

**Minutes of 957<sup>th</sup> Meeting of the  
Town Planning Board held on 30.4.2010**

**Present**

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

Chairman

Mr. Stanley Y.F. Wong

Vice-chairman

Mr. Walter K.L. Chan

Ms. Maggie M.K. Chan

Mr. Raymond Y.M. Chan

Mr. Felix W. Fong

Ms. Anna S.Y. Kwong

Professor Paul K.S. Lam

Professor Edwin H.W. Chan

Dr. Winnie S.M. Tang

Professor P.P. Ho

Professor Eddie C.M. Hui

Dr. C.P. Lau

Ms. Julia M.K. Lau

Professor Joseph H.W. Lee

Mr. Clarence W.C. Leung

Dr. W.K. Lo

Mr. Roger K.H. Luk

Professor S.C. Wong

Mr. Stephen M.W. Yip

Principal Assistant Secretary (Transport)

Transport and Housing Bureau

Mr. Fletch Chan

Deputy Director of Environmental Protection

Mr. Benny Wong

Assistant Director (2), Home Affairs Department

Mr. Andrew Tsang

Director of Lands

Miss Annie Tam

Director of Planning

Mrs. Ava S.Y. Ng

Deputy Director of Planning/District

Secretary

Miss Ophelia Y.S. Wong

**Absent with Apologies**

Mr. K.Y. Leung

Mr. B.W. Chan

Mr. Y.K. Cheng

Dr. James C.W. Lau

Mr. Rock C.N. Chen

Mr. Maurice W.M. Lee

Mr. Timothy K.W. Ma

Mr. Laurence L.J. Li

Ms. Anita W.T. Ma

Ms. Pansy L.P. Yau

Dr. W.K. Yau

**In Attendance**

Assistant Director of Planning/Board  
Mr. Lau Sing

Chief Town Planner/Town Planning Board  
Ms. Christine K.C. Tse

Senior Town Planner/Town Planning Board  
Ms. Amy M.Y. Wu

**Agenda Item 1**

[Open Meeting]

**Confirmation of Minutes of the 956<sup>th</sup> Meeting held on 16.4.2010**

[The meeting was conducted in Cantonese.]

1. The minutes of the 956<sup>th</sup> meeting held on 16.4.2010 were confirmed without amendments.

**Agenda Item 2**

[Open Meeting]

**Matters Arising**

[The meeting was conducted in Cantonese.]

2. There were no matters arising.

**Agenda Item 3**

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/YL-KTS/485

Proposed Temporary Open Storage of Freezer Vehicles, Air-conditioned Compartments and Spare Parts of Cooling Machinery Components for Vehicles for Sale, and Installation and Maintenance Workshop for Freezer Vehicles for a Period of 3 Years in "Other Specified Uses" annotated "Rural Use" zone, Lots 401 (Part), 404 (Part), 405 RP (Part), 406 RP, 408 RP (Part), 409 and 410 (Part) in D.D. 106, Pat Heung, Yuen Long

(TPB Paper No. 8530)

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[The hearing was conducted in Cantonese.]

**Presentation and Question Session**

3. The following representative of the Government and the applicant's representatives were invited to the meeting at this point:

Ms. Amy Cheung - District Planning Officer/Tuen Mun and Yuen Long  
(DPO/TMYL), Planning Department (PlanD)

Mr. Yip Hon Hei - Applicant's representative

Ms. Chau Kwai Fong - Applicant's representative

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

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

5. With the aid of the Powerpoint presentation, Ms. Amy Cheung presented the application and covered the following main points as detailed in the Paper:

- (a) the application sought planning permission for a proposed temporary open storage of freezer vehicles, air-conditioned compartments and spare parts of cooling machinery components for vehicles for sale, and installation and maintenance workshop for freezer vehicles for a period of 3 years in an area zoned "Other Specified Uses" annotated "Rural Use" ("OU(RU)") on the approved Kam Tin South Outline Zoning Plan (OZP);
- (b) the site fell within Category 3 areas under the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13E);
- (c) the proposal involved a covered area of about 495m<sup>2</sup> for an office, storerooms, a shed for vehicles and a workshop. A total of 15 parking spaces for container trailers and 5 parking spaces for private vehicles would be provided. The proposed operation hours were from 9:00 a.m. to 6:00 p.m (Monday to Saturday);

- (d) on 15.1.2010, the Rural and New Town Planning Committee (RNTPC) approved the application on a temporary basis for a period of 1 year, instead of 3 years sought, until 15.1.2011. The applicant sought review of the RNTPC's decision;
  
- (e) the application was approved by the RNTPC mainly on the consideration that the proposed development was not incompatible with the surrounding land uses which were mixed with an open storage yard, a warehouse, a parking lot, workshops, residential structures and vacant/unused land and the temporary planning permission would not frustrate the planning intention of the "OU(RU)" zone. The application was generally in line with the TPB PG-No. 13E in that the site was the subject of previous planning approvals since 1998 and approval conditions under the last planning approval had been complied with. Given the relatively small scale of the proposed development and there was no major change in the planning circumstances since the last planning approval, sympathetic consideration was given by the RNTPC in approving the application. However, the proposed development would involve the provision of an installation and maintenance workshop and Director of Environmental Protection (DEP) did not support the application as there were residential structures near the site. A shorter approval period of 1 year with appropriate approval conditions was granted by the RNTPC in order to monitor the situation on the site;
  
- (f) the applicant had submitted written representation in support of the review application as summarised in paragraph 3 of the Paper and below:
  - (i) the planning approval period for 1 year was too short. If the review application was approved, the applicant was willing to comply with all the approval conditions imposed by the Board; and
  - (ii) the completion of the fitting out works might be delayed to April or May due to the Chinese New Year holidays and bad weather. Hence, the temporary planning approval would only be valid for

about half a year starting from May. The applicant planned to apply for renewal of the approval. However, if the planning approval could not be renewed, the applicant would suffer from financial problem;

- (g) the site was located to the west of Kam Sheung Road and was currently vacant. The surrounding areas were mixed with an open storage yard, a warehouse, a parking lot, workshops, residential structures and vacant/unused land. The open storage yard, parking lot, warehouse and one of the workshops were suspected unauthorized development subject to enforcement action to be taken by the Planning Authority;
- (h) departmental comments on the review application were summarised in paragraph 4 of the Paper which were the same as the comments raised during the s.16 application stage. DEP did not support the application as there were sensitive receivers, i.e. residential structures, located to the north, southwest and southeast of the site, and environmental nuisance was expected. Other departments had no objection to/comment on the application;
- (i) public comment - during the statutory publication period, one public comment from a member of the public on the review application was received. The commenter objected to the application on the grounds that the proposed development would cause adverse traffic impact on Kam Sheung Road taking into account the recent completion of a large number of village houses and a low-density residential development in the vicinity and the vehicle repair workshops, storage yards for scrap vehicles and parking lots of heavy vehicles along the road. Besides, the proposed development would cause safety problem to the cyclists using Kam Sheung Road and the workshop activities would generate noise nuisance to the nearby residents; and
- (j) PlanD's view – PlanD did not support the review application based on the planning considerations and assessments as set out in paragraph 7 of

the Paper and summarized below:

- (i) different from previous approvals, the proposed development would involve the provision of an installation and maintenance workshop and DEP did not support the application at the s.16 stage as there were residential structures located to the north, southwest and southeast of the site which would be subject to environmental nuisance. A shorter approval period of 1 year was granted by the RNTPC in order to monitor the situation on the site. A duration of 1 year was considered appropriate to ensure that the proposed development, which would involve nuisance-generating operations (i.e. workshop activities) close to the residential structures in the vicinity, would be operated under close monitoring by the Board. A local objection on noise nuisance grounds had been received for the review application; and
- (ii) for continuous operation of the proposed development in the future, the applicant might apply for renewal of the temporary planning approval and sympathetic consideration might be given taking into account the prevalent planning circumstances and considerations at that time. No strong planning justification had been given by the applicant for a departure from the RNTPC's previous decision for a shorter approval period.

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

7. Mr. Yip Hon Hei made the following points:

- (a) the planning approval for a period of one year till 15.1.2011 was too short. The site was currently covered by sand and the applicant needed to pave the site and carry out fitting out/renovation works before starting operation. However, due to Chinese New Year holidays and the bad weather, the completion of the works would be delayed to around May/June. Hence, the actual operation period for the business would be less than half a year. Due to the high investment cost, the applicant



was susceptible to high financial risk if further renewal of application was not allowed in the future;

- (b) regarding DEP's concern on the environmental nuisance on the residential structures in the vicinity, it should be noted that only minimal noise and waste would be created at the construction stage. After the completion of the construction work, there would be no environmental nuisance created by the proposed development as no paint spraying activities would be undertaken; and
- (c) the Government had undertaken to boost the industry sector. If planning approval for a period of three years was granted, it would minimise the financial risk of the applicant. The applicant undertook to comply with all the approval conditions imposed by the Board.

[Mr. Felix W. Fong and Professor S.C. Wong arrived to join the meeting at this point.]

8. Members had the following views and questions:

- (a) When did the applicant start the fitting out/renovation works and how far have the works been completed? How would the works help improve the environment?
- (b) What was the construction cost and the expected return from the operation?
- (c) What was the detailed operation of the business and the scale of the workshop? Would there be noise nuisance created by the workshop activities and would the workshop activities and the installation process confine within the covered structure?
- (d) Did the applicant apply to Buildings Department for approval to build the covered structure?

- (e) What was the number of freezer vehicles requiring installation operation within the site?
- (f) What was the requirement of the drainage proposal and had the applicant submitted drainage proposal since the approval was granted by RNTPC? Was the existing drainage discharge connected to any public drainage system?
- (g) Could the applicant extend the time limit for compliance of approval condition and how many approval conditions had been complied with by the applicant so far? Was there any similar application for extension of approval period from one year to three years?

9. In response to Members' questions (a) to (f), Mr. Yip Hon Hei had the following responses:

- (a) the completion of fitting out/renovation works was originally scheduled for April/May 2010. However, the applicant only received the notification of the planning approval just before Chinese New Year and the lease could only be signed with the landowner in April after which the renovation work commenced. Due to the intervening public holidays, rainy season and the time needed to transport construction materials from the Mainland, it was expected that there would be a delay on the completion of works to around June. Currently, about half of the works had been completed including concrete paving, the construction of drainage discharge and structures for storage and the workshop;
- (b) the applicant had spent about \$2 million for the renovation work at the site and expected that it would take about five years for a break-even;
- (c) the proposal involved an open storage of freezer vehicles, air-conditioned compartments, spare parts of cooling machinery components for vehicles for sale and installation and maintenance workshop for freezer vehicles. The air-conditioned

compartments/components were manufactured in the Mainland and only the installation of the air-conditioned compartments into the freezer vehicles would be done in Hong Kong at the application site. The installation process would not create any environmental pollution, except that detergent would be used to clean the air-conditioned compartments. The installation would be carried out within the covered structure of the workshop, which was enclosed on four sides and no adverse noise impact was expected. The workshop was large enough for freezer vehicles which were of 6 metres long;

- (d) the applicant had not made application to Buildings Department but had contacted DLO/YL who advised that a short term waiver (STW) would be issued for the covered structure;
- (e) the applicant had only started his business in Hong Kong the year before. It was estimated that there would be about three to four vehicles per month that would require installation of air-conditioned compartment at the application site;
- (f) there were three approval conditions with time limit for submission of drainage, landscape and tree preservation and fire service installations proposals. The applicant had not yet submitted any drainage proposal and the location of the drainage discharge installed at the site was constructed according to the advice of the engineering company employed by the applicant. According to the applicant's understanding, the drainage discharge was connected to a public drain. For landscape and tree preservation proposal, the applicant had preserved the tree within the site as requested by the relevant Government department. For fire service installations proposal, as renovation work for the site was still on-going, the fire service installations were not yet completed.

