

**Minutes of 938th Meeting of the
Town Planning Board held on 26.6.2009**

Present

Permanent Secretary for Development (Planning and Lands)
Mr. Raymond Young

Chairman

Dr. Greg C.Y. Wong

Vice-Chairman

Mr. Nelson W.Y. Chan

Mr. David W.M. Chan

Mr. Tony C.N. Kan

Mr. Edmund K.H. Leung

Professor N.K. Leung

Dr. Daniel B.M. To

Mr. Stanley Y.F. Wong

Mr. Alfred Donald Yap

Ms. Sylvia S.F. Yau

Mr. B.W. Chan

Mr. Walter K.L. Chan

Dr. James C.W. Lau

Ms. Starry W.K. Lee

Mr. K.Y. Leung

Mr. Timothy K.W. Ma

Director of Lands
Miss Annie Tam

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

Deputy Director of Environmental Protection
Mr. Benny Wong

Director of Planning
Mrs. Ava S.Y. Ng

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

Secretary

Absent with Apologies

Mr. Leslie H.C. Chen

Professor David Dudgeon

Professor Bernard V.W.F. Lim

Dr. C.N. Ng

Ms. Maggie M.K. Chan

Mr. Raymond Y.M. Chan

Mr. Y.K. Cheng

Mr. Felix W. Fong

Ms. Anna S.Y. Kwong

Professor Paul K.S. Lam

Professor Edwin H.W. Chan

Mr. Rock C.N. Chen

Dr. Ellen Y.Y. Lau

Mr. Maurice W.M Lee

Dr. Winnie S.M. Tang

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

In Attendance

Assistant Director of Planning/Board
Mr. Lau Sing

Chief Town Planner/Town Planning Board
Mr. W.S. Lau

Senior Town Planner/Town Planning Board
Mr. Ivan Chung

1. The Chairman extended a welcome to Members.

Agenda Item 1

[Open Meeting]

Confirmation of Minutes of the 937th Meeting held on 12.6.2009

[The meeting was conducted in Cantonese.]

2. The minutes of the 937th meeting held on 12.6.2009 were confirmed without amendments.

Agenda Item 2

[Closed Meeting]

Matters Arising

3. The item was recorded under separate confidential cover.

Agenda Item 3

[Closed Meeting]

Draft Quarry Bay Outline Zoning Plan No. S/H21/26

Preliminary Consideration of Objections No. 1 to 4

(TPB Paper No. 8360)

[The meeting was conducted in Cantonese.]

Agenda Item 4

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/TP/421

Proposed House (New Territories Exempted House - Small House) in "Green Belt" zone, Lot 343 in D.D. 32, Ha Wong Yi Au Village, Tai Po

(TPB Paper No. 8352)

[The meeting was conducted in Cantonese.]

16. The following Members had declared interests in this item:

Professor David Dudgeon	being a member of the Management and Development Committee of the World Wide Fund for Nature HK which had submitted comment on the application
Mr. Alfred Donald Yap	being a personal friend of the applicant
Mr. Tony C.N. Kan	being a personal friend of the applicant

[Messrs. Alfred Donald Yap and Tony C.N. Kan left the meeting temporarily at this point.

Dr. Greg C.Y. Wong arrived to join the meeting and Mr. Walter K.L. Chan returned to join the meeting at this point.]

17. Members noted that Professor David Dudgeon had tendered apology for not attending the meeting.

18. In response to a Member's enquiry about how to determine whether personal friendship would require declaration of interest, the Chairman said that the concerned Member needed to consider how close the friendship was and whether the nature and type of relationship with the applicant might lead people to perceive that his/her decision on the subject matter would be biased (i.e. the sunshine principle). He added that depending on the individual cases, a Member might not have to make declaration if he/she only knew the applicant. If the relationship involved business dealing, declaration of interest would be required.

Presentation and Question Session

19. Mr. W.K. Hui, District Planning Officer/Shatin, Tai Po and North of the Planning Department (PlanD), and the following applicant and applicant's representative were invited to the meeting at this point:

Mr. Chan Yau	Applicant
Ir. Daniel Wong	Applicant's representative

20. The Chairman extended a welcome and explained briefly the procedures of the review hearing. The Chairman then invited Mr. W.K. Hui to brief Members on the background to the application.

21. With the aid of some plans, Mr. W.K. Hui did so as detailed in the Paper and made the following main points:

- (a) the applicant sought planning permission for New Territories Exempted House (NTEH) (Small House) on the application site zoned “Green Belt” (“GB”) on the Tai Po Outline Zoning Plan (OZP);
- (b) the reasons for the Rural and New Town Planning Committee (RNTPC) to reject the application on 13.3.2009 were set out in paragraph 1.2 of the Paper;
- (c) justifications in support of the review application were summed up in paragraph 3 of the Paper;
- (d) departmental comments – the departmental comments were summarized in paragraph 5 of the Paper. The District Lands Officer/Tai Po, Lands Department objected to the application and advised that the application site fell outside any village ‘environs’ (‘VE’). The Assistant Commissioner for Transport/New Territories, Transport Department had reservation on the application. NTEH development should be confined to the “V” zone as far as possible where the necessary traffic and transport facilities had been planned and provided. Approval of the application would set an undesirable precedent and the resulting cumulative adverse traffic impact could be substantial. The Chief Town Planner/Urban Design and Landscape (CTP/UD&L), PlanD objected to the application from the landscape planning point of view. The application site was on a densely wooded hillside wholly within the “GB” zone. Due to the hilly location of the site, the proposed development would require site formation works and removal of extensive area of the woodland vegetation including trees, shrubs and groundcover. If the application was approved, it was likely that

