

**Minutes of 876th Meeting of the
Town Planning Board held on 26.1.2007**

Present

Permanent Secretary for Housing, Planning and Lands
(Planning and Lands)
Mrs. Rita Lau

Chairperson

Dr. Peter K.K. Wong

Vice-Chairman

Mr. Michael K.C. Lai

Ms. Carmen K.M. Chan

Professor Nora F.Y. Tam

Mr. Nelson W.Y. Chan

Mr. Leslie H.C. Chen

Dr. Lily Chiang

Dr. David Dudgeon

Professor Peter R. Hills

Mr. Tony C.N. Kan

Mr. Edmund K.H. Leung

Professor N.K. Leung

Professor Bernard V. W.F. Lim

Dr. C.N. Ng

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

Ms. Maggie M.K. Chan

Mr. Raymond Y.M. Chan

Mr. Y.K. Cheng

Ms. Anna S.Y. Kwong

Dr. James C.W. Lau

Ms. Starry W.K. Lee

Mr. K.Y. Leung

Director of Planning
Mrs. Ava Ng

Principal Assistant Secretary (Transport)
Environment, Transport and Works Bureau
Ms. Ava Chiu

Assistant Director(2), Home Affairs Department
Ms. Margaret Hsia

Deputy Director of Environmental Protection
Dr. Michael Chiu

Director of Lands
Mr. Herbert Leung

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

Secretary

Absent with Apologies

Dr. Greg C.Y. Wong

Mr. David W.M. Chan

Mr. Felix W. Fong

Professor Paul K.S. Lam

In Attendance

Assistant Director of Planning/Board

Mr. S. Lau

Chief Town Planner/Town Planning Board

Ms. Brenda K.Y. Au

Senior Town Planner/Town Planning Board

Mr. W.S. Lau

Agenda Item 1

Confirmation of Minutes of the 875th Meeting held on 12.1.2007

1. The minutes of the 875th meeting held on 12.1.2007 were confirmed subject to addition of “and” at the end of point (e) in paragraph 46.

Agenda Item 2

Matters Arising

[Open Meeting]

[The meeting was conducted in Cantonese.]

(i) Town Planning Appeal Decisions Received

Town Planning Appeal No. 3 of 2006 (3/06)

Temporary Open Storage of Vehicles and Vehicle Parts for a Period of 3 Years in “Village Type Development” zone in Lots 465BRP(Part) and 466RP (Part) in DD 109, Kam Tin Road, Kam Tin, Yuen Long

(Application _____ No. _____ A/YL-KTN/236)

Town Planning Appeal No. 4 of 2006 (4/06)

Temporary Open Storage of Vehicles and Vehicle Parts for a Period of 3 Years in “Village Type Development” zone in Lot 466RP (Part) in DD 109, Kam Tin Road, Kam Tin, Yuen Long

(Application _____ No. _____ A/YL-KTN/237)

Town Planning Appeal No. 6 of 2006 (6/06)

Temporary Open Storage of Vehicles for a Period of 3 Years in “Village Type Development” zone in Lot 466RP (Part) in DD 109, Kam Tin Road, Kam Tin, Yuen Long

(Application No. A/YL-KTN/238) _____

Town Planning Appeal No. 8 of 2006 (8/06)
Temporary Open Storage of Vehicle Glass (including Parking and Loading/Unloading)
for a Period of 3 Years in “Village Type Development” zone in Lot 466RP (Part) in DD
109, Kam Tin Road, Kam Tin, Yuen Long
(Application No. A/YL-KTN/239)

2. The Secretary reported that the four captioned appeals were lodged by the appellants between March and April 2006 against the decisions of the Town Planning Board (TPB) to reject them upon review. The subject sites of the appeals were all zoned “Village Type Development” (“V”) on the draft Kam Tin North Outline Zoning Plan. The four appeals were heard by the Town Planning Appeal Board (TPAB) on 11.12.2006 and 14.12.2006. They were dismissed by TPAB on 15.1.2007 on the following grounds:

- the appellants were unable to convince the TPAB that the open storage uses were not incompatible with the nearby residential sites. The Director of Environmental Protection (DEP) had commented that the proposed developments would have adverse environmental impact on the adjacent existing village houses. Approval had been given for two more houses and it was very likely that more applications for Small House development would follow. The neighbouring open storage uses did not have planning permission. The way had been paved to realize Small House development in the “V” zone. It was unsafe to disregard DEP’s view merely because of no local complaints. The absence of local objections was a relevant but not a conclusive consideration;
- it was undesirable from planning point of view to encourage location of open storage uses close to residential areas. It was for the very purpose of discouraging such incompatible land uses that the TPB adopted its policy relating to open storage uses in the rural areas. The planning intention of the “V” zone was to ensure that village houses were situated in desirable surroundings; and
- the appellants had been given permission in 2003 and 2004 for short periods of 12 months to give them time to find alternative sites for relocation. Their

current applications were rejected by the TPB because they failed to provide evidence of genuine efforts to relocate. The TPAB was unable to give the appellants an extension of time because, as before the TPB, they failed to provide credible evidence of any serious attempt to relocate their businesses.