10. In response to Members' questions (c), (f) and (g), Ms. Amy Cheung, DPO/TMYL, made the following points:

- (a) as shown on the layout plan submitted by the applicant (Drawing A-1 in Annex A of the Paper), the proposal included a covered area of about 495m<sup>2</sup> for uses as office, storerooms, shed for vehicles and workshop. Majority of the covered area would be for workshop and storage use; and
- (b) as compared with the previous approvals, the approval condition in relation to drainage proposal was a new requirement imposed at the request of DSD. To date, the applicant had not made any submission for the compliance of approval conditions of the subject planning application. However, the applicant had applied for extension of compliance of the approval conditions in relation to drainage, landscape and tree preservation and fire service installation proposals till 15.7.2010 and the extension was approved by Director of Planning under delegated authority of the Board. There were similar applications for open storage in the vicinity of the site but workshop activities were not involved in those applications.

11. As the representatives of the applicant had no further comment to make and Members had no further question, the Chairman informed them that the hearing procedures for the review application had been completed. 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 representative of the PlanD and the representatives of the applicant for attending the meeting. They all left the meeting at this point.

#### Deliberation Session

12. A Member noted that the applicant was not familiar with the work requirement of drainage proposal and asked if any assistance would be provided to him. Another Member opined that the approval period of one year was too short as it might take about six months to resolve issues involved in obtaining approval of the drainage proposal. The Chairman said that the applicant could appoint qualified contractors or professionals to submit and implement the drainage proposal as required to meet the approval condition. He said that the Board should consider the impact on the surrounding area if approval period of three years was to be granted, instead of considering whether a shorter approval

period of one year would affect the applicant's investment.

13. The Secretary advised that as provided under the Notes of the OZP, planning permission for temporary uses within the rural New Territories could be granted, with or without conditions, for a maximum period of three years. However, for cases which required close monitoring, such as those with environmental concerns or where there were objections from government departments and the locals, a shorter approval period of one year might be imposed by the Board. Should the applicant wish to continue the approved use upon expiry of the planning permission, he could apply to the Board for a renewal of the temporary approval. The Board would assess the application based on the relevant criteria as stated in the Town Planning Board Guidelines on Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions (TPB PG-No.34A), i.e. whether there had been any material change in planning circumstances since the previous temporary approval was granted; whether there was any adverse planning implications; whether the planning conditions under previous approval had been complied with and other relevant considerations. For time-limit approval conditions, she advised that if an applicant could not comply with such conditions within the specified time limit, he could apply for an extension of time to comply with that relevant condition. The Director of Planning, under the delegated authority of the Board, might grant an extension of time for compliance with planning conditions if there were good justifications to do so, but the extension of time could not exceed the original temporary approval period. She said that the RNTPC had already approved the proposed use under application and the current review was only about the duration of the approval period, i.e. whether a period of one year was appropriate for monitoring the situation.

14. A Member noted that there was no change in circumstances of the case since the approval by RNTPC and the granting of an approval period of one year was reasonable for monitoring the situation as the application involved workshop activities. However, noting a period of six months was required for the renovation works, that Member considered that sympathetic consideration might be given for a slight extension of the approval period from one year to 1.5 years. That Member however did not support the proposed extension to 3 years.

15. Another Member however held a different view and considered that the

applicant had not demonstrated any genuine effort to comply with the approval conditions. That Member stated that it was the responsibility of the applicant to adhere to the time limit for compliance and to seek professional assistance if necessary. As such, the time required to comply with approval condition should not be a reason for the extension of the approval period. That Member did not support the review application to extend the approval period.

16. A Member considered that further to the consideration by RNTPC, the applicant had put forward further justifications at the current review meeting. That Member commented that the proposed use in the application site was different from the surrounding open storage yards and considered it acceptable taking into account the nature of operation. That Member said that the RNTPC had already approved the proposed use and the current review application only involved a proposed extension of the approval period. After hearing the applicant's justification that additional time was required for the renovation work, that Member agreed to allow a longer approval period so as to facilitate the operation of the business. Besides, noting that applicant was not assisted by any professional consultant on the drainage matters, that Member said that the applicant might not be well aware of the requirement for submission and implementation of the drainage proposal.

17. Another Member agreed that the applicant might not be aware of the need to submit drainage proposal and to apply to BD for the approval of the covered structures. That Member said that at least one year would be required for the applicant to complete all the necessary submission and approval procedures before he could start operating the business. In this regard, that Member supported an approval period longer than one year so as to allow time after the completion of works to assess the impact of the proposed use in operation. Another Member concurred with this view and supported the extension of the approval period so as to allow the Board to monitor the operation after proper implementation of the drainage works and the construction of new structures.

18. A Member doubted if the RNTPC was aware of the time required to implement the drainage and building works when an approval period of one year was granted. Another Member opined that given the small size of the site, it might not require six months to implement the drainage proposal. Hence, sufficient time should already

have been given to the applicant.

19. Two other Members considered that it was the obligation of the applicant to comply with the approval conditions imposed by the Board. If the applicant could not comply with the conditions within the specified time limit, there was a mechanism for him to apply for an extension of time limit. Those Members agreed to maintain RNTPC's decision. One of those Members pointed out that paragraph 5.3.8 of the Paper had stated clearly that Authorized Person had to be appointed by the applicant to coordinate all building works. That Member suggested that similar advisory comment could be provided to the applicant. On the time limit for compliance of approval conditions, Ms. Ava Ng said that an extension of time limit from three months to six months (up to 15.7.2010) for the submission of relevant proposals had already been granted to the applicant.

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

20. A Member asked whether the Board could impose an approval condition specifying that the applicant could only start operation after all necessary approval conditions had been complied with. The Secretary explained that this type of condition would normally be imposed for planning application involving large-scale development or development with significant environmental concern, but not on temporary approvals.

21. Two Members opined that the applicant should be well aware of the mechanism for renewal of temporary approvals. They said that an approval period of one year would act as an incentive for early compliance of the approval conditions. Given that renewal of temporary approvals could be granted to the applicant when all the approval conditions were complied with and there were good justifications, those Members did not consider it necessary to extend the approval period. Another Member said that the previous applications were not made by the current applicant and hence he might not be familiar with the process. That Member said that longer approval period could be given to the applicant.

22. After some discussions, Members generally did not agree to the extension of the approval period from one year to three years, but agreed to grant an approval period of

18 months after balancing the factors that a longer time was needed for the completion of construction works, the need to closely monitoring the operation on the site and to stop the use in time if it was found out that there would be adverse impacts generated from the workshop activities.

23. After further deliberation, the Board decided to partially approve the review application to grant approval on a temporary basis for a period of 18 months until 15.7.2011. The approval was subject to the following conditions:

- (a) no night-time operation between 6:00p.m. and 9:00a.m., as proposed by the applicant, was allowed on the site during the planning approval period;
- (b) no operation on Sundays and public holidays was allowed on the site during the planning approval period;
- (c) no paint spraying activity should be carried out on the site during the planning approval period;
- (d) the submission of landscape and tree preservation proposal within 6 months from the date of planning approval granted by the RNTPC to the satisfaction of the Director of Planning or of the Town Planning Board by 15.7.2010;
- (e) in relation to (d) above, the implementation of landscape and tree preservation proposal within 6 months from the date of planning approval granted by the RNTPC to the satisfaction of the Director of Planning or of the Town Planning Board by 15.7.2010;
- (f) the submission of drainage proposal within 6 months from the date of planning approval granted by the RNTPC to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 15.7.2010;
- (g) in relation to (f) above, the implementation of drainage proposal within 6 months from the date of planning approval granted by the RNTPC to the



satisfaction of the Director of Drainage Services or of the Town Planning Board by 15.7.2010;

- (h) the submission of fire service installations proposal within 6 months from the date of planning approval granted by the RNTPC to the satisfaction of the Director of Fire Services or of the Town Planning Board by 15.7.2010;
- (i) in relation to (h) above, the provision of fire service installations within 6 months from the date of planning approval granted by the RNTPC to the satisfaction of the Director of Fire Services or of the Town Planning Board by 15.7.2010;
- (j) if any of the above planning conditions (a), (b) or (c) was not complied with during the planning approval period, the approval hereby given shall cease to have effect and should be revoked immediately without further notice;
- (k) if the above planning conditions (d), (e), (f), (g), (h) or (i) was not complied with by the specified date, the approval hereby given should cease to have effect and shall on the same date be revoked without further notice; and
- (l) upon 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.

24. The Board also agreed to advise the applicant to:

- (a) resolve any land issues relating to the development with the concerned owner(s) of the site;
- (b) note DLO/YL's comments that Letter of Approval (L of A) No. MT/LM 2588 and Modification of Tenancy (MOT) No. M11985 were issued over respective Lot 404 and Lot 405 RP permitting some structures erected thereon for agricultural purposes. All these structures had been

demolished and his office would consider cancellation of these L of A and MOT. The registered owner of the subject lots should apply for Short Term Waiver (STW) to regularize any proposed/existing structures on the site. Should no STW application be received/approved and structures persist on the site, his office, on review of the situation, would take appropriate lease enforcement action against the registered owner(s). Besides, the site was accessible to Kam Sheung Road via an informal track on private land without maintenance works to be carried out thereon by his office. The site was very close to a project of the Drainage Services Department (DSD) known as “Yuen Long, Kam Tin, Ngau Tam Mei and Tin Shui Wai Drainage Improvement, Stage 1, Phase 2B-Kam Tin (Works Package C) Cheung Chun San Tsuen (Kam Tin) and Kam Tsin Wai (Pat Heung)”. Since the vehicular access to the site would require passing through the DSD’s project site which then to Kam Sheung Road, relevant departments including DSD and Transport Department (TD) should be consulted. His office did not guarantee right-of-way;

- (c) adopt environmental mitigation measures as set out in the “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” issued by DEP to minimize any potential environmental nuisances;
- (d) note CTP/UD&L, PlanD’s comments that the young *Ficus virens var. sublancoolata* with good condition found within the site boundary should be preserved;
- (e) note D of FS’s comments that in consideration of the design/nature of the proposed structures, FSIs were anticipated to be required. Therefore, the applicant was advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSIs to be installed should be clearly marked on the layout plans. In formulating the FSIs proposal for the proposed structures, the applicant was advised to make

reference to the requirements in Annex E of the TPB Paper. Should the applicant wish to apply for exemption from the provision of certain FSIs, he was required to provide justifications to his department for consideration;

- (f) note CHE/NTW, HyD's comments that HyD was not/should not be responsible for the maintenance of any existing vehicular access connecting the application site and Kam Sheung Road; and
- (g) note CBS/NTW, BD's comments that the granting of planning approval should not be construed as an acceptance of the unauthorized structures on site under the Buildings Ordinance. Enforcement action might be taken to effect the removal of all unauthorized works in the future. Authorized Person must be appointed to coordinate all building works.

#### **Agenda Item 4**

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/YL-NSW/189

Proposed Temporary Container Tractor/Trailer Park for a Period of 3 Years in "Other Specified Uses" annotated "Comprehensive Development to include Wetland Restoration Area" zone, Lots 1212 S.B RP (Part) and 1212 S.C ss.3 RP (Part) in D.D. 115, Chung Yip Road, Nam Sang Wai, Yuen Long

(TPB Paper No. 8531)

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[The hearing was conducted in Cantonese.]

