

**Minutes of 962<sup>nd</sup> Meeting of the  
Town Planning Board held on 23.7.2010**

**Present**

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

Chairman

Mr. Stanley Y.F. Wong

Vice-Chairman

Mr. K.Y. Leung

Mr. Walter K.L. Chan

Mr. B.W. Chan

Ms. Maggie M.K. Chan

Mr. Raymond Y.M. Chan

Mr. Y.K. Cheng

Mr. Felix W. Fong

Ms. Anna S.Y. Kwong

Mr. Rock C.N. Chen

Mr. Timothy K.W. Ma

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

Mr. Laurence L.J. Li

Dr. W.K. Lo

Mr. Roger K.H. Luk

Ms. Anita W.T. Ma

Professor S.C. Wong

Dr. W.K. Yau

Mr. Stephen M.W. Yip

Principal Assistant Secretary (Transport)

Transport and Housing Bureau

Mr. Fletch W.W. Chan

Deputy Director of Environmental Protection

Mr. Elvis W.K. Au

Assistant Director (2), Home Affairs Department

Mr. Andrew Y.T. Tsang

Director of Lands

Miss Annie Tam

Director of Planning

Mr. Jimmy C.F. Leung

Deputy Director of Planning/District

Miss Ophelia Y.S. Wong

Secretary

**Absent with Apologies**

Professor Paul K.S. Lam

Dr. James C.W. Lau

Professor Edwin H.W. Chan

Mr. Maurice W.M. Lee

Ms. Pansy L.P. Yau

**In Attendance**

Assistant Director of Planning/Board  
Mr. Lau Sing

Chief Town Planner/Town Planning Board  
Miss H.Y. Chu

Senior Town Planner/Town Planning Board  
Miss Vivian M.F. Lai

1. The Chairman and Members congratulated Mr. Stephen M.W. Yip for having been awarded the Bronze Bauhinia Star for his meritorious public and community service.

### **Agenda Item 1**

[Open Meeting]

#### Confirmation of Minutes of the 961<sup>st</sup> Meeting held on 9.7.2010

2. The minutes of the 961<sup>st</sup> meeting held on 9.7.2010 were confirmed without amendments.

### **Agenda Item 2**

[Open Meeting]

#### Matters Arising

##### (i) Abandonment of Town Planning Appeal

Town Planning Appeal No. 7 of 2009

Temporary Vehicular Access Road, Car Parking Spaces, Sitting Out Area, Children's Play Area and Plantation for Trees for a Period of 3 Years in "Green Belt" zone, Lots No. 1558 (Part), 1559 (Part), 1560 (Part), 1564 (Part), 1565 (Part), 1566 (Part), 1567 (Part) in D.D. 130 and Adjoining Government Land, Tuen Mun  
(Application No. TM-LTY Y/181)

3. The Secretary reported that an appeal was received by the Appeal Board Panel (Town Planning) (the Appeal Board) on 13.10.2009 against the decision of the Town Planning Board on 28.8.2009 to reject on review an application for temporary vehicular access road, car parking spaces, sitting out area, children's play area and plantation of trees at the application site in the "Green Belt" zone on the approved Lam Tei and Yick Yuen Outline Zoning Plan No. S/TM-LTY Y/6.

4. On 9.7.2010, the appeal was abandoned by the Appellant of his own accord. On 12.7.2010, the Appeal Board confirmed the abandonment in accordance with

Regulation 7(1) of the Town Planning (Appeals) Regulations of the Town Planning Ordinance.

(ii) Town Planning Appeal Statistics

5. The Secretary said that as at 23.7.2010, a total of 24 cases were yet to be heard by the Appeal Board. Details of the appeal statistics were as follows:

Allowed	:	25
Dismissed	:	111
Abandoned/Withdrawn/Invalid	:	139
Yet to be Heard	:	24
Decision Outstanding	:	4
<b>Total</b>		<b>303</b>

[Dr. W.K. Lo arrived to join the meeting at this point.]

**Agenda Item 3**

[Open Meeting (Presentation and Question Session Only)]

Draft Cha Kwo Ling, Yau Tong, Lei Yue Mun Outline Zoning Plan No. S/K15/18  
Consideration of Further Representation No. F1  
(TPB Paper No. 8583)

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[The hearing was conducted in Cantonese.]

