

**Minutes of 1352<sup>nd</sup> Meeting of the  
Town Planning Board held on 2.1.2026**

**Present**

Permanent Secretary for Development  
(Planning and Lands)  
Ms Doris P.L. Ho

Chairperson

Mr Stephen L.H. Liu

Vice-chairperson

Mr Daniel K.S. Lau

Mr K.W. Leung

Professor Jonathan W.C. Wong

Professor Roger C.K. Chan

Mr Vincent K.Y. Ho

Mr Ben S.S. Lui

Mr Timothy K.W. Ma

Professor Bernadette W.S. Tsui

Ms Kelly Y.S. Chan

Mr Daniel K.W. Chung

Dr Tony C.M. Ip

Mr Ryan M.K. Ip

Mr Rocky L.K. Poon

Professor B.S. Tang

Professor Simon K.L. Wong

Mr Simon Y.S. Wong

Mr Derrick S.M. Yip

Chief Traffic Engineer/Hong Kong  
Transport Department  
Mr Horace W. Hong

Assistant Director (Environmental Assessment)  
Environmental Protection Department  
Mr Gary C.W. Tam

Director of Lands  
Mr Maurice K.W. Loo

Director of Planning  
Mr C.K. Yip

Deputy Director of Planning/District  
Ms Donna Y.P. Tam

Secretary

**Absent with Apologies**

Ms Sandy H.Y. Wong

Mr Stanley T.S. Choi

Mr Ricky W.Y. Yu

Dr Venus Y.H. Lun

Dr C.M. Cheng

Chief Engineer (Works)  
Home Affairs Department  
Mr Bond C.P. Chow

**In Attendance**

Assistant Director of Planning/Board  
Ms Caroline T.Y Tang

Chief Town Planner/Town Planning Board  
Ms Katy C.W. Fung

Senior Town Planner/Town Planning Board  
Mr K.K. Lee

**Agenda Item 1**

[Open Meeting]

Confirmation of Minutes of the 1351<sup>st</sup> Meeting held on 12.12.2025

[The item was conducted in Cantonese.]

1. The draft minutes of the 1351<sup>st</sup> meeting were confirmed without amendment.

**Agenda Item 2**

[Open Meeting]

Matters Arising

[The item was conducted in Cantonese.]

2. The Secretary reported that there were no matters arising.

**Kowloon District**

**Agenda Item 3**

[Open Meeting (Presentation and Question Sessions only)]

Consideration of Representations in respect of the Draft Kwun Tong (South) Outline Zoning Plan No. S/K14S/27

(TPB Paper No. 11038)

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[The item was conducted in Cantonese and English.]

Presentation and Question Sessions

3. The Chairperson said that reasonable notice had been given to the representers inviting them to attend the hearing, but other than those who were present or had indicated that they would attend the hearing, the rest had either indicated not to attend or made no reply. As reasonable notice had been given to the representers, Members agreed to proceed with the hearing of the

representations in their absence.

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

***PlanD***

Ms Vivian M.F. Lai - District Planning Officer/Kowloon (DPO/K)

Mr Patrick W.Y. Wong - Senior Town Planner/Kowloon (STP/K)

Mr Jeff C.N. Leung - Town Planner/Kowloon

***Representers and Representer's Representatives***

R1 – Merry Gain International Limited (美盈國際有限公司)

Mr Li Ka Ho ]

Mr Yeung Chun Wang ] Representer's Representatives

Mr Wong Kwan Chiu ]

R2 – 潘百勤

Mr Poon Pak Kan - Representer

R31 – Mary Mulvihill

Ms Mary Mulvihill - Representer

5. The Chairperson extended a welcome and briefly explained the procedures of the hearing. She said that PlanD's representatives would be invited to brief Members on the representations. The representers and representer's representatives would then be invited to make oral submissions. To ensure efficient operation of the hearing, each representer would be allotted 10 minutes for making presentation. There was a timer device to alert the representers and/or their representatives two minutes before the allotted time was to expire, and when the allotted time limit was up. A question and answer (Q&A) session would be held after the representers and/or their representatives had completed their oral submissions. Members could direct their questions to PlanD's representatives, the representers and/or their representatives. After the Q&A session, the representers, representer's representatives and

PlanD's representatives would be invited to leave the meeting. The Town Planning Board (the Board/TPB) would then deliberate on the representations in closed meeting and inform the representers of the Board's decision in due course.

6. The Chairperson invited PlanD's representatives to brief Members on the representations. With the aid of a PowerPoint presentation, Mr Patrick W.Y. Wong, STP/K, PlanD briefed Members on the representations, including the background of the amendments on the draft Kwun Tong (South) Outline Zoning Plan (OZP), the grounds/views of the representers, government responses and PlanD's views on the representations as detailed in TPB Paper No. 11038 (the Paper). The amendments mainly involved the rezoning of a site at Hung To Road (the Site) from "Commercial (1)" ("C(1)") and "Other Specified Uses" annotated "Business" ("OU(B)") to "Commercial (3)" ("C(3)") and incorporating 'Social Welfare Facility (not elsewhere specified) (on land designated "C(3)" only)' to Column 2 of the "C" zone to facilitate the proposed partial in-situ conversion of the existing commercial building to a social welfare facility (residential care home for persons with disabilities (RCHD)), with the maximum plot ratio (PR) of 12 and the maximum building height (BH) of 100mPD for the Site remained unchanged (Item A). The Notes of the OZP had also been amended to align the control of 'Government Use (not elsewhere specified)' across the two schedules in the Notes for the "OU(B)" zone.

7. The Chairperson then invited the representers and representer's representatives to elaborate on their representations.

R1 – Merry Gain International Limited (美盈國際有限公司)

8. With the aid of a PowerPoint presentation, Mr Li Ka Ho made the following main points:

- (a) the zoning amendment under Item A was to take forward a section 12A (s.12A) application No. Y/K14S/2 for the partial in-situ conversion of the existing commercial building at the Site into a proposed RCHD providing about 120 to 180 beds for persons with disabilities, with ancillary office and staff quarters. The application was partially agreed by the Metro Planning Committee (MPC) of the Board on 20.9.2024;