there would be more adverse impact on the existing landscape and the green belt. The proposed landscape mitigation measure as suggested by the applicant through landscaping on top of the retaining wall was not sufficient to mitigate the adverse impact arising from the Small House development;

(e) public comments – no public comment was received during the statutory publication period; and

(f) PlanD's view – PlanD did not support the application for the planning assessments and reasons as detailed in paragraphs 7 and 8 of the Paper in that the proposed development (NTEH - Small House) was not in line with the planning intention of the "GB" zone; the proposed development did not comply with the 'Interim Criteria for Consideration of Application for NTEH/Small House in New Territories ('Interim Criteria'); the proposed development would have adverse landscape impact on the subject site and surrounding areas; and the approval of the application would set an undesirable precedent for similar developments within the "GB" zone.

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

23. Mr. Chan Yau made the following main points:

(a) the applicant was an indigenous villager of Ha Wong Yi Au Village, but there was inadequate land for Small House development within the "V" zone;

(b) the application site was previously within the "V" zone. However, the boundary of the "V" zone had been amended excluding the application site without his knowledge;

(c) the public had not been consulted or informed regarding the designation of the "V" and "GB" zones, and 'VE';

(d) the applicant was not aware that the application site was outside the 'VE'

when he submitted the application. According to his understanding, the application site together with the three nearby Small Houses recently approved by RNTPC should all fall within the 'VE'. As a matter of fact, the application site was located less than 300ft. from the existing Small House within Ha Wong Yi Au Village;

- (e) as the application site was located on a hilly slope, the applicant was willing to undertake at his own cost site formation work including erection of retaining wall to resolve any geotechnical problems should approval be given by the Board. This would also help save public funds;
- (f) the existing vegetation comprising mainly fruit trees were planted within his private lot boundary. It should be up to the applicant to decide whether to retain or remove the vegetation. However, to address the landscape concerns, the applicant agreed to carry out landscape planting within his private lot upon development of the proposed Small House; and
- (g) some weeds and trees had grown on the application site mainly as a result of the abandonment of the agricultural activities. It was unreasonable for the Government to zone his private land as "GB", to the detriment of his development right.

24. Members asked the following questions:

- (a) when the boundary of the "V" zone was amended; and
- (b) whether there was adequate land within the "V" zone to meet the Small House demand.

25. Mr. W.K. Hui made the following responses:

- (a) there was no change to the "V" zone since the first publication of the Tai Po OZP. All amendments to the Tai Po OZP had been gazetted under the Town Planning Ordinance and made known to the public. The current Tai

Po OZP was available for public inspection at the Secretariat of the Board and the PlanD's Planning Enquiry Counters. The electronic version of the OZP could be viewed at the Board's website; and

- (b) as explained in paragraph 7.2 of the Paper, only 25 Small House sites were available within the "V" zone of Ha Wong Yi Au Village. This would not be sufficient to meet the demand of about 92 Small House sites.

26. Mr. Chan Yau gave the following views:-

- (a) the applicant had once approached the District Lands Office/Tai Po (DLO/TP) but the maps made available there did not contain any information on the "V" zone of Ha Wong Yi Au Village. The staff of DLO/TP also advised that the boundary of the "V" zone was still under review;
- (b) it was unjustified for RNTPC to approve the three Small Houses in the vicinity of the application site but to reject this application; and
- (c) the factors or considerations that had been taken into account in delineating the boundary of 'VE' were not known to the public.

[Dr. Daniel B.M. To returned to join the meeting at this point.]

27. Mr. W.K. Hui made the following responses:

- (a) whilst PlanD was responsible for drawing the "V" zone on the OZP, delineation of 'VE' in connection with the Small House Policy was a matter under LandsD's jurisdiction and hence the maps made available by DLO/TP might only show the 'VE'. Nevertheless, the "V" zone of Ha Wong Yi Au Village was shown on the Tai Po OZP which was readily available for public inspection as explained in paragraph 25(a) above;
- (b) RNTPC had approved the three applications in the vicinity of the

application site as they had complied with the Interim Criteria in that over 50% of the Small House footprints fell within the 'VE'; and

- (c) it was understood that 'VE' was generally delineated with reference to 300ft. measured from the last village type house built in 1972, alongside other factors including topography and existence of graves, if any, in the local area.