Presentation and Question Sessions

6. The following representative of the Government was invited to the meeting at this point:

Mr. Eric Yue - District Planning Officer/Kowloon (DPO/K) of the  
Planning Department (PlanD)

7. The Chairman extended a welcome and then invited Mr. Eric Yue to brief

Members on the background to the further representation No. F1.

8. With the aid of a Powerpoint presentation, Mr. Eric Yue presented the further representation and covered the following main points as detailed in the Paper:

- (a) on 9.10.2009, the draft Cha Kwo Ling, Yau Tong, Lei Yue Mun Outline Zoning Plan (OZP) No. S/K15/18 was exhibited for public inspection under section 5 of the Town Planning Ordinance (the Ordinance). During the 2-month exhibition period, a total of 95 representations were received. On 18.12.2009, the representations were published for public comments. During three-week publication period, no comment on the representations was received;
- (b) on 16.4.2010, after considering all the representations to the OZP, the Board decided to propose amendments to the OZP to partially meet Representations No. R2 to R92, R94 and R95 by including the rocky outcrop and the oyster shell beach at the southern coast of Lei Yue Mun Village into the planning scheme area and zoning them as “Coastal Protection Area” (“CPA”) and incorporating a new set of Notes for the “CPA” zone;
- (c) on 28.5.2010, the proposed amendments to the draft OZP were exhibited for public inspection under section 6C(2) of the Ordinance. During the three-week exhibition period, two further representations were received. Further representation No. F1 supported the proposed amendments. Further representation No. F2 supported the inclusion of the land into the planning scheme area and zoning them as “CPA”, but opposed the inclusion of some uses, including the ‘Religious Institution (Statute) only’, into Column 2 of the Notes for “CPA” zone;
- (d) on 9.7.2010, the Board considered the Information Note on Further Representations and decided that further representation No. F2, which was submitted by the representer of Representation No. R95, was invalid in accordance with section 6D(1) of the Ordinance and should be treated

as not having been made;

- (e) further representation No. F1 supported the proposed amendments to the OZP, in particular, the inclusion of the 'Religious Institution (Statute only)' into Column 2 of the Notes for the "CPA" zone. Further representation No. F1 did not submit any proposals;
- (f) PlanD's view – further representation No. F1 was in support of the proposed amendments. It was recommended that the OZP should be amended by the proposed amendments in accordance with section 6F(9) of the Ordinance.

9. In response to a Member's questions, Mr. Eric Yue said that further representation No. F1 supported the proposed amendments, i.e. inclusion of the rocky outcrop and the oyster shell beach at the southern coast of Lei Yue Mun Village into the planning scheme area and zoning them as "Coastal Protection Area" ("CPA"), and incorporation of a new set of Notes for the "CPA" zone. Further representation No. F2 was submitted by the representer of Representation No. R95. The Board decided on 9.7.2010 that F2 was invalid in accordance with section 6D(1) of the Ordinance and should be treated as not having been made

10. As Members had no further question to raise, the Chairman thanked DPO/K for attending the meeting. Mr. Eric Yue left the meeting at this point.

### Deliberation Session

11. The Board noted that the further representation No. F1 was in support of the proposed amendments to the draft OZP. .

12. After deliberation, the Board decided that:

- (a) the proposed amendments as shown in the Amendment Plan No. R/S/K15/18-A1, and the proposed amendments to the Notes and the Explanatory Statement (ES) of the draft OZP in relation to the

Amendment Plan No. R/S/K15/18-A1, which were contained in Appendix III of the Paper, should form part of the draft Cha Kwo Ling, Yau Tong, Lei Yue Mun OZP No. S/K15/18. In accordance with section 6H of the Ordinance, the OZP should thereafter be read as including the amendments;

- (b) the amendments should be made available for public inspection until the Chief Executive in Council had made a decision in respect of the draft plan in question under section 9 of the Ordinance; and
- (c) the Building Authority and relevant Government departments should be informed of the decision of the Board and provided with a copy of the amendments.

#### **Agenda Item 4**

[Open Meeting (Presentation and Question Session Only)]

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. 8584)

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[The hearing was conducted in Cantonese.]

#### **Presentation and Question Sessions**

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



- Ms. Amy Cheung - District Planning Officer/Tuen Mun and Yuen Long (DPO/TMYL) of the Planning Department (PlanD)
- Ms. Cheung Wing Sze - Applicant's representative

14. 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.