#### **Presentation and Question Session**

25. The following representative of the Government, the applicant and his representatives were invited to the meeting at this point:

Ms. Amy Cheung - District Planning Officer/Tuen Mun and Yuen Long  
(DPO/TMYL), Planning Department (PlanD)

Mr. Ngai Hok Yan	Applicant's representative
Mr. Lam Hing Nin	Applicant's representative
Mr. Lam Kwun Kai	Applicant

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

27. With the aid of the Powerpoint presentation, Ms. Amy Cheung presented the application and covered the following main points as detailed in the Paper:

- (a) the application sought planning permission for a proposed temporary container tractor/trailer park for a period of 3 years in an area zoned "Other Specified Uses" annotated "Comprehensive Development to include Wetland Restoration Area" ("OU(CDWRA)") on the approved Nam Sang Wai Outline Zoning Plan (OZP);
- (b) the site fell within the Wetland Buffer Area (WBA) according to the Town Planning Board Guidelines for "Application for Developments within Deep Bay Area" (TPB PG-No. 12B) and also within Category 3 areas under the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13E);
- (c) the proposal involved 90 parking spaces for container tractor/trailers in a site of 10,000m<sup>2</sup> in area. Proposed vehicular access to the site would be via Chung Yip Road and the adjacent vehicle park in the southwest;
- (d) the Rural and New Town Planning Committee (RNTPC) rejected the application on 24.7.2009 for the reasons that the proposed development was not in line with the planning intention of the "OU(CDWRA)" zone which was intended to phase out existing sporadic open storage and port back-up uses on degraded wetlands and there was no strong planning ground to justify a departure from the planning intention even on a temporary basis. The development was not in line with TPB PG-No. 13E

in that there was no previous planning approval for a similar use at the site; there were adverse comments from Government departments and objections from members of the public; and environmental nuisance was expected. The approval of the application, even on a temporary basis, would set an undesirable precedent for similar applications within the “OU(CDWRA)” zone. The cumulative effect of approving such applications would result in a general degradation of the environment of the area;

- (e) the applicant had submitted further information in support of the review application as summarised in paragraph 2.3 of the Paper and below:
  - (i) supportive comment from the Village Representatives (VRs) of Shan Pui Chung Hau Tsuen;
  - (ii) an Ecological Review Study Report and an Environmental Review Study Report which concluded that the proposed development would not create adverse ecological and environmental impacts; and
  - (iii) clarification of the alignment of the proposed access to the site;
  
- (f) the site was currently vacant and covered by weeds. Suspected unauthorised development of vehicle parks were located to the north and east of the site. Shan Pui Chung Hau Tsuen was located to its west (about 90m to 130m away) and a residential development, i.e. The Parcville, was located to its south (about 120m away). To its immediate west was a pond, a private car park and a container vehicle park under two approved planning applications No.A/YL-NSW/190 and 191 respectively;
  
- (g) departmental comments – the departmental comments were summarised in paragraph 4 of the Paper. Director of Environmental Protection (DEP) did not support the application as there were sensitive uses in the vicinity of the access road (Chung Yip Road) and the site and environmental nuisance was expected. The Environmental Review Study Report could not address the concerns on noise impact and nuisance and

no quantitative assessment was provided. The proposed container tractor/trailer park was considered environmentally undesirable. Director of Agriculture, Fisheries and Conservation (DAFC) commented that the proposed use might not be compatible with the planning intention of the “OU(CDWRA)” zoning and should be discontinued in the long run. Other departments had no objection to/comment on the application;

- (h) public comments - during the statutory publication period of the review application, 5 public comments were received, including the Owners’ Committee of The Parcville (with 447 signatures), a Legislative Council (LegCo) member, a District Council (DC) member, and the representative of Yuen Long Resident Service Association. They objected to the review application on the grounds that the proposed container tractor/trailer park would create adverse impact to The Parcville, the nearby schools and the roads in the vicinity and would hinder the possibility of wetland restoration at the site;
- (i) PlanD’s view – PlanD did not support the review application based on the planning considerations and assessments as set out in paragraph 6 of the Paper and summarized below:
  - (i) the proposed development was not in line with the planning intention of the “OU(CDWRA)” zone. The RNTPC had not granted any planning approval for parking of container tractors/trailers at the subject site before, and the site was currently vacant. As the planning intention of the “OU(CDWRA)” zone for the area was to phase out existing sporadic open storage/port back-up uses on degraded wetlands, it was prudent not to allow proliferation of open storage/port back-up uses on the subject vacant site without previous planning approvals. Moreover, DAFC considered that such existing use at this location should be discontinued in the long run;
  - (ii) the application was not in line with TPB PG-No.13E as the site fell within Category 3 areas, there was no previous planning approval for similar use on the site, there were adverse comments

from Government departments and objections from members of the public; and environmental nuisance was expected;

- (iii) the site was also not in line with TPG-No. 12B. The site was located with the WBA where applications for new open storage or port back-up uses, whether temporary or permanent, would normally not be allowed. There were also adverse departmental comments from DEP who considered that the proposed container tractor/trailer park was environmentally undesirable; and
- (iii) approval of this application would therefore set an undesirable precedent for similar applications on virgin land leading to proliferation of such uses and further degradation of the area of the "OU(CDWRA)" zone.

28. The Chairman then invited the applicant and his representatives to elaborate on the application.

[Mr. Andrew Tsang left the meeting at this point.]

29. With the aid of the Powerpoint presentation, Mr. Ngai Hok Yan made the following points:

- (a) the proposed temporary container tractor/trailer park was about 10,000m<sup>2</sup> in area and was adjacent to two existing car parks of 7,000m<sup>2</sup> (for container vehicles) and 4,000m<sup>2</sup> (for private cars) respectively;
- (b) further to the north of the application site was a driving school, i.e. Hong Kong School of Motoring (HKSM). At the s.16 application stage, HKSM objected to the proposed development as it was the maintenance agent of Chung Yip Road. Since then, the applicant liaised with HKSM who now had no objection for the applicant to use Chung Yip Road as access to the application site;
- (c) to the west of the site was Shan Pui Chung Hau Tsuen. The Village Representatives (VRs) of Shan Pui Chung Hau Tsuen, who had

previously expressed objection to the application, now supported the review application as the proposed container tractor/trailer park could meet the demand of local villagers engaging in the container and transportation business;

- (d) to the south of the site was Tung Tau Industrial Area and The Parville. The residents of The Parville had raised objection to the application mainly on grounds of traffic noise nuisance and safety problem due to the increase of container vehicles. However, it should be noted that the application site was located about 100m away from The Parville and the two sites were served by different road accesses. Access to The Parville was via Hong Yip Street near Shan Pui Hung Tin Tsuen, whereas access to the application site would be via Chung Yip Road north of Tung Tau Industrial Area. The container vehicles to the application site would not make use of Shan Pui Road which was only a cul-de-sac leading to a meter car park, nor via Hong Yip Street which was too narrow for the manoeuvring of container vehicles. Hence, it was not anticipated that there would be adverse noise or traffic safety problem to the residents of The Parville. Besides, no environmental complaint had ever been received on the two adjacent carparks which had been in operation for many years;
- (e) the applicant had commissioned a consultant to undertake environmental and ecological reviews for the application. According to the Environmental Review Report, there would be insignificant impact on air quality as the car park would only accommodate 90 parking spaces. Besides, given the existing Tung Tau Industrial Area and the two car parks in the vicinity and that no night time operation would be allowed on site, the cumulative background noise impact brought about by the proposed car park would be insignificant. Since the proposed development was for container tractor/trailer park which did not involve any unloading/loading activities, waste generation was expected to be very limited. For water quality, a drainage system linked with the existing drainage system would be provided to collect surface water from



the site. Hence, it would unlikely cause an unacceptable water quality impact during operation;

- (f) according to the Ecological Review Report submitted by the applicant, the ecological value of the habitats recorded within the study area was low and minor impacts were anticipated during the construction and operation phases. Tree planting would be proposed around the site boundary to reduce noise disturbance;
- (g) the proposed open car park for container vehicles would not have any adverse effects on visual amenity of the surroundings;
- (h) the site at present was a vacant flat land covers by weeds. No tree felling and major site formation would be required. It would not create any adverse impact on the existing environment;
- (i) the proposed development only involved open car park for container vehicles with approximately 90 parking spaces. It would reduce illegal roadside parking without disturbing the environment nor creating traffic, drainage, water supplies and fire safety impact on the locality. ;
- (j) the environmental, drainage and landscape concerns could be addressed by approval conditions if the application was approved. The applicant agreed to comply with all the conditions;
- (k) the proposed development might help boost the local economy of the adjacent villages; and
- (l) the proposed site was at least 100m away from the sensitive receivers (i.e. residential area) and therefore any nuisance created by the traffic should be insignificant.

30. Members had the following questions:

- (a) What were the details of the two adjacent temporary car parks under Applications No. A/YL-NSW/190 and 191 as mentioned in paragraph 6.2 of the Paper and whether they were under the same landowner?
- (b) Why DEP considered the findings of the Environmental Review Study unacceptable?
- (c) Was there any follow-up action to the complaint against the site on air pollution in 2007?

31. In response to Members' question (a), Ms. Amy Cheung, DPO/TMYL, explained that the two adjacent car parks for lorries/container vehicles and for private cars/light vehicles were the subject of two applications No.A/YL-NSW/147 and 148 previously allowed by the Town Planning Appeal Board (TPAB). Applications No. A/YL-NSW/190 and 191 were renewal applications of applications No.A/YL-NSW/147 and 148 and were approved with conditions by the RNTPC on 21.8.2009 on a temporary basis for a period of 12 months up to 21.8.2010. The two sites fell within the Category 3 areas under the TPB PG-No.13E. The applicant had been advised in the relevant approval letters that shorter approval and compliance periods were granted so as to allow time for the applicant to relocate the business to other suitable locations and to monitor the situation of the site. Mr. Ngai advised that the two adjacent car parks under Applications No. A/YL-NSW/190 and 191 were under one owner while the site under the current application were owned by another landowner. The applicant had rented the three sites for operation of car parks.

32. In response to Members' questions (b) and (c), Mr. Benny Wong, Deputy Director of Environmental Protection, referred to the Environmental Review Report submitted by the applicant at Annex F2 of the Paper which only stated that the cumulative effect to the background noise as a result of the fixed noise generated within the site was not expected to be significant. However, no quantitative assessment indicating the extent of the environment impact was included in the report. Normally, DEP would not support this type of application when sensitive receiver (e.g. residential structure) was found within 100m of the application site unless a quantitative assessment was provided to prove its acceptability. He further advised that the complaint against the site in 2007 was related to

construction dust pollution. DEP had given warning to the operator but no enforcement action was undertaken given that there was no strong evidence to support doing so.

33. Mr. Lam Hing Nin made the following points:

- (a) he was a villager of Shan Pui Tsuen;
- (b) it was unfair for the Government to reject the current application for temporary use while permitting the development of The Parcville and the driving school which were also in close proximity to the wetland conservation area. It was plainly obvious that the environmental impacts of the two developments were much more significant than the proposed temporary car park with only 90 parking spaces. There was so far no environmental complaint received on the two adjacent car parks which had been in operation for many years;
- (c) the proposed container tractor/trailer park could cater for the strong demand of such parking spaces in Yuen Long to support the logistics industry. Currently, there was a shortage of container vehicle parking spaces in Yuen Long resulting in on street parking; and
- (d) the traffic flow generated by the 90 car parking spaces would not be significant. It was unlikely that the proposed car park would generate significant impact on environment, noise and drainage aspects. The real concern of the owners/residents of The Parcville was the impact on their property price.

