

**Minutes of 960th Meeting of the
Town Planning Board held on 18.6.2010**

Present

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

Chairman

Mr. Stanley Y.F. Wong

Vice-Chairman

Mr. Walter K.L. Chan

Mr. B.W. Chan

Professor P.P. Ho

Professor Eddie C.M Hui

Dr. C.P. Lau

Ms. Julia M.K. Lau

Mr. Maurice W.M. Lee

Mr. Clarence W.C. Leung

Mr. Laurence L.J. Li

Dr. W.K. Lo

Mr. Roger K.H. Luk

Mr. Timothy K.W. Ma

Dr. W.K. Yau

Mr. Stephen M.W. Yip

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

Deputy Director of Environmental Protection
Mr. Benny Wong

Director of Lands
Miss Annie Tam

Director of Planning
Mrs. Ava S.Y. Ng

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

Secretary

Absent with Apologies

Mr. K.Y. Leung

Professor Edwin H.W. Chan

Ms. Maggie M.K. Chan

Mr. Raymond Y.M. Chan

Mr. Rock C.N. Chen

Mr. Y.K. Cheng

Mr. Felix W. Fong

Ms. Anna S.Y. Kwong

Professor Paul K.S. Lam

Dr. James C.W. Lau

Professor Joseph H.W. Lee

Miss Anita W.T. Ma

Dr. Winnie S.M. Tang

Professor S.C. Wong

Ms. Pansy L.P. Yau

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

In Attendance

Assistant Director of Planning/Board
Mr. Lau Sing

Chief Town Planner/Town Planning Board (Atg)
Ms. Maggie M.Y. Chin

Senior Town Planner/Town Planning Board
Ms. Donna Y.P. Tam

Agenda Item 1

[Open Meeting]

Confirmation of Minutes of the 959th Meeting held on 4.6.2010

[The meeting was conducted in Cantonese.]

1. The minutes of the 959th meeting held on 4.6.2010 were confirmed without amendments.

Agenda Item 2

[Open Meeting]

Matters Arising

[The meeting was conducted in Cantonese.]

2. The Secretary reported that on 4.6.2010, the Board, in considering the representations to and comments on the draft Tuen Mun Outline Zoning (OZP) No. S/TM/26, decided to defer the hearing on Group 4 involving the representations of R8 and R2, as the Secretary for the Environment (SEN) had provided some further information in relation to R8. As the information provided by SEN involved complicated issues, more time would be required for Planning Department (PlanD) to study the information and undertake further assessment before the representations could be submitted to the Board for consideration.
3. While according to the Town Planning Board Guidelines No. 33 on Deferment of Decision on Representations, Comments, Further Representations and Applications made under the Town Planning Ordinance, deferment should only be allowed for a maximum of 4 weeks, i.e. 2 meetings, it was proposed that special consideration should be given to the subject case in view of the complexity of the matter, i.e. the substantial information provided by SEN which involved complicated issues and was material to the consideration of the representations. The relevant representers had been consulted and had no objection to the deferment.

4. After deliberation, Members decided to defer the hearing on representations R2 and R8.

Agenda Item 3

[Open Meeting]

Consideration of Representation in Respect of
the Draft Sham Chung Outline Zoning Plan No. S/NE-SC/2
(TPB Paper No. 8559)

[The meeting was conducted in Cantonese.]

5. The following representative from the Planning Department (PlanD) was invited to the meeting at this point:

Mr. W.K. Hui	District Planning Officer/Sham Tin, Tai Po and North, (DPO/STN)
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6. The Chairman informed Members that the representers had indicated that they would not attend the hearing. As sufficient notice had been given to the representers, the Board agreed to proceed with the hearing in the absence of the representers.

7. The Chairman invited Mr. W.K. Hui to brief Members on the background to the representation.

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

- (a) the draft Sham Chung Outline Zoning Plan (OZP) No. S/NE-SC/2, incorporating an amendment to add “Social Welfare Facility” use under Column 2 of the Notes for the “Green Belt” (“GB”) zone, was exhibited for public inspection under s.7 of the Ordinance on 18.12.2009;

- (b) during the statutory plan exhibition period, one representation from the

Indigenous Inhabitant Representatives of Sham Chung Village indicating support to the amendment was received. No comment on the representation was received; and

- (c) the Board should note the representation which was in support of the amendment.

9. As Members had no question on the representation, the Chairman thanked the representative of PlanD for attending the meeting. Mr. W.K. Hui left the meeting at this point.

Deliberation Session

10. After deliberation, the Board noted the representation in support of the amendment to the Sham Chung OZP.

Agenda Item 4

[Open Meeting (Presentation and Question Session Only)]

Further Consideration of Review of Application No. A/NE-LT/400

Proposed House (New Territories Exempted House (NTEH) – Small House)

in “Village Type Development” and “Agriculture” Zones

Lot 727 in DD 10, Ng Tung Chai, Lam Tsuen, Tai Po

(TPB Paper No. 8560)

[The hearing was conducted in Cantonese.]

Presentation and Question Session

11. The following representative of the Planning Department (PlanD) was invited to the meeting at this point:

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

12. The Chairman informed Members that the applicant had indicated that he would not attend the hearing. As sufficient notice had been given to the applicant, the Board agreed to proceed with the hearing in the absence of the applicant.

13. The Chairman invited Mr. W.K. Hui to brief Members on the background to the application.

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

(a) the applicant sought planning permission for a proposed house (New Territories Exempted House (NTEH) – Small House) in an area zoned “Village Type Development” (“V”) and “Agriculture” (“AGR”) on the approved Lam Tsuen Outline Zoning Plan (OZP);

(b) the application was rejected by the Rural and New Town Planning Committee (RNTPC) on 18.12.2009 for the following reasons:

- the proposed development was not in line with the planning intention of the “AGR” zone, which was primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. The “AGR” zone was also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There was no strong planning justification in the current submission for a departure from the planning intention;

- the proposed development did not comply with the interim criteria for assessing planning application for NTEH/Small House development in that there was no general shortage of land in meeting the demand for Small House development in the “V” zone of Ng Tung Chai; and

- Small Houses should be developed within the “V” zone so as to ensure an orderly development pattern, efficient use of land and provision of infrastructures and services;
- (c) when the Board considered the review application on 30.4.2010, the Village Representative (VR) of Ng Tung Chai Village provided at the meeting the latest Small House demand forecast for 2010 which should be 57 instead of 30 according to District Lands Officer/Tai Po’s (DLO/TP) record in 2009. The Board decided to defer a decision on the review pending DLO/TP’s verification of the latest Small House forecast supplied by the VR;
- (d) DLO/TP had confirmed with the VR that the latest total number of 10-year Small House demand forecast for Ng Tung Chai Village was 57 while the outstanding Small House applications for Ng Tung Chai Village was 7. The future Small House demand of Ng Tung Chai Village was about 2.13ha (i.e. about 64 Small House sites). In this connection, the estimated land now available for Small House development within the “V” zone of Ng Tung Chai Village, which was about 1.61ha (equivalent to about 48 Small House sites), was not enough to fully meet the future Small House demand of Ng Tung Chai Village;
- (e) PlanD had no objection to the application as the proposed Small House application generally met the interim criteria for consideration of application for NTEH/Small House in that the footprint of the Small House fell within the “village environs”, there was a general shortage of land in meeting the demand for Small House development in the subject “V” zone and the proposed Small House could be connected to the planned sewerage system; and
- (f) there was no public comment on the review application.

