

**Minutes of 1024<sup>th</sup> Meeting of the  
Town Planning Board held on 30.11.2012**

**Present**

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

Chairman

Professor S.C. Wong

Mr. Rock C.N. Chen

Professor P.P. Ho

Professor Eddie C.M. Hui

Dr. C.P. Lau

Ms. Julia M.K. Lau

Mr. Clarence W.C. Leung

Mr. Laurence L.J. Li

Mr. Roger K.H. Luk

Ms. Anita W.T. Ma

Dr. W.K. Yau

Mr. H.W. Cheung

Dr. Wilton W.T. Fok

Mr. Ivan C.S. Fu

Mr. Sunny L.K. Ho

Mr. Lincoln L.H. Huang

Miss Janice W.M. Lai

Mr. Dominic K.K. Lam

Mr. Patrick H.T. Lau

Ms. Christina M. Lee

Mr. H.F. Leung

Mr. Stephen H.B. Yau

Deputy Director of Lands  
Mr. Jeff Y.T. Lam

Deputy Director of Environmental Protection  
Mr. C.W. Tse

Principal Assistant Secretary (Transport)  
Transport and Housing Bureau  
Miss Winnie M.W. Wong

Assistant Director (2), Home Affairs Department  
Mr. Eric K.S. Hui

Director of Planning  
Mr. Jimmy C.F. Leung

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

Secretary

**Absent with Apologies**

Mr. Stanley Y.F. Wong

Mr. Timothy K.W. Ma

Professor Edwin H.W. Chan

Mr. Maurice W.M. Lee

Dr. W.K. Lo

Miss Bonnie J.Y. Chan

Professor K.C. Chau

**In Attendance**

Assistant Director of Planning/ Board  
Ms. Christine K.C. Tse

Senior Town Planner/Town Planning Board  
Mr. J.J. Austin

**Agenda Item 1**

[Open Meeting]

Confirmation of Minutes of the 1023<sup>rd</sup> Meeting held on 16.11.2012

[The meeting was conducted in Cantonese.]

1. The minutes of the 1023<sup>rd</sup> meeting held on 16.11.2012 were confirmed without amendments.

**Agenda Item 2**

[Open Meeting]

Matters Arising

[The meeting was conducted in Cantonese.]

(i) New Town Planning Appeals Received

Town Planning Appeal No. 14 of 2012

Proposed House in “Government, Institution or Community” zone and area shown as ‘Road’, Lot 1663 (Part) in S.D. 2, Ngau Chi Wan Village, Kowloon

(Application No. A/ K12/39)

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2. The Secretary reported that an appeal was received by the Appeal Board Panel (Town Planning) on 22.11.2012 against the decision of the Town Planning Board (the Board) to reject on review an application for a proposed house in the “Government, Institution or Community” (“G/IC”) zone on the approved Ngau Chi Wan Outline Zoning Plan No. S/K12/16. The application was rejected by the Board on 28.9.2012 for the following reasons:

- (a) the “G/IC” zone was intended primarily for the provision of GIC facilities serving the needs of the local residents as well as the general public. The application, which was solely for non-GIC use, was considered not in line with the planning intention of the “G/IC” zone;
- (b) the application did not comply with the Town Planning Board Guidelines No. 16

for ‘Application for Development/Redevelopment within “Government, Institution or Community” Zone for Uses other than Government, Institution or Community Uses under Section 16 of the Town Planning Ordinance’ in that approval of the application in a piecemeal manner would frustrate the planning and development of G/IC facilities to meet community needs and other institutional establishments in the district;

- (c) approval of the application would affect the implementation of the planned road project; and
- (d) approval of the application would jeopardize the land use planning of the area and set an undesirable precedent for other similar applications in the area.

3. The Secretary reported that the hearing dates for the appeals were yet to be fixed. Members agreed that the Secretary would act on behalf of the Board in dealing with the appeal in the usual manner.

#### Appeal Statistics

4. The Secretary reported that as at 30.11.2012, 23 cases were yet to be heard by the Appeal Board Panel (Town Planning). Details of the appeal statistics were as follows:

Allowed	:	28
Dismissed	:	124
Abandoned/Withdrawn/Invalid	:	162
Yet to be Heard	:	23
Decision Outstanding	:	5
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Total	:	342

[Mr. Ivan C.S. Fu and Mr. Dominic K.K. Lam arrived to join the meeting at this point.]

(ii) [Closed Meeting]

5. This item was recorded under confidential cover.

**Agenda Item 3**

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/YL-TT/305

Temporary Warehouse for Storage of Exhibition Materials for a Period of 3 Years in “Residential (Group D)” Zone, Lots 4070 RP (Part), 4071, 4072, 4073, 4074, 4075, 4076 RP (Part), 4087, 4090, 4091 (Part) in D.D. 116 and Adjoining Government Land, Tai Shu Ha Road East, Tai Tong, Yuen Long, New Territories

**(TPB Paper No. 9229)**

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[The hearing was conducted in Cantonese.]

Presentation and Question Session

6. The following representative of the Planning Department (PlanD), the applicant and her representatives were invited to the meeting at this point.

Mr. W.W. Chan	District Planning Officer/Tuen Mun & Yuen Long (DPO/TMYL), PlanD
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Ms. Yeung Pik Yuk	- Applicant
Mr. Cheung Kwok Pan	) Applicant’s representatives
Ms. Cheung Yuen Fan	)

7. The Chairman extended a welcome and explained the procedures of the review hearing. He then invited DPO/TMYL to brief Members on the background of the application.