3. The Secretary supplemented that a copy each of the Summary of Appeal and the TPAB's letter dated 15.1.2007 attaching the appeal decisions were despatched to Members for reference on 24.1.2007.

(ii) Town Planning Appeal Received

Town Planning Appeal No. 1 of 2007

Temporary Open Storage of Building Materials for a period of 3 Years in "Agriculture" Zone, Lot 160B5 in DD 38, Sha Tau Kok Road, Man Uk Pin, Sha Tau Kok.

(Application No. A/NE-MUP/52)

4. The Secretary reported that an appeal against the decision of the TPB to reject on review an application for temporary open storage of building materials for a period of 3 Years in "Agriculture" zone on the approved Man Uk Pin Outline Zoning Plan (OZP) No. S/NE-MUP/11 was received by the TPAB on 12.1.2007. The application was rejected by the TPB on 24.11.2006 on the following grounds :

- (a) the development was not in line with the planning intention of the "Agriculture" zone which was to retain and safeguard agricultural land for agricultural purposes and also intended to retain fallow arable land with good potential for rehabilitation;
- (b) the proposed use would cause adverse impact on agricultural activities in the vicinity of the site;
- (c) the development under application did not comply with the Town Planning Board Guidelines for 'Application for Open Storage and Port

Back-up Uses' in that no previous approval was granted to the site and there were adverse departmental comments;

- (d) there was insufficient information in the submission to demonstrate that the uses under application would not have any adverse environmental impact on the surrounding areas; and
- (e) the approval of the application would set an undesirable precedent for other similar applications, and the cumulative effect of approving these applications would result in a general degradation to the environment of the area.

5. The hearing date of the appeal was yet to be fixed. The Secretary would represent the Board on all matters relating to the proceedings of the TPAB in the usual manner.

(iii) Appeal Statistics

6. The Secretary reported that as at 26.1.2007, 26 cases were yet to be heard by the TPAB. Details of the appeal statistics were as follows:

Allowed	:	17
Dismissed	:	94
Abandoned/Withdrawn/Invalid	:	120
Yet to be Heard	:	26
Decision Outstanding	:	2
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Total	:	259

Agenda Item 3

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/YL-ST/320

Temporary Sale Office for Second-hand Private Vehicles for a Period of 2 Years in “Village Type Development” zone, Lots 3055D(Part), 3057RP(Part), 3058A, 3058RP, 3059(Part), 3060(Part), 3061(Part) and 3067(Part) in DD 102, San Tin, Yuen Long
(TPB Paper No. 7748)

[The hearing was conducted in Cantonese.]

Presentation and Question Session

8. Mr. Wilson So, District Planning Officer/Tuen Mun and Yuen Long of the Planning Department (PlanD), and the following applicant’s representatives were invited to the meeting at this point:

Mr. Man Wai-cheong

Mr. Man Wai-kei

Mr. Man Hok-yin

Mr. Ku Kin-pong

Ms. Yip Man-li

Ms. Cheung Kam-han

9. The Chairperson extended a welcome and explained briefly the procedures of the review hearing. The Chairperson then invited Mr. Wilson So to brief Members on the background to the application.

10. With the aid of some plans, Mr. Wilson So did so as detailed in the Paper and made the following main points:

(a) the applicant sought planning permission for temporary sale office for second-hand private vehicles for a period of 2 years in an area zoned “Village Type Development”(“V”);

(b) the reasons for the Rural and New Town Planning Committee (RNTPC) to reject the application on 29.9.2006 were set out in paragraph 1.2 of the Paper;

- (c) no written representation in support of the review application was submitted by the applicant;
- (d) departmental comments – the District Lands Officer/Yuen Long did not support the application as it would affect 3 approved Small House applications occupying a large portion of the site. The Drainage Services Department (DSD) considered that revision of the drainage proposal was required;
- (e) public comments – no public comment was received during the public inspection period of the review application and no local objection was received from the District Office; and
- (f) PlanD's view – PlanD did not support the application for reasons stated in paragraph 5.2 of the Paper. The use under application would affect 3 Small House developments in the “V” zone and there was concern on the drainage proposal.