28. Mr. Chan Yau further said that in terms of topography, there should not be any difference between the application site and the three nearby small houses approved by RNTPC as the whole Ha Wong Yi Au Village was situated in a valley surrounded by slopes. In terms of physical distance, the application site was obviously less than 300ft. from the last Small House built in 1972. He reiterated that as an indigenous villager, he was entitled to apply for Government land for erecting a Small House but he was now willing to use his own land for Small House development. He asked for sympathetic consideration of his application in view of the lack of land for Small House development within the "V" zone and the recent approval of three Small Houses in its vicinity.

29. Apart from meeting the Interim Criteria of having 50% of the Small House footprints within the 'VE' boundary, the Chairman asked if the three nearby Small Houses had any other major differences from the subject application. Referring to the contour levels as shown on Plan R-2 of the Paper and a site photo, Mr. W.K. Hui explained that the application site was situated on a more sloping topography compared to the three sites. Besides, the first submission of the three cases had all been rejected by RNTPC and one of the reasons for rejection was the adverse landscape impact. Accordingly, the applicants had revised their schemes to address the landscape concerns and re-submitted them to RNTPC which subsequently gave approval to the three applications. For the current application, the applicant had not made any revisions to his scheme to address the comments of CTP/UD&L who objected to the application due to the adverse landscape impact.

30. Mr. Chan Yau said that the three neighbouring Small Houses and the application site were all located on a sloping topography, and there should not be any major difference in terms of topography. Moreover, he had employed the same engineer who had prepared engineering studies for these three Small Houses for the purpose of carrying out any required

studies for his own Small House development.

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

Deliberation Session

32. In response to a Member's enquiry about the Government's policy towards handling Small House applications in case of insufficient land within the "V" zone, Miss Annie Tam responded that as set out in DLO/TP's comments in paragraph 5.2.1(c) of the Paper, the applicant was an indigenous villagers of Ha Wong Yi Au. Under the current New Territories Small House policy, the applicants were eligible to apply for building Small House within their own village or in another village within the same "Heung" provided that there was no local objection.

33. A Member considered that the application site was outside the 'VE' and fell within the "GB" which had a presumption against development. However, there were no justifications in the submission to support the application. This Member did not support the application.

34. Another Member noted that there were three Small Houses recently approved by RNTPC in the vicinity of the application site. Given their proximity, the public might not be able to make out the difference between the application and the three approved Small Houses. Besides, having regard to the applicant's concerns about the lack of knowledge of the boundaries 'VE' and "V" zone, this Member asked if there was any scope to improve public access to such information.

35. Another Member was of the view that it was necessary for the Board to adhere to the criteria as set out in the Interim Criteria in processing application for NTEH/Small House development. Otherwise, it would set an undesirable precedent making it difficult for the

Board to have a consistent basis to consider applications in future. For the subject application, it was clear that the requirements in the Interim Criteria could not be met. The Chairman added that the said three Small Houses had all met the Interim Criteria in that over 50% of the Small House footprints fell within the 'VE'. As to the suggestion to improve the public access to the information on boundaries on 'VE' and "V" zone, he suggested LandsD and Home Affairs Department to consider appropriate ways to make available relevant plans and drawings for public inspection in both the Districts Lands Office and District Office.

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

- (a) the proposed house (New Territories Exempted House (NTEH) - Small House) was not in line with the planning intention of the "Green Belt" ("GB") zone, which was to define 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. There was no justification in the submission to justify a departure from this planning intention;
- (b) the proposed development did not comply with the interim criteria for assessing planning application for NTEH/Small House development in that over 50% of the application site and the proposed house were located outside both the 'village environs' and the "Village Type Development" zone of a recognized village;
- (c) the proposed development would have adverse landscape impacts on the subject site and surrounding areas; and
- (d) the approval of the application would set an undesirable precedent for similar developments within the "GB" zone. The cumulative impact of approving such applications would result in general degradation of the natural environment.

[Messrs. Alfred Donald Yap and Tony C.N. Kan returned to join the meeting at this point.

Mr. Timothy K.W. Ma left the meeting temporarily while Mr. B.W. Chan and Ms. Starry W.K. Lee left the meeting at this point.]

Agenda Items 5 to 8

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/SK-TMT/24

Proposed House (New Territories Exempted House – Small House) in “Green Belt” zone, Lot 29A in DD 216, Nam A Village, Sai Kung

(TPB Paper No. 8353)

Review of Application No. A/SK-TMT/25

Proposed House (New Territories Exempted House – Small House) in “Green Belt” zone, Lot 29B in DD 216, Nam A Village, Sai Kung

(TPB Paper No. 8354)

Review of Application No. A/SK-TMT/26

Proposed House (New Territories Exempted House – Small House) in “Green Belt” zone, Lot 15 (Part) and Adjoining Government Land in DD 216, Nam A Village, Sai Kung

(TPB Paper No. 8355)

Review of Application No. A/SK-TMT/27

Proposed House (New Territories Exempted House – Small House) in “Green Belt” zone, Lot 11B in DD 216, Nam A Village, Sai Kung

(TPB Paper No. 8356)

[The meeting was conducted in Cantonese.]

