
- (d) the recommended plot ratio and/or building height restrictions for the Wong Nai Chung area had taken into account the Density Zoning policy, urban design principles and the local character. The current amendments had struck a balance between meeting community aspiration for a better and sustainable living environment and protection of private development rights.

Representation No. 4

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

- (a) the recommended development restrictions for the four amendment areas had taken into account the Density Zoning policy, urban design principles and the local character. The areas were under considerable redevelopment pressure and there was an imminent need to impose appropriate development restrictions to stop further proliferation of incongruous developments which would spoil the existing character of the residential neighbourhood;
- (b) the stipulation of statutory development restrictions in the Outline Zoning Plan (OZP) was an effective measure to regulate the building mass/height profile of the built environment. The OZP would provide clear and certain planning control and a transparent mechanism for the public and affected parties to express their views on the control in accordance with the provisions of the Ordinance;
- (c) the intention was to review the appropriate development restrictions for all the development sites in the Wong Nai Chung area. In terms of time and resource requirements, works had to be prioritised. Review work for the remaining areas would be proceeded with in the next stage;
- (d) there was no direct correlation between building height and monotonous/wall effect buildings. Building design was determined by the interplay of a host of factors such as plot ratio, site coverage and building height, design and disposition of buildings, and geometry of the site. The proposed height restriction for sites along Ventris Road and Shan Kwong Road was to ensure that urban design principles would not be negated while still accommodating the maximum plot ratio of 5 with reasonable allowance for building design flexibility;
- (e) the recommended plot ratio and/or building height restrictions for the Wong Nai Chung area had taken into account the Density Zoning policy, urban design principles and the local character. The current amendments had struck a balance

between meeting community aspiration for a better and sustainable living environment and protection of private development rights; and

- (f) the OZP amendments to impose development restrictions were intended to preserve the local character of the Wong Nai Chung area and prevent the proliferation of high-rise buildings which were out of keeping with the surrounding developments. The representer's proposal to revert the zoning to "R(B)" which was not subject to any plot ratio or building height restrictions would undermine the foregoing planning intention and as such, the representer's proposal was considered not appropriate.

Representations No. 5 & 11

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

- (a) the recommended development restrictions for the four amendment areas had taken into account the Density Zoning policy, urban design principles and the local character. The areas were under considerable redevelopment pressure and there was an imminent need to impose appropriate development restrictions to stop further proliferation of incongruous developments which would spoil the existing character of the residential neighbourhood;
- (b) the stipulation of statutory development restrictions in the Outline Zoning Plan (OZP) was an effective measure to regulate the building mass/height profile of the built environment. The OZP would provide clear and certain planning control and a transparent mechanism for the public and affected parties to express their views on the control in accordance with the provisions of the Ordinance;
- (c) the intention was to review the appropriate development restrictions for all the development sites in the Wong Nai Chung area. In terms of time and resource requirements, works had to be prioritised. Review work for the remaining areas would be proceeded with in the next stage;
- (d) the recommended plot ratio and/or building height restrictions for the Wong Nai

Chung area had taken into account the Density Zoning policy, urban design principles and the local character. The current amendments had struck a balance between meeting community aspiration for a better and sustainable living environment and protection of private development rights; and

- (e) the OZP amendments to impose development restrictions were intended to preserve the local character of the Wong Nai Chung area and prevent the proliferation of high-rise buildings which were out of keeping with the surrounding developments. The representers' proposal to revert the zoning to "R(B)" which was not subject to any plot ratio or building height restrictions would undermine the foregoing planning intention and as such, the representers' proposal was considered not appropriate.

Representation No. 6

53. After further deliberation, the Board decided to propose amendment to partially meet the representation by amending the maximum building height of 20, 24 and 34-40 Shan Kwong Road from 115mPD to 130mPD on the Outline Zoning Plan (OZP) and its Notes.

54. The Board decided not to propose any amendment to the Plan to meet the remaining part of the representation for the following reasons:

- (a) the recommended development restrictions for the four amendment areas had taken into account the Density Zoning policy, urban design principles and the local character. The areas were under considerable redevelopment pressure and there was an imminent need to impose appropriate development restrictions to stop further proliferation of incongruous developments which would spoil the existing character of the residential neighbourhood;
- (b) the stipulation of statutory development restrictions in the OZP was an effective measure to regulate the building mass/height profile of the built environment. The OZP would provide clear and certain planning control and a transparent mechanism for the public and affected parties to express their views on the control in accordance with the provisions of the Ordinance;

- (c) the intention was to review the appropriate development restrictions for all the development sites in the Wong Nai Chung area. In terms of time and resource requirements, works had to be prioritised. Review work for the remaining areas would be proceeded with in the next stage;
- (d) the recommended plot ratio and/or building height restrictions for the Wong Nai Chung area had taken into account the Density Zoning policy, urban design principles and the local character. The current amendments had struck a balance between meeting community aspiration for a better and sustainable living environment and protection of private development rights;
- (e) the amendments to the Wong Nai Chung OZP involved the imposition of plot ratio and building height restrictions. It was considered inappropriate to conduct public consultation prior to the publication of the OZP because premature release of such information might prompt developers/landowners to accelerate the submission of development/redevelopment proposals before the statutory planning control was in place, thereby nullifying the effectiveness of the amendments;
- (f) the amendments to the OZP would not affect the status of the building plans already approved by the Building Authority (BA). According to the established practice of PlanD, for any subsequent amendments to the approved building plans which were minor in nature and immaterial in planning terms, no recommendation would be made to the BA to reject the building plans;
- (g) the visual impact assessment submitted was insufficient to demonstrate that the illustrative scheme proposed by the representer would not have adverse visual impact on the surrounding areas;
- (h) the traffic impact assessment submitted was not sufficient to reflect the potential traffic impact on the surrounding road networks;
- (i) the OZP amendments to impose development restrictions were intended to preserve the local character of the Wong Nai Chung area and prevent the proliferation of high-rise buildings which were out of keeping with the surrounding developments. The representers' proposal to revert the zoning to "R(B)" which was not subject to

any plot ratio or building height restrictions would undermine the foregoing planning intention and as such, the representers' proposal was considered not appropriate; and

- (j) the inclusion of the proposed remark in the Notes for the "R(B)6" zone to allow development up to the plot ratio, gross floor area and building height of the proposed development approved by the BA was considered not acceptable. While approved building plans and its subsequent minor amendments would be allowed, major changes to the approved building plans would still need to comply with the extant OZP in order to reflect the planning intention of the OZP amendment.

Representation No. 7

55. After further deliberation, the Board decided to propose amendment to partially meet the representation by amending the maximum building height of 20, 24 and 34-40 Shan Kwong Road from 115mPD to 130mPD on the Outline Zoning Plan (OZP) and its Notes.

