

**Minutes of 894th Meeting of the
Town Planning Board held on 21.9.2007**

Present

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

Chairman

Dr. Peter K.K. Wong

Vice-chairman

Mr. Michael K.C. Lai

Dr. Greg C.Y. Wong

Ms. Carmen K.M. Chan

Professor Nora F.Y. Tam

Mr. Nelson W.Y. Chan

Mr. David W.M. Chan

Dr. Lily Chiang

Professor David Dudgeon

Professor Peter R. Hills

Mr. Tony C.N. Kan

Mr. Edmund K.H. Leung

Professor N.K. Leung

Dr. C.N. Ng

Dr. Daniel B.M. To

Mr. Alfred Donald Yap

Ms. Sylvia S.F. Yau

Mr. B.W. Chan

Mr. Walter K.L. Chan

Ms. Anna S.Y. Kwong

Professor Paul K.S. Lam

Ms. Starry W.K. Lee

Mr. K.Y. Leung

Director of Planning

Mrs. Ava S.Y. Ng

Director of Lands

Miss Annie Tam

Deputy Director of Environmental Protection

Dr. Michael Chiu

Deputy Director of Planning/District

Miss Ophelia Y.S. Wong

Secretary

Absent with Apologies

Professor Leslie H.C. Chen

Professor Bernard V.W.F. Lim

Mr. Stanley Y.F. Wong

Ms. Maggie M.K. Chan

Mr. Raymond Y.M. Chan

Mr. Y.K. Cheng

Mr. Felix W. Fong

Dr. James C.W. Lau

Principal Assistant Secretary (Transport),

Transport and Housing Bureau

Ms. Ava Chiu

Assistant Director (2), Home Affairs Department

Ms. Margaret Hsia

In Attendance

Assistant Director of Planning/Board
Mr. Lau Sing

Chief Town Planner/Town Planning Board
Ms. Brenda K.Y. Au

Town Planner/Town Planning Board
Mr. Tony Y.C. Wu

Agenda Item 1

[Open Meeting]

Confirmation of Minutes of the 893rd Meeting Held on 7.9.2007

[The meeting was conducted in Cantonese.]

1. The minutes of the 893rd meeting held on 7.9.2007 were confirmed without amendment.

Agenda Item 2

[Open Meeting]

Matters Arising

[The meeting was conducted in Cantonese.]

2. There were no matters arising from the last meeting.

[Mr. Nelson W.Y. Chan arrived to join the meeting at this point.]

Agenda Item 3

[Open Meeting (Presentation and Question Session only)]

Consideration of Representations in respect of the Draft Tai Mong Tsai and Tsam Chuk Wan
Outline Zoning Plan No. S/SK-TMT/3
(TPB Paper No. 7913)

[The meeting was conducted in Cantonese.]

3. The Chairman said that Representations No. 4, 5 and 7 to 12 were submitted by eight Members of the Kowloon City District Council (KCDC) and Ms. Starry W.K. Lee had declared an interest for being a Member of the KCDC. Members agreed that since the representations were submitted by individual Members of the KCDC rather than on behalf of the KCDC, Ms. Lee should be allowed to stay at the meeting.

[Dr. C.N. Ng, Professor David Dudgeon, Mr. David W.M. Chan and Ms. Sylvia S.F. Yau arrived to join the meeting at this point.]

Presentation and Question Session

4. The Chairman said that Representer No. 3 had indicated not to attend or be represented at the hearing and Representatives No. 1, 4, 5 and 7 to 12 had made no reply. Representer No.2 had indicated that he would attend but had not yet arrived. As sufficient notice had been given to the representatives, Members agreed to proceed with the hearing in the absence of the above representatives.

5. Mr. Michael Chan, District Planning Officer/Sai Kung and Islands (DPO/SKIs), Planning Department (PlanD), and the following representatives of Representer No. 6 were invited to the meeting at this point:

Mr. Fung Dao-sun

Ms. Ma Yin-king

Ms. Wong Kit-ying

Ms. Wong Shui-ching

6. The Chairman extended a welcome and explained briefly the procedures of the hearing. He then invited Mr. Michael Chan to brief Members on the background to the representations.

7. With the aid of a Powerpoint presentation, Mr. Michael Chan presented the case and covered the following aspects as detailed in the Paper:

(b) the background as set out in paragraph 1 of the Paper;

(c) subject of representations – all representatives supported the amendments incorporated in the draft Tai Mong Tsai and Tsam Chuk Wan Outline Zoning Plan (OZP) No. S/SK-TMT/3 to rezone a site at Pak Tam from “Green Belt” to “Government, Institution or Community (1)” (“G/IC(1)”) to facilitate the development of a youth gospel drug treatment and rehabilitation centre. The rezoning of the representation site to “G/IC(1)”

was to take forward the decision of the Rural and New Town Planning Committee (RNTPC) on 15.9.2006 regarding a planning application for a drug rehabilitation centre cum halfway house (Application No. A/SK-TMT/6). The RNTPC rejected the application but agreed that it was more appropriate to rezone the site to allow a due process for the public to make representations under the provisions of the Town Planning Ordinance; and

- (d) PlanD's views – as all the representations were supportive of the amendments incorporated in the OZP, no amendment to the OZP was necessary.

8. The Chairman then invited the representatives of Representer No. 6 to elaborate on the representation.

9. Mr. Fung Dao-sun said that the rezoning of the representation site to “G/IC(1)” was necessary to enable the representer to establish a drug treatment and rehabilitation centre to continue its services to the youth drug addicts and their families. Ms. Wong Shui-ching added that the proposed drug treatment and rehabilitation centre would help the youth drug addicts to rejoin and contribute to the society.

10. Members had the following questions:

- (a) whether the proposed drug treatment and rehabilitation centre would cause any adverse traffic impact in the area; and
- (b) what actions had the representer taken to obtain the support of the eight Members of the KCDC.