8. With the aid of a Powerpoint presentation, Mr. W.W. Chan made the following main points as detailed in the Paper:

- (a) the applicant sought planning permission for temporary warehouse for storage of exhibition materials for a period of 3 years at the application site which was zoned “Residential (Group D)” (“R(D)”) on the approved

Tai Tong Outline Zoning Plan (OZP);

- (b) the application was rejected by the Rural and New Town Planning Committee (RNTPC) on 10.8.2012 and the reasons were:
  - (i) the development was not in line with the planning intention of the “R(D)” zone which was primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. No strong planning justification had been given to justify a departure from the planning intention, even on a temporary basis;
  - (ii) the development would pose adverse environmental impact on the residential uses located to the immediate east and south, and in the vicinity of the application site; and
  - (iii) the approval of the application would set an undesirable precedent for applications within the “R(D)” zone. The cumulative impact of approving such applications would result in a general degradation of the environment of the area;
- (c) the application site was not subject to planning enforcement action as it was currently occupied by vacant structures only;
- (d) the applicant had not submitted further justifications in support of the review application;
- (e) departmental comments – the departmental comments were summarized in paragraph 4 of the Paper. The Director of Environmental Protection (DEP) did not support the application as there were sensitive receivers of residential uses to the immediate east and south, and in the vicinity of the site, and environmental nuisance was expected;

- (f) public comments – while no public comment was received during the statutory publication period of the s.17 stage of the application, two public comments were received at the s.16 stage objecting to the application mainly on noise nuisance, fire safety and traffic grounds; and

[Mr. Rock C.N. Chen arrived to join the meeting at this point.]

- (g) PlanD's views – PlanD did not support the application based on the assessments as stated in paragraph 6 of the Paper, which were summarized below:

- (i) the proposed development was not in line with the planning intention of the "R(D)" zone. It was also incompatible with the surrounding land uses comprising mainly residential dwellings to the immediate east and south of the site, and to the west across Tai Shu Ha Road East. Although there were warehouses, open storage yards and workshops in the vicinity of the site, they were mostly suspected unauthorized developments subject to enforcement action to be taken by the Planning Authority;
- (ii) DEP did not support the application as there were sensitive receivers of residential uses to the immediate east and south, and in the vicinity of the site, and environmental nuisance was expected. Other than committing to minimize noise by prohibiting workshop and open storage activities and restricting the operating hours, the applicant did not provide any information on how the potential environmental impact of the development could be addressed; and
- (iii) no similar application had ever been approved in the same "R(D)" zone. The approval of this application would set an undesirable precedent and encourage other similar applications for storage/warehouse uses within the subject "R(D)" zone. The cumulative impact of approving such similar applications would result in a general degradation of the environment of the area.

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

10. Mr. Cheung Kwok Pan made the following main points:

- (a) he indicated that the existing use of the land to the east of the application site was a warehouse while that to the south of the site was a factory. The proposed warehouse would not cause any adverse impact to these uses;
- (b) the public comment on the application was lodged by the factory owner;
- (c) as the proposed use was mainly for storage, it would not cause any noise nuisance;
- (d) to address fire safety concerns, the applicant would provide the fire services installations as required by Fire Services Department and would carefully choose the tenant of the warehouse to ensure that the application site would not be used for the storage of dangerous goods; and
- (e) the warehouse had operated for a short while before operations ceased and, during that period, no complaints were ever received about environmental pollution caused to the surrounding areas.

11. In response to the Chairman's enquiry on the location and separation distance between the proposed warehouse and the sensitive receivers, Mr. W.W. Chan made reference to Plan R-2 and said that the residential dwellings were located to the east and to the south, adjoining the application site.

12. As the applicant's representatives had no further comment to make and Members had no further question to raise, the Chairman informed them that the hearing procedures for the review had been completed and the Board would further deliberate on the application in their absence and inform the applicant of the Board's decision in due course.

The Chairman thanked the applicant's representatives and DPO/TMYL for attending the meeting. They left the meeting at this point.

### Deliberation Session

13. The Chairman noted that the applicant had not provided any additional information to convince the Board that the application should be approved on review and there was no change in the planning circumstances of the application since it was rejected by the RNTPC.

14. In conclusion, the Chairman noted and Members agreed that the application should not be supported as the development was not in line with the planning intention of the "R(D)" zone; it would pose adverse environmental impact on the residential uses located in close proximity to the application site; and approval of the application would set an undesirable precedent for similar applications within the "R(D)" zone.

15. After further deliberation, the Board decided to reject the application on review. Members then went through the reasons for rejection as stated in paragraph 7.1 of the Paper and considered that they were appropriate. The reasons were:

- (a) the development was not in line with the planning intention of the "Residential (Group D)" ("R(D)") zone which was primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. No strong planning justification had been given to justify a departure from the planning intention, even on a temporary basis;
- (b) the development would pose adverse environmental impact on the residential uses located to the immediate east and south and in the vicinity of the application site; and
- (c) the approval of the application would set an undesirable precedent for applications within the "R(D)" zone. The cumulative impact of

approving such applications would result in a general degradation of the environment of the area.

**Agenda Item 4**

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/TM/398

Further Consideration of Columbarium Use at Portions of Blocks 1, 2 and 3 in Fat Yuen Ching Shea in “Government, Institution or Community” zone, Lots No. 759 (Part), 791 (Part) and 830 (Part) in D.D. 131, Tsing Shan Tsuen, Tuen Mun, New Territories

**(TPB Paper No. 9238)**

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[The hearing was conducted in Cantonese.]

Presentation and Question Session

16. The following Member had declared an interest on this item:

Mr. Ivan C.S. Fu - had business dealings with TMA Planning and Design Ltd., the applicant’s consultant.

17. As Mr. Ivan C.S. Fu indicated that he was not involved in the project, Members agreed that his interest was indirect and that he should be allowed to stay in the meeting.

18. The following government representatives and the applicant’s representatives were invited to the meeting at this point.