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

12. With the aid of some photos and plans, Mr. Man Wai-cheong made the following main points:

- (a) although the Lands Department had approved 3 Small House developments, it would take a long time to complete the necessary procedures before commencement of building works. Lot 3055D in which a Small House had been approved was largely outside the application site. The other two Small House developments on Lot 3058RP and 3058A, owned by his relatives, would not be constructed within a short period;
- (b) as it was costly to build a Small House, interim use of the vacant land could provide financial assistance to the building cost;

- (c) on-site drainage improvement works had been done according to the drainage proposal submitted previously. Connection to public sewer would be done after securing the consent of the concerned private landowner. Further details would be submitted to concerned departments upon approval of the review application; and
- (d) it was good land management to make use of the vacant site, which did not contravene the planning intention, pending Small House development.

13. A Member asked whether the site would also be used as vehicle repair workshop. Mr. Man Wai-cheong said that the use under application was for open storage of vehicles with a sales office and there would be no vehicle repair activities.

14. A Member asked about the differences between the previously rejected application No. A/YL-ST/293 and the current application. Mr. Wilson So replied that the rejected application submitted by a different applicant was for the same use but the site was slightly smaller. That application was rejected by the Board mainly on grounds that the development was not in line with the planning intention of the “V” zone and there was active Small House development programme within the site. Mr. Man Wai-cheong remarked that there were 16 Small House developments in the area but all owners had consensus on when to commence construction of the houses and the application for temporary use would not affect the programme of the Small House developments.

15. The Chairperson said that if the proposed application was for two years, there would be conflict with the approved Small House developments. In response, Mr. Man Wai-cheong said that a temporary approval period of six to twelve months would be acceptable to the applicant.

16. As the applicant’s representatives had no further comment to make and Members had no further question to raise, the Chairperson 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 Chairperson thanked the applicant’s representatives and

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

Deliberation Session

17. The Chairperson said that the villagers managed to coordinate the pace of their Small House developments which would not take place within a period of time. As it would not affect the Small House developments and the applicant had undertaken to address DSD's concern on the drainage proposal, the interim use of the vacant land could be favourably considered. Members noted that three applications for temporary uses had been approved by the RNTPC/the Board before.

18. As a general issue, a Member asked what were the long-term measures to cater for the parking demand in the Lok Ma Chau area. Mrs. Ava Ng replied that there were sufficient planning mechanisms to cater for such demand, e.g. planning applications could be submitted for consideration by the Board in appropriate zones. In the longer term, the needs might shift westwards with the opening of the Western Corridor. The Chairperson said concerned departments would monitor the situation closely.

19. After further deliberation, the Board decided to approve the application on review on the terms of the application as submitted to the Board. The planning permission should be valid on a temporary basis for a period of 12 months until 26.1.2008 and subject to the following conditions:

- (a) no vehicle repair activities should be undertaken on the site;
- (b) the submission of landscape proposals within 3 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 26.4.2007;
- (c) in relation to (b) above, the implementation of landscape proposals within 6 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 26.7.2007;

- (d) the submission of drainage proposals within 3 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 26.4.2007;
- (e) in relation to (d) above, the provision of drainage facilities proposed within 6 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 26.7.2007;
- (f) the submission of a proper run-in proposal for the site within 3 months from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by 26.4.2007;
- (g) in relation (f) above, the provision of a proper run-in within 6 months from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by 26.7.2007;
- (h) the provision of a 9-litre water type/3 kg dry powder fire extinguisher in the office within 3 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 26.4.2007;
- (i) if the above planning condition (a) was not complied with during the planning approval period, the approval hereby given should cease to have effect and should be revoked immediately without further notice;
- (j) if any of the above planning conditions (b), (c), (d), (e), (f), (g) or (h) was not complied with by the specified date, the approval hereby given should cease to have effect and should on the same date be revoked without further notice; and
- (k) upon the expiry of the planning permission, the reinstatement of the application site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

20. The Board also agreed to advise the applicant of the following:
- (a) a shorter approval and compliance period was granted in order not to frustrate the prospective Small House development on site and to monitor the fulfillment of relevant approval conditions;
 - (b) to resolve any land issues relating to the development with the concerned owner(s) of the application site;
 - (c) to note District Lands Officer/Yuen Long's advice to apply to his office for Short Term Waiver for regularization of the unauthorized structure within the site;
 - (d) to follow the latest "Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites" issued by the Environmental Protection Department to minimize potential environmental impacts on the surrounding areas;
 - (e) to note Chief Highway Engineer/New Territories West, Highways Department's advice that his office should not be responsible for the maintenance of any vehicular access connecting the application site and Castle Peak Road; and
 - (f) to note Chief Buildings Surveyor/New Territories West, Buildings Department's comments that the granting of planning approval should not be construed as condoning any structures existing on the site under the Buildings Ordinance (BO) and the allied regulations. Actions appropriate under the BO or other enactment might be taken if contravention was found. Containers used as offices were considered as temporary buildings and were subject to control under Building (Planning) Regulations (B(P)R) Part VII. Formal submission of any proposed new works including any temporary structure for approval under the BO was required. If the site was not abutting and accessible from a street having a width of not less than 4.5m, the development intensity should be determined under B(P)R 19(3) during building plan

submission stage.