15. As Members had no question on the application, the Chairman thanked the representative of PlanD for attending the meeting. Mr. W.K. Hui left the meeting at this

point.

Deliberation Session

16. A Member said that that the proposed Small House application generally met the interim criteria for consideration of application for NTEH/Small House and sympathetic consideration could be given to the application. Members agreed.

17. After further deliberation, the Board decided to approve on review the application on the terms of the application as submitted to the Town Planning Board. The permission should be valid until 18.6.2014, and after the said date, the permission should cease to have effect unless before the said date, the development permitted was commenced or the permission was renewed. The permission was subject to the following conditions:

- (a) the submission and implementation of landscape proposal to the satisfaction of the Director of Planning or of the Town Planning Board;
- (b) the provision of fire fighting access, water supplies and fire service installations to the satisfaction of the Director of Fire Services or of the Town Planning Board;
- (c) the provision of drainage facilities to the satisfaction of the Director of Drainage Services or of the Town Planning Board;
- (d) the connection of the foul water drainage system to the public sewers to the satisfaction of the Director of Water Supplies or of the Town Planning Board; and
- (e) the provision of protective measures to ensure no pollution or siltation occurred to the water gathering grounds to the satisfaction of the Director of Water Supplies or of the Town Planning Board.

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

- (a) the actual construction of the proposed Small House should only begin after the completion of the public sewerage network;
- (b) adequate space should be provided for the proposed Small House to be connected to the public sewerage network;
- (c) the applicant should make proper sewer connection from the proposed Small House to the public sewerage at his own cost;
- (d) to note the Chief Engineer/Mainland North, Drainage Services Department's (CE/MN, DSD) comments that there was no existing DSD maintained public stormwater drain available for connection in the area. The proposed development should have its own stormwater collection and discharge system to cater for the runoff generated within the site as well as overland flow from the surrounding areas. The applicant was required to maintain such systems properly and rectify the systems if they were found to be inadequate or ineffective during operation. The applicant should also be liable for and should indemnify claims and demands arising out of damage or nuisance caused by a failure of the systems;
- (e) to note the CE/MN, DSD's comments that the application site was in an area where no public sewerage connection was available. Environmental Protection Department should be consulted regarding the sewerage treatment/disposal aspects of the development and the provision of septic tank;
- (f) to note the Chief Engineer/Project Management (CE/PM), DSD's comments that the proposed sewerage works under the project 4332 DS "Lam Tsuen Valley Sewerage" would likely require minor partial land resumption of the eastern side of the application site. The applicant had to ensure that the sewerage works would not be obstructed and affected;
- (g) to note the CE/PM, DSD's comments that the applicant should be vigilant on the latest situation of the proposed sewerage scheme, for which the

Village Representatives would be kept informed by DSD;

- (h) to note the Chief Engineer/Development(2), Water Supplies Department's (CE/Dev(2), WSD) comments that the mainlaying works of "Replacement and Rehabilitation of Water Mains Stage 2 - Mains in Tai Po and Fanling" might be affected as shown on Plan FR-2 of the TPB Paper;
- (i) to note the CE/Dev(2), WSD's comments that water mains in the vicinity of the site could not provide the standard fire-fighting flow;
- (j) to note the Director of Fire Services' comments that detailed fire safety requirements would be formulated upon receipt of formal application referred by Lands Department;
- (k) to note the Director of Electrical and Mechanical Services' (DEMS) comments that the applicant should approach the electricity supplier for the requisition of cable plans to find out whether there was any underground cable (and/or overhead line) within or in the vicinity of the application site;
- (l) to note the DEMS's comments that prior consultation and arrangement with the electricity supplier was necessary for application site within the preferred working corridor of high voltage overhead lines at transmission voltage level 132kV and above as stipulated in the Hong Kong Planning Standards and Guidelines;
- (m) to note the DEMS's comments that prior to establishing any structure within the application site, the applicant and his contractors should liaise with the electricity supplier and, if necessary, ask the electricity supplier to divert the underground cable (and/or overhead line) away from the vicinity of the proposed structure; and
- (n) to note the DEMS's comments that the applicant and his contractors should observe the "Code of Practice on Working near Electricity Supply Lines" established under the Electricity Supply Lines (Protection) Regulation

when carrying out works in the vicinity of electricity supply lines.

19. Since the applicant's and Government representatives for Agenda Item 5 had not yet arrived, the Chairman proposed and Members agreed to proceed with the Procedural Items 11 to 13 first.

Agenda Item 11

[Open Meeting]

Information Note and Hearing Arrangement for Consideration of
Representations and Comments to the Draft Sai Ying Pun & Sheung Wan
Outline Zoning Plan No. S/H3/23
(TPB Paper No. 8568)

[The meeting was conducted in Cantonese.]

20. The Secretary briefly introduced the Paper. On 5.2.2010, the draft Sai Ying Pun & Sheung Wan OZP No. S/H3/23 was exhibited for public inspection under section 5 of the Town Planning Ordinance. A total of 114 representations and 89 comments on the representations were received. Since the representations were related to the rezoning of the Former Police Married Quarters site at Hollywood Road which was of territorial significance, it was recommended that the representations and comments should be considered by the full Board.

21. The Secretary said that as the representations were respectively related to two representation sites and were of similar nature, it was proposed that the hearing of the representations and comments be arranged in two groups as proposed in paragraph 2.3 of the Paper.

22. After deliberation, the Board agreed that the representations should be considered by the full Board, with the hearing accommodated in the Board's regular meeting. A separate hearing session would not be necessary. The Board also agreed that the representations and comments should be considered in the manner as proposed in paragraph 2.3 of the Paper.

Agenda Item 12

[Confidential Item]

[Closed Meeting]

23. This item was recorded under confidential cover.

Agenda Item 13

[Confidential Item]

[Closed Meeting]

24. This item was recorded under confidential cover.

Agenda Item 5

[Open Meeting (Presentation and Question Session Only)]

Review of Application No. A/YL-NSW/188

Proposed Houses (Four New Territories Exempted Houses) in “Undetermined” Zone,
Lot 757 in DD 115, Tung Shing Lei, Nam Sang Wai, Yuen Long
(TPB Paper No. 8561)

[The hearing was conducted in Cantonese.]

25. Dr. James C.W. Lau had declared an interest on this item as Ho Tin & Associates Consulting Engineers Limited was one of the consultants for the applicant in the subject application and Dr. Lau had current business dealings with Ho Tin & Associates. Members noted that Dr. James C.W. Lau had tendered an apology for being unable to attend the meeting.