Mr. W.W. Chan District Planning Officer/Tuen Mun & Yuen Long (DPO/TMYL), PlanD

Mr. Lee Hing Ah Assistant Division Commander (Operations) (Castle Peak), Hong Kong Police Force (HKPF)

Mr. Li Ka Choi )

Mr. Lau Yuet Ming ) Applicant’s representatives

Mr. Kenneth J. Li )

19. The Chairman extended a welcome and explained the procedures of the review hearing. He then invited DPO/TMYL to brief Members on the background of the application.

20. With the aid of a Powerpoint presentation, Mr. W.W. Chan made the following main points as detailed in the Paper:

- (a) on 23.3.2012, the Board considered the review of the application for columbarium use with 9,160 niches (about 3,000 occupied) at the premises under s.17 of the Ordinance. The Board decided to defer the consideration of the application and to request the applicant to liaise with the Commissioner of Police (C of P) for the submission of a traffic and crowd management plan (TCMP) during the Ching Ming and Chung Yeung Festivals to the Board for further consideration;
- (b) the applicant subsequently submitted the TCMP which included *inter alia* the closure of an open car park currently rented by the applicant for the loading/unloading of vehicles/taxi and parking of emergency vehicles during the Ching Ming and Chung Yeung Festivals, provision of directional signs and staff assistance at road crossings and demarcation of pedestrian zones by traffic cones during festival periods, and the implementation of a patronage appointment system during the festival seasons;
- (c) on 28.9.2012, the Board gave further consideration to the review application and decided again to defer a decision on the application pending a review by the relevant government departments including Transport Department (TD) and Hong Kong Police Force (HKPF) on the maximum road capacity at Yeung Tsing Road, and the traffic and crowd management measures during the Ching Ming and Chung Yeung Festivals;

- (d) the relevant government departments had completed the review and the results were set out in the TPB Paper;

Capacity of Yeung Tsing Road

- (e) there were five other known columbaria proposals with a total of 24,880 niches using Yeung Tsing Road for vehicular access. They included the two approved applications of Filial Park (A/TM/373) (5,000 niches) and Shan Yuan (A/TM/437) (5,000 niches), the two rejected applications of Shan Gor (A/TM/415) (8,000 niches) and A/TM/434 (2,000 niches), and a new application (A/TM/405) for 4,880 niches yet to be considered by the Board;
- (f) TD considered that Yeung Tsing Road should have the capacity to cater for traffic due to the subject application and the five known columbaria proposals (up to about 35,000 niches) provided that the turn-around problem of Yeung Tsing Road, which was a dead-end road without turning facility at its southern end, could be resolved;
- (g) to address the problem, two pieces of government land at the southern end of Yeung Tsing Road had been identified as suitable locations for the provision of a turning facility. Once the layout design for the proposed turning facility was finalised, TD and Highways Department would arrange implementation of the proposed road works as soon as practicable;
- (h) HKPF advised that prior to completion of the turning facility, consideration could be given to temporary closure of the road for crowd management purposes during Ching Ming and Chung Yeung Festivals. Special arrangements would be made to ensure the access rights of the local residents in the area would not be affected;

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

Enforcement of the Proposed Traffic and Crowd Control Measures

- (i) upon examination of the statutory powers covering the validity of a planning permission, it was noted that paragraph 4 of the covering Notes of the OZP had provided an escape clause (“except as otherwise specified by the Board”) that allowed the Board not to follow the normal practice whereby the planning permission would lapse upon commencement of the development;
- (j) advice from the Department of Justice (DoJ) was subsequently sought, which confirmed that the Board could specify that the planning permission of the proposed columbarium development would continue to have effect as long as the proposed development or any part of it was in existence;
- (k) the implementation of the TCMP could therefore be enforced by the stipulation of approval conditions which would remain effective as long as the proposed development or any part of it was in existence and any non-compliance of the approval conditions would result in the revocation of the planning permission;
- (l) PlanD’s views – PlanD had no objection to the application based on the assessments as stated in paragraph 4 of the Paper, which were summarized below:
  - (i) when the Board gave further consideration to the application on 28.9.2012, it was generally agreed that the area where the application site was located was suitable for columbarium development;
  - (ii) TD considered that Yeung Tsing Road had the capacity to cater for the traffic arising from the subject columbarium and the other proposed columbaria that had been or was to be considered by the Board in the area, provided that a turning facility would be provided at the southern

end of Yeung Tsing Road to improve traffic circulation;

- (iii) HKPF could consider road closures during Ching Ming and Chung Yeung Festivals as an interim measure pending the completion of the proposed turning facility at Yeung Tsing Road;
- (iv) suitable approval conditions would be imposed in relation to the maximum number of niches, provision of traffic measures, building remedial works, fire services installations, etc. Any failure by the applicant to comply with the approval conditions would result in the revocation of the planning permission; and
- (v) for equity considerations, PlanD might inform the applicants of the previously rejected cases in the area on how the Board's concerns could be addressed. It would be up to the respective applicant to decide whether to submit a fresh application to the Board for consideration.

21. In response to the invitation of the Chairman, Mr. Li Ka Choi indicated that the applicant's representatives had no further points to raise.

22. The Chairman noted that there was concern from the Board on ensuring the implementation of the TCMP proposed by the applicant. In response, Mr. Li Ka Choi said that during the last Chung Yeung Festival, the applicant had implemented some of the measures proposed in the TCMP, including the closure of the car park nearby. The applicant had also taken a video recording of the traffic situation along Yeung Tsing Road on that day. He said that the pedestrian and vehicular traffic generated by the existing 3,000 niches at the application site had not caused any traffic problems. The Chairman, however, noted that existing niches occupied years ago tended to have a much lower trip generation rate than those newly occupied niches.

23. In response to the Chairman's enquiry on the long term management of the columbarium at the application site, Mr. Li Ka Choi said that the applicant currently organised several rituals and ceremonies during the festival seasons and he confirmed that

these services would continue to be provided at the application site in the long run. Mr. Li confirmed that other than the up-front fees for buying the niches, there were no monthly fees for the long term management of the proposed columbarium.