11. In response to Members' questions, Mr. Fung Dao-sun made the following points:

- (a) there would be three vans to serve the daily operational need of the proposed drug treatment and rehabilitation centre. Convenient public transport to the centre was available via a Green Minibus route serving the Lady MacLehose Holiday Village. No adverse traffic impact was anticipated; and

- (b) the representer had approached a Member of the KCDC for support of the proposed drug treatment and rehabilitation centre, who subsequently assisted in soliciting support from some other Members of the KCDC.

12. As the representer's representatives had finished their presentation and Members had no further question to raise, the Chairman informed them that the hearing procedures for the representation had been completed, and the Board would deliberate on the representation in their absence and inform the representer of the Board's decision in due course. The Chairman thanked the representatives of PlanD and the representer for attending the meeting. They all left the meeting at this point.

Deliberation Session

13. After deliberation, the Board agreed that no amendment to the OZP was necessary.

[Mr. Tony C.N. Kan and Dr. Daniel B.M. To arrived to join the meeting at this point.]

Agenda Item 4

[Open Meeting (Presentation and Question Session only)]

Section 16 Application No. A/H3/378

Proposed Comprehensive Development for Residential, Commercial and Community Uses with Provision of Public Open Space in "Comprehensive Development Area" zone, Urban Renewal Authority Development Scheme at Yu Lok Lane/Centre Street, Sai Ying Pun
(TPB Paper No. 7906)

[The meeting was conducted in Cantonese.]

14. The Chairman said that as the application was submitted by the Urban Renewal Authority (URA), the following Members had declared interests:

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

Miss Annie Tam as the Director of Lands)	being non-executive directors of the URA
Mr. Walter K.L.Chan)	
Ms. Margaret Hsia as the Assistant Director (2) of Home Affairs Department	-	being a co-opt member of the Planning, Development and Conservation Committee of URA
Dr. Greg C.Y. Wong)	
Professor Bernard V.W.F. Lim)	having current business dealings with URA

15. Members noted that Ms. Margaret Hsia and Professor Bernard V.W.F. Lim had tendered apologies for not attending the meeting and Miss Annie Tam had not yet arrived.

[Mrs. Ava S.Y. Ng, Mr. Walter K.L. Chan and Dr. Greg C.Y. Wong left the meeting temporarily at this point.]

Presentation and Question Session

16. Ms. Christine Tse, District Planning Officer/Hong Kong (DPO/HK), Planning Department (PlanD), and Ms. Lily Yam, Senior Town Planner/Hong Kong (STP/HK), PlanD, were invited to the meeting at this point.

17. The Chairman extended a welcome and invited Ms. Christine Tse to brief Members on the background to the application.

18. With the aid of a Powerpoint presentation, Ms. Christine Tse presented the application and covered the following aspects as detailed in the Paper:

- (a) the background to the approved Yu Lok Lane/Centre Street Development Scheme Plan (DSP) No. S/H3/URA2/2 and the endorsed Planning Brief (PB) as set out in paragraph 3 of the Paper;
- (b) details of the proposed development as set out in paragraph 1 and the Drawings attached to the Paper. Two models of the proposed development submitted by the applicant were displayed at the meeting;

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

- (c) departmental comments – there was no objection from relevant Government departments on the application. The Chief Building Surveyor/Hong Kong West, Buildings Department (CBS/HKW, BD) advised that the 4.5m-wide right of way (ROW) to Nos. 24 & 25 Yu Lok Lane proposed by the applicant should be excluded from the site area. The Chief Town Planner/Urban Design and Landscape (CTP/UD&L), PlanD and the Director of Leisure and Cultural Services (DLCS) advised that the proposed public open space (POS) should be open to the public on a 24-hour basis to ensure that the public would be served to the fullest. The Antiquities and Monuments Office (AMO) advised that the two tenement buildings at Nos. 11 and 12 Yu Lok Lane proposed to be preserved might not be suitable for social enterprise use due to the very small scale of the buildings, and consideration should be given to incorporating more character defining elements such as floor tiles, balcony, cornice mouldings and parapet columns on roofs into the POS where practicable;
- (d) seven public comments were received during the statutory publication period, with two objecting to, one indicating no objection and four providing comments and suggestions on the proposed development. The comments were summarized in paragraph 10 of the Paper. The objections were made on the grounds that the proposed development would generate visual impact on the local area and cause environmental nuisances during construction. One of the public commenters submitted the summary of a poll survey indicating that 67% of the 72 respondents objected to application, with main concerns on possible visual impact, wall effect and impact on air ventilation to be caused by the proposed development, environmental nuisances during construction and lack of justification for high development intensity. There were suggestions from the commenters that the site should be used as a park, glass cover should be built on top of the site, more greenery areas and side walk cafes should be provided, and solar rooftop for the tower block should be installed; and
- (e) PlanD's views – PlanD had no objection to the application for reasons as

detailed in paragraph 11.1 of the Paper. The proposed development was generally in line with the planning intention of the “CDA” zone and the requirements set out in the endorsed PB. As set out in paragraph 11.1(b) of the Paper, it was acceptable to include the ROW to Nos. 24 & 25 Yu Lok Lane in the site area for plot ratio calculation, and the additional gross floor area of 474.3m² resulting from such inclusion would not generate adverse impacts. Approval conditions were recommended under paragraph 11.3 of the Paper to address the comments of the CTP/UD&L, DLCS, AMO and other departments. Regarding the concerns raised in the public comments, the proposed development was considered not unacceptable in the local context and not incompatible with the neighbouring developments. Environmental nuisances from construction works would be subject to statutory control under the relevant ordinances. Suggestions on the design of the scheme would be conveyed to the URA for consideration.

19. Members had the following questions and comments:

- (a) several Members expressed in-principle support for the proposed development;
- (b) a Member asked whether the applicant had provided any details on the management and maintenance arrangements in respect of the buildings at Nos. 11 and 12 Yu Lok Lane to be preserved. Another Member considered that the maintenance cost should not be transferred to the future flat owners;
- (c) several Members were of the view that consideration should be given to preserving the existing buildings at Nos. 1 and 2 Yu Lok Lane or at least the façade of the buildings so that the character of the lane could be better preserved;
- (d) a Member opined that certain social enterprise uses could be allowed at the buildings to be preserved to help sustain the maintenance of the buildings with respect to funding;

- (e) a Member asked why the existing buildings at Nos. 9 and 10 Yu Lok Lane would not be preserved;
- (f) a Member enquired whether the proposed POS would allow the entry of pets;
- (g) a Member asked whether the public concerns on possible environmental nuisances during construction had been adequately addressed; and
- (h) two Members raised concern on the building height which appeared to be higher than developments in the locality and asked what measures had been adopted in the proposed development to address the public concerns on the building height, and whether the building height could be further reduced.