Presentation and Question Session

26. The following representatives of the Government department and the applicant

were invited to the meeting at this point:

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

Ms. Joyce Tang)

Dr. Andrew Chan) Applicant's Representatives

Ms. Wu Ho Kei)

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

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

- (a) the applicant sought planning permission for four New Territories Exempted Houses (NTEHs) in a site zoned "Undetermined" ("U") on the Nam Sang Wai Outline Zoning Plan (OZP);
- (b) on 12.2.2010 the Rural and New Town Planning Committee (RNTPC) decided to reject the application and the reasons were:
 - with the completion of the major infrastructure, a land use review was being undertaken for the subject "U" zone. Consideration of the application at this stage was considered premature as it might jeopardise the overall land use planning for the area; and
 - there was industrial/residential interface problem between the proposed development and the adjacent open storage uses and workshops which could not be satisfactorily resolved;
- (c) the applicant had not submitted any written representation in support of the review application;

- (d) according to the covering Notes of the Nam Sang Wai OZP, rebuilding of NTEH and replacement of an existing domestic building by a NTEH were always permitted on land falling within the OZP area and no planning permission was required;
- (e) the application site was at present occupied by a 2-storey vacant house and according to land records, about 242.8m² of the site had house status. The subject planning application was for replacement of one existing house by four NTEHs, the above-mentioned provision for rebuilding of NTEH or replacement of an existing domestic building by a NTEH in the Notes of the Nam Sang Wai OZP did not apply to the subject case;
- (f) departmental comments were summarized in paragraph 4 of the Paper. The Director of Environmental Protection (DEP) did not support the application. The subject site was surrounded by various industrial uses including open storage uses and car repairing workshops which might cause industrial/residential interface problem to the future residents. Technical deficiencies were observed in the Noise Impact Assessment (NIA) reports submitted by the applicant. The applicant had not yet demonstrated the environmental acceptability of the proposed development. DEP considered it inappropriate to impose planning condition to deal with the industrial/residential interface problem which would more effectively be resolved by other mechanism like land use planning. Other concerned departments had no objection to or no adverse comments on the review application;
- (g) public comments - three public comments on the review application were received objecting to the application on grounds of adverse traffic impact; adverse impact on village environment; disturbance to the residents during construction period/after occupancy of houses; poor sanitation of the sewerage channels in the vicinity; incompatibility with urban sprawl; and lack of plan for a sustainable village layout to ensure the health and well being of the residents;

- (h) PlanD's view – PlanD did not support the review application based on the assessments set out in paragraph 6 of the Paper and they were summarized as follows:
- (i) the area was designated “U” as several major transport and drainage projects, including Yuen Long Highway, West Rail and Yuen Long Bypass Floodway, which would traverse the area, were under planning at that time. The area was located in close proximity to Yuen Long New Town and within a transitional location between urban and rural areas. A land use review was being undertaken by PlanD for future land use of the area. Granting of planning approval for permanent developments would pre-empt the recommendations of the land use review;
 - (ii) as the proposed redevelopment of one house to four NTEHs represented significant intensification of the existing development, the impacts of such intensification needed to be carefully considered;
 - (iii) DEP did not support the application as the nearby open storage uses and car repairing workshops might cause industrial/residential interface problems to the future residents of the proposed development. The applicant had failed to demonstrate in the submitted NIA reports that the industrial/residential problem could be satisfactorily resolved. DEP considered it inappropriate to impose planning condition to deal with the industrial/residential problem; and
 - (iv) there were public comments objecting to the proposed development in view of its adverse impacts on the nearby villages and residents in terms of traffic, environmental and sewerage aspects, and the lack of sustainable village layout for the area.

29. The Chairman then invited the applicant's representatives to elaborate on the

application.

[Ms. Julia M.K. Lau arrived to join the meeting at this point.]

30. With the aid of a Powerpoint presentation, Dr. Andrew Chan made the following main points:

- (a) the applicant submitted an application to the District Lands Office/Yuen Long (DLO/YL) for the proposed redevelopment of the existing domestic structure to four NTEHs in 2005. DLO/YL replied in March 2008 that the application was acceptable. DLO/YL subsequently wrote to the applicant in August 2008 informing him that planning permission was required for the proposed redevelopment. In this regard, a planning application was submitted, but was rejected by the Board on grounds that a land use review was being undertaken and consideration of the application was considered premature. The relevant department should make clear to the applicant in the first instance that the site fell within the “U” zone which was subject to a land use review, and that planning application for the proposed redevelopment would not be supported;
- (b) according to the covering Notes of the Nam Sang Wai OZP, redevelopment of the existing house was always permitted. The existing house was built in 1949 and the current application was only a continuation of the existing residential use. The redevelopment of the existing house into four NTEHs would not generate significant additional impact;
- (c) the applicant should not be responsible for the noise problems generated by the surrounding open storage uses and workshops. It was not fair to reject the application because of the existing noise problems in the area;
- (d) the applicant’s consultants had conducted NIA and had already addressed all the technical comments made by DEP. The NIA indicated that the surrounding noise problem was not significant, i.e. within 70dB(A). The air quality was also within the HKAQO limit;

- (e) while DEP had no more technical comments on the NIA, he raised concerns that the existing industrial uses within the “U” zone might be expanded in the future. However, it should be noted that intensification of the existing open storage and workshop uses in the “U” zone required planning permission from the Board; and
- (f) DEP considered that PlanD, as the Planning Authority, should develop a comprehensive and strategic policy together with a practicable implementation mechanism to resolve the industrial/residential interface problems as a whole. As redevelopment of the existing house was always permitted under the Notes of the OZP, the proposed residential development at the application site should be taken as given in the land use review of the subject “U” zone.

31. The following questions were raised by some Members:

- (a) whether the land in Tung Shing Lane was mostly owned by one of the commenters, the Lau Family, as indicated in the letter submitted by Y.L. Lau & Partners?
- (b) whether Tung Shing Lei Road was a proper road or a private road? Whether the road could be upgraded when the applicant redeveloped his house?
- (c) when would the land use review of the subject “U” zone be completed?
- (d) how to determine whether redevelopment of an existing house was permitted or planning permission was required under the Notes of the OZP? What was the permitted size of the redeveloped house?
- (e) as the applicant stressed that his consultant had already resolved all technical comments on the NIA raised by DEP, why DEP still raised objection and technical concerns on the application?

- (f) why had the applicant not been informed that planning permission was required when the application for redevelopment was submitted to DLO/YL in 2005 and accepted by DLO/YL in March 2008?
- (g) when did the existing open storage uses and workshops start operation in the area? When was the subject “U” zone first designated?
- (h) when did the existing house become vacant? Were the other existing houses in the area still being occupied for residential uses?

32. In response, Ms Amy Cheung provided the following information:

- (a) the land in Tung Shing Lane was mostly owned by the Lau family, one of the commenters, but some land was owned by other land owners;
- (b) Tung Shing Lei Road was not maintained by the Highways Department, but was just a local track and its width only allowed one large goods vehicle to pass through in a single direction. There was no pedestrian walkway along the local track;
- (c) the land use review of the subject “U” zone was being finalized and would soon be submitted to the Board for consideration;
- (d) according to the Notes of the OZP, redevelopment of an existing house into one NTEH was always permitted. However, replacement of one existing house with four NTEHs did not fall within the above provision and planning permission was required. According to the Notes of the OZP, the size of a NTEH was restricted to that specified in the Buildings Ordinance (Application to the New Territories) Ordinance (Cap. 121), which was 3 storeys in height with a maximum floor area of 65m² for each floor;
- (e) PlanD had not been consulted in the processing of application for

development of NTEH by the Lands Department, and hence PlanD did not have the chance to alert the applicant in the first instance that planning permission was required;

- (f) some of the existing open storage uses and workshops in the area had existed before the first publication of the OZP for the area in 1994, while some were established in this area after 1994 and were suspected unauthorized developments (UDs). The area had been designed as “U” since the first publication of the Nam Sang Wai OZP in 1994; and
- (g) as for the existing house on the application site, it was an existing use as shown on the aerial photo taken immediately before the first publication of the OZP. However, the house had been left vacant for years. The residential structures shown on Plan R-2 of the Paper were at present occupied by residential uses.