56. The Board decided not to propose any amendment to the Plan to meet the remaining part of the representation for the following reasons:

- (a) the recommended development restrictions for the four amendment areas had taken into account the Density Zoning policy, urban design principles and the local character. The areas were under considerable redevelopment pressure and there was an imminent need to impose appropriate development restrictions to stop further proliferation of incongruous developments which would spoil the existing character of the residential neighbourhood;
- (b) the stipulation of statutory development restrictions in the OZP was an effective measure to regulate the building mass/height profile of the built environment. The OZP would provide clear and certain planning control and a transparent mechanism for the public and affected parties to express their views on the control in accordance with the provisions of the Ordinance;
- (c) the intention was to review the appropriate development restrictions for all the development sites in the Wong Nai Chung area. In terms of time and resource

requirements, works had to be prioritised. Review work for the remaining areas would be proceeded with in the next stage;

- (d) the recommended plot ratio and/or building height restrictions for the Wong Nai Chung area had taken into account the Density Zoning policy, urban design principles and the local character. The current amendments had struck a balance between meeting community aspiration for a better and sustainable living environment and protection of private development rights; and
- (e) the OZP amendments to impose development restrictions were intended to preserve the local character of the Wong Nai Chung area and prevent the proliferation of high-rise buildings which were out of keeping with the surrounding developments. The representer's proposal to revert the zoning to "R(B)" which was not subject to any plot ratio or building height restrictions would undermine the foregoing planning intention and as such, the representer's proposal was considered not appropriate.

Representation No. 8

57. After further deliberation, the Board decided to propose amendment to partially meet the representation by amending the maximum building height of 20, 24 and 34-40 Shan Kwong Road from 115mPD to 130mPD on the Outline Zoning Plan (OZP) and its Notes.

58. The Board decided not to propose any amendment to the Plan to meet the remaining part of the representation for the following reasons:

- (a) the recommended development restrictions for the four amendment areas had taken into account the Density Zoning policy, urban design principles and the local character. The areas were under considerable redevelopment pressure and there was an imminent need to impose appropriate development restrictions to stop further proliferation of incongruous developments which would spoil the existing character of the residential neighbourhood;
- (b) the stipulation of statutory development restrictions in the OZP was an effective measure to regulate the building mass/height profile of the built environment. The

OZP would provide clear and certain planning control and a transparent mechanism for the public and affected parties to express their views on the control in accordance with the provisions of the Ordinance;

- (c) the intention was to review the appropriate development restrictions for all the development sites in the Wong Nai Chung area. In terms of time and resource requirements, works had to be prioritised. Review work for the remaining areas would be proceeded with in the next stage;
- (d) there was no direct correlation between building height and monotonous/wall effect buildings. Building design was determined by the interplay of a host of factors such as plot ratio, site coverage and building height, design and disposition of buildings, and geometry of the site. The proposed height restriction for sites along Ventris Road and Shan Kwong Road was to ensure that urban design principles would not be negated while still accommodating the maximum plot ratio of 5 with reasonable allowance for building design flexibility;
- (e) the recommended plot ratio and/or building height restrictions for the Wong Nai Chung area had taken into account the Density Zoning policy, urban design principles and the local character. The current amendments had struck a balance between meeting community aspiration for a better and sustainable living environment and protection of private development rights;
- (f) according to legal advice, it was unlikely that the rezoning of the land in question by the Wong Nai Chung OZP would be inconsistent with Article 120 of the Basic Law (BL 120) because the land was subject to the town planning regime under the Town Planning Ordinance before the establishment of the HKSARG. It was unlikely that BL 120 would have the effect of exempting the land from the town planning regime after 30 June 1997. Given that there was no formal extinguishing of the property interest of the representation sites, it was unlikely that the amendments would result in any formal deprivation of property. The imposition of development restrictions for the concerned sites did not amount to a ‘de facto deprivation’ of the development right;
- (g) the amendments to the OZP were intended to preserve the existing character of the

Wong Nai Chung area and to prevent the proliferation of incongruous developments within the area, which were valid planning considerations. The Board had also taken into account relevant information on various aspects, including Density Zone Guidelines, the existing character of the area, urban design principles, existing developments in the area, before making the amendments. The Board's decision to make the amendments was not unreasonable; and

- (h) the OZP amendments to impose development restrictions were intended to preserve the local character of the Wong Nai Chung area and prevent the proliferation of high-rise buildings which were out of keeping with the surrounding developments. The representer's proposal to revert the zoning to "R(B)" which was not subject to any plot ratio or building height restrictions would undermine the foregoing planning intention and as such, the representer's proposal was considered not appropriate.

Representations No. 9 & 10

59. After further deliberation, the Board decided to propose amendment to partially meet the representations by amending the maximum building height of 20, 24 and 34-40 Shan Kwong Road from 115mPD to 130mPD on the Outline Zoning Plan (OZP) and its Notes.

60. The Board decided not to propose any amendment to the Plan to meet the remaining part of the representations for the following reasons:

- (a) the recommended development restrictions for the four amendment areas had taken into account the Density Zoning policy, urban design principles and the local character. The areas were under considerable redevelopment pressure and there was an imminent need to impose appropriate development restrictions to stop further proliferation of incongruous developments which would spoil the existing character of the residential neighbourhood;
- (b) the stipulation of statutory development restrictions in the OZP was an effective measure to regulate the building mass/height profile of the built environment. The OZP would provide clear and certain planning control and a transparent mechanism for the public and affected parties to express their views on the control in

accordance with the provisions of the Ordinance;

- (c) the intention was to review the appropriate development restrictions for all the development sites in the Wong Nai Chung area. In terms of time and resource requirements, works had to be prioritised. Review work for the remaining areas would be proceeded with in the next stage;
- (d) the recommended plot ratio and/or building height restrictions for the Wong Nai Chung area had taken into account the Density Zoning policy, urban design principles and the local character. The current amendments had struck a balance between meeting community aspiration for a better and sustainable living environment and protection of private development rights;
- (e) according to legal advice, it was unlikely that the rezoning of the land in question by the Wong Nai Chung OZP would be inconsistent with Article 120 of the Basic Law (BL 120) because the land was subject to the town planning regime under the Town Planning Ordinance before the establishment of the HKSARG. It was unlikely that BL 120 would have the effect of exempting the land from the town planning regime after 30 June 1997. Given that there was no formal extinguishing of the property interest of the representation sites, it was unlikely that the amendments would result in any formal deprivation of property. The imposition of development restrictions for the concerned sites did not amount to a ‘de facto deprivation’ of the development right;
- (f) the amendments to the Wong Nai Chung OZP involved the imposition of plot ratio and building height restrictions. It was considered inappropriate to conduct public consultation prior to the publication of the OZP because premature release of such information might prompt developers/landowners to accelerate the submission of development/redevelopment proposals before the statutory planning control was in place, thereby nullifying the effectiveness of the amendments; and
- (g) the relaxation of the plot ratio and building height restrictions from 5 to 7 and 115mPD to 145mPD respectively would represent an increase of 40% in plot ratio and 26% in building height. The representatives had not provided enough justifications to demonstrate that the proposed plot ratio of 7 and building height of

145mPD were appropriate for the representation site.