34. In response to Mr. Benny Wong's comment, Mr. Ngai said that the applicant could provide quantitative assessment on the environmental impact of the proposed use if required. However, given the small number of parking spaces and the distance of 100m from The Parcville, Mr. Ngai said that the environmental impact was insignificant. The only sensitive receiver would be Shan Pui Chung Hau Tsuen which was 80-90m away from the application site but the VRs of the village had already indicated their support to the application. The drivers of the container tractors/trailers were mainly living nearby

and hence the location of the parking area would be convenient to them.

35. As the applicant and his representatives had no further comment to make and Members had no further question, the Chairman informed them that the hearing procedures for the review application had been completed. 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 representative of the PlanD and the applicant and his representatives for attending the meeting. They all left the meeting at this point.

#### Deliberation Session

36. The Chairman told Members that the Board had promulgated TPB guidelines to provide guidance to public on matters such as the general criteria adopted by the Board in considering planning applications. In this regard, Members were invited to refer to the criteria listed in the relevant guidelines in assessing planning applications.

37. A Member asked about the background of the "OU(CDWRA)" zoning in the area and whether similar planning applications had been approved by the Board in the surrounding area. The Secretary explained that the subject "OU(CDWRA)" zone fell within the Wetland Buffer Area (WBA) which was originated from the Study on the Ecological Value of Fish Ponds in the Deep Bay Area (the Study). The Study completed in 1997 had confirmed the unique international and regional importance of the fish pond system in the Deep Bay Area. A precautionary approach had been adopted by the Board with the intention to protect and conserve the existing ecological functions of the fish ponds in order to maintain the ecological integrity of the Deep Bay wetland ecosystem as a whole. A two-pronged approach to land use planning control was adopted through the designation of Wetland Conservation Area (WCA) for all existing continuous and adjoining active/abandoned fish ponds and the designation of WBA to protect the ecological integrity of WCA. As a substantial amount of the fish ponds within the WBA had been lost over time as a result of pond filling and were degraded by the presence of open storage use, it was decided that an incentive to be provided to remove the open storage use and/or to restore some of the fish ponds by allowing an appropriate level of residential/recreational development at certain target areas. The target areas were zoned as "OU(CDWRA)" with the planning intention to provide incentive for restoration of

degraded wetlands adjoining existing fish ponds through comprehensive residential and/or recreational development to include wetland restoration area and to phase out existing sporadic open storage and port back-up uses on degraded wetlands.

38. The Secretary further explained that the WCA and WBA were mostly classified as Category 3 or 4 areas under the TPB PG-No.13E. Within the Category 3 area where the application site was located, “existing” and approved open storage uses were to be contained and further proliferation of such uses were not acceptable. Applications would normally not be favourably considered unless the applications were on sites with previous approvals and the applicants had demonstrated genuine efforts to comply with approval conditions of previous planning approvals. However, Category 4 areas which included areas with ponds or wetland or with extensive vegetation or close to environmentally or ecologically sensitive areas, applications for open storage uses would normally be rejected as the intention was to encourage the phasing out of non-conforming uses as early as possible.

39. The Secretary went on to explain that the two adjacent car parks approved by RNTPC under Applications No. A/YL-NSW/190 and 191 also fell within Category 3 areas. They were in fact renewal applications for applications No.A/YL-NSW/147 and 148 for temporary container tractor/trailer park and temporary private car park which were allowed by the TPAB on 31.7.2007. Applications No.A/YL-NSW/147 and 148 were originally rejected by RNTPC and the Board on review as the proposed development did not comply with TPB PG-No.12B but allowed by TPAB for a period of 2 years mainly on the grounds that there would unlikely be any real or significant improvement on wetland restoration in the area for the next 2 years and the proposed use would not have any long-term impact on the planning intention of the “OU(CDWRA)” zoning; the concerns on drainage and visual impacts could be addressed by approval conditions; local views were mixed; and there was a reasonable demand for parking spaces in the area as the sites had been used for vehicle parking since 1996. In considering the renewal applications No. A/YL-NSW/190 and 191, RNTPC considered that a shorter approval period of 12 months (up to 21.8.2010) should be granted so as to allow time for the applicant to relocate the business to other suitable locations and to monitor the situation of the site. The current application was in effect an extension to the adjacent car parks.

40. In view of the planning intention of the “OU(CDWRA)” zone and that no previous planning approval had been granted for similar use at the application site, and the approval period of the adjacent car parks was only one year, a Member did not support the current planning application for temporary container trailer/tractor park.

41. Two Members supported the intention to phase out open storage uses within the “OU(CDWRA)” zone. In response to their questions about the background of the driving school and The Parcville, the Secretary explained that the driving school, currently fell within the “OU(CDWRA)” zone, was originally zoned “Residential (Group D)” and had existed at the present location for many years. It was a temporary use which was also intended to be phased out in the long run. For The Parcville, she advised that the site was rezoned from “Industrial” to “Comprehensive Development Area” and the development had been completed. The Chairman said that Members should consider each application based on its own merits. For the subject case, DEP considered the proposed development environmentally undesirable.

42. After some discussions, Members generally agreed to reject the application as the proposed development was not in line with the planning intention of the “OU(CDWRA)” zone and the TPB PG-No. 13E in that there was no previous planning approval for a similar use at the site; there were adverse comments from Government departments and objections from members of the public; and environmental nuisance was expected. Members then went through the reasons for rejection as stated in paragraph 7.1 of the Paper and considered that they were appropriate.

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

- (a) the proposed development was not in line with the planning intention of the “OU(CDWRA)” zone which was intended to phase out existing sporadic open storage and port back-up uses on degraded wetlands and there was no strong planning grounds to justify a departure from the planning intention even on a temporary basis;
- (b) the development was not in line with the Town Planning Board

Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13E) in that there was no previous planning approval for a similar use at the site; there were adverse comments from Government departments and objections from members of the public; and environmental nuisance was expected; and

- (c) the approval of the application, even on a temporary basis, would set an undesirable precedent for similar applications within the “OU(CDWRA)” zone. The cumulative effect of approving such applications would result in a general degradation of the environment of the area.

### **Agenda Item 5**

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/YL-PH/599

Temporary Open Storage of Private Cars and Light/Medium Goods Vehicles Prior to Sale for a Period of 2 Years in "Village Type Development" zone, Lots 2116 S.B ss.11 (Part), 2116 S.B RP (Part) and 2124 S.B RP (Part) in D.D. 111, Kam Tin Road, Pat Heung, Yuen Long (TPB Paper No. 8532)

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[The hearing was conducted in Cantonese.]

### **Presentation and Question Session**

44. The following representative of the Government and the applicant's representative were invited to the meeting at this point:

Ms. Amy Cheung - District Planning Officer/Tuen Mun and Yuen Long (DPO/TMYL), Planning Department (PlanD)

Mr. C. W. Ho Applicant's representative

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

application.

[Ms. Anna S.Y. Kwong and Dr. C.P. Lau left the meeting temporarily at this point.]

46. With the aid of the Powerpoint presentation, Ms. Amy Cheung presented the application and covered the following main points as detailed in the Paper:

- (a) the application sought planning permission for a proposed temporary warehouse for temporary open storage of private cars and light/medium goods vehicles prior to sale for a period of 2 years in an area zoned “Village Type Development” (“V”) on the approved Pat Heung Outline Zoning Plan (OZP);
- (b) the site fell within Category 4 areas under the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13E);
- (c) the site was about 775m<sup>2</sup> and was accessible from Kam Tin Road. The proposal involved an open storage of 30 private cars and light/medium goods vehicles (5.5 to 24 tonnes). The proposed operation hours were from 10:00 a.m. to 6:30 p.m. (Mondays to Saturdays);
- (d) the Rural and New Town Planning Committee (RNTPC) rejected the application on 20.11.2009 for the reasons that the continuous occupation of the site for the applied temporary open storage use was not in line with the planning intention of the “V” zone on the OZP, which was to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within the zone was primarily intended for development of Small Houses by indigenous villagers. There was insufficient justification in the submission for further departure from such planning intention, even on a temporary basis. The continuous use on the site was not in line with the TPB PG-No. 13E in that the site fell within Category 4 areas, the intention of



which was to encourage the phasing out of such non-conforming uses as early as possible. There were no exceptional circumstances to allow the continuation of the applied open storage use on-site. Sufficient time had already been allowed for the applicant to relocate the use to other suitable locations. The development was considered not compatible with the surrounding areas which were predominated by residential developments and homes for the aged. There was about 96.46 ha of land zoned "Open Storage" ("OS") on the Pat Heung OZP. There was no information in the submission to demonstrate why suitable sites within the "OS" zones were not available for the applied use;

- (e) the site was located to the south of Kam Tin Road. The area surrounding the site was dominated by residential developments of Wang Toi Shan San Tsuen with mixture of open storage yards and workshops. Residential structures were found in the vicinity of the site on both sides of Kam Tin Road and there were also several homes for the aged located immediately next to the site;
- (f) the details of the applicant's proposal were set out in paragraph 1 of Annex A of the Paper. The applicant had submitted written representation with justifications in support of the review application as summarised in paragraph 3 of the Paper and below:
  - (i) the applicant felt that the planning justifications in his application had not been given full consideration. He had made genuine efforts to comply with the planning intention of the "V" zone and had drawn up plans for seven Small House lots at the back of the application site. However, there were only four village house applications up till now and only one was built. He had excluded these Small House sites from the current application so as to comply with the planning intention of "V" zone;
  - (ii) if the current application was rejected, it was likely that the site would be left vacant which would cause visual and environmental blights to the immediate neighbourhood with little benefits to the community;

- (iii) there was no objection from government departments and the applied use had not caused any traffic or environmental problems to the surroundings. Also, no complaint had ever been received from the neighbours over the years;
  - (iv) because of the present poor economy in Hong Kong, the closure of the business would cause loss of local employment;
  - (v) the current operators found it difficult to look for alternative sites and hoped that the Board could grant them an extension to allow more time to endure the current recession and to find suitable alternative sites;
  - (vi) if the application was granted for two years, the applicant would comply with the approval conditions including installation of proper visual and noise mitigation measures;
- (g) departmental comments – the departmental comments were summarised in paragraph 5 of the Paper. District Lands Officer/Yuen Long (DLO/YL) advised that the land grant for the Small House application on Lot 2124 S.B ss.2 in D.D.111 had been completed whereas the Small House applications on Lots 2124 S.B ss.4 and 2124 S.B ss.6 in D.D.111 were on the waiting list pending processing. Director of Environmental Protection (DEP) advised that there were no environmental complaints in the past 3 years and the application could be tolerated, provided that there was no car repairing activity, no night-time operation and no container vehicles were allowed within the site. However, since more Small Houses would be constructed near the site, should there be future environmental complaints on the site, future application should not be approved. Other departments had no objection to the application;
- (h) public comments - during the statutory publication period, no public comment was received;
- (i) PlanD's view – PlanD did not support the review application based on the planning considerations and assessments as set out in paragraph 7 of the Paper and summarized below:

- (i) Since the granting of the first approval in 1999, a total of 5.5 years of approval period had been given to allow time for the applicant to relocate his business to other suitable locations. Land within the “V” zone was primarily intended for development of Small Houses by indigenous villagers. The continuous occupation of the site for the applied temporary open storage use would frustrate the planning intention of the “V” zone on the OZP. There was insufficient planning justification in the submission for further departure from such planning intention, even on a temporary basis;
- (ii) the continuation of the applied use was not in line with the TPB PG-No. 13E in that the site fell within Category 4 areas. For renewal of planning permission in Category 4 areas, a maximum period of 2 years might be allowed upon renewal of planning permission for an applicant to identify suitable sites for relocation. Despite the repeated tolerance of the applied use under previous applications, the applicant had failed to relocate his business to other suitable locations. He had not included details of his search of alternative site nor the difficulties he encountered;
- (iii) the applicant had been advised under the last approval (No.A/YL-PH/549) to relocate the applied use and that no further renewal of planning permission would be allowed. Besides, he did not comply with the approval condition in the last permission (No.A/YL-PH/549) on the implementation of run-in/out for the site. The latest application (No.A/YL-PH/582) covering a larger site for the same use for one year was rejected by RNTPC on 5.6.2009. There were no exceptional circumstances to allow the continuation of the applied open storage use on-site;
- (iii) there were approved/submitted Small House applications in the immediate neighbourhood of the site. The open storage and workshop uses found in the vicinity of the site were mostly suspected unauthorised developments subject to enforcement action to be taken by the Planning Authority. The development was considered not compatible with the surrounding areas which

were predominated by residential developments and homes for the aged;

- (iv) the applicant's justifications that there were 16 applications in the vicinity of the site approved for open storage uses up to 3 years over the past years along Kam Tin Road. It should be noted that all the planning approvals for similar developments in the area had already lapsed or been revoked;
- (v) the site was situated about 100m to the west of an area zoned "OS" use where the applied use was always permitted. There was about 96.46 ha of land zoned "OS" on the Pat Heung OZP. There was no information in the submission to demonstrate why suitable sites within the "OS" zones were not available for the applied use; and
- (vi) all the information submitted by the applicant in support of the application had been included in the paper for consideration by the RNTPC. Since the last application No.A/YL-PH/582, there had been a change in planning circumstances that to the south of the site, one Small House applications was granted and two others were on the waiting list pending processing. There was no strong planning justification to deviate from the previous decision for rejecting the applied use.

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

48. With the aid of a Powerpoint presentation, Mr. C.W. Ho made the following points:

- (a) the application site was located within an area with mixed use character along Kam Tin Road. The surrounding uses including open storages, car parks, village houses, elderly homes and some vacant land. The mixed land use character created a desirable environment for the local residents by providing opportunities for living, employment, recreation and retirement. The mixed land use character was well supported by

the market;

- (b) the current application was for temporary open storage of vehicles for sale. There would be no repairing or workshop activities and no night time operation within the site. The site was also well screened by mature trees from the surrounding areas. The proposed use would not create any nuisance to the homes for the elderly in the neighbourhood and there was no complaint received;

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

- (c) the planning justifications provided by the applicant in support of the application had not been given full consideration by the Board;
- (d) the applicant had made genuine efforts to comply with the planning intention of the “V” zone and had developed survey plans for seven small house lots at the back portion of the previous application site (No.A/YL-PH/549) which was adjacent to other residential uses. However, there were only four village house applications up to the present moment and only one village house was built. The applicant was aware of the village house development in the “V” zone and had excluded the three small house application sites from the current application site boundary. As the small house lots would unlikely be used for in two to three years’ time, the temporary open storage use would not frustrate the intention for Small House development in the near future. On the other hand, the current planning application site occupied the lot fronting Kam Tin Road which was suitable for commercial use;
- (e) if the current application was rejected, it was likely that the application site would be left vacant which would cause visual and environmental blights to the immediate neighbourhood with little benefits to the community;

- (f) there were no objections from all concerned departments to the application and the current use had not caused any traffic and environmental problems. No complaints had ever been received from the neighbours over the years;
- (g) because of the current poor economy in Hong Kong, the applicant had suffered from a significant drop in the sales of vehicles from 120 numbers in 2007 to only 60 in 2009. The closure of the business would cause loss of local employment;
- (h) the current operators might not be fully aware of the Board's concern. It was difficult for them to look for alternative sites in view of the relocation costs involved and the risk of losing business. The applicant hoped that the Board could grant them an extension to allow more time to endure the current recession and to find suitable alternative sites;
- (i) if an extension of two years was granted, the applicant would comply with the approval conditions including the installation of proper visual and noise mitigation measures between the site and the approved small houses nearby and other sensitive uses near the site;
- (j) a more detailed list of the planning grounds for the current application was included in the Executive Summary attached in Appendix 1 of Annex A of the Paper; and
- (k) it was hoped that the Board would take into account the economic hardship and revenue loss of the applicant in the recession time, his genuine effort to comply the planning intention of the "V" zone and that the temporary open storage use, being located on the lot fronting Kam Tin Road would not frustrate the intention of "V" zone for Small House development in the near future.

49. Members had the following questions:

- (a) Apart from open storage of vehicles for sale, whether the applied use would include vehicles rental services?
- (b) Noting that the applicant had been advised by the Board in the last planning approval (No. A/YL-PH/549) to relocate the applied use, whether the applicant had made an effort to identify an alternative site for relocation of his business and the difficulties encountered?
- (c) Why the applicant claimed that the Board had not given full consideration to his justifications?
- (d) How far was the “OS” zone on the Pak Heung OZP from the application site and why the applicant did not identify sites within the “OS” zone?

50. In response to Members’ questions (a) to (c), Mr. C.W. Ho made the following points:

- (a) the applied use was for temporary open storage of vehicles for sale and he was not aware that there would be rental services;
- (b) he had no information on whether alternative sites had been identified but he understood that the relocation cost involved would be a concern to the applicant. Given that the proposed use would not create environmental nuisance to the surrounding, he asked the Board to tolerate the use for two more years;
- (c) the Board had not fully considered the planning justifications put forth by the applications in that:
  - (i) it would take about 10 to 20 years to develop the whole “V” zone taking into account the demand of Small House and the processing time required for the Small House applications. In this regard, the Board should consider allowing temporary use at the site to maximise the use of resources;
  - (ii) the proposed use was not incompatible with the surrounding and

would not create any environmental nuisance to the surrounding uses such as the homes for the elderly. A mixed land use environment was more desirable; and

(iii) no adverse departmental comment was received on the application.

51. In response to Members' questions (d), Ms. Amy Cheung, DPO/TMYL, advised that the "OS" zone was about 100m away from the application site and covered a large area. Mr. C.W. Ho commented that the subject "V" zone and the "OS" zone were only separated by a road and their surrounding environment was similar. He cast doubt on the appropriateness of the zoning boundary.

52. As the representative of the applicant had no further comment to make and Members had no further question, the Chairman informed them that the hearing procedures for the review application had been completed. 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 representative of the PlanD and the representative of the applicant for attending the meeting. They all left the meeting at this point.

[Ms. Anna S.Y. Kwong returned to join the meeting while Dr. Winnie S.M. Tang left the meeting at this point.]

#### Deliberation Session

53. A Member considered that the applicant had not provided sufficient information to persuade the Board to vary the RNTPC's decision, and hence did not support the application. Another Member also agreed to reject the application but asked whether the site would be left vacant as claimed by the applicant if the application was rejected. The Chairman said that the site could be used for other purposes such as Small House development. He added that the planning intention of the "V" zone was to reflect existing recognized and other villages, and to provide land considered suitable for village expansion. Land within the "V" zone was primarily intended for development of Small Houses by indigenous villagers.

54. The Chairman then concluded and Members agreed to reject the application as



the continuous occupation of the site was not in line with the planning intention of the “V” zone and the TPB PG-No.13E in that the site fell within Category 4 areas, the intention of which was to encourage phasing out of non-conforming uses as early as possible. Members then went through the reasons for rejection as stated in paragraph 8.1 of the Paper and considered that they were appropriate.

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

- (a) the continuous occupation of the site for the applied temporary open storage use was not in line with the planning intention of the “V” zone on the OZP, which was to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within the zone was primarily intended for development of Small Houses by indigenous villagers. There was insufficient planning justification in the submission for further departure from such planning intention, even on a temporary basis;
- (b) the continuous use on the site was not in line with the TPB PG-No. 13E in that the site fell within Category 4 areas, the intention of which was to encourage the phasing out of such non-conforming uses as early as possible. There was no exceptional circumstances to allow the continuation of the applied open storage use on-site. Sufficient time had already been allowed for the applicant to relocate the use to other suitable locations;
- (c) the development was considered not compatible with the surrounding areas which were predominated by residential developments and homes for the aged; and
- (d) there was about 96.46 ha of land zoned “Open Storage” (“OS”) on the Pat Heung OZP. There was no information in the submission to demonstrate why suitable sites within the “OS” zones were not available

for the applied use.

**Agenda Item 6**

[Open Meeting]

Request for Deferral for Review of Application No. A/YL-LFS/197

Temporary Open Storage of Containers with Ancillary Office and Ancillary Container Repair Workshop for a Period of 3 Years in "Residential (Group E)" zone, Lots No. 1709 (Part), 1710 (Part), 1711 (Part), 1712 (Part), 1713, 1714 (Part), 1715 (Part), 2276 S.A (Part), 2277 S.A, 2277 S.B (Part), 2278, 2279 S.A, 2279 S.B (Part), 2280 (Part), 2285 (Part), 2286, 2287, 2288, 2289, 2291, 2292, 2294, 2295, 2296 (Part), 2302 (Part), 2305 (Part), 2306, 2310, 2311, 2312, 2313, 2314 S.A (Part), 2314 RP (Part), 2317 (Part), 2318, 2320 (Part), 2321, 2322, 2323, 2324, 2325 S.A, 2325 S.B, 2325 RP, 2326 (Part), 2327 (Part), 2328, 2329, 2344 S.A (Part), 2344 S.B (Part), 2348 (Part), 2349 (Part), 2352 (Part) and 2353 (Part) in D.D. 129, Lau Fau Shan, Yuen Long (TPB Paper No. 8533)

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[The meeting was conducted in Cantonese.]

56. The Secretary reported that on 18.12.2009, the RNTPC approved the application for temporary open storage of containers with ancillary office and ancillary container repair workshop for a period of 1 year at the application site. Under approval condition (d), the stacking height of containers stored at any other location within the site should not exceed 4 units during the planning approval period. The applicant sought review of approval condition (d). On 31.3.2010, the applicant wrote to the Board and requested the Board to defer consideration of the application for a period of 1 month in order to allow more time for him to finalize the risk assessment for demonstrating the safety of stacking up to 7 units of containers on-site to support of the review application. The justifications for deferment met the criteria for deferment as set out in the Town Planning Board Guidelines on Deferment of Decision on Representations, Comments, Further Representations and Applications (TPB PG-No. 33).

57. After deliberation, the Board agreed to defer a decision on the review application and the review application would be submitted to the Board for consideration within 3 months upon receipt of the further submission from the applicant. The Board also agreed to advise the applicant that the Board had allowed 1 month for preparation of

submission of further information and no further deferment would be granted, noting the short approval period of 1 year, and that warning letter against the breach of the subject approval condition (d) had been issued to the applicant on 25.1.2010.

**Agenda Item 7**

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/NE-KLH/394

Proposed Five Houses (New Territories Exempted Houses-Small Houses) in "Green Belt" zone, Lots 706 S.A, 706 S.C, 707 S.D, 708 S.B and 708 S.C in D.D. 9, Yuen Leng Village, Kau Lung Hang, Tai Po

(TPB Paper No. 8534)

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[The hearing was conducted in Cantonese.]