33. Dr. Andrew Chan made the following responses to Members’ questions:

- (a) the applicant’s consultant had close dialogue with DEP and provided various revised assessments to address DEP’s comments on air quality and traffic noise. After the submission of the revised assessments, DEP had not made any further comments or raised any questions, and it was assumed that DEP was satisfied with the NIA on technical aspects;
- (b) the local track could be improved during the construction of the proposed NTEHs. The Transport Department and Highways Department had no comment on or objection to the proposed development regarding the use of this local track as an access; and
- (c) the existing house at the application site had been left vacant for about 10 to 20 years.

34. As the applicant’s representatives had no further comment to make and Members had no further question to raise, the Chairman informed the representatives of the applicant

that the hearing procedures for the review had been completed and the Board would further deliberate on the application in their absent and inform the applicant of the Board's decision in due course. The Chairman thanked the representatives of the applicant and DPO/TMYL for attending the meeting. They all left the meeting at this point.

Deliberation Session

35. The Vice-chairman considered that it was clearly stipulated in the Notes of the OZP that redevelopment of an existing house to four NTEHs required planning permission. The Board should consider whether it was appropriate to approve the proposed development within the "U" zone which was still subject to a land use review, and the area was at present dominated by open storage and workshop uses rather than residential use.

36. A Member asked whether there was any policy that the Board should not consider or approve planning application if the area was subject to land use review. This Member considered that the environmental nuisance in the area was not caused by the applicant's proposed redevelopment. The applicant could in fact be the victim of the adverse environmental impact. Another Member asked whether the application was for NTEH or Small House development.

37. The Secretary clarified that as advised by DPO/TMYL, the land use review for the subject "U" zone was near completion. This should be a consideration that the Board had to take into account. The subject application was not for development of Small House which was restricted for indigenous villagers only. Part of the application site had been converted to house status and the applicant proposed to replace the existing house with four NTEHs.

38. Miss Annie Tam explained that Small House development was administered under the Small House policy and Small House was a type of NTEH. The size of NTEH was specified in the Buildings Ordinance (Application to the New Territories) Ordinance (Cap. 121). No building plan submission was required under the Buildings Ordinance (Cap. 123) for NTEH. The Lands Department was the authority to approve application for Small House and NTEH under the Small House Policy.

39. A Member said that the area was subject to environmental problems as there were many open storage uses and workshops in the vicinity. The applicant had to undertake assessments and propose mitigation measures such that future residents would not be subject to unacceptable environmental nuisance. This Member also shared the view of the Vice-chairman that it was premature to approve the subject application as a land use review was being undertaken for the subject “U” zone.

40. In response to a few Members’ suggestion to defer a decision on the review application, the Chairman said that if the Board decided to defer a decision on the subject planning application pending the completion of the land use review, the Board could only consider the development proposal as submitted by the applicant. However, if the application was rejected, the applicant could revise his proposal taking into account the recommendations of the land use review and submit a fresh planning application for the Board’s consideration.

41. Mrs Ava Ng said that upon completion of the land use review, zoning amendments to the OZP would be made to reflect the recommendations of the review. The public including the applicant could raise representations on the OZP amendments under the provision of the Town Planning Ordinance. The applicant’s right would not be deprived in the planning process.

42. Mr. Benny Wong said that there was concern on environmental problem in the area. The applicant’s submission was still not satisfactory in addressing the potential environment nuisance caused by the existing open storage uses and workshops in the area.

43. After further deliberation, the Chairman summed up Members’ views that the review application should not be approved as a land use review was being undertaken and consideration of the application at this stage was considered premature and there was industrial/residential problem in the area which had not been satisfactorily resolved. Members then went through the reasons for rejecting the application as stated in paragraph 7 of the Paper and considered that they were appropriate.

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

- (a) with the completion of the major infrastructure, a land use review was being undertaken for the subject “U” zone. Consideration of the application at this stage was premature as it might jeopardise the overall land use planning for the area; and
- (b) there was industrial/residential interface problem between the proposed development and the adjacent open storage uses and workshops which could not be satisfactorily resolved.

Agenda Item 6

[Open Meeting (Presentation and Question Session Only)]

Review of Application No. A/YL-PS/316

Proposed Temporary Metal Workshop, Storage and Open Storage of Steel Materials for a Period of 3 years in “Open Space” zone Lots 35RP5(part), 35RP7(part), 36RP2(part), 37(part), 38(part) and 114(part) in DD 127, Ping Shan, Yuen Long
(TPB Paper No. 8563)

[The hearing was conducted in Cantonese.]

Presentation and Question Session

45. The following representatives of the Government department and the applicant were invited to the meeting at this point:

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

Mr. Tam Chi Hung - Applicant’s Representative

Ms. Chan Pit Yuet - Applicant’s Representative

46. The Chairman extended a welcome and explained the procedures of the review

hearing. He then invited Ms. Amy Cheung to brief Members on the background to the application.

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

- (a) the applicant sought planning permission for temporary metal workshop, storage and open storage of steel materials for a period of 3 years in an area zoned “Open Space” (“O”) on the Ping Shan OZP;
- (b) on 12.2.2010, the Rural and New Town Planning Committee (RNTPC) rejected the application for the reasons that no planning justification had been provided in the submission to justify a departure from the planning intention of the “O” zone, which was for the provision of outdoor open-air space for active and/or passive recreational uses serving the needs of local residents as well as the general public, even on a temporary basis; the development was not compatible with the surrounding areas, in particular the nearby residential structures; there was no information in the submission to demonstrate that the proposed development would not have adverse environmental and traffic impacts on the surrounding areas; and approval of the application would set an undesirable precedent for other similar uses to proliferate in the “O” zone. The cumulative effect of approving such applications would result in a general degradation of the environment of the area;
- (c) part of the application site was subject to enforcement action for unauthorized storage and workshop uses. An enforcement notice was issued on 28.12.2009 to the concerned parties requiring them to discontinue the unauthorized development (UD) by 28.3.2010. According to latest site inspection, the UD had not been discontinued. Prosecution action would be taken against the notice recipients;
- (d) no written submission in support of the review application was submitted by the applicant;

- (e) departmental comments on the review application were summarized in paragraph 4 of the Paper. Director of Environmental Protection (DEP) did not support the application as there were sensitive uses in the vicinity of the site and/or access road and environmental nuisance was expected. The Chief Town Planner/Urban Design and Landscape (CTP/UD&L) of PlanD objected to the application as the site was in middle of the “O” zone which served as a buffer between the industrial uses to the west within the “Industrial (Group D)” (“I(D)”) zone and the residential uses within the “Village Type Development” (“V”) zone to the east. The nature of the proposed development was not compatible with the planned landscaped environment of the “O” zone which was to provide different landscape facilities to the public. The Commissioner for Transport (C for T) raised concern on cumulative adverse traffic impact on the nearby road network if similar applications were approved;
- (f) there was no public comment on the review application. However, during the s.16 stage, a comment was received from a Yuen Long District Council (DC) member objecting to the application for reasons that there would be adverse impact on pedestrian safety and traffic noise nuisance generated by heavy vehicles from the proposed development;
- (g) PlanD’s view – PlanD did not support the review application based on the assessments set out in paragraph 6 of the Paper, which were summarized below:
 - (i) the proposed temporary workshop, storage and open storage uses at the site was not in line with the planning intention of the “O” zone which was for the provision of outdoor open-air space for active and/or passive recreational uses serving the needs of local residents as well as the general public. Although there was no development programme for open space at the site, the subject “O” zone served as a buffer between the village settlements within the “V” zone to the east and the industrial uses within the “I(D)” zone to the west.