20. In response to Members' questions and comments, Ms. Christine Tse made the following points:

- (a) the buildings at Nos. 11 and 12 Yu Lok Lane to be preserved would form part of the proposed POS, which would be managed and maintained by the URA and approval condition (d) was suggested in paragraph 11.3 of the Paper to that effect. The locals would be consulted on the design and the management/maintenance arrangements in respect of the POS;
- (b) the use of the buildings to be preserved would be further studied by the URA taking into consideration the comments of the Board, relevant Government departments and the public. A further proposal would be submitted to the satisfaction of the Director of Planning or of the Board according to the approval condition (h) suggested in paragraph 11.3 of the Paper;
- (c) although the existing buildings at Nos. 1 and 2 Yu Lok Lane would be demolished, the stone wall footings of the buildings and the adjacent steps would be preserved and a feature gateway trellis would be erected at the location to enhance the definition and setting of the lane. It might be possible to retain more of the lane character by preserving more buildings

along the lane but the area of uncovered POS would be reduced;

- (d) the existing buildings at Nos. 9 and 10 Yu Lok Lane were of low heritage value as most of the original features had been altered or lost;
- (e) whether entry of pets was allowed would be a matter for the URA in finalizing the management/maintenance arrangements for the POS;
- (f) construction works would be subject to statutory control under relevant ordinances and regulations. The URA had to undertake the necessary measures to mitigate the environmental nuisances during construction; and
- (g) the proposed building height of 145mPD was in line with that stipulated under the endorsed PB. It was considered compatible with the adjacent medium to high-density developments and would not intrude into the 20% building free zone below the ridgeline when viewed from the vantage points at the West Kowloon Cultural District. Given the open space requirement under the endorsed PB, it might be difficult to further reduce the building height if the maximum plot ratio of 8 permitted under the PB was to be maintained.

Deliberation Session

21. A Member said that consideration should be given to preserving the existing buildings at Nos. 1 and 2 Yu Lok Lane or at least the façade of the buildings so that the lane character could be better preserved, especially when viewed from Centre Street. A Member said that if a choice had to be made between retaining more buildings to preserve the lane character and providing more uncovered POS, priority should be given to the former. Another Member was also of the view that more of the lane character should be preserved.

22. The Secretary reminded Members of the planning history of the case. She said that Members' wish to preserve the character of Yu Lok Lane had been conveyed to the URA which, after consulting the AMO, considered that only 11 and 12 Yu Lok Lane were worth preserving. This requirement was endorsed by the Board and incorporated in the PB approved on 20.7.2007. In this regard, a Member said that requiring the URA to preserve more buildings

at this stage might affect the implementation of the scheme. This Member considered that it was more important to ensure proper management and maintenance of the preserved buildings by the URA without transferring the cost to the future flat owners than preserving more buildings. Another Member shared the view that the change in the preservation requirements might affect the implementation of the scheme. However, Members' views on this matter should still be conveyed to the URA for consideration in the detailed design.

23. A Member said that the preservation of the lane character was important, and it should involve not only the retention of physical structures but also the activities typical of a traditional lane. Some flexibility should be given to the URA to devise the most appropriate way to preserve the lane character. The Leisure and Cultural Services Department, including AMO, should also be involved in the process.

24. A Member reiterated the view that certain social enterprises could be allowed at the buildings to be preserved to ensure that the buildings could be more effectively maintained and that the POS would not become a private garden.

25. In summarizing Members' views, the Chairman said that a balance had to be struck between the provision of more uncovered POS and preservation of the existing buildings at Yu Lok Lane with regard to the lane character. As the proposed development in general complied with the requirements under the endorsed PB, it could be supported in general. Members' concerns on the design, management and maintenance of the POS and the preservation of more buildings at Yu Lok Lane could be addressed by imposing appropriate approval conditions. The issue of whether more buildings could be preserved, particularly for Nos. 1, 2, 9 and 10 Yu Lok Lane, to reflect the lane character should be addressed by the URA by revising the Master Layout Plan, in consultation with relevant Government departments. Regarding the concern on building height, there should also be a balance between the aspiration for a lower building height and the need for providing more uncovered POS to meet the open space shortfall in the area. The implication of reducing the building height on the financial viability of the urban renewal scheme should also be a consideration. The proposed building height of 145mPD was in line with the endorsed PB. Nevertheless, the possibility of reducing the height could be explored by the URA in the detailed design of the scheme.

26. The Secretary added that if changes were made to the scheme to address Members' concerns, the URA was required to submit a revised Master Layout Plan to the Director of

Planning or the Board for consideration in accordance with the approval condition (a) recommended in paragraph 11.3 of the Paper.

27. After deliberation, the Board decided to approve the application, on the terms of the application as submitted to the Board. The permission should be valid until 21.9.2011, and after the said date, the permission should cease to have effect unless before the said date, the development permitted was commenced or the permission was renewed. The permission was subject to the following conditions:

- (a) the submission and implementation of a revised Master Layout Plan to incorporate, where appropriate, the approval conditions as stipulated in items (b) to (d) and (f) to (h) below to the satisfaction of the Director of Planning or of the Town Planning Board;
- (b) the design and provision of car parking facilities, loading/unloading bays and vehicular access for the proposed development to the satisfaction of the Commissioner for Transport or of the Town Planning Board;
- (c) the provision of a set-back of 1m along Third Street to the satisfaction of the Commissioner for Transport or of the Town Planning Board;
- (d) the design, provision, management and maintenance of the public open space, at no cost to the Government, to the satisfaction of the Director of Planning or of the Town Planning Board;
- (e) the public open space should be open for public enjoyment 24 hours a day;
- (f) the provision of private open space to the satisfaction of the Director of Planning or of the Town Planning Board;
- (g) the submission and implementation of a landscape master plan and a tree preservation proposal together with the submission of the quarterly tree preservation monitoring reports to the satisfaction of the Director of Planning or of the Town Planning Board;

- (h) the preservation, management, maintenance and use of the historical buildings to be preserved as shown on the revised Master Layout Plan to the satisfaction of the Director of Planning or of the Town Planning Board;
- (i) the incorporation of character defining elements of the existing pre-war buildings along Yu Lok Lane into the public open space to the satisfaction of the Antiquities & Monuments Office of the Leisure and Cultural Services Department or of the Town Planning Board; and
- (j) the provision of water supply for fire fighting and fire service installations to the satisfaction of the Director of Fire Services or of the Town Planning Board.