- (b) the Site was about 500m from Kwun Tong MTR Station and was adjacent to the revitalised Tsui Ping River and Tsui Ping River Garden. To its south across the river were the large open space of Laguna Park and the private housing estate of Laguna City. The location was ideal for the provision of RCHD;
- (c) the proposed average accommodation of 19.1m<sup>2</sup> per bedspace (based on the provision of 120 beds) for the proposed RCHD far exceeded the Social Welfare Department (SWD)'s licensing requirement of at least 9.5m<sup>2</sup> per bedspace;
- (d) the Site originally straddled the "C(1)" (about 84.5%) and "OU(B)" (about 15.5%) zones on the OZP, where social welfare facility involving residential care was not permitted. The rezoning of the entire Site to "C(3)" was to align with its lot boundary and facilitate the provision of RCHD through section 16 (s.16) application;
- (e) Hong Kong faced an acute demand for RCHDs. As of September 2025, there were a total supply of 16,240 RCHD places but 10,323 persons on the waiting list, with a waiting time more than 10 years. Assuming each RCHD could provide 200 beds, Hong Kong would still require 52 additional RCHDs to meet the demand;
- (f) residential use was not new to the Site as staff quarters were already permitted under the land lease and the occupation permit for the existing building issued in 1965. As the Kwun Tong Business Area (KTBA) had transformed from an industrial area to a commercial/business area, the proposed RCHD was considered not incompatible with the surrounding land uses;
- (g) according to the Master Schedule of Notes to Statutory Plans, 'Social Welfare Facility' was a Column 1 use in the "C" zone. The rezoning of the Site to "C(3)" was to reflect the changing community needs and would not jeopardise the interests of other owners of the Site, as the Column 1 uses remained the same

as before, while ‘Social Welfare Facility’ use involving residential care was included in Column 2;

- (h) relevant government departments and the Energizing Kowloon East Office had no adverse comment on the proposed RCHD from land use, traffic, environmental, drainage and sewerage perspectives during the s.12A application stage;
- (i) the proposed RCHD was in line with the Government’s policy to increase RCHD supply through various measures, including coordination with the Urban Renewal Authority and private developers to incorporate RCHDs in urban redevelopment projects, promulgation of the Incentive Scheme to Encourage Provision of RCHDs in New Private Developments by the Lands Department (LandsD), and incorporation of population-based planning ratios for RCHDs in the Hong Kong Planning Standards and Guidelines; and
- (j) since the promulgation of LandsD’s incentive scheme in December 2023, only one new private RCHD had proceeded through the wholesale conversion of an existing building in Yau Tong. The proposed RCHD at the Site was in line with this policy direction.

R31 – Mary Mulvihill

9. With the aid of a visualiser, Ms Mary Mulvihill made the following main points:

Item A

- (a) she fully supported the proposed RCHD at the Site, but was concerned about the security of tenure of its residents;
- (b) the location was ideal for RCHD, particularly for the more mobile residents or those who had visitors to assist them as they could have access to the open-air facilities at Tsui Ping River Garden, Laguna Park and the nearby waterfront promenade;

- (c) the environmental issue of the Site was comparable to that of the nearby residential developments planned close to highways and railway lines, where acoustic windows could be provided as a solution. The unobstructed river view from the Site offered visual stimulation and natural light for the residents, which were usually lacking in the podium-type premises of high-rise buildings;
- (d) the applicant of the s.12A application had already indicated that the limited supply of RCHDs stemmed from various challenges, including opposition from the owners' corporations against the provision of RCHDs, social resistance arising from misunderstandings about the social impacts of RCHDs and the lower turnover rate of residents in RCHDs compared to residential care homes for the elderly (RCHEs). These factors highlighted the need for stability of tenure for RCHD residents;
- (e) it was unclear why the Site was rezoned to "C(3)" instead of "Government, Institution or Community" ("G/IC") if it was intended for community use. The "C(3)" zoning suggested that the RCHD was only temporary in nature and there would be a future plan to redevelop the building for commercial in accordance with the PR and BH restrictions. This could adversely affect the well-being of the RCHD residents if they were forced to relocate, particularly for those with disabilities and mental health issues;
- (f) the suitability of "G/IC" zoning for the Site was not discussed at the MPC meeting when the s.12A application was considered. Members should explore alternative solutions rather than simply follow the recommendations of the applicant and PlanD. "G/IC" zoning could discourage redevelopment of the Site and avoid short-term tenure of the RCHD. The restaurant use on the ground floor of the building could be approved by the Board under the "G/IC" zoning and should not be an issue;
- (g) MPC had agreed to rezone a nearby site at the junction of Cha Kwo Ling Road and Shing Yip Street on the Cha Kwo Ling, Yau Tong, Lei Yue Mun OZP from "C" to "Residential (Group A) 10" for land sale for high-rise and



high-density residential development. It was doubtful why that site was not included in the subject Kwun Tong (South) OZP as it was located in Kwun Tong rather than Cha Kwo Ling. If that site at the fringe of KTBA was considered suitable for residential use, it should also be suitable for RCHE and RCHD uses;

- (h) she agreed with MPC's prudent decision to put 'Social Welfare Facility (not elsewhere specified)' (i.e. that involving residential care) in Column 2 of the "C(3)" zone, noting that RCHD required adequate space for day care activities of the residents, a larger site allowing for better design and provision of sufficient facilities was necessary before such use could be considered as an always permitted use in the "C" zone;

Amendments to the Notes of the OZP

- (i) if the "C(3)" zoning under Item A was eventually agreed by the Board, the incorporation of 'Social Welfare Facility (not elsewhere specified) (on land designated "C(3)" only)' under Column 2 of the Notes for "C" zone would be supported; and
- (j) she objected to the incorporation of 'Government Use (not elsewhere specified)' under Column 1 of Schedule I of the Notes for the "OU(B)" zone, and the corresponding deletion of 'Government Use (Police Reporting Centre, Post Office only)' under Column 1 and 'Government Use (not elsewhere specified)' under Column 2 of said Schedule, as they would enable the Government to operate without accountability or community scrutiny, permitting any type of government activity in the "OU(B)" zone regardless of their appropriateness or public acceptance.

10. Ms Mary Mulvihill also made the following main points not related to the representation and the subject OZP:

- (a) she expressed dissatisfaction that the representation hearings for three OZPs, namely Kwun Tong (North), Peng Chau and Yuen Long, were arranged on the

same day on 28.11.2025. This arrangement allowed too little time for Members of the TPB to consider the representations of each OZP, especially given the complexity of the Kwun Tong (North) OZP. As TPB meetings were held bi-weekly and representation hearings were not discussed at every meeting, it would be better to arrange the hearings across different meetings so that the general public could have ample time to look into the issues. It was noted that in a judicial review case concerning the Board in 2015, the Court remarked that long meetings with short breaks could lead to fatigue among Members, which might result in procedural unfairness;

- (b) it was suggested that all relevant OZPs related to unique planning issues could be placed in a folder or section on TPB's website for ease of reference by the general public and Members;
- (c) some attachments of the TPB Papers consisted of over a thousand pages and took a very long time to download from TPB's website even with adequate computer equipment and capacity, which impeded her in providing comments or submitting representations before deadlines. While she had received an invitation to attend a one-to-one session to explain how to save and read the files on the screen, a young town planner shared with her similar views regarding the time required to download large-sized attachments. Public information should be reasonably accessible to facilitate the public in submitting representations. Poor access to public information would greatly affect the public consultation process; and
- (d) in light of the Tai Po fire tragedy and the relatively large number of applications that were revoked due to failure to comply with approval conditions, it was now the duty of Members to question whether the approval conditions were unnecessarily stringent, whether the government departments were taking too long to vet the submissions, and whether operators were being encouraged to procrastinate compliance due to lax control and guaranteed further approvals. It was considered timely to shift the focus from commercial expediency to prioritising community safety. Applications with a problematic history should be granted a maximum approval of 1 year only to ensure timely compliance with

approval conditions and focus attention on the relevant issues.