Representation No. 12

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

- (a) the recommended development restrictions for the four amendment areas had taken into account the Density Zoning policy, urban design principles and the local character. The areas were under considerable redevelopment pressure and there was an imminent need to impose appropriate development restrictions to stop further proliferation of incongruous developments which would spoil the existing character of the residential neighbourhood;
- (b) the stipulation of statutory development restrictions in the Outline Zoning Plan (OZP) was an effective measure to regulate the building mass/height profile of the built environment. The OZP would provide clear and certain planning control and a transparent mechanism for the public and affected parties to express their views on the control in accordance with the provisions of the Ordinance;
- (c) the intention was to review the appropriate development restrictions for all the development sites in the Wong Nai Chung area. In terms of time and resource requirements, works had to be prioritised. Review work for the remaining areas would be proceeded with in the next stage;
- (d) the recommended plot ratio and/or building height restrictions for the Wong Nai Chung area had taken into account the Density Zoning policy, urban design principles and the local character. The current amendments had struck a balance between meeting community aspiration for a better and sustainable living environment and protection of private development rights;
- (e) the amendments to the Wong Nai Chung OZP involved the imposition of plot ratio and building height restrictions. It was considered inappropriate to conduct public consultation prior to the publication of the OZP because premature release of such information might prompt developers/landowners to accelerate the submission of

development/redevelopment proposals before the statutory planning control was in place, thereby nullifying the effectiveness of the amendments; and

- (f) the OZP amendments to impose development restrictions were intended to preserve the local character of the Wong Nai Chung area and prevent the proliferation of high-rise buildings which were out of keeping with the surrounding developments. The representer's proposal to revert the zoning to "R(B)" which was not subject to any plot ratio or building height restrictions would undermine the foregoing planning intention and as such, the representer's proposal was considered not appropriate.

Representation No. 13

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

- (a) the recommended development restrictions for the four amendment areas had taken into account the Density Zoning policy, urban design principles and the local character. The areas were under considerable redevelopment pressure and there was an imminent need to impose appropriate development restrictions to stop further proliferation of incongruous developments which would spoil the existing character of the residential neighbourhood;
- (b) the stipulation of statutory development restrictions in the Outline Zoning Plan (OZP) was an effective measure to regulate the building mass/height profile of the built environment. The OZP would provide clear and certain planning control and a transparent mechanism for the public and affected parties to express their views on the control in accordance with the provisions of the Ordinance;
- (c) the intention was to review the appropriate development restrictions for all the development sites in the Wong Nai Chung area. In terms of time and resource requirements, works had to be prioritised. Review work for the remaining areas would be proceeded with in the next stage;
- (d) the recommended plot ratio and/or building height restrictions for the Wong Nai

Chung area had taken into account the Density Zoning policy, urban design principles and the local character. The current amendments had struck a balance between meeting community aspiration for a better and sustainable living environment and protection of private development rights;

- (e) the visual impact assessment submitted was insufficient to demonstrate that the illustrative scheme proposed by the representer would not have adverse visual impact on the surrounding areas;
- (f) the traffic impact assessment submitted was not sufficient to reflect the potential traffic impact on the surrounding road networks; and
- (g) the OZP amendments to impose development restrictions were intended to preserve the local character of the Wong Nai Chung area and prevent the proliferation of high-rise buildings which were out of keeping with the surrounding developments. The representer's proposal to revert the zoning to "R(B)" which was not subject to any plot ratio or building height restrictions would undermine the foregoing planning intention and as such, the representer's proposal was considered not appropriate.

Representation No. 14

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

- (a) the recommended plot ratio and/or building height restrictions had taken into account the Density Zoning policy, urban design principles and the local character. In assessing the appropriate level of development restrictions, it was necessary to strike a proper balance between meeting community aspiration for a better living and sustainable environment and protection of private development rights; and
- (b) the imposition of plot ratio and/or building height restrictions for the areas covered by Amendment Items A1 to A4, which were previously not subject to any statutory development restrictions, would not result in population increase or overloading the existing infrastructure.

Representations No. 16, 18 & 19

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

- (a) the recommended development restrictions for the four amendment areas had taken into account the Density Zoning policy, urban design principles and the local character. The areas were under considerable redevelopment pressure and there was an imminent need to impose appropriate development restrictions to stop further proliferation of incongruous developments which would spoil the existing character of the residential neighbourhood;
- (b) the stipulation of statutory development restrictions in the Outline Zoning Plan (OZP) was an effective measure to regulate the building mass/height profile of the built environment. The OZP would provide clear and certain planning control and a transparent mechanism for the public and affected parties to express their views on the control in accordance with the provisions of the Ordinance;
- (c) the intention was to review the appropriate development restrictions for all the development sites in the Wong Nai Chung area. In terms of time and resource requirements, works had to be prioritised. Review work for the remaining areas would be proceeded with in the next stage;
- (d) the recommended plot ratio and/or building height restrictions for the Wong Nai Chung area had taken into account the Density Zoning policy, urban design principles and the local character. The current amendments had struck a balance between meeting community aspiration for a better and sustainable living environment and protection of private development rights; and
- (e) the amendments to the OZP would not affect the status of the building plans already approved by the Building Authority (BA). According to the established practice of PlanD, for any subsequent amendments to the approved building plans which were minor in nature and immaterial in planning terms, no recommendation would be made to the BA to reject the building plans.

Representation No. 17

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

- (a) the recommended development restrictions for the four amendment areas had taken into account the Density Zoning policy, urban design principles and the local character. The areas were under considerable redevelopment pressure and there was an imminent need to impose appropriate development restrictions to stop further proliferation of incongruous developments which would spoil the existing character of the residential neighbourhood;
- (b) the stipulation of statutory development restrictions in the Outline Zoning Plan (OZP) was an effective measure to regulate the building mass/height profile of the built environment. The OZP would provide clear and certain planning control and a transparent mechanism for the public and affected parties to express their views on the control in accordance with the provisions of the Ordinance;
- (c) the intention was to review the appropriate development restrictions for all the development sites in the Wong Nai Chung area. In terms of time and resource requirements, works had to be prioritised. Review work for the remaining areas would be proceeded with in the next stage;
- (d) the recommended plot ratio and/or building height restrictions for the Wong Nai Chung area had taken into account the Density Zoning policy, urban design principles and the local character. The current amendments had struck a balance between meeting community aspiration for a better and sustainable living environment and protection of private development rights;
- (e) the amendments to the OZP would not affect the status of the building plans already approved by the Building Authority (BA). According to the established practice of PlanD, for any subsequent amendments to the approved building plans which were minor in nature and immaterial in planning terms, no recommendation would be made to the BA to reject the building plans;

- (f) the traffic impact assessment submitted was not sufficient to reflect the potential traffic impact on the surrounding road networks; and
- (g) the OZP amendments to impose development restrictions were intended to preserve the local character of the Wong Nai Chung area and prevent the proliferation of high-rise buildings which were out of keeping with the surrounding developments. The representer's proposal to revert the zoning to "R(B)" which was not subject to any plot ratio or building height restrictions would undermine the foregoing planning intention and as such, the representer's proposal was considered not appropriate.