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

- (a) the applicant sought planning permission for temporary open storage of containers with ancillary office and ancillary container repair workshop for a period of three years in an area zoned "Residential (Group E)"("R(E)") on the approved Lau Fau Shan & Tsim Bei Tsui Outline Zoning Plan (OZP);
- (b) on 18.12.2009, the Rural and New Town Planning Committee (RNTPC) approved the application for temporary open storage of containers with ancillary office and ancillary container repair workshop for a period of one year subject to approval conditions. Under approval condition (d), the stacking height of containers stored at any other location within the site should not exceed four units during the planning approval period. The applicant applied for a review of the RNTPC's decision to restrict the stacking height of container storage as stipulated under approval condition (d) and sought relaxation of the restriction to seven units;
- (c) the applicant had submitted a revised layout plan and a risk assessment to support the review application as attached as Annex E of the Paper. His justifications in support of the review application were summarised in paragraph 3 of the Paper;

- (d) departmental comments on the review application were summarised in paragraph 5 of the Paper. The Commissioner for Labour (C for L) had no comment on the review application and the applicant's risk assessment. According to the Commissioner for Transport (C for T), the applicant's response on the traffic impact of the proposed increased stacking height of containers was acceptable;

[Mr. Felix W. Fong, Mr. Y.K. Cheng and Dr. W.K. Yau arrived to join the meeting at this point.]

- (e) during the statutory publication period, no public comment was received on the review application;
- (f) PlanD's view - PlanD had no objection to the review application based on the assessments set out in paragraph 7 of the Paper, which were summarised below:
  - (i) the site fell within Category 2 areas under the Town Planning Board (TPB) Guidelines No. 13E on 'Application for Open Storage and Port Back-up Uses under section 16 of the Town Planning Ordinance'. In the Category 2 areas, according to the TPB Guidelines, permission could be granted on a temporary basis subject to no adverse departmental comments and local objections, or the relevant concerns could be addressed through the implementation of approval conditions;
  - (ii) the four-unit restriction on the stacking height of containers was first proposed under a previous application (No. A/YL-LFS/126) including the subject site by the former applicant to address the safety concerns raised by the neighbouring residents, and to reduce the scale of container storage on-site to solicit the Board's approval;
  - (iii) subsequent to the approval of the subject application No. A/YL-LFS/197, the RNTPC on 5.3.2010 agreed to a set of

guidelines on the stacking height of containers, which provided new planning circumstances for consideration of the review application. The guidelines stipulated, among others, that a minimum buffer distance of 10m be set aside from the boundary of the container yard directly facing any residential structure, within which the maximum stacking height of containers should be restricted to three units. The guidelines also stated that under no circumstances would the maximum stacking height of containers be allowed to exceed eight units. The applicant's proposal to relax the maximum stacking height to seven units was within the limits of the agreed guidelines;

(iv) the applicant proposed to confine the relaxation of stacking height of containers to the southern part of the site where the closest residential dwelling was 60m away. The applicant had also submitted a risk assessment. Concerned departments including C for L and C for T had no adverse comment on the review application;

(v) there was no local objection against the review application; and

(g) it was recommended that the approval condition (d) be revised to stipulate that the stacking height of containers should not exceed three units within 5m to 10m of the northern periphery of the site as there were scattered residential dwellings nearby and the stacking height of containers stored at any other location within the site should not exceed seven units, as proposed by the applicant, during the planning approval period.

16. The Chairman then invited the representative of the applicant to elaborate on the application.

17. Ms. Cheung Wing Sze said that PlanD's recommendation, including restricting the stacking height of containers to three units in the northern part of the site, was agreeable to the applicant. The applicant would follow the restrictions and carry out the approval conditions.

18. A Member noted that there was a vacant school to the immediate west of the site and asked if there would be intake of students in the future. This Member was concerned that the school use would be adversely affected by the open storage of containers and the ancillary activities on the application site. In response, Ms. Amy Cheung said that according to the Education Bureau, the vacant site would no longer be required for school use.

19. In response to a Member's enquiry, Ms. Amy Cheung said that taking into account the Guidelines endorsed by the RNTPC on 5.3.2010, PlanD recommended that the approval condition (d) be revised to stipulate a stacking height restriction of three container units for the area within 5m to 10m of the northern periphery of the site and a stacking height restriction of seven units for the rest of the site.