11. As the presentations of PlanD's representative, the representer and representer's representative had been completed, the meeting proceeded to the Q&A session. The Chairperson explained that Members would raise questions to the representers, representer's representatives and/or PlanD's representatives to answer. The Q&A session should not be taken as an occasion for the attendees to direct questions to the Board nor for cross-examination between parties. The Chairperson then invited questions from Members.

12. Three Members raised the following questions:

- (a) whether the proposed RCHD at the Site would be operated by R1 directly or in collaboration with a non-governmental organisation (NGO);
- (b) given R31's concern about the temporary nature of the proposed RCHD, how the security of tenure could be ensured for the RCHD;
- (c) whether the Transport Department (TD) had approved the use of the back lane of the Site for loading/unloading (L/UL) activities for the proposed RCHD, and whether the pick-up and drop-off arrangements were easily accessible for the RCHD residents; and
- (d) whether the design of the proposed RCHD complied with relevant fire safety requirements, including those pertaining to the means of escape.

13. In response, Mr Li Ka Ho, R1's representative, made the following main points:

- (a) they were liaising with private operators specialising in RCHD operations to operate the proposed RCHD;
- (b) the private operators indicated that operating a RCHD would not be a short-term engagement of only 1 or 2 years. They were seeking a tenancy term of at least 5 years or longer for viable operation;

- (c) TD had no adverse comment on the traffic arrangements for the proposed RCHD during the s.12A application stage. There were currently no internal parking and L/UL facilities provided within the building. The setback area at the ground level of the Site abutting the back lane had been designated for parking and L/UL of motor vehicles under the lease conditions. While building users needed to pass through public street to access the back lane, the entire route was flat and only about 50m long. The parking and L/UL activities would be monitored by the future operator of the RCHD to ensure residents' safety; and
- (d) the private operators had been consulted on the layout design for the proposed RCHD, which would comply with relevant licensing and fire safety requirements.

14. In response to a Member's question on how the Government could ensure a longer operation for the proposed RCHD to ease the concerns of the residents and the operator, Ms Vivian M.F. Lai, DPO/K, PlanD said that the Site was privately owned and was previously zoned "C(1)" to support KTBA. The rezoning to "C(3)" aimed to provide greater flexibility for developing a RCHD at the Site upon obtaining planning permission. As pointed out by R1's representative, the proposed RCHD would require a longer tenancy term for viable operation. Meanwhile, SWD would set a reasonable licensing period for RCHD operation, which would be subject to renewal. It was noted that the existing 9-storey commercial building at the Site had achieved the highest site coverage (SC) with a maximum floor plate. Once the Site was redeveloped for a new commercial building, it might not be able to achieve the same maximum SC as the existing building. R1's proposal to utilise the existing building, which had been well maintained, for RCHD operation indicated a genuine intention to operate the proposed RCHD at the Site for a long term.

15. As Members had no further questions to raise, the Chairperson said that the hearing procedures for the presentation and Q&A sessions had been completed. She thanked the representers, representer's representatives and PlanD's representatives for attending the meeting. The Board would deliberate on the representations in closed meeting and would inform the representers of the Board's decision in due course. The representers, representer's representatives and PlanD's representatives left the meeting at this point.

### Deliberation Session

16. The Chairperson invited views from Members.

17. Members generally expressed support for Item A to facilitate the proposed RCHD at the Site and had the following views:

- (a) the Site was considered ideal for RCHD due to its proximity to ample open spaces and wide vistas, which were beneficial for the residents;
- (b) the “C(3)” zoning would provide sufficient planning control for the development of RCHD at the Site as the proposed development would be vetted through the s.16 application mechanism;
- (c) the proposed RCHD could effectively utilise the existing aged but well-maintained commercial building;
- (d) compared to other types of social welfare facilities, RCHDs were particularly in acute demand, as it was challenging for family members to care for persons with disabilities at home. R1’s intention to allocate most of the building’s floorspace for RCHD use to serve the community was appreciated;
- (e) while R1 lacked expertise in operating the proposed RCHD, they were committed to engaging a specialised private operator to ensure quality service provision;
- (f) regarding R31’s concern on security of tenure, SWD’s licensing mechanism would ensure a reasonable licensing period for RCHD operation and would assess the operator’s performance upon licence renewal;
- (g) if the Site was not rezoned to “C(3)”, the landowner would likely retain the current restaurant use for the building or redevelop the Site for a new commercial building, which would result in the loss of at least 120 potential RCHD bedspaces; and

- (h) although the Site would use the area abutting the back lane for pick-up and drop-off activities, the frequency of such activities was expected to be low.

18. The Chairperson remarked that the existing building was suitable for conversion into a RCHD given its well-maintained conditions, sizable floor plate allowing efficient design and use for RCHD purpose, and proximity to ample open spaces and wide vistas. The Chairperson concluded that after some discussions, Members generally supported the OZP amendments and agreed that the OZP should not be amended to meet the adverse representation. All grounds of the representations had been addressed by the departmental responses as detailed in the Paper as well as the presentation and responses made by PlanD's representatives at the meeting.

19. Regarding other views expressed by Ms Mary Mulvihill (R31) that were not related to the representation and the subject OZP, the Secretary said that follow-up actions, where appropriate, had been taken by the Secretariat since Ms Mulvihill raised similar concerns at previous meetings. Further testing revealed no issues with downloading files from TPB's website, while large-sized files might take longer time to download. The Secretariat attempted to contact Ms Mulvihill to offer assistance but response was not yet received. The IT Section of PlanD was working with the Digital Policy Office to split large-sized files into smaller ones for easier downloading, and the enhancement was expected to be completed in a couple of months. Moreover, digital files of the plans of all current OZPs had been made available for public download on TPB's Statutory Planning Portal 3 website since December 2025.

20. After deliberation, the Town Planning Board (the Board) noted the supportive views of **R1 to R30** on Item A and that **R32 and R33** had no view expressed on the subject Outline Zoning Plan (OZP), and decided not to uphold R31 and agreed that the draft Kwun Tong (South) OZP should not be amended to meet the representation for the following reasons:

“Item A

- (a) Item A is to take forward the decision of the Board on the agreed section 12A application to introduce greater flexibility in the “Commercial” zone for developing a residential care home for persons with disabilities at the site through addressing technical issues under section 16 application. The

“Commercial (3)” sub-zone is appropriate to provide such flexibility while aligning with the general planning intention for the site which is an integral part of the Kwun Tong Business Area; and

Amendments to the Notes for the “Other Specified Uses” annotated “Business” (“OU(B)”) Zone

- (b) the amendment is to align the control of ‘Government Use (not elsewhere specified)’ across the two schedules in the Notes for the “OU(B)” zone of the OZP and accords with the streamlined approach. Provision of government facilities is governed by established mechanism subject to scrutiny and up to the latest standards.”