24. In response to a Member's enquiry on the number of existing and proposed niches in the area and whether the road had the capacity to cope with the traffic so generated, Mr. W.W. Chan made reference to Plan FFR-1a and said that there were five other applications for columbarium development in the area, two of which had been approved by the Board, two were rejected and one application was yet to be considered. As TD had confirmed that the existing road had the capacity to cater for traffic generated by the six columbaria with a total of about 35,000 niches, Mr. W.W. Chan said that there was adequate capacity to serve the columbarium proposals that were known to the Board.

25. In response to the same Member's enquiry, Mr. Li Ka Choi said that the car park proposed by the applicant in his TCMP was not owned by the applicant but had only been rented by the applicant for the day of Chung Yeung Festival. Mr. Li continued to say that the car park was an open-air car park providing monthly and hourly rental services to the general public. On the day of Chung Yeung, the applicant rented the entire car park for one day and closed it off to outsiders. Visitors to the application site who wished to park their cars were directed to the public carpark at Lung Mun Oasis. In response to a Member's enquiry, Mr. Li said that the applicant would, as far as possible, continue to rent the car park during festival days.

26. In response to a Member's enquiry, Mr. Li confirmed that the applicant had already informed patrons of the columbarium to use public transport during Ching Ming and Chung Yeung Festivals and not to drive to the application site.

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

Deliberation Session

28. The Chairman noted that the application had been considered by the Board a few times and most of the issues had been addressed. Although the applicant could not guarantee the closure of the car park, it had already done its best to address the Committee's concerns. Should traffic problems arise in the future, other traffic and crowd control measures would need to be adopted.

29. A Member considered that given the difficulty in identifying a suitable location for the development of a columbarium, the current proposal should be approved even though not all problems were resolved as the site was considered suitable for the purpose from the land use compatibility point of view. As the proposed columbarium was located close to the existing Light Rail Transit stations, this Member considered that visitors should be encouraged to walk from the station to the columbarium and that the construction of the turning facility at the southern end of Yeung Tsing Road was not absolutely necessary. The Chairman, however, said that improvements to the turning facility was still needed, particularly for elderly visitors who might need to drive/be driven to the application site.

30. A Member considered that the application site was suitably located for columbarium development and the effort made by the relevant government departments to resolve the various issues was appreciated. The Member also agreed that the previous applicants whose applications had been rejected should be invited to re-submit their applications to the Board. This view was echoed by another Member.

31. In response to a Member's concern on how to ensure the various applicants would implement the TCMP, the Chairman said that the Board could impose suitable approval conditions to each application when planning permission was granted. However, that could not be done for those applications that had already been approved.

32. A Member suggested that the turning facility to be provided at Yeung Tsing Road should be a permanent facility. In response, the Secretary explained that the proposed turning facility to be constructed would be permanent. She explained that TD's main concern was not on the capacity of Yeung Tsing Road but on the lack of a turning facility as the road was not a through road. Two sites were identified as suitable for the

provision of a permanent turning facility and the relevant government departments were examining which site would be more appropriate.

33. In conclusion, the Chairman noted that Members generally considered the application to be acceptable. Members also agreed that the applicants of the previously rejected cases in the area should be invited to consider whether they wished to re-submit their application to the Board for consideration.

34. After further deliberation, the Board decided to approve the application on review on the terms of the application as submitted to the Town Planning Board. The permission should be valid until 30.11.2016, 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 planning permission and the conditions attached thereto (“the Conditions”) for the proposed development should not lapse when the proposed development was undertaken and should continue to have effect as long as the completed development or any part of it was in existence and the Conditions were fully complied with. The permission was subject to the following conditions:

- (a) the maximum number of niches within the application premises should not exceed 9,160;
- (b) the submission of traffic and crowd management plan (TCMP) within 6 months from the date of planning approval to the satisfaction of the Commissioner of Police or of the Town Planning Board by 30.5.2013;
- (c) in relation to (b) above, the implementation of the approved TCMP to the satisfaction of the Commissioner of Police or of the Town Planning Board;
- (d) the submission of emergency vehicular access (EVA), water supply for fire fighting and fire services installations proposal within 6 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 30.5.2013;
- (e) in relation to (d) above, the implementation of EVA, water supply for fire

fighting and fire services installations proposal within **9** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 30.8.2013;

- (f) the submission of remedial works within **6** months from the date of planning approval to the satisfaction of the Director of Buildings or of the Town Planning Board by 30.5.2013;
- (g) in relation to (f) above, the implementation of remedial works within **9** months from the date of planning approval to the satisfaction of the Director of Buildings or of the Town Planning Board by 30.8.2013;
- (h) if any of the planning conditions (a) or (c) was not complied with, the approval hereby given would cease to have effect and should be revoked immediately without further notice; and
- (i) if any of the above planning condition (b), (d), (e), (f) or (g) was not complied with by the specified date, the approval hereby given should cease to have effect and should on the same date be revoked without further notice.

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

- (a) prior planning permission should be obtained before commencing the applied use at the site;
- (b) to note the comments of the Director of Environmental Protection that the applicant was required to comply with all relevant pollution ordinances including the Air Pollution Control Ordinance and the Water Pollution Control Ordinance;
- (c) to note the comments of Chief Highways Engineer/New Territories West, Highways Department that the applicant should be responsible for his own access arrangement;