20. As the applicant's representative had no further comment to make and Members had no further question to raise, the Chairman informed the representative of the applicant that the hearing procedures for the review had been completed and 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 applicant and DPO/TMYL for attending the meeting. They all left the meeting at this point.

#### Deliberation Session

21. A Member said that, for the sake of clarity, it would be useful to supplement the approval conditions (c) and (d) by attaching a plan showing the restriction of stacking height of containers to be stored at various parts of the site. Members agreed.

22. After further deliberation, the Board decided to approve the review application to revise the approval condition (d). The Board also agreed that the planning approval granted by RNTPC on 18.12.2009 would remain valid on a temporary basis for a period of one year until 18.12.2010, and the original approval conditions (a) to (c) and (e) to (s) as stated in paragraphs 1.2 of the Paper and advisory clauses as stated in 8.2 of the Paper should be applicable. The revised approval condition (d) was as follows:

(d) the stacking height of containers stored within 5m to 10m of the northern

periphery of the site should not exceed 3 units, as shown in the attached plan, and the stacking height of containers stored at any other location within the site should not exceed 7 units, as proposed by the applicant, during the planning approval period;

**Agenda Item 5**

[Open Meeting (Presentation and Question Session Only)]

Review of Application No. A/YL-MP/178

Proposed Restaurant, Photographic Studio, Make-up Rooms and Ancillary Facilities for Wedding Ceremony in "Open Storage" zone,

Lots 2562 S.B RP and 2564 RP in D.D. 104, Mai Po, Yuen Long

(TPB Paper No. 8585)

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[The hearing was conducted in Cantonese.]

**Presentation and Question Sessions**

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

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

Mr. Ted Chan ] Applicant's consultant

Mr. Daniel Wei ]

Miss Ngok Mei Ting - Applicant's representative

24. 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.

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

- (a) the applicant sought planning permission for a restaurant, photographic studio, make-up rooms and ancillary facilities for wedding ceremony in an area zoned “Open Storage” (“OS”) on the approved Mai Po and Fairview Park Outline Zoning Plan (OZP);

[Mr. Felix W. Fong left the meeting temporarily and Dr. C.P. Lau arrived to join the meeting at this point.]

- (b) on 12.2.2010, the Rural and New Town Planning Committee (RNTPC) rejected the application for the reason that the development was not in line with the planning intention of “OS” zone which was intended primarily for the provision of land for appropriate open storage uses and to regularize the already haphazard proliferation of open storage uses. It provided for the orderly development of land for open storage uses which could not be accommodated in conventional godown premises;
- (c) the applicant had provided justifications in support of the review application as summarised in paragraph 3 of the Paper;
- (d) departmental comments on the review application were set out in paragraph 5 of the Paper. The District Lands Officer/Yuen Long (DLO/YL) had no objection to the application and advised that building licence permitting the erection of a NTEH for non-industrial use was granted on Lot 2562 S.B RP in DD 104 on 18.11.1993 and the construction works of the NTEH was completed with a Certificate of Compliance issued in on 7.9.2000. The Transport and Housing Bureau (THB) advised that the proposed use on a permanent basis was undesirable as it would result in a permanent loss of land zoned “OS”, thereby reducing the amount of land for port back-up and logistics uses;
- (e) during the statutory publication period, no public comment was received on the review application;
- (f) PlanD’s view - PlanD did not support the review application based on the

assessments set out in paragraph 7 of the Paper, which were summarised below:

- (i) the approval of the proposed uses on permanent basis would frustrate the long-term planning intention of the “OS” zone. Previous planning permissions that were granted by RNTPC for similar uses at the site were all on a temporary basis only, which would not affect the long-term development of the site. In this regard, THB considered that the proposed development was undesirable as it would result in a permanent loss of land zoned “OS”;
- (ii) although the previous approval under Application No. A/YL-MP/40 at the same site for permanent open storage of vehicles for sale use was approved by the RNTPC on a permanent basis, the use was akin to open storage of vehicles in terms of appearance, nature or impact of operations. No permanent permission for a similar use in “OS” zone had been granted; and
- (iii) the site was at present covered by a temporary approval granted by the RNTPC on 4.7.2008 under Application No. A/YL-MP/167 until 4.7.2011. All the planning conditions under the previous approval had been complied with. The current proposal was for the change of the previous approval from a temporary to a permanent basis.