37. The following Member had declared interest in these items:

Professor David Dudgeon being a member of the Management and Development Committee of the World Wide Fund for Nature HK which had submitted comments on the applications

38. Members noted that Professor David Dudgeon had tendered apology for not

attending the meeting.

Presentation and Question Session

39. The following representatives from the Planning Department (PlanD) and the applicants were invited to the meeting at this point:

Mr. Alfred Lau	District Planning Officer/Sai Kung and Islands, PlanD
Ms. Ann Wong	Senior Town Planner/Sai Kung, PlanD
Mr. Roger Chan] Applicants' representatives
Mr. Hui I Yuen]

40. The Chairman extended a welcome and explained briefly the procedures of the review hearing. The Chairman then invited Ms. Ann Wong to brief Members on the background to the applications.

41. Ms. Ann Wong informed Members of some typos in the Papers as follows:

- (a) Paper No. 8354: The name of applicant in paragraph 1.1 should be “Kuit Kwong Ting”;
- (b) Paper No. 8355: The name of applicant in paragraph 1.1 should be “Kit Ping Kwan”; and
- (c) Paper No. 8356: The name of applicant in paragraph 1.1 should be “Cheung Kar Hung”.

42. With the aid of a Powerpoint presentation, Ms. Ann Wong briefed Members on the background to the applications and made the following main points:

- (a) the applicants sought planning permission for New Territories Exempted House (NTEH) (Small House) on the application sites zoned “Green Belt” (“GB”) on the Tai Mong Tsai and Tsam Chuk Wan Outline Zoning Plan

(OZP);

- (b) the reasons for the Rural and New Town Planning Committee (RNTPC) to reject the applications on 13.3.2009 were set out in paragraph 1.2 of the Papers;
- (c) justifications in support of the review applications were summed up in paragraph 4 of the Papers;
- (d) departmental comments – the departmental comments were summarized in paragraph 6 of the Papers. The Chief Engineer/Development (2), Water Supplies Department (WSD) objected to the review applications as there was no new information to demonstrate that the proposed developments within the Water Gathering Ground (WGG) would not pose adverse impact on the water quality of the area. There were neither stormwater nor sewerage connections in the vicinity at present and therefore the applications were not in line with the “Interim Criteria for Consideration of Application for NTEH/Small House in the New Territories” (Interim Criteria). The Director of Environmental Protection objected to the applications as the sites were within WGG where no public sewer was available. The Director of Agriculture, Fisheries and Conservation had reservation on the applications. The surrounding environs of the application sites were in general well wooded. The proposed development would affect the integrity of the wooded area. There was a report of extensive felling of trees in the area covering both Government and private land from the District Lands Officer/Sai Kung (DLO/SK). Approval of the applications would set an undesirable precedent for similar applications. The Assistant Commissioner for Transport/New Territories, Transport Department had reservation on the applications. The proposed development of Small Houses at “GB”, if approved, would set an undesirable precedent for similar applications in the vicinity, and the cumulative traffic impact of all these similar applications might be substantial and would severely overload the limited road network. The Chief Town Planner/Urban Design and Landscape, PlanD objected to the

applications. The “GB” comprised largely grass areas with shrubs and scattered mature trees stretching from the surrounding “Conservation Area” (“CA”), and was a green buffer between the village development and the “CA”. The proposed Small House developments would cause adverse landscape impact to the existing green belt. The proposal affected the quality of the natural landscape and set an undesirable precedent. The review applications did not contain adequate landscape information to address the RNTPC’s concern. The applicants’ commitment for submission and implementation of landscaping and tree preservation proposal could not mitigate the adverse landscape impacts. DLO/SK, Lands Department (LandsD) advised that the applicants were indigenous villagers and according to the prevailing Small House Policy, Small House applications within the village environs of any recognized village would be considered by the LandsD subject to the Board’s approval of the planning applications;

- (e) public comments – during the statutory public inspection period, 13 public comments (3 supported and 10 objected) on each of the Application Nos. A/SK-TMT/24, 26 and 27 were received whereas as to A/SK-TMT/25, 12 public comments (3 supported and 9 objected) were received. All of these comments were made from the Chairman of Sai Kung Rural Committee, two Sai Kung District Councillors, two environmental concern groups and a local organization. Details of the public comments were summarised in paragraph 7 of the Papers; and
- (f) PlanD’s view – PlanD did not support the applications for the planning assessments and reasons as detailed in paragraphs 8 and 9 of the Papers in that the proposed developments were not in line with the planning intention of the “GB” zone and the Interim Criteria, and approval of the applications would set an undesirable precedent for similar applications within the “GB” zone.