- (d) to note the comments of the Director of Fire Services (D of FS) that fire services installations (FSIs) were required and relevant layout plans incorporated with the proposed FSIs should be submitted for his approval. In addition, the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy, and the location of where the proposed FSIs to be installed should be clearly marked on the layout plans. Detailed fire safety requirements should be formulated upon receipt of formal submission of general building plans. Furthermore, should the applicant wish to apply for exemption from the provision of certain FSI as prescribed by D of FS, the applicant was required to provide justifications for his consideration;
- (e) to note the comments of District Officer/Tuen Mun that the residents nearby might worry about environmental nuisance and traffic congestion caused by their operation in future;
- (f) to note the comments of District Lands Officer/Tuen Mun that should the application be approved, the applicant should apply for lease modification or land exchange. However, there was no guarantee that such application would be successful. Furthermore, the local residents and the public would likely raise objection to the columbarium use;
- (g) to note the comments of Chief Building Surveyor/New Territories West, Buildings Department that the extension and strengthening works to the existing pre-war buildings had been carried out and completed without obtaining prior approval and consent from the Building Authority under the provisions of the Buildings Ordinance (BO). They were regarded as unauthorised building works (UBW). In view of the uncertainty on the structural safety of the premises concerned, in particular in the presence of unauthorised building works, the use of the premises by the public was not recommended. It was at the applicant's own risk if he allowed visitors to use the existing premises prior to the carrying out of the remedial works. As regards whether the remedial work would involve relocation of niches, it

depended on the design and the construction sequence of the remedial proposal that was to be submitted by the AP and he was unable to offer comment at this stage. He noted that the applicant would submit a formal submission under the BO to remove the UBW and provide the remedial proposal as stated in the submitted further information;

- (h) to note the comments of the Director of Food and Environmental Hygiene that pursuant to the Public Health and Municipal Services Ordinance, Cap. 132, the operation of private columbarium for storage of human ashes at the moment did not require any registration, permit or licence. However, this did not exempt from compliance with other legislative requirements now enforced by relevant departments. Moreover, the Government had conducted public consultation on the measures for controlling the private columbarium and such would be promulgated later;
- (i) the granting of planning approval should not be construed as condoning to any unauthorised structures on existing site under the BO and the allied regulations; and
- (j) to liaise with the nearby residents and other parties including Tuen Mun District Council, if required, and to provide them with relevant information of the proposed development to address their concerns.

**Agenda Item 5**

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/NE-TK/399

Temporary Private Garden Ancillary to New Territories Exempted House for a Period of 3 Years, in “Village Type Development” and “Green Belt” Zones, Government Land Adjoining Lot 595 RP in D.D. 14, Tung Tsz, Tai Po

**(TPB Paper No. 9231)**

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[The hearing was conducted in Cantonese.]

Presentation and Question Session

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

Ms. Jacinta Woo	District Planning Officer/Shu Tin, Tai Po and North (DPO/STN), PlanD
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Mr. Law Lok Fu	- Applicant
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Ms. Chu Chui Mei	- Applicant's representative
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37. The Chairman extended a welcome and explained the procedures of the review hearing. He then invited DPO/STN to brief Members on the background of the application.

38. With the aid of a Powerpoint presentation, Ms. Jacinta Woo made the following main points as detailed in the Paper:

- (a) the applicant sought planning permission for the use of the application site as a temporary private garden for an New Territories Exempted House (NTEH) for a period of 3 years. The site was zoned "Village Type Development" ("V") (76%) and "Green Belt" ("GB") (24%) on the Ting Kok Outline Zoning Plan (OZP);
- (b) the application was rejected by the Rural and New Town Planning Committee (RNTPC) on 20.7.2012 and the reasons were:
  - (i) the development was not in line with the planning intention of the "GB" zone which was primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There was a general presumption against development within this zone. The applicant failed to provide strong planning justifications in the submission for a departure from this planning intention, even

on a temporary basis; and

- (ii) the approval of the application would set an undesirable precedent for other similar applications in the area. The cumulative impacts of approving such applications would result in general degradation of the natural environment in the area;
- (c) the further justifications put forth by the applicant in support of the review application were summarised as follows:
- (i) the adjoining slopes were in lack of maintenance. As the applicant was required by the Lands Department to protect and maintain the adjoining slopes at his own expenses, an enclosure wall was erected at the subject private garden in order not to ruin the landscape of the “GB” zone;
  - (ii) since submitting the application for private garden use in 2007, the applicant had not caused any destruction to any trees nor built any structures within the “GB” zone. On the contrary, the applicant had cut the undergrowth, and irrigated and fertilized the land regularly;
  - (iii) the applicant was willing to revert the tile paved garden area within the “GB” zone back to grassland and to plant trees and flowers so as to tie in with the surrounding natural green environment;
  - (iv) approving the application would not set a bad example for the area. The applicant promised not to undertake any extension or destroy any vegetation within the “GB” zone; and
  - (v) the applicant would properly maintain and repair the related rain water drainage system to ensure there would not be any blockage. The applicant would also install fire service installations to ensure fire safety;

- (d) departmental comments – the departmental comments were summarized in paragraph 5 of the Paper. The relevant government departments consulted had no objection to nor adverse comments on the application;
- (e) public comments – one public comment jointly submitted by nine indigenous villagers of Tung Tsz was received objecting to the application on the grounds that the use of the site, which was on Government land, for private garden would affect the future use of the land for Small House development and land available within the village for Small House development was diminishing; and
- (f) PlanD's views – PlanD did not support the application based on the assessments as stated in paragraph 7 of the Paper, which were summarized below:
  - (i) the temporary private garden use was not in line with the planning intention of “GB” zone which was primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There was a general presumption against development within this zone;
  - (ii) although the applicant stated that he would reinstate the “GB” portion of the private garden and replant it with vegetation, it was undesirable from the land use planning point of view to allow areas zoned “GB” to be fenced off for private use. Natural features within the “GB” zone should be retained for public enjoyment. The applicant has failed to provide strong planning justifications in the submission for a departure from the planning intention of the “GB” zone even on a temporary basis;
  - (iii) the subject private garden of about 235m<sup>2</sup> was about 3.6 times the footprint of an NTEH. There was no exceptional circumstance or

strong justification that merit sympathetic consideration of the application for using Government land within the “GB” and “V” zones for private garden;

- (iv) as there were other NTEHs that were adjacent to the “GB” zone, the approval of the application would set an undesirable precedent for similar applications within the “GB” zone; and
- (v) a similar application (A/NE-TK/337) to the immediate south of the application site was rejected by the Board on 13.5.2011 and dismissed by the Town Planning Appeal Board on 21.9.2012. Moreover, in the last three years, all four similar applications in the Ting Kok OZP had been rejected by the Board, which was in line with the Board’s intention to be more stringent in its consideration of private garden use within the “GB” zone.