26. The Chairman then invited the representative of the applicant to elaborate on the application.

27. Miss Ngok Mei Ting made the following main points :

- (a) she was the manager of the restaurant which had been operating on the application site for seven years under temporary approvals. One of the temporary approvals was revoked in 2007 due to non-compliance with approval conditions. With the revocation of the temporary approval, the restaurant had to cease operation and the reservations for wedding

ceremonies and banquets had to be cancelled. The restaurant owner had to pay compensations for cancelling the reservations. The restaurant operated in 2008 again when another temporary approval for three years was obtained from the Town Planning Board (the Board);

- (b) people usually made advanced booking of venues for wedding ceremonies and banquets. In general, the booking would be made six months to one year in advance. Under such practice, it would be difficult for the owner of the restaurant to operate on a three-year temporary planning approval basis. During the third year of a 3-year temporary approval, the owner of the restaurant could not accept advanced booking for the coming year as he was uncertain as to whether he could obtain another temporary approval from the Board. A permanent planning approval was therefore required for the operation of the business;
- (c) since the civil celebrant of marriage scheme came into operation in 2006, there were over 40,000 marriage registrations per year. There were only two marriage registries in the New Territories, and they were in Sha Tin and Tuen Mun. The facilities on the application site could help meet the demand for venues for marriage registration and ceremonies; and
- (d) after securing the permanent planning approval, the owner of the restaurant would have the confidence to upgrade and enhance the restaurant facilities and to employ long-term staff.

28. With the aid of some photos and a plan, Mr. Ted Chan made the following main points:

- (a) as the consultant of the owner, he had applied for planning approvals for various uses on the site since 1998;
- (b) on 18.11.1993, a building licence permitting the erection of a NTEH was granted on Lot 2562 S.B RP in DD 104, i.e. part of the application site. However, as the site was zoned "OS" on the draft Mai Po OZP No.



S/YL-MP/1 exhibited on 3.6.1994, a permanent planning approval was sought in 1998 to use the NTEH for a refreshment kiosk and office, and the uncovered portion of the site for sale of left-hand-drive vehicles;

- (c) subsequently, as there was a downturn in the business of left-hand-drive vehicle trade, the owner had changed his business and sought planning approval to use the NTEH as a restaurant for wedding ceremonies and banquets to cater for couples in Hong Kong and from the Mainland;
- (d) after seeking the Board's temporary approval, the owner of the restaurant had complied with the planning approval conditions and invested a lot of money in the business. The restaurant was well received and well patronized. As explained by Miss Ngok in her presentation, the temporary planning approval had imposed practical problems for the operation of the restaurant;

[Mr. Felix W. Fong returned to the meeting at this point.]

- (e) from the planning point of view, the site was more suitable for restaurant use, rather than open storage and port back-up uses for the following reasons :
  - i. the site was too small for open storage use. There was insufficient space for vehicles to turn within the site;
  - ii. the environment of the surrounding area had been greatly improved as many trees had been planted by the Government during the construction of the San Tin Highway;
  - iii. Small Houses and residential dwellings had recently been erected in the vicinity of the application site. Open storage use on the application site would not be compatible to these residential developments;

- iv. in the “OS” zone covering the application site, many sites were not big enough for accommodating open storage uses. These sites should be used for recreational uses instead. This was well demonstrated by the popularity of the restaurant on the application site. In fact, there was another existing restaurant within the subject “OS” zone; and
- v. there was heavy traffic along Castle Peak Road. It would be dangerous for heavy vehicles moving out from the site to the road.

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

29. A Member enquired how the operation of the subject restaurant differed from that of other restaurants, which were also operated on a short-term tenancy basis. In response, Mr. Ted Chan said that the main business of the subject restaurant was to cater for wedding banquets. While other restaurants opened from morning to mid-night, the subject restaurant did not operate in the morning. It was also necessary for the owner of the subject restaurant to secure a steady advanced booking of wedding banquets in order to sustain the business of the restaurant. Furthermore, the major expense of the subject restaurant would be the cost of decorating the premises. With a permanent planning approval, the owner of the restaurant would have the confidence in investing more money to upgrade the restaurant and employ long-term staff.

30. A Member asked whether the applicant had considered submitting a s.12A application to change the “OS” zoning of the site. In response, Mr. Ted Chan said that for a s.16 application, the applicant could submit a s.17 review application and an appeal to the Town Planning Appeal Board if the application was rejected by RNTPC/the Board. However, there was no such review/appeal channel provided for under s.12A of the Ordinance.