43. The Chairman then invited the applicants’ representatives to elaborate on the applications.

44. Messrs. Roger Chan and Hui I Yuen made the following main points:

- (a) taking account of RNTPC's rejection of their applications, the applicants had discussed with the Rural Committee and tried to look for other alternative sites. However, the subject application sites were found to be the only viable sites which could meet the applicants' targets in terms of finance and location;
- (b) the applicants were willing to submit and implement landscaping and tree preservation proposals to mitigate the landscape impact if the applications were approved;
- (c) the applicants were not involved in the tree felling on the application sites and the adjoining Government land. It would be unfair to them if the Board rejected the applications just because of tree felling done by another party;
- (d) though WSD pointed out the application sites were within the WGG, the local residents had observed that the stream course had dried up for some time. As such, the proposed development of Small Houses should not affect the water quality of the area;
- (e) the applicants were willing to provide septic tanks to resolve the discharge problem of the proposed Small House developments;
- (f) there was only pedestrian access to the application sites and therefore, approval of the applications would not create any adverse impact on the vehicular traffic of the area; and
- (g) most of the land within Long Keng Village were held by "tsos/tongs" and could not be transferred to others for Small House development. Also, given the pressing demand for Small House development in Long Keng Village and the high land costs, the applicants found that the current sites

were the only viable sites that could be afforded by them. The Paper's suggestion to the applicants to look for land within Long Keng Village was not workable.

45. Members asked the following questions:

- (a) how the Government departments had followed up the tree felling as reported on the application sites and the adjoining Government land;
- (b) the existing situation of the stream course and whether it still functioned to collect water within the WGG ; and
- (c) how the sewerage of the existing village houses within the "V" zone was treated.

[Mr. Timothy K.W. Ma returned to join the meeting at this point.]

46. Ms. Ann Wong made the following responses:

- (a) concerned Government departments had taken actions under their respective ambits to follow up the tree felling as reported on the application sites and the adjoining Government land last year. The Hong Kong Police Force had stepped up their patrol in the area and there was no more report on tree felling in 2009. Signs warning against tree felling had also been erected in the area. However, given the remote location of the area, there was a certain degree of difficulty for the enforcement departments to watch over closely the area;
- (b) the condition of the stream course might be affected by the weather but according to the Drainage Services Department and WSD, the stream course still served the purpose of water collection within the WGG. The survey sheet prepared by LandsD still showed the existence of this stream course; and

- (c) Nam A Village was a recognised village and most of the village houses there used septic tanks for sewerage treatment. WSD advised that given the development history of this recognised village, use of septic tanks within the “V” zone could only be tolerated. Further sprawling of village houses outside the “V” zone, however, could not be supported, as it would increase the pollution risk to the area.

47. In response to Mr. Benny Wong’s enquiry about the detailed design of septic tanks to be provided by the applicants, Mr. Roger Chan advised that the applicants were willing to design and provide septic tanks in accordance with EPD’s guidelines and requirements, so as to ensure proper treatment of sewerage discharged from the proposed Small Houses.

48. Mr. Hui I Yuen said that Nam A Village was situated in an upstream area and the stream course had already dried up for some time. Nevertheless, development of Small Houses was still not allowed despite the applicants’ efforts to provide septic tanks and the location of the application sites being 30m away from the stream course. However, within the “V” zone of Long Keng Village in the downstream area, Small House development would normally be permitted if they were provided with septic tanks and situated 30m away from the stream course. It seemed that there were double standards in handling Small House applications for these two villages.

49. Ms. Ann Wong explained that WSD would take account of individual cases in considering whether to support Small House development within the WGG. Such considerations included whether the application sites fell within the “V” zone, their distance from the stream course and the design of septic tanks. Mr. Benny Wong explained that the 30m distance from the stream course was to ensure that sewage discharged from the septic tank/soakaway system would have adequate time to undergo natural purification when it percolated through the soil strata. If the proposed Small House was located near stream course, there would be a risk of contaminating the stream course due to the sewerage discharge.

50. As the applicants’ 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 applications in their absence and inform the applicants of the Board's decision in due course. The Chairman thanked the applicants' representatives and PlanD's representatives for attending the meeting. They all left the meeting at this point.

Deliberation Session

51. The Chairman considered that there were no justifications in the submissions to justify a departure from the planning intention of the "GB" zone and to support the proposed Small House development. Besides, the applications had not provided details on how to address the adverse impact on the water quality of the area, as the application sites were located within the WGG. Members agreed.

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

52. In response to a Member's concern about the Government actions to follow up the tree felling as reported on the application sites, Miss Annie Tam advised that the Chief Secretary was now heading a task force on tree management which would soon release a report on the guiding principles and approach to tree preservation. For the subject tree felling incident, it should be noted that in respect of the trees on the Government land, AFCD would take action under the Forests and Countryside Ordinance (Cap. 96). For the trees on private lots, LandsD could enforce the lease conditions as appropriate. Leases granted after 1985 would normally contain a tree preservation clause that would empower LandsD to take action against unauthorised tree felling on private lots. However, the subject application sites were all old schedule agricultural lots and did not contain any tree preservation clause to enable LandsD to take action.