**Presentation and Question Session**

58. The Chairman informed the meeting that the applicant indicated that he would not attend the hearing. The following representative of the Government was invited to the meeting at this point:

Mr. W.K. Hui - District Planning Officer/Shu Tin, Tai Po and North  
(DPO/STN), Planning Department (PlanD)

59. The Chairman extended a welcome and then invited Mr. W.K. Hui to brief Members on the background to the application.

60. With the aid of some plans, Mr. W.K. Hui presented the application and covered the following main points as detailed in the Paper:

- (a) the applicant sought planning permission to build five houses (New Territories Exempted Houses (NTEH) – Small Houses) on the application site which fell within an area zoned “Green Belt” (“GB”) on the approved Kau Lung Hang Outline Zoning Plan (OZP);

- (b) the RNTPC rejected the application on 18.12.2009 for the reasons that the proposed development did not comply with the interim criteria for assessing planning application for NTEH/Small House development ('Interim Criteria') in that the application site fell entirely outside the "Village Type Development" ("V") zone of Yuen Leng Village and it was uncertain whether the proposed Small Houses could be connected to the planned sewerage system in the area. The proposed development would likely cause adverse water quality impacts on the surrounding areas, in particular the natural stream course to the west of the site; and the approval of the application would set an undesirable precedent for other similar applications leading to more Small House applications in the subject "GB" zone. This would degrade the landscape quality of the area;
- (c) the applicant had not submitted any written representation in support of the review;
- (d) departmental comments – the departmental comments were summarised in paragraph 4 of the Paper. District Lands Officer/Tai Po (DLO/TP) had no objection to the development of House 5, but did not support the development of the other four proposed houses with septic tanks located less than 30m from the nearby stream. Director of Environmental Protection (DEP) did not support the application as the application site for development of proposed five houses fell within Water Gathering Ground (WGG) and the proposed Small Houses were all located outside the "V" zone. There was no existing nor planned sewerage connection in close proximity to the proposed houses and sewage discharges from the proposed development would have potential to cause water pollution to the WGG. Chief Engineer/Development (2), Water Supplies Department (CE/D(2), WSD) maintained his objection to the application as there was no information that an easement for sewer connection could be provided. Director of Agriculture, Fisheries and Conservation (DAFC) maintained his reservation on the application because the proposed development would cause loss of greenery in "GB" zone and

might affect the stream course nearby. Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) also maintained his objection to the application as approval of the application would set an undesirable precedent to similar small house applications in the area encouraging urban sprawl and degrading the landscape quality of the subject “GB” zone. The Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD) had in-principle objection to house development at two of the lots unless a natural terrain hazard study was undertaken to assess the scale of the natural terrain problems and necessary mitigation measures were provided;

- (e) public comments - during the statutory publication period, two public comments against the review application were received. A resident of Yuen Leng Village objected on the grounds that the site was zoned “GB” and the proposed development would worsen the living environment of the village while the Designing Hong Kong Limited opined that there was a lack of village layout plan for the area; and
- (f) PlanD’s view – PlanD did not support the review application based on the planning considerations and assessments as set out in paragraph 6 of the Paper and summarized below:
  - (i) the proposed development did not comply with the Interim Criteria because all the proposed Small Houses within the WGG could not be connected to the existing or planned sewerage system in the area and it would likely cause adverse impacts on the surrounding areas, in particular the natural stream to the west. There was no information indicating that the owners of adjoining lots would provide an easement for a sewer connection of the proposed houses nor the land would be made available for extension of the planned sewerage system. The feasibility of connection to the planned public sewerage system in the area was still in question. DEP therefore maintained his views of not supporting the application and CE/Dev (2), WSD maintained his

- objection to the application;
- (ii) the application site was currently a piece of fallow agricultural land overgrown with vegetation within the “GB” zone. It did not meet the TPB-PG No. 10 for development within “GB” zone in that there was no satisfactory sewage disposal facilities for Small House development and the proposed development would likely cause adverse impacts on the stream course in the close vicinity to the west of the site. DAFC maintained his reservation on the application because the proposed development would cause loss of greenery in “GB” zone and might affect the stream course nearby. CTP/UD&L of PlanD also maintained his objection to the application as approval of the application would set an undesirable precedent to similar small house applications in the area encouraging urban sprawl and degrading the landscape quality of the subject “GB” zone;
  - (iii) although the Proposed House 3 on Lot 707 S.D was the subject of a previous planning approval under application No. A/NE-KLH/261 and there were a number of similar applications for NTEH/Small House development (Application Nos. A/NE-KLH/254, 263 and 264) approved by the RNTPC in the close vicinity, it should be noted that the previous application and those approved similar applications were all approved by the RNTPC before the adoption of the revised Interim Criteria on 23.8.2002, which required the proposed Small Houses to be able to connect to the public sewerage system in the area. Since the rejection of the subject application by the RNTPC on 18.12.2009, there had been one additional similar application No. A/NE-KLH/395 in the close vicinity. This application was approved with conditions by the RNTPC on 15.1.2010 mainly because the proposed Small House was able to be connected to the planned sewerage system in the area and it was unlikely that the proposed development would have significant adverse impact. Therefore, the same consideration of those approved similar applications in the vicinity of the site did not apply to the current

application; and

- (iv) given that there was no further information provided by the applicants to substantiate the application for review, there was no strong justification to merit a departure from the RNTPC's previous decision on the s.16 application

61. In response to a Member's query, Mr. W.K. Hui confirmed that the applicant did not submit any further written representation in support of the review application and also indicated that he would not attend the hearing.

62. As Members had no further question, the Chairman thanked the representative of the PlanD for attending the meeting. Mr. W.K. Hui left the meeting at this point.

#### Deliberation Session

63. Members generally agreed to reject the application as the site fell within the WGG and the proposed development did not comply with the Interim Criteria in that it was uncertain whether the proposed Small Houses could be connected to the planned sewerage system in the area. The proposed development would likely cause adverse water quality impacts on the surrounding areas, in particular the natural stream course to the west of the site. The approval would set an undesirable precedent for similar applications. Members then went through the reasons for rejection as stated in paragraph 7.1 of the Paper and considered that they were appropriate.

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

- (a) the proposed development did not comply with the interim criteria for assessing planning application for New Territories Exempted House (NTEH)/Small House development in that it was uncertain whether the proposed Small Houses could be connected to the planned sewerage system in the area. The proposed development would likely cause adverse water quality impacts on the surrounding areas, in particular the natural stream course to the west of the site; and

- (b) the approval of the application would set an undesirable precedent for other similar applications leading to more Small House applications in the subject "Green Belt" zone. This would degrade the landscape quality of the area.

[Professor P.P. Ho, Professor Eddie C.M. Hui and Professor Paul K.S. Lam left the meeting at this point.]

### **Agenda Item 8**

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/NE-KLH/396

Temporary Open Storage of Vehicles for Sale Purpose with Ancillary Vehicle Repairing Workshop for a Period of 3 Years in "Agriculture" zone, Lot 410 (Part) in D.D. 7, Tai Hang Village, Kau Lung Hang, Tai Po

(TPB Paper No. 8535)

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[The hearing was conducted in Cantonese.]

### **Presentation and Question Session**

65. The following representative of the Government and the applicant were invited to the meeting at this point:

Mr. W.K. Hui - District Planning Officer/Shia Tin, Tai Po and North (DPO/STN), Planning Department (PlanD)

Ms. Chan Fu Choi Joise - Applicant's representative

66. Members noted that a letter of 29.4.2010 was tabled at the meeting by the applicant in support of the review application. The Chairman extended a welcome and explained the procedures of the review hearing. He then invited Mr. W.K. Hui to brief Members on the background to the application.



67. With the aid of some plans, Mr. W.K. Hui presented the application and covered the following main points as detailed in the Paper:

- (a) the applicant sought planning permission for a proposed temporary open storage of vehicles for sale purpose with ancillary vehicle repairing workshop for a period of 3 years in an area zoned “Agriculture” (“AGR”) on the approved Kau Lung Hang OZP;
- (b) the site fell within Category 3 areas under the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13E);
- (c) the RNTPC rejected the application on 15.1.2010 for the reasons that the development was not in compliance with the TPB Guidelines No.13E for ‘Application for Open Storage and Port Back-up Uses’ in that there was no previous planning approval for similar open storage use granted to the application site. There was no technical assessment in the submission to demonstrate that the temporary open storage use would not generate adverse impacts on the surrounding areas and there were adverse comments from concerned Government departments and local objections on the application. The application site fell within the upper indirect water gathering ground (WGG) and the development could have material increase in pollution effect within the WGG. The application was not in line with the planning intention of the “AGR” zone, which was primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. The “AGR” zone was also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There was no strong planning justification in the current submission for a departure from the planning intention, even on a temporary basis. The approval of the application would set an undesirable precedent for other similar applications in the area. The cumulative impacts of approving such applications would result in a general degradation of the environment of the area; and.

- (d) the application site was subject to active planning enforcement action for unauthorized workshop use, parking of vehicles and storage use (including deposit of containers). An Enforcement Notice (EN) was issued to the concerned landowners and occupiers to discontinue the said unauthorized developments (UDs). According to the latest site inspection undertaken on 22.2.2010, the UD's on the application site had not been discontinued. Non-compliance with the EN was subject to prosecution action;
  
- (e) the applicant had not submitted any written representation in support of the review application but a letter was submitted by the applicant to the Board on 29.4.2010 in support of the review application which was tabled at the meeting. In sum, the applicant claimed that the existing open storage yard of vehicles operated by her at the adjoining lot would be affected by Government's road widening project. As part of the lot would be resumed by the Government, the application site was identified for the relocation of the existing operation. Due to reduction in scale of the operation at the application site, the impact on the environment, drainage and traffic would be significantly reduced. For the small domestic structure south of the site, it was owned by the applicant and not for domestic purpose. Hence, no environmental nuisance would be created. The applicant would comply with the relevant approval conditions if the application was approved by the Board;
  
- (f) departmental comments – the departmental comments were summarised in paragraph 4 of the Paper. District Lands Officer/Tai Po (DLO/TP) confirmed that the part of the adjoining Lot 412 S.B. ss.1 RP in D.D.7 (about 786.6m<sup>2</sup>) would be affected by land resumption of the road widening project. Director of Environmental Protection (DEP) advised that no pollution complaint were received in the past three years. However, DEP did not support the application as there was a sensitive use in the vicinity of the site (the nearest domestic structure at about 2m from the site to its south) and environmental nuisance was expected. Chief

Engineer/Development(2), Water Supplies Department (CE/D(2), WSD) objected to the application as the application site fell within the upper indirect WGG and the car repairing and servicing activities in the application could have material increase in pollution effect within the WGG. Director of Agriculture, Fisheries and Conservation (DAFC) did not support the application as the site had high potential for rehabilitation of agricultural use, such as nursery and greenhouse cultivation. The Chief Town Planner/Urban Design & Landscape (CTP/UD&L, PlanD) objected to the application from landscape planning point of view. The surrounding environment of the site was rural in character and the development was incompatible with the existing rural landscape setting. Other departments had no objection/comment to the application;

- (g) public comments - during the statutory publication period, two public comments against the review application were received from the Indigenous Inhabitant Representative (IIR) of Tai Hang Village and the Chairman of Tai Hang Village Office during the publication period. They were against the application on the grounds of environmental nuisance, adverse water quality impact on the WGG, traffic safety concerns and adverse traffic impact caused by the development on the surrounding areas;
- (h) PlanD's view – PlanD did not support the review application based on the planning considerations and assessments as set out in paragraph 6 of the Paper and summarized below:
  - (i) the development was not in compliance with the TPB Guidelines No.13E for 'Application for Open Storage and Port Back-up Uses' in that there was no previous planning approval for similar open storage use granted to the application site. There was no technical assessment in the submission to demonstrate that the temporary open storage use would not generate adverse impacts on the surrounding areas and there were adverse comments from concerned Government departments and local objections on the application;

- (ii) the application site fell within the upper indirect WGG and the development could have material increase in pollution effect within the WGG;
- (iii) the application was not in line with the planning intention of the “AGR” zone, which was primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. The “AGR” zone was also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There was no strong planning justification in the current submission for a departure from the planning intention, even on a temporary basis; and
- (iv) the approval of the application would set an undesirable precedent for other similar applications in the area. The cumulative impacts of approving such applications would result in a general degradation of the environment of the area.