21. The Board also agreed that the draft OZP, together with its Notes and updated Explanatory Statement, was suitable for submission under section 8(1)(a) of the Town Planning Ordinance to the Chief Executive in Council for approval.

[The meeting was adjourned for a 10-minute break.]

**Hong Kong District**

**Agenda Item 4**

[Open Meeting (Presentation and Question Sessions only)]

Review of Application No. A/H6/96

Proposed ‘Flat’ Use (Vehicular Access and Pedestrian Walkway for Residential Development) in “Green Belt” and “Residential (Group B)” Zones and Area shown as ‘Road’, Government Land Adjoining Inland Lots 6621 S.A and 6621 R.P. and Ext., 58 Tai Hang Road, Causeway Bay, Hong Kong

(TPB Paper No. 11039)

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[The item was conducted in Cantonese.]

22. The Secretary reported that the application site (the Site) was located in Tai Hang and the application was submitted by Big Wealth Limited. The following Members had declared interests on the item:

Ms Sandy H.Y. Wong - living in Tai Hang; and

Mr Derrick S.M. Yip - being a personal friend of Mr Wu Shang Tun Mason, the applicant's representative.

23. Members noted that Ms Sandy H.Y. Wong had tendered an apology for being unable to attend the meeting. As the interest of Mr Derrick S.M. Yip was considered direct, he was invited to leave the meeting temporarily for the item.

[Mr Derrick S.M. Yip left the meeting at this point.]

#### Presentation and Question Sessions

24. The following representatives of the Planning Department (PlanD) and the applicant's representatives were invited to the meeting at this point:

##### ***PlanD***

Ms Janet K.K. Cheung - District Planning Officer/Hong Kong (DPO/HK)

Mr Tony K.Y. Yip - Senior Town Planner/Hong Kong (STP/HK)

Mr Harvey T.H. Law - Town Planner/Hong Kong

##### ***Applicant's Representatives***

###### ***Big Wealthy Limited (Applicant)***

Mr Wu Shang Tun Mason

###### ***Peaktap Century Limited***

Mr Lai Wah Pun Bunnie



*PlanPlus Consultancy Limited*

Mr Chan Pak Kan Kennith

Ms Wong Ching Yu Natalie

*L&N Architects Limited*

Mr Chao Chi Man Memphis

*AMG Consultancy Limited*

Mr Fung Kai Yuen

*Stephen Lai Studio Limited*

Mr Lai Yat Man Stephen

25. The Chairperson extended a welcome and explained the procedures of the review hearing. To ensure smooth and efficient conduct of the meeting, a time limit of 15 minutes was set for presentation of the applicant's representatives. She then invited PlanD's representatives to brief Members on the review application.

26. With the aid of a PowerPoint presentation, Mr Tony K.Y. Yip, STP/HK, PlanD briefed Members on the background of the review application including the application site (the Site) and the surrounding areas, the applicant's proposal and justifications, the consideration of the application by the Metro Planning Committee (MPC) of the Town Planning Board (the Board/TPB), departmental and public comments, and the planning considerations and assessments as detailed in TPB Paper No. 11039 (the Paper). The development proposal involved the construction of a proposed vehicular access exclusively serving a planned residential redevelopment at 58 Tai Hang Road (the planned residential redevelopment) and a proposed pedestrian walkway serving both the planned residential redevelopment and the general public at the Site, which was a piece of government land (GL) (about 648m<sup>2</sup>) mostly zoned "Green Belt" ("GB") (about 93.98%), with minor portions encroaching on the "Residential (Group B)" ("R(B)") zone (about 2.16%) and an area shown as 'Road' (about 3.86%) on the approved Causeway Bay Outline Zoning Plan (OZP) No. S/H6/17. As there had been no major change in planning circumstances since the consideration of the section 16 (s.16) application, PlanD maintained its previous view of not supporting the application.

[Professor Roger C.K. Chan joined the meeting during PlanD's presentation.]

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

28. With the aid of a PowerPoint presentation, Mr Lai Wah Pun Bonnie, the applicant's representative, made the following main points:

- (a) he was the project manager representing the owner of 58 Tai Hang Road on their redevelopment plan;
- (b) there was failure in the current s.16 application mechanism as the applicant was not allowed to participate in the MPC meeting for the consideration of the application. The entire process operated as a "black box", with PlanD issuing a paper containing recommendations on the application to MPC of the Board, leaving the applicant unable to act at that stage. The s.16 paper contained inaccurate information that misled MPC's judgment. Given the seriousness of the issue, he had already submitted a complaint letter on behalf of the owner of 58 Tai Hang Road to the Development Bureau (DEVB) and was awaiting a reply. If the response from DEVB was unreasonable, unlawful or unjustified, he would continue to lodge complaints with the Audit Commission and even the Chief Executive, as it was a serious matter when civil servants used inaccurate information to mislead other government departments/relevant authorities into making false decisions;
- (c) the main issue with the current application concerned the safety of human lives, which PlanD completely ignored. The existing building at 58 Tai Hang Road was 68 years old, and its structural conditions and safety facilities could not meet the current regulatory standards;
- (d) the Government erroneously approved the redevelopment of 60 Tai Hang Road (The Elegance) in the past, as its podium obstructed access for firefighting to 58 Tai Hang Road. Some parking spaces had been earmarked

within the right of way (ROW) to 58 Tai Hang Road, blocking fire appliances and firefighters from accessing 58 Tai Hang Road and posing a serious fire risk, and this information had not been included in the Paper. The application aimed to resolve the current fire safety issue;

- (e) one piece of inaccurate information provided by PlanD in the s.16 paper stated that the incorporated owners (IO) of The Elegance were open to discussing matters related to 60 Tai Hang Road with 58 Tai Hang Road. However, he had repeatedly sent requests to the IO by registered post to discuss the ROW issue but received no response. On the contrary, the Chairman of the IO replied in writing, rejecting the use of the ROW within The Elegance for the construction works of 58 Tai Hang Road. Indeed, the proposed emergency vehicular access (EVA) under the current application would also benefit The Elegance in firefighting, as it would allow access to three facades of the building. PlanD's information would mislead the Board into believing that 58 Tai Hang Road had not fully explored the use of the ROW for its redevelopment, and this was biased, and hence the applicant wrote to DEVB for follow-up;
- (f) they recently sought legal opinions from a solicitor on whether the concerned land leases and the Deed of Mutual Covenant and Management Agreement (DMC) could resolve the access and fire safety issues for 58 Tai Hang Road. The solicitor advised that the right to consent to use the ROW was vested in the developer of The Elegance, Rincon Limited, which had since been dissolved, leaving no other channels through which consent could be granted. The solicitor further advised that for the redevelopment of 58 Tai Hang Road, the most appropriate action was to apply for the construction of a proper EVA to serve the development site;
- (g) PlanD also misled MPC in the s.16 paper by citing a previously rejected s.16 application No. A/H6/87 for a proposed vehicular access for an adjacent residential development and a public pedestrian link at 4-4C Tai Hang Road as a similar application. The comparison of 4-4C Tai Hang Road with 58 Tai Hang Road was misleading, as 4-4C Tai Hang Road had its own vehicular

access point directly abutting Tai Hang Road under lease, while 58 Tai Hang Road did not. The public officer making such a fallacious comparison should be subject to disciplinary action;