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

- (a) the proposed development was not in line with the planning intention of the "Green Belt" ("GB") zone which was to define the limits of urban and sub-urban development areas by natural features and to contain urban sprawl, and there was a general presumption against development within

the “GB” zone. No strong justification had been provided in the submission for a departure from the planning intention;

- (b) the proposed development did not comply with the interim criteria for consideration of application for New Territories Exempted House/Small House Development in the New Territories in that it was located within the water gathering ground. The proposed development within the water gathering grounds would pose adverse impact on the water quality of the area; and
- (c) the approval of the application would set an undesirable precedent for similar applications within the “GB” zone. The cumulative effect of approving such applications would result in encroachment of the “GB” zone by developments and would cause adverse environmental, landscape and traffic impacts in the area.

54. Members noted that the applicants’ representatives for Agenda Items 9 and 10 had yet to arrive, and therefore agreed to advance the discussion of Agenda Items 11 and 12.

Agenda Item 11

[Open Meeting]

Request for Deferral for Review of Application No. A/H5/380

Proposed Institutional Use (Community Service Centre) in an area shown as "Road", Government Land Beneath Canal Road Flyover Between Jaffe Road and Lockhart Road, Hong Kong

(TPB Paper No. 8359)

[The meeting was conducted in Cantonese.]

55. The following Members had declared interests in this item:

Ms. Anna S.Y. Kwong	being a council member of the HK Federation of Women Limited (HKFWL) which was the applicant
---------------------	--

Ms. Starry W.K. Lee being a member of Kowloon Women's Organisations Federation Limited which was a subsidiary organization of HKFWL

56. Members noted that Ms. Anna S.Y. Kwong had tendered apology for not being able to attend the meeting and Ms. Starry W.K. Lee had already left the meeting.

57. The Secretary said that on 17.6.2009, the applicant wrote to the Secretariat of the Board and requested the Board to defer making a decision on the review application until 31.7.2009. This was necessary as time was needed for relevant Government departments to comment on the applicant's further information in respect of the revised building design and drainage arrangement included in the letter. The request for deferment met the criteria set out in the Town Planning Board Guidelines No. 33 in that more time was needed for relevant Government departments to provide comments, the deferment period was not indefinite, and the deferment would unlikely affect the interest of other relevant parties.

58. After deliberation, the Board decided to agree to the request for deferment and that the application would be submitted to the Board for consideration on 31.7.2009 as requested by the applicant.

59. The Board also decided to advise the applicant that no further deferment of the application would be granted unless under very special circumstances.

60. The discussion of Agenda Item 12 was recorded under separate confidential cover.

[Professor N.K. Leung, Dr. Daniel B.M. To and Mr. David W.M. Chan left the meeting at this point.]

[The meeting was adjourned at 11:15am for a 5-minute break.]

Agenda Item 9

[Open Meeting (Presentation and Question Session Only)]

Review of Application No. A/YL-KTS/459

Temporary Vehicle Park for Concrete Mixer Trucks with Ancillary Maintenance Workshop for a Period of 3 Years in "Agriculture" zone, Lot 1008 RP (Part) in D.D. 113, Pat Heung, Yuen Long

(TPB Paper No. 8357)

[The meeting was conducted in Cantonese.]

Presentation and Question Session

61. Ms. Amy Cheung, District Planning Officer/Tuen Mun & Yuen Long, Planning Department (DPO/TMYL, PlanD) and the following representatives of the applicant were invited to the meeting at this point:

Mr. Raymond Leung

Mr. Lam Tim Kit

Ms. Cannis Lee

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

63. With the aid of a Powerpoint presentation, Ms. Amy Cheung did so as detailed in the Paper and made the following main points:

- (a) the applicant sought planning permission for temporary vehicle park for concrete mixer trucks with ancillary maintenance workshop for a period of 3 years on a site zoned "Agriculture" ("AGR") on the Kam Tin South Outline Zoning Plan (OZP);
- (b) the reasons for the Rural and New Town Planning Committee (RNTPC) to reject the application on 13.3.2009 were set out in paragraph 1.2 of the Paper;
- (c) no written representations in support of the review application;

- (d) departmental comments – the departmental comments were summarized in paragraph 4 of the Paper. The Director of Agriculture, Fisheries and Conservation (DAFC) did not favour the application from an agricultural development point of view. The site was currently used for open storage-related purpose. However, the agricultural life in the vicinity of the site was active and the site could be rehabilitated for agricultural purpose such as plant nursery. The Chief Town Planner/Urban Design and Landscape (CTP/UD&L), PlanD had some reservations on the application from the landscape planning point of view. The site was situated on flat land, which was part of the Kam Tin Basin. The “Conservation Area” zone and Tai Lam Country Park were to the south of the site. An existing village could be seen to the west and there were rural landscape features such as ponds and woodland in the area. Apart from the Tai Lam Toll Plaza and the Pat Heung MTR Maintenance Centre, the area remained predominantly rural. The Assistant Commissioner for Transport/New Territories, Transport Department (AC for T/NT, TD) objected to the application and advised that traffic signs to prohibit vehicles exceeding 7m long to enter Kam Ho Road were erected at the entrance of Kam Ho Road. Vehicles exceeding 7m long should not be allowed to enter the site through Kam Ho Road since the design of Kam Ho Road was not suitable for use by vehicles exceeding 7m due to road safety. The length of concrete mixer trucks was over 7m. The Director of Environmental Protection did not support the application as there were sensitive receivers, i.e. existing residential structures located along the access road to the site, and environmental nuisance was expected;
- (e) public comments – during the statutory publication period, one public comment was received from a member of Yuen Long District Council. The commenter stated that the condition of the nearby road which was a one-way road was not good. The assessment of the application should take into account whether the road could accommodate the vehicular trips of concrete mixer truck and whether the vehicular trips would affect the local residents using the road; and