Representations No. 20, 21 & 31

66. After further deliberation, the Board noted the representations.

Representation No. 22

67. After further deliberation, the Board decided to propose amendment to partially meet the representation by amending the maximum building height of 20, 24 and 34-40 Shan Kwong Road from 115mPD to 130mPD on the Outline Zoning Plan (OZP) and its Notes.

68. The Board decided not to propose any amendment to the Plan to meet the remaining part of the representation for the following reasons:

- (a) the recommended development restrictions for the four amendment areas had taken into account the Density Zoning policy, urban design principles and the local character. The areas were under considerable redevelopment pressure and there was an imminent need to impose appropriate development restrictions to stop further proliferation of incongruous developments which would spoil the existing character of the residential neighbourhood;
- (b) the stipulation of statutory development restrictions in the OZP was an effective measure to regulate the building mass/height profile of the built environment. The OZP would provide clear and certain planning control and a transparent mechanism

for the public and affected parties to express their views on the control in accordance with the provisions of the Ordinance;

- (c) the intention was to review the appropriate development restrictions for all the development sites in the Wong Nai Chung area. In terms of time and resource requirements, works had to be prioritised. Review work for the remaining areas would be proceeded with in the next stage;
- (d) the recommended plot ratio and/or building height restrictions for the Wong Nai Chung area had taken into account the Density Zoning policy, urban design principles and the local character. The current amendments had struck a balance between meeting community aspiration for a better and sustainable living environment and protection of private development rights;
- (e) the amendments to the Wong Nai Chung OZP involved the imposition of plot ratio and building height restrictions. It was considered inappropriate to conduct public consultation prior to the publication of the OZP because premature release of such information might prompt developers/landowners to accelerate the submission of development/redevelopment proposals before the statutory planning control was in place, thereby nullifying the effectiveness of the amendments; and
- (f) the amendments to the OZP would not affect the status of the building plans already approved by the Building Authority (BA). According to the established practice of PlanD, for any subsequent amendments to the approved building plans which were minor in nature and immaterial in planning terms, no recommendation would be made to the BA to reject the building plans.

Representation No. 23

69. After further deliberation, the Board decided to propose amendment to partially meet the representation by amending the maximum building height of 20, 24 and 34-40 Shan Kwong Road from 115mPD to 130mPD on the Outline Zoning Plan (OZP) and its Notes.

70. The Board decided not to propose any amendment to the Plan to meet the remaining part of the representation for the following reasons:

- (a) the recommended development restrictions for the four amendment areas had taken into account the Density Zoning policy, urban design principles and the local character. The areas were under considerable redevelopment pressure and there was an imminent need to impose appropriate development restrictions to stop further proliferation of incongruous developments which would spoil the existing character of the residential neighbourhood;
- (b) the stipulation of statutory development restrictions in the OZP was an effective measure to regulate the building mass/height profile of the built environment. The OZP would provide clear and certain planning control and a transparent mechanism for the public and affected parties to express their views on the control in accordance with the provisions of the Ordinance;
- (c) the intention was to review the appropriate development restrictions for all the development sites in the Wong Nai Chung area. In terms of time and resource requirements, works had to be prioritised. Review work for the remaining areas would be proceeded with in the next stage;
- (d) the recommended plot ratio and/or building height restrictions for the Wong Nai Chung area had taken into account the Density Zoning policy, urban design principles and the local character. The current amendments had struck a balance between meeting community aspiration for a better and sustainable living environment and protection of private development rights; and
- (e) the amendments to the Wong Nai Chung OZP involved the imposition of plot ratio and building height restrictions. It was considered inappropriate to conduct public consultation prior to the publication of the OZP because premature release of such information might prompt developers/landowners to accelerate the submission of development/redevelopment proposals before the statutory planning control was in place, thereby nullifying the effectiveness of the amendments.

Representation No. 24

71. After further deliberation, the Board decided to propose amendment to partially

meet the representation by amending the maximum building height of 20, 24 and 34-40 Shan Kwong Road from 115mPD to 130mPD on the Outline Zoning Plan (OZP) and its Notes.

72. The Board decided not to propose any amendment to the Plan to meet the remaining part of the representation for the following reasons:

- (a) the recommended development restrictions for the four amendment areas had taken into account the Density Zoning policy, urban design principles and the local character. The areas were under considerable redevelopment pressure and there was an imminent need to impose appropriate development restrictions to stop further proliferation of incongruous developments which would spoil the existing character of the residential neighbourhood;
- (b) the stipulation of statutory development restrictions in the OZP was an effective measure to regulate the building mass/height profile of the built environment. The OZP would provide clear and certain planning control and a transparent mechanism for the public and affected parties to express their views on the control in accordance with the provisions of the Ordinance;
- (c) the intention was to review the appropriate development restrictions for all the development sites in the Wong Nai Chung area. In terms of time and resource requirements, works had to be prioritised. Review work for the remaining areas would be proceeded with in the next stage; and
- (d) the amendments to the Wong Nai Chung OZP involve the imposition of plot ratio and building height restrictions. It was considered inappropriate to conduct public consultation prior to the publication of the OZP because premature release of such information might prompt developers/landowners to accelerate the submission of development/redevelopment proposals before the statutory planning control was in place, thereby nullifying the effectiveness of the amendments.

Representation No. 25

73. After further deliberation, the Board decided to propose amendment to partially meet the representation by amending the maximum building height of 20, 24 and 34-40 Shan

Kwong Road from 115mPD to 130mPD on the Outline Zoning Plan (OZP) and its Notes.

74. The Board decided not to propose any amendment to the Plan to meet the remaining part of the representation for the following reasons:

- (a) the recommended development restrictions for the four amendment areas had taken into account the Density Zoning policy, urban design principles and the local character. The areas were under considerable redevelopment pressure and there was an imminent need to impose appropriate development restrictions to stop further proliferation of incongruous developments which would spoil the existing character of the residential neighbourhood;
- (b) the stipulation of statutory development restrictions in the OZP was an effective measure to regulate the building mass/height profile of the built environment. The OZP would provide clear and certain planning control and a transparent mechanism for the public and affected parties to express their views on the control in accordance with the provisions of the Ordinance;
- (c) the intention was to review the appropriate development restrictions for all the development sites in the Wong Nai Chung area. In terms of time and resource requirements, works had to be prioritised. Review work for the remaining areas would be proceeded with in the next stage;
- (d) there was no direct correlation between building height and monotonous/wall effect buildings. Building design was determined by the interplay of a host of factors such as plot ratio, site coverage and building height, design and disposition of buildings, and geometry of the site. The proposed height restriction for sites along Ventris Road and Shan Kwong Road was to ensure that urban design principles would not be negated while still accommodating the maximum plot ratio of 5 with reasonable allowance for building design flexibility; and
- (e) the recommended plot ratio and/or building height restrictions for the Wong Nai Chung area had taken into account the Density Zoning policy, urban design principles and the local character. The current amendments had

struck a balance between meeting community aspiration for a better and sustainable living environment and protection of private development rights.