- (h) when approving the general building plans (GBP) for the redevelopment of 58 Tai Hang Road, the Fire Services Department (FSD) allowed for the non-provision of EVA, contingent upon utilising the ROW at The Elegance for firefighting. Nevertheless, the solicitor's advice pointed out that no parties had the right to give consent to use ROW at The Elegance except the developer, which had been dissolved;
- (i) other technical government departments, having considered the difficulties of 58 Tai Hang Road, raised no objection to the application from technical perspectives; and
- (j) the Board was requested to critically review this application, prioritising the safety of human lives. The Government should learn a lesson from the recent fire tragedy at Tai Po in particular that if a fire broke out in a building, there would be a risk of fire spreading to buildings in the vicinity. If a fire outbreak occurred at 58 Tai Hang Road due to the rejection of the application, there might be fire risk to 60 Tai Hang Road. PlanD should bear full responsibility and be held accountable.

29. With the aid of a PowerPoint presentation, Mr Chan Pak Kan Kenneth, the applicant's representative, supplemented the following main points:

- (a) PlanD recommended rejecting the s.16 application and the review application for two reasons, (i) the proposed development was not in line with the planning intention of the "GB" zone which had a general presumption against development; and (ii) it did not comply with the TPB Guidelines No. 10 (TPB PG-No. 10) for application for development within "GB" zone in that there were no exceptional circumstances to justify the proposed development within the "GB" zone, the proposed development was excessive in scale and it would alter the existing landscape character of the Site and its surroundings;

- (b) regarding the general presumption against development within the “GB” zone, it did not imply that development or redevelopment within “GB” zone was always prohibited. Applications should be evaluated on a case-by-case basis, taking into account the background, planning justifications, individual merits and unique circumstances of each case. The subject case was unique in nature and the applicant had made lots of effort to address the access issue of 58 Tai Hang Road. There was no viable option to implement the redevelopment scheme, despite GBP approval, mainly due to the impossibility of demolishing an existing staircase structure that was not located within the lot boundary of 58 Tai Hang Road according to the applicant’s land surveyor. Moreover, according to the legal advice of the applicant’s solicitor, consent to use the ROW could not be obtained from the developer of The Elegance, which had been dissolved, and the likelihood of restoring the dissolved company was low. The IO of The Elegance also replied that the request to use the ROW was rejected. Besides, the IO of The Elegance did not respond to their written invitations for discussions regarding the ROW issue;
- (c) while there were five approved s.16 applications for proposed access roads within “GB” zone in the Peak Area that were relevant to the current application, PlanD did not reference or cite these cases. Instead, they incorrectly quoted a rejected case at 4-4C Tai Hang Road as a similar application, the circumstances of which differed from the subject case as mentioned in paragraph 28(g) above;
- (d) there were planning merits associated with the application, including the provision of a 140m long, 24-hour pedestrian walkway connecting the lower and upper sections of Tai Hang Road for public use, which would be constructed, maintained and managed by the applicant. They did not agree with the Transport Department (TD)’s comments that the proposed stairway could not bring significant improvement to walkability and accessibility in the area;

- (e) approving the application would not set an undesirable precedent, as its circumstances were unique in terms of legal, site characteristics, land matters, historical and planning justifications;
- (f) the provision of an EVA was preferable to not having one, as an EVA was a better option than the enhanced fire service provisions and would also benefit 60 Tai Hang Road;
- (g) the application generally complied with the relevant planning criteria in TPB PG-No. 10 in that the proposed development scale was appropriate and justifiable, satisfying the operational requirements of fire appliances. The proposed tree felling had been minimised, with compensatory planting as mitigation measure, and there was no objection from the Urban Design and Landscape Section of PlanD. The Architectural Services Department considered that the proposal might not be incompatible with the surrounding environment. The proposed development would not overstrain infrastructural capacities or the provision of community facilities, and would not generate adverse environmental impacts. The geotechnical planning review report also confirmed that the proposed development would not adversely affect slope stability. As TPB PG-No. 10 was formulated in 1991, the Board might consider reviewing its planning criteria to keep it up-to-date; and
- (h) in view of the unique circumstances and planning justifications, the Board was requested to give sympathetic consideration and approve the application.

[Mr Ben S.S. Lui left the meeting during the presentation of the applicant's representatives.]

30. As the presentations of the PlanD's representative and the applicant's representatives had been completed, the Chairperson invited questions from Members.

*Allegation of Inaccurate and Misleading Information and Assessment*

31. Noting the strong accusations from the applicant's representatives that the information and assessment provided in the s.16 paper by PlanD were inaccurate and misleading, a Member asked for PlanD's general responses to those accusations. In response, Ms Janet K.K. Cheung, DPO/HK, PlanD, with the aid of some PowerPoint slides and a visualiser, made the following main points:

- (a) regarding the view of the applicant's representatives that the information in the s.16 paper was biased, it should be noted that as per established practice, all information submitted by the applicant and public comments received during the publication of the planning application were included in the paper for Members' consideration. PlanD had no reason to conceal or distort any information or facts;
- (b) while the applicant's representatives pointed out that the s.16 paper mentioned that the IO of The Elegance was open to discussing the ROW issue, it should be clarified that this message, as detailed in footnote 8 of the s.16 paper, was submitted by the IO of The Elegance as a public comment received during the statutory publication period. The inclusion of the IO's response in the paper was intended to give Members a better understanding of the positions of both the applicant and the IO. The IO also expressed that the legal status of the 'owner representative of 58 Tai Hang Road' in handling the ROW at 60 Tai Hang Road was in doubt;
- (c) in response to the comment from the applicant's representatives regarding the five approved s.16 applications for proposed access roads in "GB" zones in the Peak Area not being referred to in the s.16 paper, it was PlanD's general practice to indicate only similar applications for similar uses or proposals within the same land use zone in the same OZP in the paper, so that Members could make reference to the relevant planning considerations under a similar planning context, irrespective of whether those similar applications were approved or rejected. The cited similar applications did not need to be entirely the same in context as the subject application, and each application

would be considered individually on its own merits; and

- (d) the five approved applications in “GB” zones mentioned by the applicant’s representatives in the Peak Area mainly involved the upgrading or reconfiguration of existing access roads with minimal or no tree felling, which did not receive adverse comments from relevant government departments on technical aspects. It should be noted that some other applications for proposed access roads in “GB” zones in the Peak Area were rejected by MPC/the Board.