31. A Member asked how early the applicant could apply for renewal of a temporary planning approval. The Secretary said that in considering another renewal application which was submitted eleven months prior to the expiry date, the Metro Planning Committee (MPC) was concerned that it would be too early to consider the renewal application as the planning circumstances might be different at the time nearer to

the expiry of the planning permission. That might have a material bearing on the decision of the application. The MPC therefore deferred a decision on the renewal application and agreed that the application should be submitted for its consideration nearer to the expiry of the planning permission. It was considered that the earliest date for receiving application for renewal was four months before the expiry date.

32. In response to a Member's enquires, Ms. Amy Cheung said that there was no similar case approved in the subject "OS" zone. The other restaurant referred to by Mr. Ted Chan was 'Foon Hei Lau', which existed before the gazette of the relevant Interim Development Permission Area Plan. The restaurant was still in operation and did not receive any complaint from the local residents.

33. A Member said that changes in the general economic environment might cause changes in the kind of business to be operated on the application site. Hence, the site might no longer be used as a restaurant for wedding banquets even after obtaining a permanent approval from the Board. In response, Mr. Ted Chan said a permanent planning approval for refreshment kiosk, office and open storage of vehicles for sale was previously granted for the site. Now the applicant only applied to change the previous permanent approval to another permanent approval of restaurant and ancillary facilities for wedding ceremony uses. In fact, the subject restaurant had been operating for seven years and the applicant intended to continue the restaurant business. Mr. Ted Chan also stressed that the operation of the subject restaurant had been adversely affected by the temporary planning approval of the site.

34. In response to Members' enquiries on the nature of business of the subject restaurant and whether the operation of the restaurant could be enhanced if the temporary approval was renewed in six to eight months prior to the expiry of the temporary approval, Miss Ngok Mei Ting supplemented the following main points :

- (a) about 70 to 80% of the profit of the restaurant came from wedding business. The restaurant had received over 100 couples, and it was expected that it would receive 300 couples in the next year. About 20% of the clients were from the Mainland; and

- (b) a temporary approval could not help the restaurant business as reservations for the venue for wedding ceremonies and banquets would be made in one to two years in advance. The temporary planning approval had adversely affected the business planning and operation of the restaurant. When the temporary planning approval was revoked in 2007, the owner had to refund its clients who had made reservations both in 2007 and 2008 so as to allow the clients sufficient time to find alternative venue for their wedding ceremonies and banquets. Business reputation was very important for the restaurant and it could only be safeguarded by a permanent planning approval.

35. A Member opined that the business plan of the subject restaurant was not a valid planning justification for the application. This Member asked the applicant to provide other planning grounds to justify the granting of a permanent planning permission for restaurant use vis-a-vis the planned "OS" zoning on the site.

36. Mr. Ted Chan said that the site had been granted for permanent open storage of vehicles for sale and the house thereat was for a permanent refreshment kiosk and office serving the open storage use on the site. In fact, the subject application was to change the previously approved permanent use of the house from a refreshment kiosk and office to a restaurant. Furthermore, as the site was small in area, it did not contribute much to the supply of "OS" land in the area.

37. In response to another Member's questions on the immediate surrounding land uses of the site, Ms. Amy Cheung referred to Plan R-2b of the Paper and said that the telephone exchange to the south of the site was a permanent building, and there were two pieces of vacant land to the east and north of the site. Mr. Ted Chan added that there were mature trees on the subject vacant land. These trees were planted by the Government during the construction of the San Tin Highway and they had contributed to the improvement of the environment of the area.

38. A Member asked about the suitability of the site for open storage considering its size and ingress/egress arrangement, and whether there was any provision to grant a temporary approval of five years for the subject application. Ms. Amy Cheung replied that

the site was accessible from Castle Peak Road, and concerned departments including the Transport Department did not raise objection to the ingress/egress arrangement in its previous application for open storage of vehicles for sale. As the applied restaurant use was a Column 2 use under the Notes for the “OS” zone, the Board could grant a temporary approval period of five years, if considered appropriate.

39. Another Member asked whether the applicant would continue the restaurant business if only a temporary approval was granted. Miss Ngok Mei Ting replied that the applicant would continue the business and apply for renewal of the temporary planning approval from the Board. However, it would not be possible for the applicant to accept advanced orders beyond the expiry date of the temporary planning approval. Hence, the applicant was refrained from accepting advanced orders beyond July 2011.