Representation No. 26

75. After further deliberation, the Board decided to propose amendment to partially meet the representation by amending the maximum building height of 20, 24 and 34-40 Shan Kwong Road from 115mPD to 130mPD on the Outline Zoning Plan (OZP) and its Notes.

76. The Board decided not to propose any amendment to the Plan to meet the remaining part of the representation for the following reasons:

The recommended plot ratio and/or building height restrictions had taken into account the Density Zoning policy, urban design principles and the local character. In assessing the appropriate level of development restrictions, it was necessary to strike a proper balance between meeting community aspiration for a better living and sustainable environment and protection of private development rights.

Representation No. 27

77. After further deliberation, the Board decided to propose amendment to partially meet the representation by amending the maximum building height of 20, 24 and 34-40 Shan Kwong Road from 115mPD to 130mPD on the Outline Zoning Plan (OZP) and its Notes.

78. The Board decided not to propose any amendment to the Plan to meet the remaining part of the representation for the following reasons:

(a) the recommended development restrictions for the four amendment areas had taken into account the Density Zoning policy, urban design principles and the local character. The areas were under considerable redevelopment pressure and there was an imminent need to impose appropriate development restrictions to stop further proliferation of incongruous developments which would spoil the existing character of the residential neighbourhood;

(b) the stipulation of statutory development restrictions in the OZP was an effective

measure to regulate the building mass/height profile of the built environment. The OZP would provide clear and certain planning control and a transparent mechanism for the public and affected parties to express their views on the control in accordance with the provisions of the Ordinance; and

- (c) the intention was to review the appropriate development restrictions for all the development sites in the Wong Nai Chung area. In terms of time and resource requirements, works had to be prioritised. Review work for the remaining areas would be proceeded with in the next stage.

Representations No. 28 & 29

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

The recommended plot ratio and/or building height restrictions had taken into account the Density Zoning policy, urban design principles and the local character. In assessing the appropriate level of development restrictions, it was necessary to strike a proper balance between meeting community aspiration for a better living and sustainable environment and protection of private development rights.

Representation No. 30

80. After further deliberation, the Board decided to propose amendment to partially meet the representation by amending the maximum building height of 20, 24 and 34-40 Shan Kwong Road from 115mPD to 130mPD on the Outline Zoning Plan (OZP) and its Notes.

81. The Board decided not to propose any amendment to the Plan to meet the remaining part of the representation for the following reasons:

- (a) the recommended development restrictions for the four amendment areas had taken into account the Density Zoning policy, urban design principles and the local character. The areas were under considerable redevelopment pressure and there was an imminent need to impose appropriate development restrictions to stop further proliferation of incongruous developments which would spoil the existing

character of the residential neighbourhood;

- (b) the stipulation of statutory development restrictions in the OZP was an effective measure to regulate the building mass/height profile of the built environment. The OZP would provide clear and certain planning control and a transparent mechanism for the public and affected parties to express their views on the control in accordance with the provisions of the Ordinance;
- (c) the intention was to review the appropriate development restrictions for all the development sites in the Wong Nai Chung area. In terms of time and resource requirements, works had to be prioritised. Review work for the remaining areas would be proceeded with in the next stage;
- (d) the recommended plot ratio and/or building height restrictions for the Wong Nai Chung area had taken into account the Density Zoning policy, urban design principles and the local character. The current amendments had struck a balance between meeting community aspiration for a better and sustainable living environment and protection of private development rights; and
- (e) according to legal advice, it was unlikely that the rezoning of the land in question by the Wong Nai Chung OZP would be inconsistent with Article 120 of the Basic Law (BL 120) because the land was subject to the town planning regime under the Town Planning Ordinance before the establishment of the HKSARG. It was unlikely that BL 120 would have the effect of exempting the land from the town planning regime after 30 June 1997. Given that there was no formal extinguishing of the property interest of the representation sites, it was unlikely that the amendments would result in any formal deprivation of property. The imposition of development restrictions for the concerned sites did not amount to a ‘de facto deprivation’ of the development right.

82. The meeting was adjourned for lunch at 2:30pm.

83. The meeting was resumed at 3:35 p.m..

[Dr. C.N. Ng, Mr. Y.K. Cheng and Mr. Tony C.N. Kan arrived to join the meeting at this point.]

84. The following Members and the Secretary were present in the afternoon session:

Mrs. Rita Lau

Mr. Michael K.C. Lai

Dr. Greg C.Y. Wong

Mr. Nelson W.Y. Chan

Mr. Tony C.N. Kan

Mr. Edmund K.H. Leung

Professor Bernard V.W.F. Lim

Dr. C.N. Ng

Mr. Alfred Donald Yap

Mr. B.W. Chan

Mr. Y.K. Cheng

Dr. James C.W. Lau

Ms. Starry W.K. Lee

Mr. K.Y. Leung

Deputy Director of Environmental Protection

Dr. Michael Chiu

Director of Lands

Mr. Patrick L.C. Lau

Director of Planning

Mrs. Ava S.Y. Ng

Agenda Item 4

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/K12/35

Proposed Two Houses (Village Houses) in “Government, Institution or Community” zone,
Lot 1636 (including SA and RP) in SD 2, 57 Ngau Chi Wan Village, Kowloon
(TPB Paper No. 7843)

[The hearing was conducted in Cantonese]

Presentation and Question Session

85. Mr. Eric Yue, District Planning Officer/Kowloon of the Planning Department (PlanD), and the following applicant's representatives were invited to the meeting at this point:

Mr. Allen Che

Mr. Lau Ming

86. The Chairperson extended a welcome and explained briefly the procedures of the review hearing. The Chairperson then invited Mr. Eric Yue to brief Members on the background to the application.

87. With the aid of some plans, Mr. Eric Yue did so as detailed in the Paper and made the following main points:

- (a) the applicant sought planning permission for development of 2 houses (village houses) with garden use in an area zoned “Government, Institution or Community” (“G/IC”) on the Ngau Chi Wan Outline Zoning Plan (OZP);
- (b) the reasons for the Metro Planning Committee (MPC) to reject the application on 9.3.2007 were set out in paragraph 1.2 of the Paper;

- (c) no written submission in support of the review application had been submitted by the applicant;
- (d) departmental comments – the departmental comments were summarized in paragraph 3 of the Paper, highlighting that although there was no definite development programme, both the Transport Department and the District Officer (Wong Tai Sin) confirmed the need to reserve the “G/IC” site for open vehicle park and community hall uses;
- (e) public comments – 3 public comments were received expressing no objection to or supporting the application mainly on the ground that the villager’s land right should be respected;
- (f) past public consultation – the then Wong Tai Sin District Board and the local communities had been consulted in 1986 – 1987 and 1989 in the preparation of the Layout Plan for Ngau Chi Wan Village and the OZP covering the area respectively as detailed in paragraph 5.2 of the Paper; and
- (g) PlanD’s view – PlanD did not support the application for reasons stated in paragraph 5.1 of the Paper. The proposed development was not in line with the planning intention of the “G/IC” zone, not in compliance with Town Planning Board Guidelines No. 16, and approval of the application would set an undesirable precedent. There was a need to reserve the “G/IC” site for community hall and open vehicle park uses.