Agenda Item 4

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/FSS/167

Eating Place (Restaurant) in “Government, Institution or Community” zone, First Floor, the Emperor Hall Building (i.e. Lot 4433 S.17 (Part) in DD 51), 18 Sha Tau Kok Road, Lung Yeuk Tau, Fanling

(TPB Paper No. 7745)

[The hearing was conducted in Cantonese.]

Presentation and Question Session

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

Mr. So Siu-hong

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

23. 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 to use the application premises for a restaurant in an area zoned “Government, Institution or Community” (“G/IC”);

- (b) the reasons for the Rural and New Town Planning Committee (RNTPC) to reject the application on 29.9.2006 were set out in paragraph 1.2 of the Paper;
- (c) no written representation in support of the review application had been submitted by the applicant;
- (d) departmental comments – the Transport Department objected to the application as no on-site parking and loading/unloading spaces were provided;
- (e) public comments – one public comment objecting to the application on traffic and health grounds was received during the statutory publication period of the review application. Two local objections from the Fanling District Rural Committee and the Owners' Committee of Fanling Industrial Centre on traffic and hygiene grounds were received by the District Office; and
- (f) PlanD's view – PlanD did not support the application for reasons stated in paragraph 6.1 of the Paper. The restaurant use was not in line with the planning intention of the "G/IC" zone and no information had been submitted to demonstrate that the application would not generate adverse impacts on the traffic in the area.

24. The Chairperson then invited the applicant's representative to elaborate on the application.

25. With the aid of some photos, Mr. So Siu-hong made the following main points:

- (a) the Emperor Hall Building served as the "Tsz Tong" of On Lok Tsuen which comprised various clans. In a traditional village, "Tsz Tong" provided a gathering place for villagers to enjoy 'poon choi' in festive and important days. The restaurant was intended to provide a hygienic environment for preparation of food and for the villagers to

celebrate their events;

- (b) the restaurant use was an ancillary facility and formed part of the 'Tsz Tong'. It was not a normal restaurant and was not open when the 'Tsz Tong' was closed; and
- (c) the restaurant provided community service to the villagers and the use was in line with the planning intention of "Government, Institution or Community" ("G/IC") zone.

26. The questions raised by Members were summarized as follows:

- (a) how the restaurant was operated, in particular what the opening hours were and for how long it had operated;
- (b) whether there was a name for the restaurant and whether the signboard for the restaurant was displayed;
- (c) who owned the Emperor Hall Building and whether the managing body was a non-profit making organization;
- (d) what the floor uses of the building were as permitted in the Occupation Permit;
- (e) what the user restriction was under the lease, and whether there was any restriction on non-offensive trades;
- (f) whether there were commercial restaurant facilities available in the vicinity;
- (g) whether there was provision of car and coach parking spaces in the vicinity; and
- (h) whether the applicant had discussed with the Rural Committee on the application.

27. In response, Mr. W.K. Hui made the following main points:
- (a) according to the approved building plans, the application premises was for canteen use, not restaurant use;
 - (b) although the subject lease was untraceable, the lot was subject to control under Gazette Notice 365 which prohibited offensive trades;
 - (c) there were commercial restaurants available in Luen Wo Hui opposite to the application site; and
 - (d) there were parking facilities available for cars and coaches in Luen Wo Hui.
28. Mr. So Siu-hong made the following responses:
- (a) the restaurant served ‘poon Choi’ but other dishes were also available to any members of the public. For ‘poon Choi’, advance booking arrangement was required and the restaurant was not intended for tour groups. The operation hours were from noon to about 8 p.m. The restaurant use had already been in operation since September 2006. When applying for a restaurant licence from the Food and Environmental Hygiene Department, the applicant was told that planning permission was required and hence, the planning application was submitted;
 - (b) the name for the restaurant was “King of Poon Choi” but they did not display a signboard since a restaurant licence had not yet been obtained;
 - (c) the building was owned by a company and was managed by a committee. As the management committee had just been set up, it was not yet registered as a non-profit making organization;

- (d) according to the Occupation Permit, the use at the premises on first floor was for canteen while the third floor was for management office use. The other floors were for worshipping purposes;
- (e) there were sufficient parking facilities available for cars and coaches in both On Lok Tsuen and Luen Wo Hui; and
- (f) there was political complication in the application but the applicant had secured some local support. Letters from the supporters had not been obtained for submission to the Board because they worried that any further information submitted would require publication for public comments and delay the s.17 review.