*Need for EVA and Access to 58 Tai Hang Road*

32. Two Members raised the following questions to PlanD’s representatives:

- (a) the validity of the objecting public comments detailed in paragraph 6.3(e) of the Paper, which indicated that the provision of vehicular access and EVA to 58 Tai Hang Road was deemed unnecessary, as a turntable had already been included and fire safety considerations had already been addressed in the previously approved GBP for its redevelopment;
- (b) the future arrangements for pedestrian and vehicular access to 58 Tai Hang Road based on its approved GBP for redevelopment;
- (c) whether the redevelopment of 60 Tai Hang Road had blocked the means of escape (MoE) for 58 Tai Hang Road as claimed by the applicant’s representatives; and
- (d) whether the parking spaces currently earmarked within the ROW of The Elegance were indicated on the approved GBP for The Elegance.

33. In response, Ms Janet K.K. Cheung, DPO/HK, PlanD, with the aid of some PowerPoint slides and a visualiser, made the following main points:

- (a) according to the GBP for the redevelopment of 58 Tai Hang Road approved



in March 2024, no EVA was proposed. Vehicular access to 58 Tai Hang Road would be via the covered ROW at The Elegance. Part of the ROW was currently occupied by a staircase used by the residents of 58 Tai Hang Road. In the redevelopment proposal, a turntable, a private car parking space and a motorcycle parking space were proposed within the site of 58 Tai Hang Road. It was not uncommon for some development sites not to be served by EVA due to site constraints, particularly on Hong Kong Island. Fire safety considerations for a development project included not only the provision of EVA but also MoE, the use of non-combustible building materials and the implementation of other relevant safety measures. Pursuant to the Building (Planning) Regulations, if the provision of EVA to a building was exempted by the Building Authority (BA), other enhanced fire safety measures should be implemented. In that regard, the project proponent had proposed some enhanced fire safety measures in the GBP submission, including enhanced sprinkler system, fire alarm system, water tank capacity and pressurised staircases;

- (b) the GBP for the redevelopment of 58 Tai Hang Road was approved by BA based on the project proponent's confirmation of their right to use the ROW at The Elegance for vehicular and pedestrian access to their site. They submitted a letter dated 8.11.2023 from their solicitor, Woo Kwan Lee & Lo, to BA, clarifying and detailing the reasons why 58 Tai Hang Road had the right to use the ROW at The Elegance after its redevelopment, which were generally as follows:
  - (i) when the site of 60 Tai Hang Road was sold to the developer of The Elegance, Rincon Limited, the assignment was subject to a full, free and uninterrupted right for the owner and co-owners for the time being of 58 Tai Hang Road to go pass and repass on foot over, along and upon the staircases and landings and the open passageway on 60 Tai Hang Road;
  - (ii) according to the DMC of The Elegance signed in 1986, the developer of The Elegance and its successors and assigns were reserved the right

to grant right for the owner and co-owners of 58 Tai Hang Road to enter into 60 Tai Hang Road with all necessary equipment, plant and materials for the purposes of demolishing any existing building on 58 Tai Hang Road and constructing any building thereon, as well as right to go pass and repass on foot or by vehicle over, along and upon the designated ROW on 60 Tai Hang Road for the purpose of access to and egress from 58 Tai Hang Road;

(iii) in addition to the assignment document for 60 Tai Hang Road, the right to go pass and repass on foot over, along and upon the staircases and landings and the open passageway on 60 Tai Hang Road was also specified in the assignment documents for individual floors of 58 Tai Hang Road; and

(iv) the solicitor concluded that as there was an express grant of the ROW to the owners of 58 Tai Hang Road and it was granted without word of limitation on the duration thereof, the ROW would continue to exist and the owners of 58 Tai Hang Road could continue to use and enjoy the same even after the redevelopment of 58 Tai Hang Road;

(c) the GBP approved in 1985 for The Elegance indicated the provision of a ROW by vehicle and on foot to 58 Tai Hang Road. The vehicular entrance on the ground floor of The Elegance, which formed part of the ROW to 58 Tai Hang Road, had been designed and constructed with adequate width and headroom to allow the passage of vehicles; and

(d) according to the approved GBP for The Elegance, no parking spaces were indicated on the ground floor layout plan where the current parking spaces existed.

34. In response to a Member's enquiry on the necessity of the proposed vehicular access/EVA to 58 Tai Hang Road, Mr Lai Wah Pun Bonnie, the applicant's representative, said that the ROW reserved in The Elegance for vehicular and pedestrian access to 58 Tai Hang Road was not an EVA for firefighting and rescue as it could not allow the passage of fire appliances.

Given the absence of EVA to 58 Tai Hang Road and the associated fire risk, FSD required the implementation of enhanced fire safety measures for the redevelopment during the GBP submission stage. One such measure was the installation of sprinkler heads in the podium of The Elegance. However, this was impractical due to the difficulty in obtaining consent from all individual owners of The Elegance for the installation work, as well as uncertainty about the maintenance of those sprinkler heads once The Elegance was redeveloped. Different options had been explored to improve the fire services installations for 58 Tai Hang Road. As the current building conditions of 58 Tai Hang Road did not allow any improvement works to enhance fire safety, such as addition of a water tank for firefighting on the rooftop or ground level, the only viable option was to redevelop the site and to provide the proposed EVA. The Board should acknowledge that the subject application concerned the safety of human lives, and this should be properly recorded in the meeting minutes.

35. At the request of the Chairperson, Mr Lai Wah Pun Bunnie, the applicant's representative, clarified that while the registered owner of 58 Tai Hang Road was Big Wealthy Limited (i.e. the applicant of the subject application), the letters they issued to the IO of The Elegance were in the name of Peaktop Century Limited. That said, he had indicated to the IO from the outset that Peaktop Century Limited was the representative of owner of 58 Tai Hang Road, though no documentary proof was provided to the IO to prove the status of Peaktop Century Limited.

36. With the aid of a visualiser, Mr Chan Pak Kan Kennith, the applicant's representative, said that according to a more recent legal advice from their other solicitor, Chan, Wong & Lam Solicitors, the IO of The Elegance had no legal title to grant or withhold consent for the use of the ROW, after having considered the relevant leases and DMC. Noting that the legal opinions regarding the ROW obtained by the applicant from their two solicitors (i.e. Woo Kwan Lee & Lo and Chan, Wong & Lam Solicitors) appeared contradictory, the Chairperson asserted that the meeting was not the appropriate forum for resolving legal matters as it was neither the Board's duty nor within its jurisdiction to make any such ruling.

37. In response to a Member's enquiry, Mr Lai Wah Pun Bunnie, the applicant's representative, confirmed the authenticity of the letter providing legal opinions about the ROW from Woo Kwan Lee & Lo, and that 58 Tai Hang Road was currently under single ownership while The Elegance was under multiple ownership.

38. Two Members raised the following questions to the applicant's representatives:

- (a) since BA had already approved a set of GBP for the redevelopment of 58 Tai Hang Road based on the provision of enhanced fire safety measures without an EVA, if pedestrian access was an issue for 58 Tai Hang Road, why the applicant did not propose to construct only a new pedestrian access for both residents and firefighters to 58 Tai Hang Road, which would involve much less space, instead of the currently proposed EVA with a substantial structure; and
- (b) if it was impossible for the residents of 58 Tai Hang Road to obtain consent to use the ROW at The Elegance according to the legal opinions from Chan, Wong & Lam Solicitors, how they currently could gain access to their home and whether they were actually using that ROW at the moment.