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

40. Mr. Law Lok Fu made the following main points:

- (a) the applicant was the owner of the NTEH built on the site;
- (b) there was no vehicular access to the garden and the only access to the garden was by way of the applicant’s NTEH;
- (c) the fence and tile paving found in the garden were works that were done by the previous owner. The applicant was willing to reinstate the garden area with grass and vegetation;
- (d) the garden was a corner site which was inaccessible. Even though the garden was zoned as “GB” and was intended to be a public space, it was in fact not accessible by the public; and
- (e) in view of the small size of the site, its “GB” zoning and the need to meet

fire safety and drainage requirements, the site could not possibly be used for Small House development.

41. In response to the Chairman's enquiry on whether Small Houses had to be provided with vehicular access, Mr. Jeff Y.T. Lam said that for any Small House application submitted to the Lands Department, it was the responsibility of the applicant to identify the access to the proposed development. It was quite common for Small Houses to be built without any provision of vehicular access. In response to an enquiry from the Chairman, Mr. Law Lok Fu said that the public would not be able to reach the existing garden even if the fence wall at the back was demolished as the area was densely vegetated and the trees were so close to one another that no one could walk through them.

42. In response to the Chairman's enquiry on whether any approval had been granted for the construction of the fence wall, Mr. Law Lok Fu said that the fence wall was approved by the District Lands Office. Mr. Jeff Y.T. Lam clarified that the fence was permitted under the Short Term Tenancy (STT) for the private garden. Mr. Law further explained that the fence wall served a dual purpose of stabilizing the slope at the back of the garden and as an enclosure against the intrusion of wild pigs and snakes. Hence, the fence was built of bricks rather than mesh wire.

43. As previous planning approval had been granted for the subject use, the same Member asked why PlanD changed its stance and recommended rejection of the current application. In response, Ms. Jacinta Woo said that the previous application was approved by the Board on 28.9.2007 for a period of three years until 28.9.2010. However, since 2010, the Board had decided to tighten the granting of planning permission for private garden use within the "GB" zone and all applications for such use within the "GB" zone in the Ting Kok OZP had been rejected by the Board since then.

44. Noting that a similar application (A/NE-TK/337) to the south of the site had been rejected by the Board and dismissed by the Town Planning Appeal Board (TPAB), a Member considered that should the land covering the current application and that of the similar application (A/NE-TK/337) be returned to the Government, a large piece of land with convenient access would be made available for Small House development. In response to the Chairman's enquiry, Mr. Jeff Y.T. Lam said that, in general, STTs were

renewed on a yearly basis and they could be terminated when necessary.

45. In response to a Member's enquiry on the original state of the proposed garden, Mr. Law Lok Fu said that the garden was already paved and fenced off when he bought the site. He reiterated his willingness to reinstate the area with greenery and vegetation. Noting that the approval conditions of the previous planning permission required the submission of tree preservation proposals, a Member said that there should be trees on the site. In response, Mr. Law said that the garden was not entirely covered with paving and there were a few trees on site which had been preserved as required. He said that more trees had been planted in the garden since then.

[Mr. Laurence L.J. Li left the meeting at this point.]

46. A Member enquired whether the application could be approved if that part of the garden within the "GB" zone was excised from the application site. In response, Ms. Jacinta Woo said that planning permission would no longer be necessary if land within the "GB" zone was excluded from the application site. Notwithstanding this, PlanD would not support the use of government land for private garden purposes, given the shortage of land in Tung Tsz for Small House development. She indicated that while there was a 10-year forecast demand of 230 Small Houses in Tung Tsz, the land available could only cater for 46 Small Houses so that there was a shortage of land for 184 Small Houses.

47. On the Chairman's enquiry on whether the applicant was willing to exclude the land zoned "GB" from the garden, Mr. Law Lok Fu replied in the negative and said that he wanted to keep the garden in its current state and did not want to spend money to demolish the fence wall. As a counter-proposal, he suggested that instead of a private garden, he could change the use of the "GB" part of the site to agricultural use.

48. In response to a Member's enquiry, Ms. Jacinta Woo said that the appeal in relation to planning application No. A/NE-TK/337 was dismissed by the TPAB on the grounds that the area zoned as "GB" should be preserved in its natural environment; using government land for the appellant's own private garden was contrary to the planning intention of the "GB" zone; covering the appeal site with concrete floor was objectionable; the garden was more than two times the site coverage of the NTEH and there was no reason

to justify the continued invasion into the “GB” zone; and allowing the appeal might set a bad precedent for other similar applications. The same Member enquired about the land in front of the application site. In response, Ms. Woo said that the land under concern was a piece of paved, flat land.

[Ms. Anita W.T. Ma left the meeting at this point.]

49. Mr. Law Lok Fu said that as compared with the existing private garden of the Small Houses in the vicinity, the application site was unique as it was a corner site surrounding by lush greenery and was only accessible through the applicant’s house.

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

[Professor S.C. Wong arrived to join the meeting at this point.]

### Deliberation Session

51. A Member considered that the applicant did not provide any justifications for the use of the site as a private garden. Noting the decision of the TPAB for a similar application adjoining the subject site, the Member considered that the Board should not deviate from the decision of the TPAB. This view was echoed by two other Members.

52. A Member noted that although the site was a corner site without vehicular access, it could still be reached on foot. Another Member noted that the applicant did not have any right to the land as it was only held under an STT.