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

#### Deliberation Session

41. A Member enquired about the power of the Board to grant a permanent approval for non-open storage uses within “OS” zone. In response, the Secretary explained that the use under application, i.e. a restaurant, was a Column 2 use of the “OS” zone. As such, the Board was empowered to grant permanent or temporary approvals for the applied use under s.16 of the Ordinance.

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

42. In response to the Chairman’s enquiry, Mr. Fletch W.W. Chan said that there was an inadequate supply of land suitable for open storage uses in the territory. THB considered that the proposed development was undesirable as it would result in a permanent loss of land zoned “OS”, thereby reducing the amount of land for port back-up

and logistics uses. Mr. Fletch Chan also pointed out that the approval of the proposed uses on a permanent basis would set an undesirable precedent.

43. A Member said that the proposed restaurant use was not incompatible with the land uses of the surrounding areas which were occupied by a telephone exchange, a Rural Committee building and a mix of unused land and open storage uses. Moreover, as the site was small in area, the use of the site for non-open storage use would not result in a significant loss of “OS” land. In view of the above, this Member was sympathetic of the application.

44. Some other Members opined that they would support the granting of a temporary approval instead of a permanent approval based on the following considerations:

- (a) the approval of the restaurant use on a permanent basis would frustrate the planning intention of “OS” zone; and
- (b) instead of a s.16 application, an application for changing the zoning of the site could be submitted under s.12A of the Ordinance, whereby the open storage and port-back up trades could be fully consulted in the rezoning process.

45. A Member suggested to allow the submission of renewal application one year before the expiry of the temporary planning approval covering the subject restaurant use. In response, the Secretary said that in order to allow the Board to consider the planning circumstances at the time nearer to the expiry of the planning permission, the applicant would be requested to submit the renewal application about four months before the expiry of the temporary approval. If an applicant would like to obtain an approval well in advance before the expiry of the temporary approval, he could submit a fresh s.16 application, instead of an application to renew the previous temporary approval. The main difference between the two kinds of applications was that for a renewal application, there was no need for the applicant to submit detailed technical assessments provided that there was no change in planning circumstances since the granting of the previous temporary approval. A fresh s.16 application required full supportive assessments.

46. A Member said that the approval of the applied use on a permanent basis would frustrate the long term planning intention of the “OS” zone. It was considered more appropriate for the applicant to submit a section 12A application for changing zoning of the site to facilitate the operation of the applied use on a permanent basis. Nevertheless, this Member opined that a temporary approval of the review application for a period of five years could be supported as the applied restaurant use was not incompatible with the surrounding land uses and it had already been operating on the site for seven years without causing adverse impact on the environment. The above views were shared by several other Members.

47. A Member, however, had a different view and pointed out that as the applicant had applied for a permanent approval, it would not be appropriate for the Board to grant a temporary approval of five years. In this regard, the Secretary informed Members that the Board, after taking into various planning considerations, had granted temporary approval to applications which were applied for permanent approval.

48. Mr. Jimmy C.F. Leung, Director of Planning, said that as the applied use was a Column 2 use under “OS” zone, the Board had the power to approve the application on permanent basis under s. 16 of the Ordinance. He also pointed out that despite different provisions under s.12A and s.16 of the Ordinance, the public would be given the opportunity to comment or raise objection in both types of applications. He suggested Members to consider the individual merits of the application.

49. After further deliberation, the Chairman concluded that the review application should not be approved on a permanent basis as it would frustrate the planning intention of the site in the long run. However, as the applied use was not incompatible with the land uses of the surrounding areas, a temporary approval for a period of five years was acceptable. Members agreed.

50. After further deliberation, the Board decided to approve the application on review on a temporary basis for a period of five years until 23.7.2015 on terms of the application as submitted to the Board and subject to the following conditions:

- (a) the drainage facilities implemented on the site under Application No.

A/YL-MP/167 should be maintained at all times during the approval period;

- (b) the submission of fire service installations proposals within 6 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 23.1.2011;
- (c) in relation to (b) above, the provision of fire service installations proposed within 9 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 23.4.2011;
- (d) the implementation of replacement planting within 6 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 23.1.2011;
- (e) if planning condition (a) was not complied with during the planning approval period, the approval hereby given should cease to have effect and should be revoked immediately without further notice; and
- (f) if any of the above planning conditions (b), (c) or (d) was not complied with by the above specified date, the approval hereby given should cease to have effect and should on the same date be revoked without further notice.