29. As the applicant's representative had no further comment to make and Members had no further question to raise, the Chairperson 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 Chairperson thanked the applicant's representative and PlanD's representative for attending the meeting. They both left the meeting at this point.

Deliberation Session

30. In response to a Member's question, the Chairperson said that if the premises was for canteen use, there was no need for planning permission in the "G/IC" zone. Members noted that the operation of a canteen should be more restrictive, compared with an ordinary restaurant in terms of target customers, display of signboard, variety of food and beverages sold.

31. A Member said that in a temple or 'tsz tong' in a traditional village, the provision of some dining facilities would provide a gathering place and help promote cohesiveness of the local community. However, a canteen in the subject development would be able to serve the purpose. Another Member added that the restaurant use deviated from the planning intention of the "G/IC" zone.

32. A Member said that there were already commercial restaurant facilities opposite to the application site in Luen Wo Hui. Another Member considered that approval of the application would not be fair to the operators of the restaurants in the vicinity. Some Members did not see any strong justifications for approving the case.

33. A Member asked which department should be responsible for enforcement if the applicant continued to operate the premises for restaurant use. The Chairperson said that the Food and Environmental Hygiene Department would be responsible for enforcement against any unlicensed restaurant.

34. Another Member asked whether there would be unfairness as the applicant's representative claimed that they did not submit letters of supporters because the information might be further published for public comments and would cause delay to the review application. The Secretary said that according to the Town Planning Ordinance, the Secretary to the Board had to determine whether further information would be exempted from publication and recounting requirement, and there were clear Town Planning Board Guidelines on submission and publication of further information. The Chairperson added that it was up to the applicant to decide whether to submit further information to support the case, and there was no question of unfairness.

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

- (a) the restaurant use under application was not in line with the planning intention of "Government, Institution or Community" zone which was intended primarily for the provision of Government, institution or community facilities serving the needs of the local residents and/or a wider district region or the territory and to provide land for uses directly related to or in support of the work of the Government, organizations providing social services to meet community needs, and other institutional establishments. It was considered incompatible with the other religious uses within the same building and the adjoining industrial buildings; and
- (b) no information had been submitted to demonstrate that the use under

application would not generate adverse traffic impacts on the surrounding areas.

[Professor Bernard V.W.F. Lim and Mr. Daniel B.M. To left the meeting temporarily while Dr. Michael Chiu arrived to join the meeting at this point.]

Agenda Item 5

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/NE-TKL/289

Temporary Warehouse for Storage and Blending of Liquid Material for Use in Construction Industry for a Period of 3 Years in “Open Storage”, “Agriculture” and “Industrial (Group D)” zones, Lot 762 in DD 77, Ping Che, Fanling

(TPB Paper No. 7746)

[The hearing was conducted in Cantonese.]

Presentation and Question Session

36. Mr. W.K. Hui, District Planning Officer/Shu Tin, Tai Po and North of the Planning Department (PlanD), Mr. K.K. So, Senior Engineer/North of the Transport Department, and the following applicant’s representatives were invited to the meeting at this point:

Mr. Steven Wong

Mr. Chiu Kwok-wai

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

38. 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 permission for temporary warehouse for storage and blending of liquid material for use in construction industry for a period of 3 years in an area mainly zoned “Open Storage” (“OS”) and partly zoned “Agriculture” (“AGR”) and “Industrial (Group D)” (“I(D)”);
- (b) the application was approved by the Rural and New Town Planning Committee (RNTPC) on 29.9.2006 subject to conditions as set out in paragraph 1.2 of the Paper. Condition (b) did not allow medium and heavy good vehicles to enter the application site during the planning approval period. The applicant applied to review approval condition (b);
- (c) written representation was submitted by the applicant and the major justifications in support of the review were detailed in paragraph 3 of the Paper;
- (d) departmental comments – the Transport Department maintained its stance to impose approval condition(b);
- (e) public comments – no public comment was received during the public inspection period and no local objection was received from the District Office; and
- (f) PlanD’s view – PlanD did not support the review application for reasons stated in paragraph 6.1 of the Paper. There was concern on pedestrian safety as the access road was substandard and without proper footpath.