- (f) PlanD's view – PlanD did not support the application for reasons as detailed in paragraphs 6 and 7 of the Paper in that the proposed development was not in line with the planning intention of the “AGR” zone; it was incompatible with the surrounding land uses; it would generate adverse traffic, environmental, landscape and drainage impacts on the surrounding areas; and approval of the application would set an undesirable precedent.

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

65. With the aid a Powerpoint presentation, Mr. Raymond Leung made the following main points:

- (a) the application was only intended to provide 4 to 5 spaces for parking of concrete mixer trucks on a temporary basis. This would help generate employment opportunities in the time of financial crisis and also address the shortfall of parking space for concrete mixer trucks. The long-term planning intention of the subject site would not be jeopardised by this temporary use;
- (b) the development of West Rail (Phase I) project in the vicinity of the application site had already changed the character of the application site and its surrounding uses. Agriculture use on the application site and its surrounding land was unlikely. Thoughts needed to be given to identifying other uses which would be more compatible with the neighbouring infrastructure development;
- (c) according to the current proposal, only concrete mixer truck of 8.95m would park on the application site. As to the TD's comments that traffic signs had been erected to prohibit vehicles exceeding 7m long to enter the site through Kam Ho Road, no such signs could be found along Kam Ho Road during the site inspection. There was also no information from TD or the Hong Kong Police Force as to whether this restriction had been

notified to the public in the Gazette;

- (d) as to EPD's concerns about environmental nuisance, the application site only had an area of about 1,735m² for the parking of 4 to 5 concrete mixer trucks. There was no residential structure in the immediate vicinity. The ancillary maintenance workshop mainly catered for the regular maintenance of vehicles, such as changes of vehicle tyres. The operation hours would be from 9 am to 6 pm. Given that the site was encircled by the foothill of Tai Lam Country Park and partially fenced off by wire nettings, there should be no adverse visual impacts on the nearby residents. There would also be no waste or pollutants to be generated from the operation of the proposed use;
- (e) as to the landscape concerns expressed by CTP/UD&L, a revised landscape proposal could be submitted should approval be given by the Board; and
- (f) the proposed development should be considered on its own merits and approval of the subject application would not create an undesirable precedent.

66. Members had the following questions:

- (a) the number of jobs created by the proposed development;
- (b) according to the site photo on Plan R-4 of the Paper, there was a four axles concrete mixer truck on the application site, being different from the three axles truck (of 8.95m long) shown on the Powerpoint presentation by the applicant's representative; and what was the length of the four axles truck;
- (c) if the application site was only intended for parking use, why there was a need to provide maintenance facilities within the site; and
- (d) whether TD had erected traffic signs to prohibit vehicles exceeding 7m long to enter Kam Ho Road.

67. In response to Members' questions in paragraph 66(a) to (c) above, Mr. Raymond Leung made the following points:

- (a) though there were only 4-5 parking spaces, however, the multiplier effect and the economic spin-off created by the proposed development should not be underestimated;
- (b) the four axles truck might be up to 9m in length. However, the crux was that there was no traffic sign on Kam Ho Road showing the size of vehicles that could enter the road. Besides, Kam Ho Road was firstly built to serve the construction of the West Rail project, and vehicles exceeding 7m long had been allowed to use this road during the construction of the West Rail. It would be contrary to the original intention of building Kam Ho Road if TD now prohibited vehicles exceeding 7m long to use the road once the West Rail project was completed. More importantly, the locals were never informed of TD's policy to prohibit vehicles exceeding 7m long to enter Kam Ho Road; and
- (c) the proposed workshop was intended to be of ancillary use, catering for regular maintenance of the parking vehicles, such as changes of vehicle tyres. No spraying of vehicles would be carried out on the application site.

68. In response to Members' question in paragraph 66(d) above, Ms. Amy Cheung said that TD's objection to the review application was same as that given during s.16 application stage. However, there was no information in hand as to whether traffic signs had been erected at Kam Ho Road.

69. A Member said that it would be helpful if photos showing the erected traffic sign at Kam Ho Road as advised by TD could be made available for Members' reference.

70. 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 representative from PlanD for attending the meeting. They all left the meeting at this point.

Deliberation Session

71. Members agreed with PlanD's recommendations in that the proposed development was not in line with the planning intention of the "AGR" zone, would be incompatible with the surrounding land uses, would create adverse impacts on the surrounding uses, and approval of the development would create an undesirable precedent. However, as to whether any traffic signs had been erected to prohibit vehicles longer than 7m to enter Kam Ho Road, Members considered it necessary for PlanD to further liaise with TD with a view to ascertaining whether the traffic signs were erected before a decision on the application was to be made. The Chairman suggested to defer making a decision and request PlanD to clarify with TD on the current traffic restrictions of Kam Ho Road. Members agreed.