39. In response, Messrs Lai Wah Pun Bunnie, Chao Chi Man Memphis and Chan Pak Kan Kenneth, the applicant's representatives, with the aid of some PowerPoint slides and a visualiser, made the following main points:

- (a) while their solicitor, Woo Kwan Lee & Lo, advised that 58 Tai Hang Road had the right to use the ROW at The Elegance, after the approval of the GBP, it was discovered that the developer of The Elegance had been dissolved, with no rights assigned to other parties. Without the consent from the developer of The Elegance to use the ROW, the redevelopment of 58 Tai Hang Road could not proceed and the current fire risk could not be resolved. The purpose of providing the proposed EVA was to enhance the fire safety of 58 Tai Hang Road upon redevelopment. If FSD accepted that the width of the EVA could be reduced, they were willing to correspondingly scale down the proposed structure; and
- (b) residents of 58 Tai Hang Road could currently pass through The Elegance to gain access to their home, but their vehicles were not allowed to enter. The redevelopment of The Elegance had blocked access to 58 Tai Hang Road, and

in particular, some parking spaces of The Elegance were located within the ROW.

*Redevelopment Issues of 58 Tai Hang Road*

40. Three Members raised the following questions to the applicant's representatives:

- (a) the difficulty in demolishing the staircase within the ROW;
- (b) whether they had discussed with the IO of The Elegance on the installation of sprinkler heads at their site as required by FSD;
- (c) whether they had the authorisation letter from the owner of 58 Tai Hang Road to represent them, and whether the IO of The Elegance was aware of the authorisation;
- (d) whether they had sought assistance from the Home Affairs Department to resolve their land disputes with The Elegance;
- (e) whether the possibility of a joint redevelopment with The Elegance had been explored; and
- (f) whether legal opinion had been sought on the possible way out for the redevelopment of 58 Tai Hang Road if consent to use the ROW at The Elegance could not be obtained ultimately, or if legal action could be taken against the IO of The Elegance to safeguard their right to use the ROW.

41. In response, Messrs Lai Wah Pun Bunnie, Chao Chi Man Memphis and Chan Pak Kan Kennith, the applicant's representatives, with the aid of some PowerPoint slides and a visualiser, made the following main points:

- (a) the concerned staircase was located within the lot boundary of The Elegance, although it formed part of the existing building of 58 Tai Hang Road. According to the approved GBP, prior to applying to BA for consent to

commence superstructure works for the new building at 58 Tai Hang Road, the owners of The Elegance should have given their consent to the proposed works at The Elegance, or the demolition works of the staircase would be submitted by 60 Tai Hang Road under a separate GBP submission. Otherwise, the staircase could not be demolished, and it would block vehicular access to 58 Tai Hang Road upon redevelopment;

- (b) following approval of the GBP in 2024, they had written to the IO of The Elegance to notify them of the redevelopment works and the need to demolish the staircase with their consent. However, the IO indicated that they had no right to give consent as this fell within the authority of the developer of The Elegance. In other words, the IO did not consent to the demolition works. Without a positive response from the IO, the issues of installing sprinkler heads at The Elegance and the demolition of the staircase had not been discussed;
- (c) Mr Lai Wah Pun Bunnie had obtained an authorisation letter from the owner of 58 Tai Hang Road, appointing him as the project manager for the redevelopment to represent the owner in all matters related to the project. He had informed the IO of The Elegance that he was the representative of the owner of 58 Tai Hang Road when he wrote to the IO, but he had not produced the authorisation letter to the IO, nor had the IO requested it;
- (d) they had informed the District Council about the redevelopment of 58 Tai Hang Road. The District Council members were supportive of their proposal to provide the proposed EVA to 58 Tai Hang Road and the pedestrian walkway connecting the upper and lower section of Tai Hang Road for public use;
- (e) the possibility of joint redevelopment with The Elegance was considered very slim, as it would require the consent of all individual owners of The Elegance, who were unlikely to be interested in such a venture in view of the current stagnant property market and the difference in plot ratio (PR), with a PR of 8 for The Elegance as compared with a PR of 5 for the redevelopment of 58 Tai

Hang Road; and

- (f) the latest legal opinion from Chan, Wong & Lam Solicitors recommended the applicant to pursue the proposed EVA under s.16 application as it was very difficult to obtain consent from the IO of The Elegance to use the ROW to facilitate the redevelopment, not to mention that the developer of The Elegance had already been dissolved. While it might be possible to take legal action against the IO of The Elegance regarding the right to use the ROW, such proceedings could take considerable time, which would affect the timely resolution of the immediate fire risk problem at 58 Tai Hang Road.

#### *Scale of the Proposed Vehicular Access/EVA*

42. A Member enquired about the disproportionately large scale of the proposed vehicular access/EVA, including the turntable, compared with the development site area of 58 Tai Hang Road. In response, Messrs Lai Wah Pun Bunnie, Chao Chi Man Memphis and Chan Pak Kan Kenneth, the applicant's representatives, with the aid of some PowerPoint slides, said that the area identified for the construction of the proposed EVA in the "GB" zone would cause the least disturbance to the existing trees and to The Elegance. It was not agreed that the proposed development was excessive in scale as it was designed in accordance with the relevant code of practice for fire safety in buildings. The proposed 12m-diameter turntable was specifically designed to meet the turning requirement of fire appliances, and the proposed vehicular access, with a clear width of 10.2m, would allow the swept paths of fire appliances to avoid encroaching upon the centreline of Tai Hang Road. While the proposed elevated structure might be refined and further minimised, the actual reduction would not be significant. It should be noted that FSD, TD and the Lands Department had no adverse comment on the design of the proposed EVA.

#### *Compliance with TPB PG-No. 10*

43. In response to a Member's question on whether the proposed development could be considered as complying with TPB PG-No. 10 as claimed by the applicant's representatives, Ms Janet K.K. Cheung, DPO/HK, PlanD, with the aid of some PowerPoint slides, explained that as detailed in paragraph 7.13 of the Paper, new development within the "GB" zone would only be considered under exceptional circumstances and should be justified with very strong planning

grounds according to TPB PG-No. 10. The submission from the applicant could not demonstrate any exceptional circumstances that warranted approval of the application. There were other means to address the fire safety requirements of 58 Tai Hang Road other than the proposed EVA. As such, the need for an EVA of excessive scale could not be justified. The proposal would also involve the felling of all trees within the Site and create a large shaded void beneath the proposed EVA structure, thereby altering the existing landscape character of the Site and its surroundings. Moreover, no strong planning grounds had been provided by the applicant to justify the proposal. The proposed development therefore could not be considered as complying with TPB PG-No. 10.