39. The Chairperson then invited the applicant’s representatives to elaborate on the application.

40. With the aid of some photos, Mr. Steven Wong made the following main points:

- (a) the applicant purchased the site in 1994 and had been running the business since then. Their operation hinged on the use of medium and heavy goods vehicles, in particular tanker lorries for transporting water and liquid products. They had obtained several planning approvals for the subject use since 1999;
- (b) they had standing instructions for all staff and drivers to be more cautious and to drive slowly on the access road;
- (c) it was difficult to widen the whole section of access road because of complicated private land ownership. They managed to get the concerned landowner's consent to rent the required land to widen the narrowest bend of the access road (i.e. Point B on Page 2 of Enclosure IV of the Paper). Also, the sightline problem for pedestrian safety would be improved; and
- (d) use of small vans for their operation meant more vehicular trips which would be more dangerous to pedestrian safety.

[Professor V.B.F. Lim and Dr. Daniel B.M. To returned to join the meeting at this point.]

41. The questions raised by Members were summarized as follows:

- (a) what the nature of the proposed use was and whether electronic waste was stored on the site;
- (b) whether there were many pedestrians using the access road and whether there was any record of traffic accidents there;
- (c) whether there was sufficient manoeuvring space for vehicles to u-turn along the access road and how much traffic was generated by the use under application;
- (d) what exactly the position of the Transport Department (TD) was noting

that TD had no in-principle objection to the application although the access van track was substandard and narrow;

- (e) whether TD would require widening along the whole access road or would accept widening just at the narrowest bend; and
- (f) whether any trees would be affected in the road widening proposal.

42. In response, Mr. W.K. Hui said that as the area was mainly zoned for “Open Storage” use, there were not many people using the access road. There was no record of traffic accidents on the road.

43. Mr. K.K. So made the following main points:

- (a) TD maintained its previous view on the application and considered approval condition (b) should be kept; and
- (b) on the applicant’s road widening proposal, TD would suggest widening along the whole section of the access road, and a footpath should be provided along the road.

44. Mr. Steven Wong then made the following responses:

- (a) there was no electronic waste stored on the site. The blending of liquid material for use in construction industry did not involve any dangerous process;
- (b) manoeuvring space for vehicles was provided within and in front of the application site. The number of vehicular trips for heavy vehicles was low, only 2 to 3 trips per day;
- (c) the proposed road widening would affect two trees. The applicant was willing to transplant the trees or replant new trees; and
- (d) it would be difficult to widen the whole access road as a number of

private lots owned by others were involved.

45. As the applicant's representatives had no further comment to make and Members had no further question to raise, the Chairperson 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 Chairperson thanked the applicant's representatives and representatives from PlanD and TD for attending the meeting. They all left the meeting at this point.

Deliberation Session

46. The Chairperson said that several temporary approvals had been granted for the subject use previously. The imposition of approval condition (b) would affect the operation and Members were requested to review if the condition was reasonable. She opined that sympathetic consideration could be given because there was operational need to use heavy and medium goods vehicles and there were not many pedestrians using the access road.

[Mr. Alfred Donald Yap left the meeting at this point.]

47. Noting that TD had no jurisdiction over the access road, a Member asked about the enforceability of approval condition (b). The Chairperson said that should the approval condition be kept, it would be up to the Planning Authority to enforce the condition.

48. A Member said that judging from Photo 1 in Plan R-4, widening of the narrowest bend of the access road to improve the sightline as proposed by the applicant was considered acceptable. Another Member said that the site was mainly zoned "Open Storage" and partly zoned "Industrial (Group D)", the application was in line with the planning intention. The widening of the access road would also benefit other users of the road.

49. A Member raised concern on the trees that would be affected by the road widening proposal, particularly because the applicant had not provided any details on the

two existing trees and the transplanting/compensatory planting proposal. The applicant should exercise due care in this respect.

[Prof. David Dudgeon and Mr. K.Y. Leung left the meeting temporarily at this point.]

50. After further deliberation, the Board decided to approve the review application by replacing approval condition (b) and on the terms of the application as submitted to the Board. The planning permission should be valid on a temporary basis for a period of 3 years up to 29.9.2009 and subject to the following conditions:

- (a) no storage of e-waste was allowed within the application site during the planning approval period;
- (b) widening of the narrowest section of the access road to the site to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 26.7.2007;
- (c) the submission of proposals on fire service installations and fire fighting water supplies within 6 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 29.3.2007;
- (d) in relation to (c) above, the provision of fire service installations and fire fighting water supplies within 9 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 29.6.2007;
- (e) the submission of tree preservation and landscaping proposals within 6 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 29.3.2007;
- (f) in relation to (e) above, the implementation of tree preservation and landscaping proposals within 9 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 29.6.2007;

- (g) if the above planning condition (a) was not complied with during the approval period, the approval hereby given should cease to have effect and should be revoked immediately without further notice; and
- (h) if any of the above planning conditions (b), (c), (d) (e) and (f) was not complied with by the specified date, the approval hereby given should cease to have effect and should on the same date be revoked without further notice.