88. The Chairperson then invited the applicant’s representatives to elaborate on the application.

89. Mr. Allen Che made the following main points:

- (a) the application was a unique case. The site was a building lot and the application was for rebuilding the collapsed house. The right of the landowner was protected under the Basic Law. It was the landowner’s right to build the proposed houses on his land;

- (b) although the site had been zoned for “G/IC” uses for twenty years, there was no development programme. Referring to Plan R-2, the Ngau Chi Wan Rural Committee building was zoned ‘Local Open Space’ but there was also no programme for its development. The consultation on the zoning was done 20 years ago. The consultees did not know that the “G/IC” site would not be developed for over 20 years;
- (c) the proposed development was compatible with the developments in the vicinity. As shown in the bottom photograph on Plan A-3, there were 3-storey village houses opposite to the application site;
- (d) the proposed development would not be in conflict with the proposed “G/IC” uses. Should the application be approved, the Government could still implement the “G/IC” uses in future through land resumption. There might still be no development programme for development of the “G/IC” site in the next 10 to 20 years. It would be a waste of the scarce land resources to continue leaving the site vacant;
- (e) if the application was approved, the applicant would accept the imposition of appropriate conditions including no provision of car parking spaces and provision of satisfactory sewage treatment facilities; and
- (f) since the rejection of the previous application in 2000, the applicant had become older and was now 87 years old. Sympathetic consideration should be given to the application for rebuilding of the house in ruins.

90. The questions raised by Members were summarized as follows:

- (a) on the consultation on the land use zoning in the 1980s, whether the local communities were consulted on the planned uses and development programme;
- (b) whether the applicant had raised any objection to the rezoning of the site from “Village Type Development” (“V”) to “G/IC” on the OZP in 1990;

- (c) why there was a site zoned “V” to the immediate northwest of the subject “G/IC” site;
- (d) what was the current use of the site and whether the domestic structures around it were occupied;
- (e) whether there was any detailed design done for the proposed community hall and what the scale would be. Also, whether it would be feasible to excise the application site from the proposed community hall development, and what was the utilization rate of the existing Ngau Chi Wan Community Hall; and
- (f) whether the applicant was still the landowner of the application site and whether PlanD’s view would be different if the application was only for one house instead of two houses.

91. In response, Mr. Eric Yue made the following main points:

- (a) there had been two rounds of consultation on the land use proposals for the subject area. In preparation of the Layout Plan for Ngau Chi Wan Village, the subject area was planned for a community hall, an open vehicle park and road extension. The then Wong Tai Sin District Board and the local communities were consulted in 1986 – 1987 and the land use proposals were considered acceptable to them. In incorporating the land use proposals into the OZP in 1989, the then Wong Tai Sin District Board, Ngau Chi Wan Rural Committee and the local communities were also consulted and there was no objection raised by the consultees. The consultation focused on the land use proposals and there was no concrete implementation programme at that time;
- (b) the applicant had not raised any objection to the rezoning of the subject site from “V” to “G/IC” on the OZP;
- (c) the site zoned “V” to the immediate northwest of the application site was

occupied by Choi Hung Villa. It had previously been included in the “G/IC” zone but during the exhibition of the zoning amendment of the OZP in 1990, there was an objection relating to the site. As building plans for house development on the site had been approved before the exhibition of the OZP, the Board agreed to exclude it from the “G/IC” zone to reflect its status;

- (d) the application site was currently vacant. There were some temporary structures in the neighbourhood, some of which were in dilapidated conditions;
- (e) detailed design for the proposed community hall had not yet been done. According to the Hong Kong Planning Standards and Guidelines, a community hall should be developed with other joint uses on a site for better utilization of land resources, and the total premises requirement was 1260m² in gross floor area. To excise the application site from the proposed community hall development would not be feasible as the proposed footprint of the houses fell within the community hall site. There was no figures on utilization rate of the existing Ngau Chi Wan Community Hall in hand;
- (f) according to the information provided in the application form, the applicant was the landowner. There was not much difference in application for 1 and 2 houses. In both cases, planning permission was required and the considerations would be the same.

92. Mr. Allen Che made the following main points:

- (a) the structures in the neighbourhood were not mainly temporary in nature. Opposite to the application site was a row of village houses in good conditions; and
- (b) the Ngau Chi Wan Rural Committee was consulted on the zoning about 20 years ago. It expressed no objection subject to re-site of the affected houses. However, there was no re-site proposal so far.

93. Upon the Chairperson's request, Mr. Eric Yue clarified that the structures adjacent to the application site were largely temporary in nature. To the southwest of Lung Chi Path, there were a few rows of village houses which fell within the "V" zone, rather than the "G/IC" zone. That area was a re-site for part of the Ngau Chi Wan Village which was affected by the construction of the Mass Transit Railway Choi Hung Station in the 1970s.

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

Deliberation Session

95. Some Members were sympathetic to the application. However, as the application was not in line with the planning intention of "G/IC" zone, and would frustrate the development of the proposed community hall and public vehicle park uses, other Members had reservation to approve the application.

96. Members noted that the application site had been zoned for "G/IC" uses for about 20 years but there was no implementation programme. The Chairperson said that the MPC had already asked for a review of the subject "G/IC" zone when considering the application on 9.3.2007. Mrs. Ava S.Y. Ng said that PlanD had commenced the review of the land uses in the area and the result would be submitted to MPC for consideration in due course.

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

- (a) the proposed house development was not in line with the planning intention of the "Government, Institution or Community" ("G/IC") zone which was intended primarily for the provision of government, institution or community (GIC) facilities serving the needs of the residents in the area/district, and it would frustrate the planning and development of the

designated community hall and public vehicle park uses;

- (b) the proposed development did not comply with the Town Planning Board Guidelines for “Application for Development/Redevelopment within “G/IC” Zone for Uses Other Than GIC Uses” in that the subject site was still required for its designated GIC uses, and the proposed development would adversely affect the provision of GIC facilities in the area in long term; and
- (c) approval of the application would set an undesirable precedent for other similar applications in the area.

[Mr. Alfred Donald Yap left the meeting at this point.]

Agenda Item 5

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/YL-PS/260

Proposed Temporary Bus Washing Plant with Water Recycling Plant for a Period of 3 Years in “Comprehensive Development Area” zone, Short Term Tenancy No. 1313(Part),

Hung Shui Kiu, Ping Shan, Yuen Long

(TPB Paper No. 7846)

[The hearing was conducted in Cantonese.]

98. The Secretary reported that the application was submitted by the Kowloon-Canton Railway Corporation (KCRC). Dr. Greg C.Y. Wong, who was a Member of the Capital Projects Committee of KCRC, and Dr. James C.W. Lau, who had current business dealings with the applicant’s consultant (David S.K. Au and Associates), had declared interests.

[Dr. Greg C.Y. Wong left the meeting while Dr. James C.W. Lau left the meeting temporarily at this point.]