53. A Member considered that in view of the shortage of land to serve the needs of the indigenous villagers for Small House development, there was no reason to approve a piece of government land for private garden use by the applicant.

54. A Member commented that Government should not have granted STTs on land that were within the “GB” zone. The Member was also concerned about the different boundaries of the “V” zone and the village ‘environs’ which might cause misunderstanding for local villagers.

55. Upon the invitation of the Chairman, the Secretary explained the history of the case. Planning permission for private garden use was first granted for the application site in 2006 for a period of three years. Although the application was not supported by PlanD, Members held divergent views. While some Members considered that the application should be rejected as it was not in line with the planning intention of the “GB” zoning, others considered that the Board should be pragmatic as an STT for private garden use was already granted by the District Lands Office. A decision was taken and a temporary approval for three years was granted. Although that application was subsequently revoked due to failure to comply with an approval condition concerning tree preservation, another application was submitted in 2007 and was approved by the Board. In 2010, when the applicant requested for another temporary permission, the Board decided to reject the application in order to maintain the planning intention of the “GB” zone.

56. Mr. Jeff Y.T. Lam said that unless the applicant was willing to reduce the size of the private garden by excluding the land zoned “GB”, it would be unlikely for the District Lands Office to renew the STT.

57. The Chairman concluded the discussion and said that Members generally considered that the application should not be supported as the development was not in line with the planning intention of the “GB” zone and it would set an undesirable precedent. Members also noted that the Board should not deviate from the decision of the TPAB on a similar application on an adjacent site.

58. After further deliberation, the Board decided to reject the application on review. Members then went through the reasons for rejection as stated in paragraph 8.1 of the Paper and considered that they were appropriate. The reasons were:

- (a) the development was not in line with the planning intention of the

“GB” zone which was primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There was a general presumption against development within this zone. The applicant failed to provide strong planning justifications in the submission for a departure from this planning intention, even on a temporary basis; and

- (b) the approval of the application would set an undesirable precedent for other similar applications in the area. The cumulative impacts of approving such applications would result in general degradation of the natural environment in the area.

[Ms. Christina M. Lee left the meeting at this point.]

**Agenda Item 6**

[Closed Meeting]

- 59. This item was recorded under confidential cover.

[Mr. Ivan C.S. Fu left the meeting temporarily at this point.]

**Agenda Item 7**

[Open Meeting]

Request for Deferral for Review of Application No. A/ST/784

Shop and Services (Barber Shop) in “Industrial” zone, Unit 14, G/F, Century Industrial Centre, 33-35 Au Pui Wan Street, Fo Tan, Sha Tin, New Territories

**(TPB Paper No. 9241)**

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[The meeting was conducted in Cantonese.]

- 60. The following Members had declared interests on this item:

Mr. Clarence W.C. Leung	-	owned a flat in Fo Tan.
Professor Eddie C.M Hui	-	owned a flat in Sha Tin
Dr. W.K. Lo	-	owned an industrial unit in Tai Wai
Professor K.C. Chau	-	owned a flat in Fo Tan
Mr. Eric K.S. Hui	-	owned a flat in Sha Tin

61. As the item was for the deferral of the consideration of the application and no deliberation was required, Members agreed that the above Members could stay at the meeting. Members noted that Dr. W.K. Lo and Professor K.C. Chau had tendered apologies for not attending the meeting.

62. The Secretary reported that on 21.11.2012, the applicant wrote to the Secretary of the Board and requested the Board to defer making a decision on the review application until January 2013 in order to allow sufficient time for preparation of supplementary information.

63. Members noted that the justifications for deferment met the criteria set out in the Town Planning Board Guidelines No. 33 in that the applicant needed more time to prepare documentation for the review, the deferment period was not indefinite, and that the deferment would not affect the interests of other relevant parties.

64. After deliberation, the Board agreed to defer consideration of the application as requested by the applicant and the application should be submitted for its consideration on 18.1.2013 subject to no further information received from the applicant. The Board also agreed to advise the applicant that no further deferment would be granted unless under very special circumstances.

### **Agenda Item 8**

[Open Meeting]

Request for Deferral for Review of Application No. A/DPA/NE-TKP/3

Proposed 19 Houses (New Territories Exempted Houses – Small Houses) in areas designated

as “Unspecified Use”, Various Lots in D.D. 293, To Kwa Peng, Sai Kung North, New Territories

**(TPB Paper No. 9232)**

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[The meeting was conducted in Cantonese.]

65. The Secretary reported that upon the request of the applicant, the Board had deferred making a decision on the review application twice, each for a period of two months, to allow time for the preparation of further information to address the comments/concerns from government departments. The applicant had not yet submitted any further information.

66. On 5.11.2012, the applicant wrote to the Secretary of the Board and requested the Board to defer making a decision on the review application for another two months in order to provide technical reports to address the concerns of Environmental Protection Department and Agriculture, Fisheries and Conservation Department on the compatibility of the proposed development with the surrounding natural environment and its impact on the geotechnical aspect, landscape, water quality, environment and ecology of the area. This was the third deferral request.

67. Members noted that the justifications for deferment met the criteria set out in the Town Planning Board Guidelines No. 33 in that the applicant needed more time to prepare documentation for the review, the deferment period was not indefinite, and that the deferment would not affect the interests of other relevant parties.

68. After deliberation, the Board agreed to defer consideration of the application as requested by the applicant and the application should be submitted to the Board for consideration within three months upon receipt of further submission from the applicant. The Board also agreed to advise the applicant that the Board had allowed a further period of two months for preparation of the submission of further information and that a total of six months had already been allowed. This should be the last deferment and no further deferment would be granted unless under very special circumstances.

[Mr. Ivan C.S. Fu returned to join the meeting at this point.]