CTP/UD&L objected to the application as the operation of the proposed development would break the planned buffer. No strong planning justification had been given in the submission for a departure from the planning intention, even on a temporary basis;

- (ii) the development was not compatible with the residential dwellings in the vicinity. Although there were warehouses, workshops and open storage yards in the surrounding area, some of them were suspected UDs subject to enforcement action by the Planning Authority. DEP did not support the application as there were sensitive uses including residential dwellings close to the application site and the access road and environmental nuisance was expected. C for T considered that approving such similar applications would induce cumulative adverse traffic impact on the nearby road network. There was no information in the submission to demonstrate that the proposed development would not cause adverse environmental impact on the surrounding areas and induce adverse traffic impact on the nearby road network; and

- (iii) the application was not in line with the Town Planning Board Guidelines No. 13E in that no previous approval for temporary workshop, storage and open storage development had been granted for the site or land within the same “O” zone. The development, which was for workshop, storage and open storage of steel materials should be accommodated in an area under an industrial-related zoning. An area zoned “I(D)” was located to the west of the site. There was no information in the submission to explain why the workshop and storage yard could not be accommodated in the “I(D)” zone. Moreover, approval of the application would set an undesirable precedent for other similar uses to proliferate in the “O” zone. The cumulative effect of approving such applications would result in a general degradation of the environmental of the area.

48. The Chairman then invited the applicant's representatives to elaborate on the application.

49. Mr. Tam Chi Hung made the following main points:

- (a) the applicant had started operation of the metal workshop at the site west of the application site since 1970s under a short term waiver (STW) granted by the Lands Department. The business expanded and the applicant set up a workshop at the application site in 1994;
- (b) the workshop currently employed 10 number of staff and four of them were very experienced as they had been working at the workshop for over 10 years. If the application was not approved, the workshop needed to be scaled down and these experienced workers had to be laid off;
- (c) it was noted that the application site was zoned "O", but the operation of the workshop had no adverse impact on the existing trees in the area. The applicant also undertook to landscape the surrounding area;
- (d) the metal workshop would not generate any environmental nuisance. All the works were undertaken inside the covered structure and it would not create any noise impact to the surrounding area. The waste materials would be collected for recycling;
- (e) as the metal storage had been operating in the area for decades, it would not generate any additional traffic to the area; and
- (f) on the other hand, if the application was rejected, transportation of the metal materials would increase traffic to the area.

50. Ms. Chan Pik Yuet made the following main points:

- (a) since the workshop had been in operation in the area for years, approving the subject application would not set a precedent. Although there was an

objection from a DC member raising concerns on potential impact of the workshop, it should be noted that there had been no complaints on the workshop in the past;

- (b) the application was on a temporary basis for three years only. If there was any complaint on the operation of the workshop during the approval period, the Board could refuse granting any renewal of planning permission after three years; and
- (c) a temporary approval was sought to allow time for the applicant to identify a suitable site for relocation.

51. A Member asked when the subject “O” zone was first designated and whether the existing workshops in the area were already in operation when the “O” zone was designated and whether PlanD had taken any enforcement action against the suspected UDs in the area.

52. In response, Ms. Amy Cheung said that the subject “O” zone had been designated since the first publication of the Ping Shan OZP in 1996. Some workshops (e.g. the soy sauce factory to the north) in the area had been in operation in the area before the first publication of the Development Permission Area (DPA) Plan for area in 1993 and they were regarded as existing uses (EU), but some others as shown on Plan R-2 of the Paper were established in the area after 1993 and they were suspected UDs subject to enforcement action by the Planning Authority. The Planning Authority would take enforcement action against suspected UDs if there was sufficient evidence.

53. Another Member asked since the applicant claimed that the workshop had been operating in the area for many years, whether the workshop was an existing use.

54. Ms. Amy Cheung said that the aerial photo taken before the publication of the Ping Shan DPA Plan covering the area indicated that the application site was not covered by any workshop and storage uses and therefore the proposed development which was not an EU. However, the part of the workshop to the west of the application site was an EU existed before the first publication of the DPA Plan. The applicant submitted the current

application as enforcement notice was issued by the Planning Authority on 28.12.2009 on the unauthorized storage and workshop uses at the site.

55. In response to a Member's question on whether the workshop on private land owned by the applicant had any conflict with the "O" zone, Ms. Amy Cheung replied that if the Leisure and Cultural Services Department (LCSD) had a programme for the development of the subject "O" zone for open space use, the private land within the site might need to be resumed.

56. In response to a Member's enquiry on whether the applicant had any relocation plan for the workshop and storage use at the application site, if the application was not approved, and how long would it be required for the relocation, Mr. Tam Chi Hung and Ms. Chan Pik Yuet replied that:

- (a) the applicant's business was first located within Lots 38 and 39A, outside the current application site;
- (b) the applicant would consider relocating the business to a suitable site. About 18 months were required for identifying a suitable site, construction of the building structure, installation of equipment and the actual relocation of the workshop; and
- (c) the application site involved a much bigger area than the original workshop. If the application was not approved, it would have substantial impact on the applicant's business.

57. In response to the question of Ms. Annie Tam, Mr. Tam Chi Hung said that the structures of 527ft² and 12ft in height allowed under a STW at Lots 36RP2 and 37 in DD 127 was not used by the applicant.

58. In response to the questions raised by the Vice-chairman and another Member on the operation of the metal workshop, Mr. Tam Chi Hung provided the following information:

- (a) the operation mainly involved the checking and screening of metal sheet

and cutting of metal coil. All the work was carried out inside the covered structure and it would not generate much noise. The workers working inside the workshop did not have to wear earplug or other hearing protective device;

- (b) there would be about five to six trips of heavy goods vehicles bringing metal materials to and from the workshop per day; and
- (c) the operation hours of the workshop were from 8:30 am to 5.30 pm from Monday to Saturday.

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

Deliberation Session

60. The Chairman said that the applicant's workshop to the immediate west of the application site was established in the area before the first publication of the Ping Shan DPA Plan and was regarded as an EU and could be tolerated under the Town Planning Ordinance. However, those located within the application site was an UD subject to enforcement action by the Planning Authority. The Planning Authority had stepped up enforcement action as there had been criticism from the public that enforcement action against UDs was not strong enough resulting in proliferation of illegal and incompatible uses in the rural N.T.