51. The Board also agreed to advise the applicant:

- (a) to note District Lands Officer/Yuen Long, Lands Department's comments that the application site was located on two Old Schedule Agricultural Lots held under Block Government Lease under which no structures were allowed to be erected without prior approval from his Office; there was/were unauthorized structure(s) (including converted containers) on lots within the application site; minor encroachments upon adjoining Government land were also discovered. His office reserved the right to take enforcement/control action against the irregularities, if indeed found



in due course; Building Licence (BL) No. 4078 permitting the erection of a three-storey NTEH for non-industrial use was granted on Lot 2562S.BRP in DD 104 on 18.11.1993. The construction works of the NTEH was completed with a Certificate of Compliance issued on 7.9.2000; an application of Short Term Waiver (STW) from the owner of Lot Nos. 2562S.BRP and 2564RP in DD 104 and an application of Short Term Tenancy (STT) from the occupier for regularization of the structures and occupation of Government land (GL) had been received by his office respectively; should planning permission be granted, his office would proceed with the applications; and the north-eastern boundary of the site was affected by the clearance limit of a Drainage Services Department's project, namely "PWP item no. 215DS Yuen Long and Kam Tin Sewerage and Sewage Disposal, Stage II – Trunk Sewerage for Ngau Tam Mei and San Tin Phase I";

- (b) to note Director of Environmental Protection's comments that the applicant had acquired a discharge licence for the operation;
- (c) to note Chief Building Surveyor/New Territories West, Buildings Department's comments that change of use from the existing NTEH to be the proposed use of make-up room on 2/F, studio on 1/F and restaurant on G/F would contravene the provisions of the Buildings Ordinance in respect of means of escape in case of fire. Besides, the main entrance staircase of the building should be separated from G/F premises and the main staircase should not be discharged to the kitchen of the restaurant on G/F;
- (d) to note Director of Fire Services' comments that fire service installations (FSIs) were anticipated to be required in consideration of the design/nature of the proposed structures. Therefore, the applicant was advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. In formulating FSIs proposal for the proposed structure of area more than 230m<sup>2</sup>, the applicant should observe the requirements as indicated in Appendix III of Annex A of the Paper. If

the applicant wished to apply for exemption from the provision of certain FSIs, justifications should be provided to his department for consideration. Detailed fire safety requirements would be formulated upon receipt of formal submission of general building plans; and his detailed comments on the application were in Appendix III of Annex A of the Paper; and

- (e) to note Chief Town Planner/Urban Design and Landscape, Planning Department's comments that there were two existing trees along the southern boundary which found dead and should be replaced. The applicant should be reminded that debris and materials should be stored at least 1m away from the tree trunk.

[Mr. Rock C.N. Chen, Mr. Felix W. Fong and Dr. Winnie Tang left the meeting at this point.]

### **Agenda Item 6**

[Open Meeting]

Submission of the Draft South Lantau Coast Outline Zoning Plan No. S/SLC/15A to the Chief Executive in Council for Approval under Section 8 of the Town Planning Ordinance (TPB Paper No. 8591)

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[The hearing was conducted in Cantonese.]

- 52. The Secretary briefed Members as detailed in the Paper.
- 53. After deliberation, the Board:
  - (a) agreed that the draft South Lantau Coast Outline Zoning Plan No. S/SLC/15A and its Notes at Annexes I and II of the Paper respectively were suitable for submission under section 8 of the Ordinance to the Chief Executive in Council (CE in C) for approval;
  - (b) endorsed the updated Explanatory Statement (ES) for the draft South Lantau Coast Outline Zoning Plan No. S/SLC/15A at Annex III of the Paper as an expression of the planning intentions and objectives of the

Board for various land-use zonings on the draft OZP and to be issued under the name of the Board; and

- (c) agreed that the updated ES was suitable for submission to the CE in C together with the draft OZP.

**Agenda Items 7 and 8**

54. These items were reported under confidential cover.

**Agenda Item 9**

**Any Other Business**

[The meeting was conducted in Cantonese.]

55. The item was reported under confidential cover.

56. There being no other business, the meeting was closed at 11:40am.