Presentation and Question Session

99. Mr. Wilson So, District Planning Officer/Tuen Mun and Yuen Long of the Planning Department (PlanD), and the following applicant's representatives were invited to the meeting at this point:

Mr. Alexander Wong

Mr. Sonny Tse

100. The Chairperson extended a welcome and explained briefly the procedures of the review hearing. The Chairperson then invited Mr. Wilson So to brief Members on the background to the application.

101. With the aid of some plans, Mr. Wilson So did so as detailed in the Paper and made the following main points:

- (a) the applicant sought planning permission for a temporary bus washing plant with water recycling plant for a period of 3 years in an area zoned "Comprehensive Development Area" ("CDA") on the Ping Shan Outline Zoning Plan;
- (b) the reason for Rural and New Town Planning Committee (RNTPC) to reject the application was set out in paragraph 1.3 of the Paper;
- (c) in the further written submission in support of the review application, the applicant claimed that the proposed bus washing plant would not be operated between 11 p.m. and 7 a.m.; and waste water would be recycled, stored and taken away by a licensed chemical waste collection company. No waste water would enter the rain water drainage system;
- (d) departmental comments – the departmental comments were summarized in paragraph 4.1 of the Paper. The Director of Environmental Protection objected to the application and considered the site not suitable for the proposed use as there were sensitive receivers in close proximity. The

Chief Engineer/Mainland North, Drainage Services Department commented that no drainage proposal was included in the applicant's submission;

- (e) public comments – no public comment was received on the review application during the statutory publication period of the application; and
- (f) PlanD's view – PlanD did not support the application for reasons stated in paragraph 6.1 of the Paper. There were sensitive receivers in the vicinity of the application but no technical assessment or information was submitted to address the environment nuisance arising from the proposed use, and insufficient information was provided to demonstrate no adverse drainage impact on the surrounding areas.

102. The Chairperson then invited the applicant's representatives to elaborate on the application.

103. Mr. Alexander Wong made the following main points:

- (a) the proposed bus washing plant was intended to improve the bus service provided by the KCRC. Washing of buses by machine was more efficient and effective than by manual labour;
- (b) in the bus washing plant, electric motors and nylon brushes were used and would not generate excessive noise. According to their measurements, the noise at the level at the sensitive receivers would be 65.2 dB(A) when the bus washing plant was in operation, compared with 63.3 dB(A) when it was not. The increase in noise level was not significant;
- (c) the waste water would be recycled and collected by a licensed chemical waste collection company and would not enter the rain water drainage system;
- (d) they would restrict the operation hours of the bus washing plant to minimize any possible nuisance. The plant would not be operated between 11 p.m. and 7 a.m.;

- (e) there were only a few village houses in the area. The nearest one was at least 35m away, not 10m as claimed by the Environmental Protection Department (EPD). As the noise generated was insignificant and the village houses were in a distance away, the residents would not be affected by the noise; and
- (f) he had made much effort to liaise with EPD with a view to addressing the environmental concerns but the subject officer was not helpful. He was only advised that the bus depot should be relocated elsewhere away from residents, but there was no advice on how to improve the proposed development to reduce the possible noise nuisance.

104. The questions/comments raised by Members were summarized as follows:

- (a) the RNTPC had previously raised the concern in the consideration of the application that there was insufficient information on the noise impact but no additional information was submitted to the Board for consideration;
- (b) if a proper noise assessment had been conducted, why the applicant did not submit the detailed information to the Board for consideration;
- (c) whether any measurements of the noise levels at 7-8 a.m. and 10-11 p.m. had been taken and at what locations; and
- (d) what was the exact distance between the nearest house and the application site.

105. In response, Mr. Alexander Wong made the following main points:

- (a) the relevant authority, i.e. EPD, did not advise him on the kind of noise assessment required, despite his liaison with the subject officer in EPD. He was not sure whether such assessment should be conducted by consultants or by their in-house staff.

- (b) he was advised by PlanD that if additional information was submitted, a fresh planning application might be required.
- (c) the noise level at 7-8 a.m. was about 60dB(A) while that at 10-11 p.m. was about 57-58dB(A). The measurements were obtained at similar bus depot operation on another site. In a distance of 35m from the operating bus washing plant, the noise level was estimated to be about 60dB(A) most of the time. He had also enquired about submission of the noise assessment data but was advised that it would be published for public comments and hence required re-counting of the processing time; and
- (d) the nearest village house was 35m as measured from the bus washing plant. The figure of 10m as stated in the Paper was possibly measured from the boundary of the bus depot.

106. Mr. Wilson So made the following main points in response:

- (a) the concern on insufficient information on noise assessment was clearly recorded in the minutes of the relevant RNTPC meeting. In the decision letter to the applicant issued by the Secretary of the Board, the minutes were attached for the applicant's information. However, the further submission submitted by the applicant in support of the review application only contained some brief statements. In response to Mr. Wong's comments on PlanD's advice, his staff would unlikely have advised that a fresh planning application would be required if additional information on technical assessment was submitted. The s.17 review mechanism provided an opportunity for the applicant to submit further technical information to substantiate the case for the Board's consideration. Such information might be required to be published for public comments but would not be processed as a new application; and
- (b) the distance of 10m of the nearest house from the application site was mentioned in EPD's comment included in the Paper. According to the site plan, the distance between the nearest house from the boundary of the application site might be slightly more than 10m but not 35m.

107. In response to Mr. Wong's complaint on the unhelpful manner of the concerned officer in EPD, the Chairperson said that while Dr. Michael Chiu, the Deputy Director of Environmental Protection, in the meeting would look into the matter, it was the duty of the applicant to provide adequate information on and sufficient justifications for the proposed development under application to the Board for consideration. The Chairperson further said that if submission of the technical assessment, which required recounting the processing time, could help the case, it would be more worthwhile to do so than to have the application rejected by the Board because of insufficient information submitted.

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

Deliberation Session

[Mr. K.Y. Leung returned to join the meeting at this point.]

109. Members noted that EPD had reservation on the review application because of the potential noise nuisances. Dr. Michael Chiu said that the noise level of 65.2dB(A) with the plant in operation was already very high in a rural setting and an increase of even 1dB(A) was significant as it was in logarithm scale. The noise figures verbally quoted by the applicant's representative were selective and whether a proper technical assessment had been conducted was doubtful. Members regretted that despite RNTPC's concern, no technical assessments including noise assessment were submitted to the Board for consideration. Hence, the applicant had failed to demonstrate that the proposed use would have no adverse noise impact on the nearby sensitive receivers and would not cause adverse drainage impact on the surrounding area.

110. After further deliberation, the Board decided to reject the application on review that there was insufficient information to demonstrate that the development would not pose adverse environmental and drainage impacts on the surrounding areas.

[Ms. Starry W.K. Lee arrived and Dr. James C.W. Lau returned to join the meeting at this point.]

Agenda Item 6

[Closed Meeting]

Draft Urban Renewal Authority Staunton Street/Wing Lee Street Development Scheme Plan
No. S/H3/URA1/1

Further Consideration of Objection No. 2
(TPB Paper No. 7842)

[The hearing was conducted in English.]