61. A Member commented that the possibility of realizing the planning intention of the "O" zone was remote and it was doubtful whether LCSD had any programme to develop an open space in the area. In response, the Chairman said that the programme for developing the open space was subject to various factors, such as the local demand and views of the District Council. The "O" zoning of the area needed to be retained such that the planned open space could be implemented in future when needed. If there were questions

on the appropriateness of the zoning and the planning intention of the area, they should be considered separately under a zoning review. Mrs Ava Ng said that the Ping Shan OZP was not prepared on green field sites, but the area had been occupied by different land uses. The subject site and its adjoining area were designated as “O” to provide a buffer between existing industrial uses within the area zoned “I(D)” and residential uses in the “V” zone.

62. The Secretary supplemented that PlanD had, in response to the request of the Board, reviewed all sites zoned “O” which fell on private land with a view to rezone sites not suitable for open space development to other appropriate zoning. However, this subject site was retained as “O” after the review which indicated that it was required to be developed as open space to form a landscape buffer.

63. A Member said that since the proposed development was an UD, enforcement action should be taken by the Planning Authority. However, as the applicant had indicated an intention to relocate his business to a suitable site, the Board might consider granting a shorter approval period to allow the relocation. This was shared by another Member who considered that such industrial use should be accommodated within purposely designated industrial area. Another Member was however of the view that even if a shorter approval period was granted, the applicant would apply again after the expiry of the temporary approval. Mrs Ava Ng said that there were areas purposely designated for industrial uses such as the lower floors of industrial buildings with a higher floor height and sites in “I(D)” zones which could accommodate the use under application.

64. The Chairman said that if a temporary approval was allowed for all UDs pending relocation, it would negate the enforcement action being taken by the Planning Authority on UDs.

65. The Secretary drew Members’ attention that the application site fell within Category 3 area and according to the Board’s Guidelines No. 13E, applications for open storage uses within Category 3 area would normally not be favourably considered unless the applications were on sites with previous planning approvals. Since there was no previous approval for open storage at the subject site and within the subject “O” zone granted by the Board, there was no strong justification for a departure from the Board’s guidelines.

66. The Vice-chairman supported that the “O” zone was necessary to form a buffer in the area. Other Members were also of the view that the Planning Authority should step up enforcement action against UDs in the “O” zone so as not to frustrate the planning intention of the “O” zone.

67. After further deliberation, the Chairman concluded that the review application should not be approved as the proposed development was not in line with the planning intention of the “O” zone and not compatible with the surrounding environment, there were environment and traffic concerns and approving the application would set an undesirable precedent. Members then went through the reasons for rejecting the application as stated in paragraph 7 of the Paper and considered that they were appropriate.

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

- (a) no planning justification had been provided in the submission to justify a departure from the planning intention of the “O” zone, which was for the provision of outdoor open-air space for active and/or passive recreational uses serving the needs of local residents as well as the general public, even on a temporary basis;
- (b) the development was not compatible with the surrounding areas, in particular the nearby residential structures;
- (c) there was no information in the submission to demonstrate that the proposed development would not have adverse environmental and traffic impacts on the surrounding areas; and
- (d) approval of the application would set an undesirable precedent for other similar uses to proliferate in the “O” zone. The cumulative effect of approving such applications would result in a general degradation of the environment of the area.

Agenda Item 7

[Open Meeting]

Request for Deferral for Review of Application No. A/YL-NTM/223

Proposed Comprehensive Low-Density Residential Development

in “Comprehensive Development Area” zone,

Various Lots in D.D. 104 and Adjoining Government Land,

Ngau Tam Mei, Yuen Long

(TPB Paper No. 8562)

[The meeting was conducted in Cantonese.]

69. Mr. Raymond Y.M. Chan had declared an interest on this item as the application was submitted by Super East Ltd, a subsidiary company of Henderson Land Development Co. Ltd. and Mr. Chan had current business dealings with Henderson Land Development Co. Ltd. Members noted that Mr. Chan had tendered an apology for being unable to attend the meeting.

70. The Secretary briefed Members on the background on the review application. On 1.6.2010, the applicant’s representative wrote to the Secretary of the Board requesting the Board to defer making a decision on the review application for two months in order to allow time for him to consult/clarify with the relevant Government departments regarding their comments on the written representation. The justifications for deferment met the criteria for deferment as set out in the Town Planning Board Guidelines No. 33 on Deferment of Decision on Representations, Comments, Further Representations and Applications in that the applicant needed more time to consult/clarify with the relevant Government departments, the deferment period was not indefinite, and that the deferment would not affect the interest of other relevant parties.

71. After deliberation, the Board agreed to defer a decision on the review application as requested by the applicant in order to allow time for the applicant to prepare submission of further information. The Board also agreed that the application should be submitted to the Board for consideration within three months from the date of receipt of further information from the applicant. The Board also agreed to advise the applicant that two months were allowed for preparation of submission of the further information, and no further deferment

would be granted unless under very special circumstances.

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

Agenda Item 8

[Open Meeting (Presentation and Question Session Only)]

Review of Application No. A/K18/267

Proposed Extension of School (Kindergarten and Child Care Centre)

in “Residential (Group C) 1” zone, 14 Essex Crescent, Kowloon Tong (NKIL 726)

(TPB Paper No. 8566)

[The meeting was conducted in Cantonese.]

Presentation and Question Session

72. The following representatives of the Government department and the applicant were invited to the meeting at this point:

Mr. Eric Yue	District Planning Officer/Kowloon (DPO/K), Planning Department (PlanD)
Mrs. Annie Wong	Applicant’s Representative
Mr. Thomas Chow	Applicant’s Representative

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

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

- (a) the applicant sought planning permission for proposed extension of school (kindergarten and child care centre) at the application site zoned

“Residential (Group C) 1” (“R(C)1”) on the Kowloon Tong OZP;

- (b) on 5.3.2010, the Metro Planning Committee (MPC) decided to reject the application and the reasons were:
- the proposed extension of school would encroach onto the non-building area which was essential to retain the landscape of the Kowloon Tong Garden Estate; and
 - the approval of the application would set an undesirable precedent and would undermine the integrity of the non-building area along Essex Crescent;
- (c) the applicant had provided justifications in support of the review application as summarized in paragraph 3 of the Paper;
- (d) departmental comments were summarized in paragraph 5 of the Paper. The Chief Town Planner/Urban Design and Landscape (CTP/UD&L), PlanD objected to the application from the urban design and landscape planning points of view. The proposed school extension would encroach onto the non-building area (NBA) designated on the Kowloon Tong Outline Development Plan (ODP). Retention of the NBA was essential to keep the buildings in line, to maintain the tidiness and to enhance the townscape of the area, and helped form part of the landscape character of the neighbourhood. There was no information in the submission to support the proposed extension of school which would result in significant encroachment onto the NBA. Moreover, part of the tree crown of an existing mature tree in close proximity of the proposed extension building would likely be affected and the building footing might damage the root system of the mature tree. While the applicant confirmed that all existing trees within the application site would be preserved, no additional information was provided to demonstrate the practicality of preserving the existing mature tree with the proposed school extension sited in close proximity to the tree;