44. Mr Chan Pak Kan Kennith, the applicant's representative, with the aid of some PowerPoint slides, responded that according to the photomontages, the proposed EVA and pedestrian walkway could hardly be visible from most viewpoints along Tai Hang Road, except when viewed in close proximity to the Site. Having explored all possible alternatives, their solicitor also considered that applying for the construction of the proposed EVA in the "GB" zone was the most viable option. Given the unique circumstances of 58 Tai Hang Road from legal, site characteristics, land matters, historical and planning perspectives as explained earlier at this meeting, the Board had strong grounds to approve the application.

45. As the applicant's representatives had no further points to raise and there were no further questions from Members, the Chairperson informed the applicant's representatives that the hearing procedure of the review application had been completed and the Board would deliberate on the review application in their absence and inform the applicant of the Board's decision in due course. The Chairperson thanked PlanD's representatives and the applicant's representatives for attending the meeting. They left the meeting at this point.

[Mr Rocky L.K. Poon left the meeting during the Q&A session.]

#### Deliberation Session

46. The Chairperson invited views from Members.

47. Members unanimously agreed with PlanD's recommendation not to approve the application and had the following major views:



- (a) the proposed development did not comply with TPB PG-No. 10 in view of the disproportionate scale of the proposed vehicular access/EVA compared with the size of the development site of 58 Tai Hang Road that it was intended to serve, the incompatibility of the proposed structure within the “GB” zone, and the extensive tree felling involved, which would adversely affect the visual amenity, landscape character and ecology of the green belt environment;
- (b) given the approval of the GBP without EVA for the redevelopment of 58 Tai Hang Road in 2024, the applicant already had a solution to redevelop their site with the proposed access arrangement while meeting prevailing fire safety requirements. The applicant’s claim of the need for the proposed EVA, which was excessive in scale in terms of width and coverage and would adversely affect the landscape character of the “GB” zone, was not justifiable. The intention of the proposed EVA, which would also serve as exclusive vehicular access to the planned residential redevelopment, was primarily to enhance the development potential and marketability of 58 Tai Hang Road;
- (c) from fire safety perspective, since FSD and BA had already accepted the implementation of enhanced fire service provisions for the redevelopment of 58 Tai Hang Road without the need for an EVA, the proposed EVA was not essential but merely a “nice-to-have” feature. Indeed, the non-provision of EVA for development sites due to site constraints was not uncommon in Hong Kong, and there were alternative solutions to such situations;
- (d) the applicant should made greater efforts to liaise with the owners of The Elegance on the use of the ROW to access the future redevelopment at 58 Tai Hang Road, rather than seeking expediency from the Board to approve the proposed vehicular access/EVA on GL. The allocation of an extensive area of GL to support the proposed private redevelopment was unjustified;
- (e) in considering the application, the Board should focus on land use and relevant planning considerations rather than on the alleged land dispute issues among different landowners. While the applicant attempted to argue that they could not use the ROW at The Elegance based on legal advice, necessitating the

proposed vehicular access/EVA, the TPB meeting should not be used as a forum for resolving or ruling on any conflicting legal and land matters;

- (f) while there was scope to reduce the scale of the proposed vehicular access/EVA, the applicant had not provided any alternative designs for the Board's consideration; and
- (g) if 58 Tai Hang Road was facing a genuine access problem, the applicant could propose the construction of a new pedestrian access to their site, which should be much smaller in scale than the currently proposed vehicular access/EVA.

48. Regarding the concerns on whether 58 Tai Hang Road was currently exposed to severe fire risk due to the lack of EVA and the impracticability of improving its existing fire services installations as claimed by the applicant's representatives, the meeting noted that while the current fire services installations at 58 Tai Hang Road might not comply with the prevailing standards due to the age of the building and there might be difficulties in implementing enhancement works such as addition of a water tank for firefighting, the firefighters could draw water from roadside fire hydrants and pass through The Elegance to reach 58 Tai Hang Road for firefighting in the event of a fire outbreak.

49. Noting that TPB PG-No. 10 had not been updated since its first promulgation in July 1991, as pointed out by the applicant's representatives, a Member said that consideration could be given to reviewing TPB PG-No. 10 to affirm the validity of the relevant planning criteria for assessing planning applications. The Chairperson remarked that the relevant TPB Guidelines could be reviewed whenever necessary. In response, Mr C.K. Yip, Director of Planning, said that PlanD would review the TPB Guidelines from time to time, taking into account the latest planning circumstances. While the main planning criteria set out in TPB PG-No. 10 remained generally relevant for assessing planning applications, the guidelines were premised on the planning intention of the "GB" zone with a general presumption against development. Unless there was a fundamental change in such planning intention, a substantive revision to the guidelines might not be necessary. That said, PlanD could examine whether some refinements could be made when opportunity arose, and any proposed revisions would be submitted to the Board for consideration.

50. Members also expressed dissatisfaction with the unfounded accusations of the applicant's representatives against the integrity of PlanD's officers involved in the processing of the application and the criticism of the Board's operation as a "black box", which appeared to challenge the fairness and openness of the planning application system. Members found these accusations not only unfounded and unjustified but also reflective of a lack of goodwill towards the regulatory process and the professionals involved. Such behaviour was considered disrespectful and undermining the collaborative atmosphere necessary for effective dialogue in the planning process. Meanwhile, the Chairperson and Members commended the professionalism and perseverance of PlanD's representatives, noting how they had systematically and convincingly clarified the issues raised and responded to questions from Members with supporting factual information.

51. The Chairperson concluded that Members collectively considered that the review application could not be approved, having considered the justifications provided by the applicant's representatives and all relevant factors. As the availability of EVA was not a prerequisite for the redevelopment of 58 Tai Hang Road as confirmed by relevant government departments and there were developments/redevelopments without EVA but could still meet fire safety requirements, the need for the proposed development could not be established. The scale of the proposed development, which would encroach onto an extensive area of the "GB" zone, was excessive and not commensurate with the scale of the planned residential redevelopment at 58 Tai Hang Road. Moreover, the proposed development would generate adverse landscape and visual impacts on the area.

52. After deliberation, the Town Planning Board (the Board) decided to reject the application for the following reasons:

- “(a) the proposed development is not in line with the planning intention of the “Green Belt” (“GB”) zone which is primarily for conservation of the natural environment and to safeguard it from encroachment by urban-type development. There is a general presumption against development within this zone. No strong justification is given in the submission for a departure from such planning intention; and

- (b) the proposed development does not comply with the Town Planning Board Guidelines No. 10 for ‘Application for Development within Green Belt Zone under Section 16 of the Town Planning Ordinance’ in that there are no exceptional circumstances to justify the proposed development within the “GB” zone; the proposed development is excessive in scale; and the proposed development will alter the existing landscape character of the site and its surroundings.”

[Professor B.S. Tang, Professor Simon K.L. Wong and Mr Timothy K.W. Ma left the meeting during deliberation.]

#### **Agenda Item 5**

[Open Meeting]

#### **Any Other Business**

[The item was conducted in Cantonese.]

53. There being no other business, the meeting was closed at 12:40 p.m.