68. The Chairman then invited the applicant’s representative to elaborate on the application.

69. Ms. Chan Fu Choi Joise made the following main points:

- (a) she and her husband had bought a piece of land (Lot No. 412 s.B ss.1 R.P.) adjoining the application site in 1987 for operating an open storage yard of vehicles for 23 years. As part of the Lot No. 412 s.B ss.1 R.P. (about 9,000ft<sup>2</sup> currently used for open storage and workshop activities) would be resumed by Government for road widening project, the remaining area (currently occupied by the office and loading/unloading area) was not sufficient for the existing operation;
- (b) the application site had been identified for the relocation of the existing operation affected by the land resumption. The site was already paved and had not been used for agricultural purpose for many years. The landowner had no intention to rehabilitate it for agriculture use and the site had been used for storage of construction materials by other users.

The DLO/TP supported the applicant in renting the application site for the proposed use; and

- (c) as a result of the relocation, the scale of operation and business would be significantly reduced by about 30%. Hence, the impact on environment, traffic and drainage would also be reduced.

70. Members had the following questions:

- (a) What was the advice of DLO/TP to the applicant on the application?
- (b) According to the letter tabled by the applicant at the meeting, the applicant had contacted a drainage engineer who advised that some engineering work could be done to prevent pollution on the WGG. Whether the said drainage engineer was a representative from Government and did the applicant have any plan for the drainage works?
- (c) Would there be any compensation provided by the Government upon resumption of the applicant's Lot No. 412 s.B ss.1 R.P. ?
- (d) Did Lot No. 412 s.B ss.1 R.P. fall within the WGG and was there any mitigation measures to prevent the pollution impact arising from the existing open storage yard?
- (e) Was the open storage yard of vehicles currently operated by the applicant at Lot No. 412 s.B ss.1 R.P. as an "existing use" that was tolerated by the Planning Authority?
- (f) Did the applicant put forward the same justifications as presented at the review hearing at the s.16 application stage for the consideration of RNTPC?

71. In response to Members' questions (a) to (d), Ms. Chan Fu Choi Joise made the following points:

- (a) she had been liaising with staff of DLO/TP on land resumption matters and application of STW for the application site. As staff of DLO/TP had indicated support to grant STW for the application site, she rented the site for the applied use. However, after several months of fitting out works, she received EN from Planning Department asking her to discontinue the use. On this point, Miss Annie Tam, Director of Lands, advised that a STW was granted to cover Lot 412 S.B. ss.1 R.P. for storage of vehicles and workshop for car repairing. As the said STW would be affected by the road widening project, DLO/TP had already informed the applicant that the STW would be terminated on 30.4.2010. For the application site, no STW had yet been granted. In considering any application for STW for the application site, DLO/TP would take into account all the relevant considerations including the Board's decision on the current planning application;
- (b) the drainage engineer mentioned in the letter was a representative of WSD who had advised her that a U-shaped channel could be constructed to minimise the pollution impact on WGG. She had already contacted a qualified contractor to undertake the necessary drainage works;
- (c) she was not aware of the amount of compensation for the resumption of her lot at this stage; and
- (d) she was aware that her lot at Lot No. 412 s.B ss.1 R.P. fell within WGG and was very cautious on the potential impact on the WGG. Various measures had been undertaken to avoid pollution impact on the WGG, such as the use of oil tanks to collect waste oil during operation. The waste oil would then be collected by recycling company. She said that the site was frequently inspected by EPD and no warning had been received so far.

72. In response to Members' questions (e) and (f), Mr. W.K. Hui, DPO/STN, made the following points:

- (a) the existing open storage yard of vehicles operated by the applicant at Lot No. 412 s.B ss.1 R.P. was an “existing use” under the Town Planning Ordinance; and
- (b) similar justifications had been put forth by the applicant at the s.16 planning application stage regarding the need for her to relocate to the application site as a result of land resumption of her own lot. The applicant’s representative had now provided more details on the subject in her presentation at the review hearing.

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

#### Deliberation Session

74. In response to a Member’s enquiry on the potential for rehabilitation of agricultural use at the application site, the Secretary referred to paragraph 4.2.9 of the Paper which stated that DAFC did not support the application as the site was located within the “AGR” zone and had high potential for rehabilitation of agricultural use, such as nursery and greenhouse cultivation.

75. A Member asked if there were other alternative sites suitable for the applied use. The Chairman replied that there should be other sites in the area or other parts of the New Territories for the applied use.

76. In response to a Member’s enquiry on the issue of STW, Miss Annie Tam, Director of Lands, explained that both the application site and the adjoining Lot No. 412 s.B ss.1 R.P. were Old Schedule Agricultural Lots held under Block Government Lease where open storage use was allowed as long as no structure was erected. The STW for

Lot No. 412 s.B ss.1 R.P. was granted for the covered structures, but not for the proposed use which was permitted under the lease. The STW could be terminated subject to advance notice by Lands Department. As the subject STW would be affected by the road widening project, a Notice had already been served on the applicant on 21.12.2009 that the concerned STW would be terminated on 30.4.2010. For the application site, the applicant needed to apply for STW for the proposed covered structures. Miss Tam said that DLO/TP had advised the applicant that he could apply for STW for the application site and upon receipt of the STW application, DLO/TP would consider it having regard to the considerations he deemed appropriate and would take into account the Board's decision on the planning application.

77. On the compensation issue, Miss Annie Tam explained that suitable arrangements would be made with reference to the applicable statute and/or practice. She was not sure that the land resumption and compensation arrangements being land administration matters would be a relevant consideration in the current planning application.

78. A Member noted that the applicant had maintained the existing open storage yard in good condition for many years and the application only involved a relocation of the open storage yard to an adjoining lot. As such, that Member wondered if there were any merits to grant approval to the application if the applicant could address the drainage issue. Another Member was sympathetic to the application and asked whether the applicant could submit another application to address the drainage issue or submit an appeal if the application was rejected by the Board. The Chairman said that at this stage, the applicant had not submitted any technical assessment to demonstrate that the temporary open storage use at the application site would not generate adverse impacts on the surrounding areas and the development could have material increase in pollution effect within the WGG. He said that the applicant could submit another application including a drainage plan and technical assessment for the consideration of Government departments and the Board. The Secretary supplemented that under the Town Planning Ordinance, if the applicant was aggrieved by the decision of the Board on review, she could appeal to the Town Planning Appeal Board. Alternatively, she might submit a fresh application including the necessary technical assessment to address the Board's concern in particular the pollution impact on WGG. On this point, Mr. Benny Wong, Deputy Director of Environmental



Protection, drew Members' attention to the point that other than the pollution impact on WGG, there was also concern that the application might create environmental nuisance on the sensitive use in the vicinity of the site.

79. In response to a Member's question on the existing use, the Secretary referred to Plan R-2 of the Paper which showed that the existing open storage yard operated by the applicant at Lot No. 412 s.B ss.1 R.P. had been in existence since 1991 and was regarded as an "existing use" which could be tolerated under the Town Planning Ordinance. However, she said that it did not mean that the existing use was in line with the planning intention of the "AGR" zone.

80. A Member was sympathetic to the application and opined that the applicant could in fact continue the existing operation which was an "existing use" if the site was not affected by land resumption. Nevertheless, as no technical assessment had been provided by the applicant on the impact on WGG, that Member agreed to reject the application and suggested advising the applicant to submit more technical assessment if a fresh application were to be made.

81. Mr. Benny Wong commented that there were two major aspects in relation to the environmental impact of the proposed use. Firstly, the proposed open storage use with ancillary vehicle repair workshop would create noise nuisance to the residential structure nearby which would be difficult to mitigate. Secondly, although a planned trunk sewer would be provided in the vicinity of the site, the applicant would still need to consider the temporary treatment of waste water before the trunk sewer was in place in the coming three to four years. Besides, the runoff of the oil waste generated by the repair workshop at rainy days might affect the WGG and the provision of interceptors as part of the drainage system would be required. As such, it would be necessary for the applicant to submit relevant technical assessment and proposals for departments' consideration.

82. A Member considered that the Board should assess the application taking into consideration the public interest. In view of the environmental concerns, that Member considered that the application should be rejected. However, that Member suggested that DPO/STN should advise the applicant on the technical problem of the site for the proposed use and suggested that she considered other alternative site for relocation.

83. The Chairman concluded and Members generally agreed to reject the application as the development was not in compliance with the TPB PG-No.13E, there was no technical assessment in the submission to demonstrate that the temporary open storage use would not generate adverse impacts on the surrounding areas and the proposed development would have pollution impact on the WGG. Members then went through the reasons for rejection as stated in paragraph 7.1 of the Paper and considered that they were appropriate.

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

- (a) the development was not in compliance with the TPB Guidelines No.13E for 'Application for Open Storage and Port Back-up Uses' in that there was no previous planning approval for similar open storage use granted to the application site. There was no technical assessment in the submission to demonstrate that the temporary open storage use would not generate adverse impacts on the surrounding areas and there were adverse comments from concerned Government departments and local objections on the application;
- (b) the application site fell within the upper indirect water gathering ground (WGG) and the development could have material increase in pollution effect within the WGG;
- (c) the application was not in line with the planning intention of the "AGR" zone, which was primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. The "AGR" zone was also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There was no strong planning justification in the current submission for a departure from the planning intention, even on a temporary basis; and

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

85. The Board also agreed to ask DPO/STN to advise the applicant on the technical problem of the site for the proposed use and suggested her to consider other alternative site for relocation.

### **Agenda Item 9**

[Open Meeting (Presentation and Question Session only)]

Review of Application No. A/NE-LT/400

Proposed House (New Territories Exempted House - Small House) in "Village Type Development" and "Agriculture" zones, Lot 727 in D.D. 10, Ng Tung Chai, Lam Tsuen, Tai Po (TPB Paper No. 8536)

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[The hearing was conducted in Cantonese.]

### **Presentation and Question Session**

86. The following representative of the Government, the applicant and his representatives were invited to the meeting at this point:

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|-------------------|--|
| Mr. W.K. Hui      | - District Planning Officer/Shu Tin, Tai Po and North (DPO/STN), Planning Department (PlanD) |
| Mr. Koo San Yau   | - Applicant  |
| Mr. Yau Koon Lin  | - Applicant's representative   |
| Mr. Lau Chee Sing | - Applicant's representative   |

87. Members noted that a letter dated 30.4.2010 written by the Village Representative (VR) of Ng Tung Chai was tabled at the meeting. The Chairman extended a welcome and explained the procedures of the review hearing. He then invited Mr. W.K. Hui to brief Members on the background to the application.