28. The Board also agreed to advise the applicant:

- (a) that the approved Master Layout Plan, together with the set of approval conditions, would be certified by the Chairman of the Town Planning Board and deposited in the Land Registry in accordance with section 4A(3) of the Town Planning Ordinance. Efforts should be made to incorporate the relevant approval conditions into a revised Master Layout Plan for deposition in the Land Registry as soon as practicable;
- (b) to investigate the feasibility of preserving the historical buildings at Nos. 1, 2, 9 and 10 Yu Lok Lane and preserve the buildings as far as possible. The revised preservation proposal should be shown on the revised Master Layout Plan in accordance with condition (a) set out in paragraph 27 above;
- (c) to note the comments of the District Lands Officer/Hong Kong West & South on related land issue and the construction and maintenance responsibilities of the public open space;
- (d) to note the comments of the Chief Estate Surveyor/Urban Renewal, Lands Department on the need to allow the public full access to the non-building area leading to Nos. 24 & 25 Yu Lok Lane;

- (e) to note the comments of the Chief Building Surveyor/Hong Kong West, Buildings Department on the extinguishment and building over of Yu Lok Lane, site classification, achievable gross floor area of the buildings at Nos. 11 & 12 Yu Lok Lane, exemption of covered open space, podium garden and sky garden;
- (f) to note the comments of the Chief Town Planner/Urban Design and Landscape, Planning Department on the details to be shown on the Landscape Master Plan and protection of tree roots in the detailed design stage;
- (g) to note the comments of the Assistant Commissioner for Transport/Urban on the setting back of the Centre Street frontage by 1m and the provision of a corner spray to the western side of the public passageway/staircase to Third Street;
- (h) to note the comments of the Director of Leisure and Cultural Services on tree protection measures, greening and landscape design;
- (i) to note the technical comments of the Director of Environmental Protection on the air, noise and waste assessments;
- (j) to note the comments of the Chief Estate Surveyor/Estate Management, Lands Department on slope maintenance responsibility information displayed in “Slope Maintenance Responsibility Information System”;
- (k) to note the comments of the Chief Engineer/Development(2), Water Supplies Department on the requirements for provision of waterworks reserve and diversion works required for the proposed development; and
- (l) to note the comments in connection with the suggestions on protecting and enhancing the scheme at the detailed design stage.

[Mrs. Ava S.Y. Ng, Dr. Greg C.Y Wong and Mr. Walter K.L. Chan returned to the meeting, Mr. Edmund K.H. Leung left the meeting and Dr. Lily Chiang left the meeting temporarily at this

point.]

Agenda Item 5

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/NE-FTA/81

Proposed Temporary Asphalt Production Plant for a Period of Three Years in “Agriculture” Zone,
Lot 551 SBRP (part) in DD 89, Man Kam To Road, Sha Ling, New Territories
(TPB Paper No. 7907)

[The meeting was conducted in Cantonese.]

Presentation and Question Session

29. Mr. W.K. Hui, District Planning Officer/Shatin, Tai Po and North District, Planning Department (DPO/STN, PlanD), and the following representatives of the applicant were invited to the meeting at this point:

Mr. Albert So
Ms. Polly Lee
Mr. Kevin Wong
Mr. Jason To
Mr. Albert Wong
Mr. Allan Wong

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

31. With the aid of some plans and photographs, Mr. W.K. Hui presented the application and covered the following aspects as detailed in the Paper:

- (a) the Rural and New Town Planning Committee (RNTPC) rejected the application on 25.5.2007 for reasons that there was insufficient information in the submission to demonstrate that the proposed use was genuinely

temporary in nature; the approval of the application and possible successive renewal of the approval would frustrate the long-term planning intention of the “Agriculture” (“AGR”) zone; and no strong justifications had been provided in the submission for a departure from the planning intention;

- (b) the further written representation submitted by the applicant in support of the review application as summarized in paragraph 3 of the Paper;
- (c) departmental comments – the relevant Government departments maintained their previous views on the application. The Director of Environmental Protection (DEP) advised that there was adequate mechanism under relevant environmental regulations to guard against potential on-site environmental nuisances that might be caused by the proposed asphalt production plant. Provided that the applicant would adhere to the proposed access road via Man Kam To Road, he had no objection to the application. However, the District Lands Officer/North (DLO/N) advised that he did not support the inclusion of any Government land in the application and might not grant Government land for direct access from Man Kam To Road;
- (d) no public comment was received during the statutory publication period and no local objection was received by the District Officer. However, local objections had been received at the section 16 application stage; and
- (e) PlanD’s view – PlanD did not support the application for reasons as detailed in paragraph 6.1 of the Paper. There was insufficient information in the applicant’s submission to demonstrate that the proposed asphalt production plant was genuinely of a temporary nature. The approval of the application would frustrate the planning intention of the “AGR” zone and no strong justifications had been provided for a departure from the planning intention. There was also insufficient information in the submission to demonstrate that the vehicular traffic generated by the proposed use would not create environmental nuisances on the domestic structures in the surrounding area.