51. The Board agreed to remind the applicant that the permission was only given to the use/development under application. It did not condone any other use/development existing on site that was not covered by the application. The applicant should take immediate action to discontinue such use/development not covered by the permission.

52. The Board also agreed to advise the applicant of the following:

- (a) to liaise with the District Lands Office/North, Lands Department in relation to re-issue of Short Term Waiver;
- (b) to implement relevant mitigation measures specified in the 'Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites' published by the Environmental Protection Department to minimize any possible environmental impacts;
- (c) to note Chief Engineer/Development(2), Water Supplies Department's comments that:
 - (i) the applicant might need to extend his inside services to the nearest Government water mains for connection and resolve any land matter (such as private lots) associated with the provision of water supply and should be responsible for the construction, operation and maintenance of the inside services within the private lots to Water Supplies Department's standards; and

- (ii) the application site was located within the flooding pumping catchment area associated with River Indus and River Ganges pumping stations;
- (d) to note Director of Fire Services's comments that :
- (i) emergency vehicular access arrangement should comply with Part VI of the Code of practice for Means of Access for Fire Fighting and Rescue administered by Buildings Department; and
 - (ii) detailed fire safety requirements would be formulated upon receipt of formal submission of general building plan; and
- (e) to note Chief Building Surveyor/New Territories West, Buildings Department's comments that:
- (i) the unauthorized structures on site liable to action under section 24 of the Buildings Ordinance should be removed;
 - (ii) the granting of the planning permission should not be construed as condoning any structures existing on the site under the Buildings Ordinance and the allied regulations and actions appropriate under said Ordinance or other enactment might be taken if contravention was found;
 - (iii) formal submission of any proposed new works for approval under the Buildings Ordinance was required; and
 - (iv) if the application site was not abutting on or accessible from a road of not less than 4.5m wide, the development intensity would be subject to application of Building (Planning) Regulation 19(3).

[Ms. Starry W.K. Lee, Ms. Maggie M.K. Chan, Messrs. Edmund K.H. Leung and Raymond Y.M. Chan left the meeting at this point.]

Agenda Item 6

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/NE-LT/365

Proposed House (New Territories Exempted House (NTEH) – Small House) in “Agriculture” zone, Lots 329B1 and 330RP in DD 10, Chai Kek Village, Lam Tsuen, Tai Po

(TPB Paper No. 7747)

[The hearing was conducted in Cantonese.]

Presentation and Question Session

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

Mr. Chung Yuen-kong

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

55. 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 a proposed house (New Territories Exempted House (NTEH) – (Small House) on a site zoned “Agriculture” (“AGR”) on the Lam Tsuen Outline Zoning Plan;
- (b) the reasons for the Rural and New Town Planning Committee (RNTPC) to reject the application on 29.9.2006 were set out in paragraph 1.2 of

the Paper;

- (c) written representation was submitted by the applicant and the major justifications were detailed in paragraph 3 of the Paper;
- (d) departmental comments – the Water Supplies Department (WSD) objected to the application as it fell within WSD’s upper indirect water gathering grounds and was not able to connect to the existing or planned sewerage system in the area. In this regard, the Environmental Protection Department did not support the application. The Agriculture, Fisheries and Conservation Department did not favour the application as there were agricultural activities in the vicinity and the site had high potential for rehabilitation;
- (e) public comments – two public comments, one of which was signed by 6 villagers, were received during the statutory publication period of the review application. They raised strong objection on fung shui grounds, possible serious consequences of approving the application, abuse of Small House policy for profit making and changing the rural landscape to high density environment; and
- (f) PlanD’s view – PlanD did not support the application for reasons stated in paragraph 6.2 of the Paper. It was not in line with the planning intention of the “AGR” zone and did not comply with the TPB’s interim criteria for assessing planning application for NTEH/Small House development.

[Professor David Dudgeon and Mr. K.Y. Leung returned to join the meeting at this point.]

56. The Chairperson then invited the applicant’s representative to elaborate on the application.

57. With the aid of some photos, Mr. Chung Yuen-kong made the following main points:

- (a) the signatories of the two letters of public comments were doubtful and the letters were believed to be forged;
- (b) the whole Lam Tsuen area fell within WSD's water gathering grounds but there were some applications close to the water course approved. The application site was over 200 metres from the water course and should not pollute the water. Rejection of the application was unreasonable; and
- (c) the applicant could not find land in the "Village Type Development" ("V") zone for Small House development.