- (e) public comments - nine comments against the review application were received objecting to the application on grounds that there had been too many schools in the vicinity and there were concerns on further traffic congestion, road safety, degradation of the living environment of the Kowloon Tong Garden Estate, noise and air pollution, public safety and health problems. One commenter agreed to the proposal but raised concerns on the fire service installations and traffic congestion problem; and

- (f) PlanD's view – PlanD did not support the review application based on the assessments set out in paragraph 7 of the Paper and they were summarized as follows:
 - (i) the NBA was essential to keep the buildings in line, to maintain the tidiness and to retain the landscape character of the Kowloon Tong Garden Estate. The applicant had not justified the significant encroachment onto the NBA nor demonstrated the practicality of preserving the existing mature tree in view of its close proximity to the extension site. CTP/UD&L, PlanD raised objection to the application from the urban design and landscape planning points of view;

 - (ii) the application failed to comply with the TPB Guidelines No. 23 for Application for Kindergarten/Child Care Centre in Kowloon Tong Garden Estate in that the non-statutory requirement of Government departments could not be met due to encroachment of the proposed building onto the NBA; and

 - (iii) the area for car parking and vehicular manoeuvring as proposed under the original approved scheme had not been put in place, but had been converted into outdoor play areas. There was possible conflict between vehicular manoeuvring and students' activities within the school site, which might jeopardize the safety of

children. As such, the existing school failed to comply with the car parking and safety requirements as set out in the TPB Guidelines No. 23.

75. The Chairman then invited the applicant's representatives to elaborate on the application.

76. Mr. Thomas Chow and Mrs. Annie Wong made the following main points:

- (a) the kindergarten was previously located at a site opposite to the subject application site. It was very difficult for the applicant to find a suitable site for the kindergarten which the landlord was willing to offer an extendable lease;
- (b) the scale of the proposed extension building with only one storey was very small and it was located behind the fence wall. It would not create any substantial visual impact to the surrounding area. The extension building might be demolished upon termination of the lease, as required by the landlord;
- (c) building plans for an extension building for residential use of the site had been approved. It was considered that use of the site for kindergarten would not be incompatible with the surrounding residential use;
- (d) construction of the extension building would take about four to five months. Locating the extension building in front of the existing building would minimize the disturbance to the school and allow continued operation of the kindergarten during construction time and it involved lower construction cost. It would also reduce the distance between the entrance and the kindergarten building and provide protection to students in particular during rainy days;
- (e) although there were some temporary structures in the area originally designated for car parking and vehicular manoeuvring due to insufficient

space in the kindergarten, these structures would be removed;

- (f) the extension building would be carefully designed and would not affect the existing mature tree; and
- (g) the proposed extension of the kindergarten would allow brothers and sisters of old students to study in the kindergarten.

77. In response to the question raised by the Chairman, Mr Thomas Chow said that with the proposed extension building, the existing activity room in the kindergarten would be converted to classrooms, and a few more students could be admitted.

78. In response to some Members' questions, Mr. Thomas Chow and Mrs. Annie Wong provided the following information:

- (a) the kindergarten at present had 340 students and the school fee was \$ 3,600 per student per month;
- (b) with the proposed extension building, about 5 to 10 more students would be admitted to the kindergarten;
- (c) the temporary structures including the performance stage and the contractor's shed currently located in the open area would be removed soon;
- (d) the construction cost would be about \$800,000, as the proposed extension building was only a simple single storey building;
- (e) the kindergarten had approached the occupier of the adjacent residential building and explained that the operation of the kindergarten would only generate some impact to the area during morning peak hours;
- (f) while locating the extension building at the back of the existing building might be technically feasible and would not affect the NBA, the current

proposal was considered more effective to the operation of the kindergarten as it was close to the entrance and would not affect the running of lessons during construction time;

- (g) the construction would take at least four to five months and could not be completed within the summer vacation time. Using of silt structures had been considered but was finally ruled out as it would be more expensive and could not save much construction time; and
- (h) whether the extension building was temporary or permanent in nature depended on whether the landlord would require demolition of it when the tenancy ended.

79. In response to Ms. Annie Tam's question, Mr. Eric Yue said that the existing kindergarten including the proposed extension building at the application site was located within NKIL 726.

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

Deliberation Session

81. Members who had commented on the subject review application made the following points:

- (a) the proposed extension did not seem justifiable as it would only allow the admission of only 5 to 10 more students;
- (b) urban design consideration should not be undermined and there was no reason to justify the encroachment onto the NBA;

- (c) the applicant had not provided the car parks and vehicular manoeuvring area as proposed in the previous scheme approved by the Board; and
- (d) the concerns on traffic impact raised in the local objections had not been addressed by the applicant.

82. After further deliberation, the Chairman concluded that the review application should not be approved as the proposed extension building would encroach onto the NBA, approval of the application would set an undesirable precedent for similar applications, and the applicant had not provided information to address the local concern on traffic impact. Members then went through the reasons for rejecting the application as stated in paragraph 8 of the Paper and considered that they were appropriate.

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

- (a) the proposed extension of school would encroach onto the non-building area which was essential to retain the landscape character of the Kowloon Tong Garden Estate; and
- (b) the approval of the application would set an undesirable precedent and would undermine the integrity of the non-building area along Essex Crescent.

Agenda Item 9

[Open Meeting (Presentation and Question Session Only)]

Review of Application No. A/H19/61

Proposed Minor Relaxation of Building Height and Plot Ratio Restrictions

for an Ancillary Green House on the Roof of Block C

in "Residential (Group C)" zone, Parisian, 8 Stanley Mound Road, Stanley

(TPB Paper No. 8567)

[The meeting was conducted in Cantonese.]

Presentation and Question Session

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

Ms. Brenda Au	District Planning Officer/Hong Kong (DPO/HK), Planning Department (PlanD)
Mr. David Lam	Senior Town Planner/Hong Kong (STP/HK), PlanD
Mr. Chui Shek Yuen	Applicant's Representative
Ms. Chan Po Kei	Applicant's Representative
Mr. S.T. Wong	Applicant's Representative

85. The Chairman extended a welcome and explained the procedures of the review hearing. He then invited Ms. Brenda Au to brief Members on the background to the application.

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

- (a) the applicant sought planning permission for minor relaxation of building height and plot ratio restrictions for the construction of an ancillary green house on the roof of block C of Parisian at the application site zoned "Residential (Group C)" ("R(C)") on the Stanley OZP. The proposed development would increase the building height by one additional storey (+20%). The plot ratio of the whole development would be increased from 2.0106 to 2.0453 (+0.034/1.73%), resulting in an additional gross floor area (GFA) of 57.052m² (+1.73%);
- (b) on 5.3.2010, the Metro Planning Committee (MPC) decided to reject the application and the reasons were:

- there were no planning and design merits to justify the proposed relaxation of plot ratio and building height restrictions for the proposed development; and
 - approval of the application would set an undesirable precedent for similar applications in the area. The cumulative effect of approving such applications would jeopardize the intention of imposing the development restrictions for low-rise and low-density residential development in the area.
- (c) the applicant had provided justifications in support of the review application as summarized in paragraph 3 of the Paper.
- (d) departmental comments were summarized in paragraph 5 of the Paper. The Chief Town Planner/Urban Design and Landscape (CTP/UD&L), PlanD commented that although the proposal might not have significant adverse impact on the character and visual amenity of the area, the applicant had not demonstrated any merits to justify a relaxation of building height and plot ratio restrictions. As regards the applicant's claim that there were quite a number of illegal structures on the roof top in Stanley and the surrounding area, District Lands Officer/Hong Kong West & South, Lands Department and Chief Building Surveyor/Hong Kong West, Buildings Department advised that enforcement action would be taken against any illegal structures in accordance with current enforcement policy;
- (e) public comments - eight comments objected to the application mainly on grounds that the proposed development would only benefit the applicant, it would be detrimental to the appearance and would add extra burden to the building, it would set a precedent for similar structures, it would be a threat during typhoons, and it was against the policy of imposing height restrictions. One commenter had no objection to the application;
- (f) PlanD's View – PlanD did not support the review application based on the

assessments set out in paragraph 7 of the Paper and they were summarized as follows:

- (i) as stated in the Explanatory Statement of the Stanley OZP, the option of minor relaxation of the building height and plot ratio restrictions was to allow the Board to consider building layout and design proposals which, although not strictly complying with the stated restrictions, met the planning objectives. Its intention was to encourage designs which were adapted to match the characteristics of particular sites and, in particular, imaginative designs for conserving environmentally important natural features or mature vegetation. The applicant's green house was for private use. There were no planning and design merits to justify the proposed relaxation of building height and plot ratio restrictions. Approval of the application would set an undesirable precedent for similar applications in the area, the cumulative effect of which would jeopardise the intention of imposing development restrictions for low-rise and low-density residential development in the area; and
- (ii) the applicant had not demonstrated the temporary nature of the proposed green house or that the proposed green house would be demolished within 5 year.

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

88. Mr. Chui Shek Yuen made the following main points:

- (a) the green house, with an area of less than 200ft², was only a small structure surrounding the existing stairhood of the internal staircase. Its height would be the same as the existing stairhood and therefore would not be visible from the surrounding area;
- (b) the proposed green house was only for private use;

- (c) the proposed green house helped protect plants grown by the applicant and would enhance living quality;
- (d) the green house was only a temporary structure. The intention was to erect it on the roof top for about 5 years; and
- (e) there were structures on the roof top of other buildings in the area. The applicant followed proper procedures to seek approval for building the green house, but eventually ended up with his application being rejected. This was not fair to the applicant.

89. Mr. Chui Shek Yuen provided the following information in response to some Members' questions:

- (a) the size of the proposed green house was defined having regarded to the structural condition of the existing house. Its height would follow that of the existing stairhood;
- (b) the building of a green house would only set a good precedent for others to improve greenery of the area. The proposed green house was subject to approval by the other relevant authority, which would ensure that it would be structurally safe; and
- (c) the applicant planned to move in five years' time to a smaller apartment with a lift, as it would be more convenient for his parents visiting his family.

90. In response to a Member's question, Ms. Brenda Au said that there were two common staircases serving the whole building. The applicant submitted building plans to the Buildings Department for construction of an internal staircase in 2005 and the building plans were approved.

91. In response to another Member's question, Ms. Brenda Au said that as the

proposed green house would increase the functional floor area on the roof and was accountable for GFA calculation under the Buildings Ordinance (BO), the Buildings Department advised that the existing two common staircases and the internal staircase should also be included in GFA calculation under the BO. As such, the total increase in GFA under application was 57.052m², including the area of the three staircases and the proposed green house. According to the plan submitted by the applicant, the proposed green house had an area of 25.335m².

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

Deliberation Session

93. A Member said that there should be strong justifications to support the proposed relaxation. However, the applicant had not provided any justifications or planning merits and he did not support the application. Although the applicant claimed that the proposed green house was only a temporary structure, he did not provide any information to demonstrate its temporary nature.

94. The Vice-chairman said that there were many ways to improve greenery. It was not justifiable to relax the building height and plot ratio restrictions for building a green house.

95. In response to a Member's question, the Chairman said that Lands Department and Buildings Department had been undertaken enforcement action against illegal structures in accordance with the current enforcement policy. Priority would be given to remove those unauthorized building works which were dangerous or liable to become dangerous, and those which were being built. He said that the Government was reviewing the current policy on removal of illegal structures.

96. After further deliberation, the Chairman concluded that the review application should not be approved as there were no planning and design merits to justify a relaxation of plot ratio and building height restrictions, and that approval of the application would set an undesirable precedent for similar cases. Members then went through the reasons for rejecting the application as stated in paragraph 8 of the Paper and considered that they were appropriate.

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

- (a) there were no planning and design merits to justify the proposed relaxation of plot ratio and building height restrictions for the proposed development; and
- (b) approval of the application would set an undesirable precedent for similar applications in the area. The cumulative effect of approving such applications would jeopardize the intention of imposing the development restrictions for low-rise and low-density residential development in the area.

Agenda Item 10

[Open Meeting]

Request for Deferral for Review of Application No. A/H8/398

Proposed Residential Development in “Comprehensive Development Area (1)” zone,
14-30 King Wah Road, North Point (Inland Lot 7106 s.B, s.C, RP and Extension (part))
(TPB Paper No. 8572)

[The meeting was conducted in Cantonese.]

98. The following Members had declared interests on this item:

Mr. Raymond Y.M. Chan - had current business dealings with
Henderson Land Development Co. Ltd.

and the applicant, Glory United Development Ltd, was a subsidiary company of Henderson Development Co. Ltd.

Dr. James C.W. Lau - had current business dealings with Ho Tin & Associates Consultant Engineers Ltd, a consultant for the applicant

99. Members noted that Mr. Raymond Y.M. Chan and Dr. James C.W. Lau had tendered apologies for being unable to attend the meeting.

100. The Secretary reported that the review application was related to approval condition (c) which required the provision of a setback of at least 3m from the lot boundary of the adjacent harbour Grand Hong Kong Hotel of the planning permission granted by the Board. On 3.6.2010, the applicant's representative wrote to the Secretary of the Board requesting the Board to defer making a decision on the review application for two months for submission of further information, since the planning consultants of the applicant needed more time to complete the engineering and architectural investigations on the feasibility of accommodating the 3m setback requirement in the detailed general building plans under preparation. The justifications for deferment met the criteria for deferment as set out in the Town Planning Board Guidelines No. 33 on Deferment of Decision on Representations, Comments, Further Representations and Applications in that the applicant needed more time to assess the feasibility of accommodating the 3m setback requirement in the subject approval condition under general building plans, the deferment period was not indefinite, and that the deferment would not affect the interest of other relevant parties.

101. After deliberation, the Board agreed to defer a decision on the review application as requested by the applicant in order to allow time for the applicant to prepare submission of further information. The Board also agreed that the application should be submitted to the Board for consideration within three months from the date of receipt of further information from the applicant. The Board also agreed to advise the applicant that two months were allowed for preparation of submission of the further information, and no further deferment would be granted unless under very special circumstances.

Agenda Item 14

[Open Meeting]

Any Other Business

102. The Chairman said that this was the last Board meeting for Mrs. Ava Ng who was going to retire from the civil service. The Chairman proposed and Members supported that a vote of thanks be recorded for Mrs. Ng for her excellent contribution to the work of the Board in the past years. Members wished Mrs. Ng a very happy retirement.

103. There being no other business, the meeting was closed at 12:20 p.m.