32. The Chairman then invited the applicant’s representatives to elaborate on the application.

33. With the aid of some plans, Mr. Albert So made the following points:
- (a) the application site was previously used for concrete batching for more than 10 years. Although it was zoned “AGR”, it had never been used for agricultural purposes;
 - (b) the Board had previously approved asphalt production plant use at the application site for a temporary period of three years (Application No. A/NE-FTA/50), which had already lapsed. The applicant wished to apply for a three-year approval again but had no intention to apply for renewal afterwards. Even if the applicant applied for renewal, the Board had the right to reject such application;
 - (c) the proposed asphalt production plant was highly portable. According to the applicant’s estimation, the cost for erecting and dismantling the plant was \$1,218,000 which was small comparing to the turnover of the plant;
 - (d) the applicant had identified a possible alternative site at Lung Kwu Tan for relocation of the plant. A period of three years was required by the applicant to confirm the site, which would involve negotiation with the land owner, resolving traffic and other technical problems and applying for short term waiver from the Lands Department; and
 - (e) the application site was located in proximity to the applicant’s clients and Shenzhen which was the main source of raw materials for asphalt production. The site was ideally located for the proposed use. The applicant realized that only temporary approval could be granted for asphalt production plant use at the site. With a view to reducing pecuniary loss upon relocation, the applicant wished to retain the site for its operation before a suitable alternative site was confirmed.

[Miss Annie Tam arrived to join the meeting at this point.]

34. Several Members raised the following questions:

- (a) whether Sha Ling Road would be used for vehicular access to the application site and how many vehicle trips would be generated by the proposed asphalt production plant;
- (b) whether the previously approved asphalt production plant had actually been put into operation;

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

- (c) in view of the DLO/N's comment that Government land might not be granted to the applicant for the proposed access road from Man Kam To Road, whether the DEP would change its comment of having no objection to the application, which was based on an assumption that vehicular access to the site would be via Man Kam To Road;
- (d) whether the Government would resume the private lot at the application site for any public use;
- (e) whether there was any documentary proof from the applicant on actions being taken to confirm the possible alternative site at Lung Kwu Tan, and whether the time for confirming the site could be shortened;
- (f) given that planning approval might only be granted for the proposed asphalt production plant for a temporary period of three years, why the applicant wished to operate at the application site instead of starting the operation at another site;
- (g) noting that the application site had largely been paved, whether rehabilitation for agricultural use at the site was possible;
- (h) what would be the turnover of the proposed asphalt production plant in monetary terms within a three-year period; and
- (i) whether the applicant was currently operating asphalt production at other

sites.

[Professor Nora K.Y. Tam arrived to join the meeting while Ms. Anna S.Y. Kwong left the meeting temporarily at this point.]

35. In response to Members' questions, Mr. Albert So and Mr. Jason To made the following points:

- (a) vehicular access to the application site would be via Man Kam To Road without involving Sha Ling Road. The area intended to be used for ingress/egress was a piece of Government land, which previously formed part of the private lot covering the application site but was resumed by the Government a few years ago for laying of water mains. The proposed asphalt production plant would generate about 50 to 80 vehicular trips per day;
- (b) an asphalt production plant had previously been installed at the application site but had already been removed;
- (c) the applicant was negotiating with the owner of the possible relocation site at Lung Kwu Tan but documentary proof of the negotiation was not available at this stage. After obtaining the agreement from the owner, the applicant would apply for necessary approvals from relevant Government departments. It was unlikely that the time to confirm the site could be shortened to less than three years;
- (d) the applicant wished to retain the site for asphalt production mainly because it had used the site for concrete batching for many years and most of its clients were located in the vicinity. Furthermore, the site was conveniently located at the transport route linking with Shenzhen which was the main source of raw materials for asphalt production. Relocating the operation would incur significant business loss to the applicant in terms of the loss in clients, cost for relocation and application for necessary approvals from various Government departments and increased transportation cost. Notwithstanding, the applicant accepted that approval for asphalt production

plant on the site would only be granted on a temporary basis. If necessary, the applicant was prepared to undertake in writing not to submit application for renewal;

- (e) the estimated monetary turnover of the proposed asphalt production plant in a three-year period would be about \$150,000,000; and
- (f) the applicant currently did not operate any other asphalt production plant elsewhere.

36. In response to Members' question (c) above, Dr. Michael Chiu said that the DEP's position of having no objection to the application would change if direct access via Man Kam To Road was found to be infeasible and vehicular access to the site would be via Sha Ling Road which was very close to domestic structures.

37. In response to Members' questions (d) and (g) above, Mr. W.K. Hui made the following points:

- (a) the Government had no plan to resume the private lot at the application site for public use; and
- (b) the application site formed part of an extensive "AGR" zone and could be rehabilitated for agricultural uses.

38. As the applicant's representatives had no further comment to make and Members had no further question, 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 representatives of the PlanD and the applicant for attending the meeting. They all left the meeting at this point.

Deliberation Session

39. The Secretary noted that there was a typographic error in paragraph 6.1(a) of the Paper in that the word 'allocation' on the last fifth line of the paragraph should read as

‘relocation’.

40. A Member said that in view of the Court of Appeal (CA)’s judgment on a judicial review relating to the Board’s decision on the previous application No. A/NE-FTA/50, it was important for the Board to ascertain whether the applicant genuinely intended to use the site for the proposed asphalt production plant on a temporary basis only. Another Member had doubt on the applicant’s claim of having no intention to renew the planning approval after three years. This Member pointed out that according to the letter dated 14.5.2007 from the applicant’s representative to the PlanD (Annex E of the Paper), it was admitted that the intention to renew or not might be varied over the years subject to changing economics and market conditions.

41. A Member said that the application site was zoned “AGR” and was intended for agricultural use. The previous use of the site for concrete batching plant was only tolerated on a temporary basis. Another Member said that the applicant had failed to produce documentary proof on actions being undertaken to confirm the availability of the relocation site at Lung Kwu Tan. Given the significant business loss that would be incurred in relocating the operation to Lung Kwu Tan as admitted by the applicant’s representatives, there was doubt on whether the applicant would have the incentive to relocate the operation after three years.

[Ms. Sylvia S.F. Yau left the meeting temporarily at this point.]