58. Referring to Plan R-3, a Member asked whether the Small House in the photo close to the application site was approved by the Board. Mr. W.K. Hui confirmed so but pointed out that the two adjacent houses (Applications Nos. A/NE-LT/210 and A/NE-LT/218) approved in 1999 and 2000 were before the revision of the Board's Interim Criteria for assessing planning application for NTEH/Small House development in the New Territories in 2003. The revision had incorporated the requirement of connecting to existing or planned sewerage system for Small House applications within water gathering grounds (WGG).

59. Another Member asked about the sewerage arrangement for the two cases. Mr. W.K. Hui said that the arrangement was septic tank but it was no longer acceptable after the revision of the Interim Criteria in 2003.

60. A Member asked whether the three approved applications (Nos. A/NE-LT/307, 308 and 352) fell within the same "AGR" zone as the review application. Mr. W.K. Hui said that they were and added that they were approved in 2003 to 2006 since the sites were at the edge of the "V" zone and were able to connect to public sewers. Hence, the applications complied with the Interim Criteria.

61. As the applicant's representative had no further comment to make and Members had no further question to raise, the Chairperson 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 Chairperson thanked the applicant's representative and PlanD's representative for attending the meeting. They both left the meeting at this point.

Deliberation Session

62. The Chairperson said that the key question in this case was whether the application complied with the Board's Interim Criteria. Members agreed that the application did not comply with the Interim Criteria with respect to the requirement in WGG.

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

- (a) the application was not in line with the planning intention of the "Agriculture" zone, which was primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It was also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. No strong justifications had been provided in the submission for a departure from the planning intention; and
- (b) the proposed development did not comply with the interim criteria for assessing planning application for NTEH/Small House development in that the proposed NTEH/Small House development fell within WSD's upper indirect water gathering grounds (WGG) and was not able to be connected to existing or planned sewerage system in the area. There was insufficient information in the submission to demonstrate that the proposed development located within the WGG would not cause adverse impact on the water quality in the area.

[Mr. Raymond Y.M. Chan, Mr. Y.K. Cheng, Professor Bernard V.W.F. Lim, Dr. Lily Chiang, Mr. Stanley Y.F. Wong and Dr. Daniel B.M. To left the meeting at this point.]

Agenda Item 9

Submission of the Draft Fanling/Sheung Shui Outline Zoning Plan No. S/FSS/13A
to the Chief Executive in Council for Approval
under Section 8 of the Town Planning Ordinance
(TPB Papers No. 7751)

[Open Meeting]

[The meeting was conducted in Cantonese.]

72. The Secretary briefly introduced the Paper.

73. After deliberation, the Board:

- (a) agreed that the draft Fanling/Sheung Shui OZP No. S/FSS/13A and its Notes at Annexes I and II respectively were suitable for submission under section 8 of the Ordinance to Chief Executive in Council (CE in C) for approval;
- (b) endorsed the updated Explanatory Statement (ES) for the draft Fanling/Sheung Shui OZP No. S/FSS/13A at Annex III as an expression of the planning intention and objectives of the Board for various land-use zonings on the draft OZP and issued under the name of the Board; and
- (c) agreed that the updated ES for the draft Fanling/Sheung Shui OZP No. S/FSS/13A was suitable for submission to CE in C together with the draft OZP.

Agenda Item 10

Submission of the Draft Kwun Tong (South) Outline Zoning Plan No. S/K14S/13A
to the Chief Executive in Council for Approval
under Section 8 of the Town Planning Ordinance
(TPB Papers No. 7752)

[Open Meeting]

[The meeting was conducted in Cantonese.]

74. The Secretary briefly introduced the Paper.

75. After deliberation, the Board:

- (a) agreed that the draft Kwun Tong (South) OZP No. S/K14S/13A and its Notes at Annexes I & II respectively were suitable for submission under section 8 of the Ordinance to Chief Executive in Council (CE in C) for approval;
- (b) endorsed the updated Explanatory Statement (ES) for the draft Kwun Tong (South) OZP No. S/K14S/13A at Annex III as an expression of the planning intention and objectives of the Board for various land-use zonings on the draft OZP and issued under the name of the Board; and
- (c) agreed that the updated ES for the draft Kwun Tong (South) OZP No. S/K14S/13A was suitable for submission to CE in C together with the draft OZP.

Agenda Item 11

Any Other Business

76. There being no other business, the meeting was closed at 2:00 p.m.