88. With the aid of some plans, Mr. W.K. Hui presented the application and covered the following main points as detailed in the Paper:

- (a) the applicant sought planning permission to build a proposed house (New Territories Exempted House (NTEH) - Small House) in an area partly zoned "Village Type Development" ("V") and partly zoned "Agriculture" ("AGR") on the approved Lam Tsuen Outline Zoning Plan (OZP);
- (b) the Rural and New Town Planning Committee (RNTPC) rejected the application on 18.12.2009 for the reasons that the proposed development was not in line with the planning intention of the "AGR" zone, which was primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. The "AGR" zone was also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There was no strong planning justification in the current submission for a departure from the planning intention. The proposed development did not comply with the interim criteria for assessing planning application for NTEH/Small House development (Interim Criteria) in that there was no general shortage of land in meeting the demand for Small House development in the "V" zone of Ng Tung Chai. Small Houses should be developed within the "V" zone so as to ensure an orderly development pattern, efficient use of land and provision of infrastructures and services;
- (c) the applicant had submitted written representation with justifications in support of the review application as summarised in paragraph 3 of the Paper and below:
  - (i) the applicant would change the garden area to a fallow arable land for rehabilitation of cultivation which was in line with the planning intention of the "AGR" zone;
  - (ii) a similar application No.A/NE-LT/350 for Small House

development was approved by RNTPC in 2005 as the site fell within the 'Village Environ' ('VE') of Ng Tung Chai Village and there was a general shortage of land in meeting the demand for Small House development in the subject "V" zone. The same should apply to the current application;

- (iii) over 50% of the house footprint falling within the "V" zone. The proposed house would be compatible with the surrounding areas which were predominantly rural in character with village houses and agricultural fields;
  - (iv) over 50% of developable land within the subject "V" zone were owned by Tso Tong and could not be sold or developed since most registered owners were residing overseas or could not be traced;
  - (v) the applicant had submitted the Small House application to the District Lands Office/Tai Po (DLO/TP) since 1998 and waited for about 10 years due to unavailability of land in Ng Tung Chai. His application was reactivated until he bought the subject lot for Small House development in March 2008 and this was the fourth attempt to submit the application to the Board;
- (d) the applicant had further submitted a letter dated 30.4.2010 by the VR of Ng Tung Chai in support of the application which was tabled at the meeting. According to DLO/TP's records in November 2009 at the time of consideration of the subject s.16 application, the total number of Small House demand for this village was 37. As such, it was estimated that within the "V" zone of Ng Tung Chai, about 1.61 ha (or equivalent to about 48 Small House sites) of land were available, which could fully meet the future Small House demand of about 1.24 ha (or equivalent to about 37 Small House sites). However, according to the letter tabled at the meeting, the VR of Ng Tung Chai clarified that the future Small House demand should be 57 (including both local and overseas villagers) and the land available within the "V" zone could not meet the future demand;

- (e) departmental comments – the departmental comments were summarised in paragraph 5 of the Paper. The Director of Agriculture, Fisheries and Conservation (DAFC) maintained his previous views of not supporting the application from agricultural point of view as the site had high potential for rehabilitation of agricultural use. Other departments had no objection/comment to the application;
- (f) public comments - during the statutory publication period, no public comment was received;
- (g) PlanD's view – PlanD did not support the review application based on the planning considerations and assessments as set out in paragraph 7 of the Paper and summarized below:
  - (i) the site was the subject of two previous applications No. A/NE-LT/395 and 399 submitted by the same applicant and rejected by the RNTPC on 17.4.2009 and 4.9.2009 respectively mainly on grounds of their non-compliance with the Interim Criteria in that there was no general shortage of land in meeting the demand for Small House development in the “V” zone of Ng Tung Chai and not in line with the planning intention of the "AGR" zone;
  - (ii) the current application for Small House development was not in line with the planning intention of the “AGR” zone. DAFC maintained his previous views of not supporting the application from agricultural point of view as the site had high potential for rehabilitation of agricultural use;
  - (iii) the application did not meet the Interim Criteria in that there was no general shortage of land in meeting the demand for Small House development in the “V” zone of Ng Tung Chai. There were about 1.61 ha (or equivalent to about 48 Small House sites) of land available to meet the future Small House demand of about 1.24 ha (or equivalent to about 37 Small House sites);
  - (iv) the main difference between approved application No. A/NE-LT/350 and the subject case was that there was a general

shortage of land in meeting the demand for Small House development in the subject “V” zone in 2005. According to DLO/TP, the future Small House demand had been reduced from 57 to 37 houses and there was no longer a shortage of land within the “V” zone of Ng Tung Chai; and

- (v) the ownership of land was not a material consideration of Small House application. Any proposed Small Houses should be developed within the “V” zone first so as to ensure a more orderly development pattern, efficient use of land and provision of infrastructures and services in the “V” zone. There were developable land within the subject “V” zone not owned by Tso Tong.

89. The Chairman then invited the applicant and his representatives to elaborate on the application.

90. Mr. Lau Chee Sing made the following main points:

- (a) to address RNTPC’s concern on compliance with the planning intention, the applicant would change the garden area (about 100m<sup>2</sup>) as proposed in the original application to agriculture use which was in line with the planning intention of the “AGR” zone;
- (b) a similar application No.A/NE-LT/350 for Small House development was approved by RNTPC in 2005 on the consideration that the site fell within the ‘Village Environ’ (‘VE’) of Ng Tung Chai Village and there was a general shortage of land in meeting the demand for Small House development in the subject “V” zone. The current application was of similar nature and circumstances as that application which was also objected by DEP. There was no change in the “V” zone boundary since 2005 but an increase in the number of Small House completed. As such, there should be a greater shortage of land within “V” zone to meet Small House development;

- (c) over 50% of the house footprint fell within the “V” zone;
- (d) majority of the developable land within the subject “V” zone was owned by Tso Tong and could not be sold or developed;
- (e) the applicant had submitted the Small House application to DLO/TP since 1998 but there was no land available in Ng Tung Chai in the past 10 years. It was not until 2008 that the applicant bought the subject lot for Small House development.

[Miss Annie Tam and Mr. Felix W. Fong left the meeting at this point.]

91. Mr. Yau Koo Lin made the following main points:

- (a) he was the VR of Ng Tung Chai village and had provided a latest estimate of Small House demand forecast in his letter dated 30.4.2010 tabled at the meeting;
- (b) the total Small House demand forecast in paragraph 7.4 of the Paper which showed a drop in demand from 57 in 2005 to 37 in 2010, should be clarified. He believed that the figure in 2005 included both local and overseas indigenous villagers while that in 2010 only included local villagers. He confirmed that with the inclusion of overseas villagers, the figure in 2010 should be 57 and hence the land available within the “V” zone (equivalent to 48 Small House sites) could not fully meet the future Small House demand; and
- (c) the majority of the land within the “V” zone was owned by Tso Tong which could not be sold or developed. Hence, the applicant had difficulties to acquire land for Small House development.

92. Mr. Koo San Yau made the following main points:

- (a) since 1998, he had submitted Small House application to DLO/TP.



However, no land was available from the Government for the Small House development. In 2008, he bought the subject site but the planning application for Small House development was rejected by the Board several times; and

- (b) he hoped that the Board could give sympathetic consideration to his application due to his investment in the land.

93. Members had the following views and questions:

- (a) One of the reasons for RNTPC to reject the application was that the proposed development did not comply with the Interim Criteria as there was no general shortage of land in meeting the demand for Small House development in the “V” zone of Ng Tung Chai. Now that the VR of Ng Tung Chai had clarified that the demand was 57 and that there was a shortage of land within “V” zone, would there be a change in PlanD’s recommendation?
- (b) Noting that the Small House demand forecast had been dropped from 57 in 2005 to 37 in 2010, whether DPO/STN had sought clarification from DLO/TP on the change in figures?
- (c) As compared with the previous applications, was there any change in design or location of the proposed Small House within the “V” zone?
- (d) What was the number of Small House applications approved by DLO/TP between 2005 to 2010?

94. In response to Members’ questions (a) and (b), Mr. W.K. Hui, DPO/STN, made the following points:

- (a) in considering the s.16 application, members of RNTPC noted that there was only a slight surplus of land for Small House development within the “V” zone but decided that it would be desirable to follow the Interim

Criteria adopted by the Board to maintain consistency in the consideration of Small House development application. If there were special circumstances that warranted a departure from the Interim Criteria, the applicant could apply for a review of the planning application. For the current review application, the applicant had clarified the future demand for Small House development was 57 and not 37 and hence there was a shortage of land within the “V” zone in meeting the Small House demand. If the Board considered his justification acceptable, the proposed development would meet the Interim Criteria in that sympathetic consideration might be given as not less than 50% of the proposed house footprint fell within the ‘VE’ and there was a general shortage of land in meeting the demand for Small House development in the “V” zone of the village; and

- (b) DLO/TP had provided the number of outstanding Small House applications, which was 7 both in 2005 and 2010. The 10-year Small House demand forecast was provided by the VR and noting that the figure had dropped from 50 to 30, DPO/STN had confirmed with DLO/TP that it was a figure obtained from VR. On this point, Mr. Yau Koon Lin clarified that the total figure of Small House demand (including the outstanding applications of 7) in 2010 should not be less than 57.

95. In response to Members’ questions (c) and (d), Mr. Lau Chee Sing, made the following points:

- (a) as compared with the two previously rejected applications No. A/NE-LT/395 and 399, the location of the Small House of the current application had encroached onto a smaller area of “AGR” zone and about 50% of the house footprint fell within the “V” zone. There was no change in the location and design of the Small House at the s.16 and the review application stage; and
- (b) according to Mr. Yau’s and his observation, there were about six Small

House developments completed between 2005 and 2010. They were all built on private land, not land owned by Tso Tong. Besides, he reiterated that the 10-year Small House demand forecast of 50 in 2005 comprised both local and overseas indigenous villagers whereas the figure of 30 in 2010 only included local villagers. According to Mr. Yau, the VR of Ng Tung Chai, overseas villagers should be included in the demand forecast and hence the correct figure for 2010 should be 50.

96. As the applicant and his representatives had no further comment to make and Members had no further question, the Chairman informed them that the hearing procedures for the review application had been completed. 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 representative of the PlanD, the applicant and his representatives for attending the meeting. They all left the meeting at this point.

#### Deliberation Session

97. A Member noted that the site fell entirely within the 'VE' and considered that sympathetic consideration might be given to the application.

98. Members generally agreed to follow the Interim Criteria in that sympathetic consideration might be given to the application if there was a general shortage of land in meeting the demand for Small House development in the subject "V" zone. In this regard, DLO/TP should be requested to verify the Small House demand forecast figure provided by the VR at the meeting before a decision could be made.

99. After deliberation, the Board decided to defer a decision on the review application pending DLO/TP's verification of the latest Small House demand forecast supplied by the VR.

**Agenda Item 10**

[Open Meeting]

Request for Deferral for Review of Application No. A/H1/90

Proposed Residential Institution (Dormitory for Students) in "Government, Institution or Community" zone, 5/F, Block B, 27 Pokfield Road, Kennedy Town

(TPB Paper No. 8529)

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[The meeting was conducted in Cantonese.]

100. The Vice-chairman declared an interest on the item as he was the Chairman of a fund-raising committee of Caritas – Hong Kong. Members agreed that as the item was procedural matter, the Vice-chairman could stay at the meeting.

101. The Secretary reported that on 15.1.2010, the Metro Planning Committee (MPC) rejected an application for a proposed change of use on part of the 5/F of the premises from classrooms to dormitories for students of local universities. On 8.4.2010, the applicant wrote to the Secretary of the Board and requested the Board to defer hearing of the review application for 3 months in order to allow time for clarification of the comments of the Buildings Department. The justifications for deferment met the criteria for deferment as set out in the Town Planning Board Guidelines on Deferment of Decision on Representations, Comments, Further Representations and Applications (TPB PG-No. 33).

102. After deliberation, the Board agreed to defer a decision on the review application and the review application would be submitted to the Board for consideration within 3 months upon receipt of the further submission from the applicant. The Board also agreed to advise the applicant that the Board had allowed 2 months for preparation of submission of further information and no further deferment would be granted unless under very special circumstances.

**Agenda Item 11**

[Open Meeting]

Any Other Business

[The meeting was conducted in Cantonese.]

103.        There being no other business, the meeting was closed at 1:00 p.m.