42. A Member said that while it was important to provide sufficient asphalt for construction and road works, taking into account the CA’s judgment and the fact that the applicant did not provide sufficient information to demonstrate its intention of confining the proposed use to a temporary nature, the application could not be approved. Other Members shared this view and considered that it would not be appropriate for the Board to approve the application without being satisfied that the proposed use was of a genuine temporary nature.

[Ms. Anna S.Y. Kwong returned to the meeting at this point.]

43. In relation to the DLO/N’s comment in paragraph 4.1.5(c) of the Paper, Miss Annie Tam said that should the application be approved, the DLO/N might give further consideration to whether Government land would be granted to facilitate the proposed use. Since the availability of vehicular access direct from Man Kam To Road remained uncertain, Members agreed that the rejection reason as suggested in paragraph 6.5(b) was relevant.

44. After deliberation, the Board decided to reject the application and the reasons were:
- (a) there was insufficient information in the submission to demonstrate that the proposed asphalt production plant was genuinely temporary in nature. The approval of the application would frustrate the planning intention of the “Agriculture” zone which was primarily to retain and safeguard good agricultural land/farm/fish ponds for agricultural purposes. No strong justifications had been provided in the submission for a departure from the planning intention; and
 - (b) there was insufficient information in the submission to demonstrate that the vehicular traffic generated by the proposed asphalt production plant would not create environmental nuisances on the domestic structures in the surrounding area.

[Ms. Sylvia S.F. Yau returned to the meeting while Dr. K.K. Wong, Mr. B.W. Chan, Professor Paul K.S. Lam, Mr. Donald Alfred Yap and Dr. Daniel B.M. To left the meeting at this point.]

Agenda Item 6

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/NE-LYT/358

Proposed Five Houses (New Territories Exempted Houses) in “Agriculture” and “Green Belt” Zones, Lot 49 in DD 85, Tung Kok Wai, Lung Yuek Tau, Fanling

(TPB Paper No. 7908)

[The meeting was conducted in Cantonese.]

Presentation and Question Session

45. Mr. W.K. Hui, District Planning Officer/Shatin, Tai Po and North District, Planning Department (DPO/STN, PlanD), and the following representatives of the applicant were invited to the meeting at this point:

Mr. So Siu-hong

Mr. Lai Kin-on

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

47. With the aid of some plans and photographs, Mr. W.K. Hui presented the application and covered the following aspects as detailed in the Paper:

- (a) the Rural and New Town Planning Committee (RNTPC) rejected the application on 25.5.2007 for reasons that there was no strong justification in the submission for a departure from the planning intention of the “Agriculture” (“AGR”) zone and the approval of the application would set an undesirable precedent for similar applications;
- (b) the applicant had not submitted any written representation in support of the review application;
- (c) a previous application for development of five New Territories Exempted Houses (NTEHs) (No. DPA/NE-LYT/19) was approved with conditions by the Board on review on 11.12.1992 on sympathetic consideration that the proposed NTEHs were required by the then applicants who were indigenous villagers. The planning permission lapsed on 11.6.1997 after four extensions of the time limit to comply with the approval conditions. The current application was submitted by a company;
- (d) departmental comments – highlighting that the Assistant Commissioner for Transport/New Territories had reservation on the application as the application site was located outside the ‘village environs’ (‘VE’) and away from the village proper with no vehicular access;
- (e) one public comment was received during the statutory publication period stating objections from the local villagers on the ground that the proposed houses were outside the ‘VE’ and the “Village Type Development” zone. The District Officer/North received objections from the Chairman of Fanling

District Rural Committee and a representative of the indigenous inhabitants on the ground that the application was submitted by a property developer for profit making and the applicant would unlikely live in the proposed houses; and

- (f) PlanD's views – PlanD did not support the application for reasons as detailed in paragraph 6.1 of the Paper. The proposed development was not in line with the planning intention of the “AGR” zone and there was no strong justification in the submission for a departure from the planning intention. The site fell outside an established built-up area and was in lack of infrastructural support. Approving the application would set an undesirable precedent for similar applications, resulting in cumulative adverse traffic impacts in the area.

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

49. Mr. So Siu-hong made the following points:

- (a) the proposed development was largely the same as the one previously approved by the Board in 1992. The applicant of the current application was a company formed by a family of indigenous villagers. The proposed NTEHs were for the use of indigenous villagers; and
- (b) the application site was located in an area which was well served in terms of infrastructures. Compared with many other NTEH developments, the site was not particularly remote from the main road. The concern of AC for T/NT was not justified.

[Ms. Carmen K.M. Chan left the meeting at this point.]

50. Several Members raised the following questions:

- (a) when was the “AGR” zone covering the application site firstly designated;

- (b) what was the current condition of the old houses at the application site which, according to justifications provided by the applicant at the section 16 application stage, were to be redeveloped under the previous application approved in 1992;
- (c) whether the owners of the company who submitted the current application were all indigenous villagers of Lung Yeuk Tau;
- (d) whether the applicant had attempted to apply for Small Houses within the 'VE' of Lung Yeuk Tau; and
- (e) why the indigenous villagers chose to submit the application in the name of a company.

51. Mr. W.K. Hui said that the application site had been zoned "AGR" since the Lung Yeuk Tau Outline Zoning Plan was first gazetted in 1994.

52. In response to Members' questions, Mr. So Siu-hong made the following points:

- (a) the old houses at the site had either fallen down or were in ruins;
- (b) the company submitting the current application was formed by a family of six indigenous villagers of Lung Yeuk Tau. Three of them were male descendents entitled to Small House grant but only the father of the family had built a Small House. They had attempted to purchase private land within the 'VE' of Lung Yeuk Tau and applied for grant of Government land for building Small House but both in vain; and
- (c) the family considered that holding the land in form of a company would facilitate distribution of landed interests amongst the family members.

53. As the applicant's representatives had no further comment to make and Members had no further question, 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 representatives of the PlanD and the applicant for attending the meeting. They all left the meeting at this point.