**Agenda Item 9**

[Open Meeting]

Request for Deferral for Review of Application No. A/DPA/NE-TKP/5

Proposed 2 Houses (New Territories Exempted Houses – Small Houses) in areas designated as “Unspecified Use”, Various Lots in D.D. 293, To Kwa Peng, Sai Kung North, New Territories

**(TPB Paper No. 9233)**

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[The meeting was conducted in Cantonese.]

69. The Secretary reported that upon the request of the applicant, the Board had deferred making a decision on the review application twice, each for a period of two months, to allow time for the preparation of further information to address the comments/concerns from government departments. The applicant had not yet submitted any further information.

70. On 5.11.2012, the applicant wrote to the Secretary of the Board and requested the Board to defer making a decision on the review application for another two months in order to provide technical reports to address the concerns of Environmental Protection Department and Agriculture, Fisheries and Conservation Department on the compatibility of the proposed development with the surrounding natural environment and its impact on the geotechnical aspect, landscape, water quality, environment and ecology of the area. This was the third deferral request.

71. Members noted that the justifications for deferment met the criteria set out in the Town Planning Board Guidelines No. 33 in that the applicant needed more time to prepare documentation for the review, the deferment period was not indefinite, and that the deferment would not affect the interests of other relevant parties.

72. After deliberation, the Board agreed to defer consideration of the application as requested by the applicant and the application should be submitted to the Board for consideration within three months upon receipt of further submission from the applicant. The Board also agreed to advise the applicant that the Board had allowed a further period of

two months for preparation of the submission of further information and that a total of six months had already been allowed. This should be the last deferment and no further deferment would be granted unless under very special circumstances.

**Agenda Item 10**

[Open Meeting]

Draft Tsuen Wan Outline Zoning Plan No. S/TW/29

Confirmation of Proposed Amendment

**(TPB Paper No. 9235)**

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[The meeting was conducted in Cantonese.]

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

- |                      |   |
|----------------------|---|
| Mr. Ivan C.S. Fu     | - had business dealings with Sun Hung Kai Properties Ltd. which was the owner of Starrylight Ltd. (R4) and with MasterPlan Ltd. which was the consultant of one of the representers (R4). |
| Mr. Dominic K.K. Lam | ) had business dealings with Sun Hung Kai   |
| Mr. Patrick H.T. Lau | ) Properties Ltd. which was the owner of Starrylight  |
|                      | ) Ltd. (R4) and with Kenneth To and Associates Ltd.   |
|                      | ) which was the consultant of R7.   |
| Ms. Janice W.M. Lai  | - had business dealings with Sun Hung Kai Properties Ltd. which was the owner of Starrylight Ltd. (R4).   |

74. As the item was procedural in nature, Members agreed that the above Members could stay at the meeting.

75. The Secretary briefly introduced the Paper. On 24.2.2012, the draft Tsuen Wan OZP No. S/TW/29 was exhibited for public inspection under section 5 of the Town Planning Ordinance. During the 2-month exhibition period, 7 representations were received. On 4.5.2012, the representations were published for public comments and in the

first three weeks of the publication period, 620 public comments were received.

76. On 14.9.2012, after giving consideration to the representations and comments, the Board agreed to propose amendment to the Plan under section 6C(2) of the Ordinance to meet a representation by revising the stipulated building height restriction for the part of the “Government, Institution or Community” zone covering the site of The Church of Christ in China Chuen Yuen Church at Tai Uk Street from 4 storeys to 9 storeys. The proposed amendment was gazetted on 12.10.2012 for three weeks and, upon the expiry of the exhibition period, no further representation was received.

77. Members agreed to note that, as no further representation to the proposed amendment was received, the OZP should be amended by the proposed amendment in accordance with section 6G of the Ordinance,

### **Agenda Item 11**

[Open Meeting]

Submission of the Draft Po Toi Islands Development Permission Area Plan No. DPA/I-PTI/1A to the Chief Executive in Council for Approval Under Section 8 of the Town Planning Ordinance

#### **(TPB Paper No. 9237)**

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[The meeting was conducted in Cantonese.]

78. The Secretary briefly introduced the Paper. On 2.3.2012, the draft Po Toi Islands Development Permission Area (DPA) Plan No. DPA/I-PTI/1 was exhibited for public inspection under section 5 of the Town Planning Ordinance. During the 2-month exhibition period, 175 representations were received. Among them two representations (R130 and R134) were subsequently withdrawn. On 25.5.2011, the representations were published for public comments and in the first three weeks of the publication period, 725 public comments were received.

79. On 28.9.2012, after giving consideration to the representations and comments, the Board decided not to propose any amendment to the draft DPA Plan to meet the

representations. As the plan-making process has been completed, the draft Po Toi Islands DPA Plan was ready for submission to the CE in C for approval.

80. After deliberation, the Board agreed:

- (a) that the draft Po Toi Islands DPA Plan No. DPA/I-PTI/1A together with its Notes at Annex I and Annex II of the Paper were suitable for submission under section 8 of the Ordinance to the CE in C for approval;
- (b) to endorse the updated Explanatory Statement (ES) for the draft Po Toi Islands DPA Plan No. DPA/I-PTI/1A at Annex III of the Paper as an expression of the planning intention and objectives of the Board for various land-use zones on the draft DPA Plan and issued under the name of the Board; and
- (c) that the updated ES for the draft Po Toi Islands DPA Plan No. DPA/I-PTI/1A was suitable for submission to CE in C together with the draft DPA Plan.

**Agenda Item 12**

[Closed Meeting]

81. This item was recorded under confidential cover.

**Agenda Item 13**

[Open Meeting]

A.O.B.

[The meeting was conducted in Chinese.]

Vote of Thanks

82. The Chairman informed Members that this was the last meeting of the Board for Mr. Jimmy C.F. Leung prior to his retirement. On behalf of all Members, the Chairman expressed a vote of thanks to Mr. Leung for his contributions to the Board and wished him a happy retirement.

83. There being no other business, the meeting was closed at 10.50 a.m.