72. After further deliberation, the Board decided to defer consideration of the application pending PlanD's further clarification with TD on the current traffic restrictions of Kam Ho Road.

Agenda Item 10

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/K14/586

Shop and Services in "Other Specified Uses" annotated "Business" zone, Unit N, G/F, Everest Industrial Centre, 396 Kwun Tong Road, Kwun Tong

(TPB Paper No. 8358)

[The meeting was conducted in Cantonese.]

Presentation and Question Session

73. The following representatives from Government departments and the applicant were invited to the meeting at this point:

Mr. Eric Yue	District Planning Officer/Kowloon (DPO/K), Planning Department (PlanD)
Mr. Yeung Chung Hau	Senior Divisional Officer, Fire Services Department (FSD)
Mr. Foo Chi Hung	Senior Station Officer, FSD
Mr. Tsang Kwok Wah	Applicant's representative

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

[Mr. Tony C.N. Kan left the meeting temporarily at this point.]

75. With the aid of a Powerpoint presentation, Mr. Eric Yue did so as detailed in the Paper and made the following main points:

- (a) the applicant sought planning permission for shop and services use at Unit N, G/F, Everest Industrial Centre, 396 Kwun Tong Road, Kwun Tong, Kowloon which fell within an area zoned "Other Specified Uses" annotated "Business" ("OU(Business)") on the Kwun Tong (South) Outline Zoning Plan (OZP);
- (b) the reasons for the Metro Planning Committee (MPC) to reject the application on 13.3.2009 were set out in paragraph 1.2 of the Paper;
- (c) the applicant had not submitted further written representation in support of the review application;
- (d) departmental comments – the departmental comments were summarized in paragraph 4 of the Paper. The District Lands Officer/Kowloon East, Lands Department advised that the lease of the application premises restricted the user to industrial purposes excluding offensive trades. The 'shop and services' use was not permitted under the existing lease

conditions. Should the application be approved, a temporary waiver was required. The Director of Fire Services (D of FS) objected to the application. The 'shop and services' use was considered as a kind of commercial usage and should be counted towards the aggregate commercial floor area. As the aggregate commercial floor area would exceed the maximum permissible limit of 460m², the application was not supported from fire safety point of view;

- (e) public comments – during the statutory publication period, one public comment was received expressing support to the application; and
- (f) PlanD's view – PlanD did not support the application for the planning assessments and reasons as detailed in paragraphs 6 and 7 of the Paper in that the application would exceed total commercial floor area as permitted in the Town Planning Board Guidelines for Development within "Other Specified Uses (Business)" Zone (TPB PG-No. 22D), and D of FS had raised objection from the fire safety point of view.

76. The Chairman then invited the applicant's representative to elaborate on the application.

[Mr. Tony C.N. Kan returned to join the meeting at this point.]

77. Mr. Tsang Kwok Wah made the following main points:

- (a) why planning permission was given to 'shop and services' uses at Unit A, G/F, Everest Industrial Centre; and
- (b) the applicant was willing to pay the fee for a temporary waiver if the application premises could be rented out.

78. In response to the question raised by the applicant's representative in paragraph 77(a) above, Mr. Eric Yue drew Members' attention to paragraph 3.13 of the Paper and said that an application (no. A/K14/479) for 'shop and services' at Units A, B and C on G/F of the

subject industrial building was approved by MPC on 28.10.2006 as the maximum permissible commercial floor area of 460m² as stipulated in the TPB guidelines No. 22D had not been exceeded.

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

Deliberation Session

80. A Member noted that the application premises was the subject of several previous applications which were all rejected mainly due to fire safety concerns. For the subject application, this Member supported PlanD's recommendation not to approve the application on the grounds of non-compliance with the TPB guidelines No. 22D and fire safety concerns. However, in order to enable the applicant to identify possible uses which might be accommodated on the application premises while meeting the requirements of relevant Government departments, the same Member asked if DPO/K could provide some assistance to the applicant. Mrs. Ava Ng noted this Member's suggestion and agreed to request DPO/K to discuss with the applicant regarding the possible uses that might be accommodated in the application premises from the planning point of view.

81. Members generally agreed with the PlanD's recommendations in paragraphs 6 and 7 of the Paper, and considered that the application should not be supported.

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

- (a) the 'Shop and Services' use did not comply with the Town Planning Board Guidelines for Development within "Other Specified Uses" annotated "Business" Zone (TPB PG-No. 22D) as the total floor area accountable for the aggregate commercial floor area had exceeded the maximum

permissible limit of 460m²; and

- (b) the Director of Fire Services had raised objection to the ‘Shop and Services’ use from fire safety point of view.

Agenda Item 13

[Open Meeting]

Any Other Business

[The meeting was conducted in Cantonese.]

- 83. There being no other business, the meeting was closed at 12:10pm.