Deliberation Session

54. A Member said that the applicant had not submitted sufficient additional information to address the concerns of RNTPC in rejecting the application. The application site was remote from the main road and was not suitable for residential development. Another Member said that there was no information to demonstrate that all the five proposed NTEHs were for the use of indigenous villagers entitled to Small House grant. Members considered that the application did not comply with the interim criteria for consideration of applications for NTEH/Small House in the New Territories.

55. After deliberation, the Board decided to reject the application and the reasons were:

- (a) the proposed development was not in line with the planning intention of the “AGR” zone for the area which was primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes, and to retain fallow arable land with good potential for rehabilitation. There was no strong justification in the submission for a departure from the planning intention. The site fell outside an established built-up area and the proposed development was in lack of infrastructural support; and
- (b) the approval of the application would set an undesirable precedent for similar applications in the future, resulting in substantial cumulative adverse traffic impacts in the area.

[Dr. C.N. Ng, Professor Peter R. Hills and Mr. David W.M. Chan left the meeting at this point.]

Agenda Item 7

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/K18/241

Proposed School (Tutorial Centre) in “Residential (Group C)1” zone,
G/F, 16 Cumberland Road, Kowloon Tong (NKIL 760)

(TPB Paper No. 7909)

[The meeting was conducted in Cantonese.]

Presentation and Question Session

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

Mr. Will Wong

Ms. Cho Siu Lin, Bianca

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

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

- (a) the Metro Planning Committee (MPC) rejected the application on 25.5.2007 for reason that there was no sufficient information in the submission to demonstrate that the proposed tutorial school would be compatible with the other possible uses within the same building and the application site;
- (b) the further written representation submitted by the applicant in support of the review application as summarized in paragraph 3 of the Paper;
- (c) the applicant had previously submitted an application (No. A/K18/239) for tutorial centre use on both the G/F and 1/F of the subject building and in the structure at the rear part of the site. That application was rejected by MPC on 17.11.2006 for reason that the premises involved unauthorized structures which were not suitable for school use from building safety point of view. Under the current application, the proposed tutorial centre was confined to the G/F, but the targeted number of students to be accommodated remained the same;

- (d) departmental comments – no adverse comments were raised by the concerned Government departments;
- (e) one public comment was received during the statutory publication period raising objection to the application due to environmental and traffic concerns; and
- (f) PlanD's views – PlanD did not support the application for reasons as detailed in paragraph 6.4 of the Paper. There was no sufficient information in the submission to demonstrate that the proposed tutorial school would be compatible with the other permitted uses within the same building and the subject site. Furthermore, there was no effective means to safeguard against the infiltration of tutorial school use to the remaining part of the site.

[Mr. K.Y Leung left the meeting at this point.]

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

60. Mr. Will Wong made the following points:

- (a) the current application premises was confined to the G/F of the building which did not involve any unauthorized structures. The reason for rejection of the previous application No. A/K18/239 was not applicable to the current case; and
- (b) no objection was raised by the concerned Government departments, except the PlanD. To address the PlanD's concerns on possible interface problem to be caused by mixed use as well as the infiltration of tutorial centre use to the remaining part of the site, the applicant had already blocked off the 1/F of the building and the rear part of the site. The applicant followed all application procedures, and all requirements set out by concerned Government departments had been met. There was no ground for rejection of the application.

61. Several Members raised the following questions:

- (a) should the unauthorized structures within the site be removed, whether an application for using the whole site for tutorial centre would be acceptable;
- (b) whether the current application premises comprised any unauthorized structures or did any part of it involve access to 1/F of the building;
- (c) were both the G/F and 1/F of the building rented by the applicant, and what was the intended use for the 1/F;
- (d) why did the number of students of the proposed tutorial centre in the current application remain the same as that in the previous application despite the reduction in the area of application premises;
- (e) were the historical features in the building matters of heritage concern in the previous application and whether the wooden staircase in the building, which was one of the historical features, would be affected if the 1/F was also used as tutorial centre; and
- (f) how many classrooms were proposed in the current application and whether the proposed tutorial centre would be registered under the Education Ordinance.

62. In response to Members' questions, Mr. Will Wong and Ms. Cho Siu Lin, Bianca made the following points:

- (a) there were no unauthorized structures in the current application premises, which were only confined to the G/F of the building;
- (b) both the G/F and 1/F of the building were under the sole tenancy of the applicant intended for tutorial centre use. Due to the existence of unauthorized structures, the applicant had left the 1/F vacant and had no exact plan for future use at this moment. Should the unauthorized structures

be removed, another planning application might be submitted to extend the tutorial centre to the 1/F. The applicant would like to see the unauthorized structures removed, but had no right to dismantle the structures without the landlord's consent;

- (c) although the area of the application premises was reduced under the current application, the same number of students would be accommodated by reducing the length of lessons and holding more classes;
- (d) the existing wooden staircase linking the application premises and the 1/F of the building was not wide enough to meet the Buildings Department's requirement regarding the provision of means of escape. If the 1/F was used for tutorial centre, a new staircase would have to be provided and therefore, the wooden staircase would not be affected;
- (e) two classrooms would be provided in the proposed tutorial centre under application. Subject to the approval of the application, the applicant would apply to the Education Bureau (EB) for school registration. The applicant would comply with various requirements set out by EB and other concerned Government departments; and
- (f) the applicant had signed a tenancy agreement for using the subject building which would last for a few years. The premises had already been left vacant for about one year. It was the applicant's wish to use that part of the premises without any unauthorized structures for tutorial school purpose first. However, removal of the unauthorized structures would require the consent of the landlord. The applicant would liaise with the landlord further to remove the unauthorized structures so that the remaining areas would be put to the same use. There was no intention to use the 1/F of the building for residential purpose.

63. Mr. Eric Yue made the following points to address Members' questions:

- (a) if the applicant wished to use the whole site for tutorial centre after removing the unauthorized structures, a fresh planning application should be

submitted;

- (b) access from the application premises to the 1/F of the building was available via a wooden staircase. Despite the fact that the staircase had been blocked by the applicant, it was difficult to ensure that the 1/F would be left unused. As shown in the photographs at Plan R-6 of the Paper, the 1/F of the building had already been partitioned into units looking like for classroom use; and
- (c) a concern on possible disturbance of the historical features was raised by the Antiquities and Monuments Office (AMO) in the previous application No. A/K18/239 but it was not a reason for the rejection of that application. To address AMO's concern, PlanD had recommended in the previous application that should the application be approved, the applicant should be advised not to cause any disturbance to the historical features.