111. The Secretary reported that as the draft Development Scheme Plan (DSP) was prepared by the Urban Renewal Authority (URA) and Objection No. 2 was raised by Capital Rich Development Ltd. and Well Unicorn Development Ltd., subsidiaries of Henderson Land Development Co. Ltd., the following Members should declare interests on the item:

Mrs. Ava S.Y. Ng as the Director
of Planning

- being a non-executive director of URA

Mr. Patrick L.C. Lau as the
Director of Lands

- being a non-executive director of URA

Ms. Margaret Hsia as the
Assistant Director (2) of
Home Affairs Department

- being a co-opt member of the Planning,
Development and Conservation Committee
of URA

Mr. Walter K.L. Chan

- being a non-executive director of URA

Professor Bernard V.W.F. Lim

- having current business dealings with URA

Dr. Greg C.Y. Wong	- having current business dealings with URA
Mr. Michael K.C. Lai	- being an ex-member of URA
Mr. Alfred Donald Yap	- having current business dealings with [Henderson Development Co. Ltd.]
Mr. Raymond Y.M. Chan	- having current business dealings with [Henderson Development Co. Ltd.]

112. The Secretary said that Ms. Margaret Hsia, Mr. Walter K.L. Chan and Mr. Raymond Y.M. Chan had sent their apologies for not being able to attend the meeting. Members noted that Dr. Greg C.Y. Wong and Mr. Alfred Donald Yap had already left.

[Mr. Patrick L.C. Lau, Professor Bernard V.W.F. Lim and Mr. Michael K.C. Lai left the meeting, and Mrs. Ava S.Y. Ng left the meeting temporarily at this point.]

113. Noting that the Planning Department (PlanD) had recommended upholding the objection, the Chairperson said that the Board should discuss the objection and PlanD's recommendation based on the written submissions made by the objectors before inviting the objectors' representatives to the meeting. Members agreed to the arrangement.

114. The Secretary reported that a group of landowners and tenants affected by the development scheme had staged a petition at the ground floor lobby in the morning. Their letter requesting for early completion of the planning procedures of the DSP to allow the URA to implement the redevelopment project was tabled at the meeting for Members' information.

115. In response to a Member's enquiry, the Secretary briefed Members on the background to the objection. She also reported that in response to the Secretariat's request for information on the financial implications of excluding the objection site from the DSP to facilitate the Board's re-consideration of the objection, the URA had expressed great concern in providing detailed financial assessments for individual projects as it would jeopardize their position in land acquisition and commercial negotiation. However, based on the current

circumstances, URA considered that the development scheme would be financially viable irrespective of whether the objection site was excluded or not.

116. A Member said that if the objection site was excised from the DSP, there might be more constraints on the redevelopment project and asked whether it would reduce the scope for preservation of Shing Wong Street. This Member also asked whether Chung Wo Lane would still be included in the boundary of the DSP after excision of the objection site.

117. In response, the Chairperson said that if the objection site was excised, there would be a need to review the planning for the development scheme area and a new planning brief had to be prepared and submitted for the Board's consideration. The preservation aspect could be taken care of in the new planning brief. Apart from the planning brief, Members still had an opportunity to scrutinize the Master Layout Plan for the DSP. Chung Wo Lane would be still included in the development scheme area.

118. Another Member asked whether the residents' views should be considered in the re-hearing of the objection. The Chairperson said that they would be taken into account insofar as there were valid planning concerns.

119. Members noted that excision of the objection site would not render URA's scheme financially infeasible, and that the objection site was at an advanced stage of redevelopment. Members considered that the continued inclusion of the objection site might delay the implementation of the development scheme by the URA. Even if the objection site was excised, integration of redevelopment of the development scheme area could still be ensured through careful design at the Master Layout Plan stage, and opportunity could be taken to review the planning requirements and development parameters of the redevelopment scheme. After some discussions, Members agreed to excise the objection site from the DSP.

120. Ms. Christine Tse (District Planning Officer/Hong Kong), Miss Wendy Li (Town Planner/Hong Kong) of PlanD and the following objectors' representatives were invited to the meeting at this point:

Mr. Anthony Ismail

Miss Celia Chung

Miss Cynthia Yen

Mr. Augustine Wong

Mr. Karsky Ngai

Mr. Shuki S.K. Leung

Mr. K.K. Sun

121. The Chairperson extended a welcome. She said that the Board had discussed PlanD's recommendation as set out in the Paper and the Board was prepared to uphold the objection. She asked whether the objectors' representatives would still wish to make representation and whether they would withdraw the objection on the understanding that the Board would excise the objection site from the DSP.

122. Mr. Anthony Ismail said that there was no need to make further representation on the case if the objection was upheld. He pointed out that PlanD had no objection to excise the objection site as stated in the Paper, and in the Supplementary Paper, PlanD maintained its stance. On the basis that the objection site would be excised from the DSP and the zoning of the objection site would be reverted back to "Residential (Group A)" and "Residential (Group C)" as set out in paragraph 7.2 of the Paper, the objectors would withdraw the objection.

123. As the objectors' representatives had no further comment to make and Members had no further question to raise, the Chairperson informed them that the re-hearing procedures for the objection had been completed and the Board would further deliberate on the objection in their absence and inform the objectors of the Board's decision in due course. The Chairperson thanked the objectors' representatives and PlanD's representatives for attending the meeting. They all left the meeting at this point.

124. After further deliberation, the Board decided to uphold the objection by excising the objection site from the Development Scheme Plan (DSP) and the zoning of the objection site would be reverted to "Residential (Group A)" and "Residential (Group C)" as originally designated on the draft Sai Ying Pun & Sheung Wan Outline Zoning Plan No. S/H3/18. The Board also:

- (a) agreed to the proposed amendment to the draft DSP as set out in Appendix VII of the Paper as suitable for notification under section 6(7) of the

pre-amended Town Planning Ordinance;

- (b) agreed to the proposed amendments to the Explanatory Statement of the draft Plan No. S/H3/URA1/1 as set out in Appendix VIII in relation to the proposed amendment and that it should be attached to the proposed amendment to the draft DSP which would be notified under section 6(7) of the pre-amended Town Planning Ordinance;
- (c) noted the land which appeared to be affected by the proposed amendment to the draft DSP as mentioned in Appendix IX;
- (d) agreed to the suggested forms of notification as indicated in Appendix IX; and
- (e) noted that a new planning brief would be prepared accordingly for submission to the Board for consideration.

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

Agenda Item 7

[Closed Meeting]

Proposed Reference of the Approved Ha Tsuen Outline Zoning Plan No. S/YL-HT/8 for Amendment

(TPB Paper No. 7840)

(Confidential Item)

125. The minutes of this item were recorded under separate confidential cover.

Agenda Item 8

Any Other Business

126. The Secretary reported that the special meeting to give further consideration to the objections to the Wan Chai North Outline Zoning Plan originally scheduled for 20.6.2007 was postponed to 29.6.2007 (Friday). The agenda and papers would be despatched in due course.

127. There being no other business, the meeting was closed at 5:25 p.m.