64. The Secretary said that since the site was zoned "Residential (Group C)1" ("R(C)1"), the applicant could use the 1/F of the building for residential use without the need for obtaining planning permission. Also, the existing building was constructed for domestic use under the Buildings Ordinance. Under such circumstances and given that the G/F would be used as a tutorial centre should the application be approved, mixed use at the site might occur. To avoid any potential interface problems, separate access should be provided to different uses according to the Board's established practice. Such requirement was not satisfied in the current application.

65. As the applicant's representatives had no further comment to make and Members had no further question, 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 representatives of the PlanD and the applicant for attending the meeting. They all left the meeting at this point.

[Ms. Starry W.K. Lee left the meeting at this point.]

Deliberation Session

66. A Member said that since the application premises covered only the G/F of the building, the concern on infiltration of tutorial centre use to the other parts of the site should be a matter for other relevant Government departments rather than a major consideration for the Board. The Board should focus on whether the proposed use was suitable at the site and whether approving the application might lead to interface problems due to mixed use at the site. Other Members agreed.

67. A Member asked whether the application could be approved with a condition requiring the applicant to undertake not to have mixed use at the site or to carry out necessary measures to mitigate possible interface problems. The Chairman said that such condition would not be effective to address the concern since the site was zoned "R(C)1" and residential use was always permitted. The same Member further asked if it was possible for the Board to prevent the occurrence of mixed use by revoking the planning approval in case the said approval condition was violated. Mrs. Ava S.Y. Ng responded that since the site was in the urban area, the provisions for planning enforcement under the Town Planning Ordinance were not applicable. Other enforcement mechanisms, such as through the rejection of building plans or refusal of lease modification, were also not effective in the current case as both building plan approval and lease modification would not be required if the 1/F of the building was put to residential use. The Secretary added that planning approval ran with the land while an undertaking by an applicant was made on a personal capacity, which would not be binding on the subsequent users of the site. There was also legal complication if the Board had to rely on such undertaking in planning control. At the request of the Member, the Secretary would check with the EB on whether a school registration would be revoked if the planning approval in respect of the school use was revoked.

[Post-meeting note: EB advised that whether a school registration would be revoked was subject to the discretion of the Secretary for Education, taking into account all relevant considerations. Revocation of the relevant planning approval would be one of the considerations.]

68. Another Member also considered that sympathetic consideration could be given to the application subject to a suitable approval condition to avoid the occurrence of mixed use. By confining the proposed tutorial centre use to the G/F of the building, the applicant had addressed the main concern of the Board in the rejection of the previous application. The other concerns, such as the infiltration of tutorial centre use to other parts of the site, lack of separate access to different uses and possible disturbance to the historical features, could be

dealt under other relevant ordinances.

69. Other Members, however, considered that since the site was zoned “R(C)1”, approving the application might lead to the occurrence of mixed use at the site and undesirable interface problems. There was insufficient information in the submission to demonstrate that such problem would not occur. A Member pointed out that the solution to avoid any possible interface problem would be to remove all the unauthorized structures and submit a fresh planning application for using the whole building for tutorial school purpose.

[Ms. Anna S.Y. Kwong left the meeting at this point.]

70. After deliberation, the Board decided to reject the application and the reason was that there was no sufficient information in the submission to demonstrate that the proposed tutorial school would be compatible with the other permitted uses within the same building and the subject site.

[Professor N.K. Leung, Professor David Dudgeon, Dr. Greg C.Y. Wong and Dr. Michael Chiu left the meeting at this point.]

Agenda Item 9

[Open Meeting]

Draft Hung Hom Outline Zoning Plan No. S/K9/19 –
Submission to the Chief Executive in Council for Approval
(TPB Paper No. 7911)

[The meeting was conducted in Cantonese.]

85. The Secretary briefly introduced the Paper.

86. After deliberation, the Board agreed that:

- (a) the draft Hung Hom Outline Zoning Plan (OZP) No. S/K9/19A and its Notes at Annexes I and II respectively of the Paper were suitable for submission under section 8 of the Town Planning Ordinance to the Chief Executive in

Council (CE in C) for approval;

- (b) the updated Explanatory Statement (ES) for the draft Hung Hom OZP No. S/K9/19A at Annex III of the Paper should be endorsed as an expression of the planning intention and objectives of the Board for the various land-use zonings on the draft OZP and issued under the name of the Board; and
- (c) the updated ES was suitable for submission to the CE in C together with the draft OZP.

Agenda Item 10

[Open Meeting]

Draft Kai Tak Outline Zoning Plan No. S/K22/1 – Information Note and Hearing Arrangement for Consideration of Further Representations
(TPB Paper No. 7914)

[The meeting was conducted in Cantonese.]

87. The Secretary briefly introduced the Paper. She said that the proposed amendments to the draft Kai Tak Outline Zoning Plan (OZP) No. S/K22/1 in relation to the new Kai Tak City Centre to partially meet Representation No. 1 were exhibited for public inspection on 24.8.2007, and six further representations were received. As the representation was considered by the full Board, it was considered more appropriate for the Board to hear the further representations without resorting to the appointment of a Representation Hearing Committee (RHC). In order to meet the statutory time limit of nine months for submission of the draft OZP to the Chief Executive in Council (CE in C) for approval, it was suggested that a special meeting should be held at 11 a.m. on 28.9.2007, i.e. after the meeting of the Metro Planning Committee, to consider the further representations.

88. After deliberation, the Board agreed to consider the further representations itself in the manner as proposed in paragraphs 2.2 and 2.3 of the Paper.

Agenda Item 12

[Open Meeting]

Any Other Business

[The meeting was conducted in Cantonese.]

90. There being no other business, the meeting was closed at 1:30 p.m.