

RNTPC Paper No. A/YL-TYST/1067  
For Consideration by  
the Rural and New Town  
Planning Committee  
on 5.2.2021

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**APPLICATION FOR RENEWAL OF PLANNING APPROVAL  
FOR TEMPORARY USE  
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/YL-TYST/1067**

- Applicant** : Mr. TANG Mo Pun represented by Metro Planning and Development Company Limited
- Site** : Lots 2417 (Part), 2418 (Part) and 2421 (Part) in D.D. 120, Tong Yan San Tsuen, Yuen Long, New Territories
- Site Area** : 1,655 m<sup>2</sup> (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Draft Tong Yan San Tsuen Outline Zoning Plan (OZP) No. S/YL-TYST/13
- Zonings** : “Residential (Group A)3” (“R(A)3”) (about 80.8%); and  
*[Restricted to a maximum plot ratio of 7 and a maximum building height of 160mPD]*  
area shown as ‘Road’ (about 19.2%)
- Application** : Renewal of Planning Approval for Temporary Open Storage of Construction Machinery and Material for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks renewal of planning approval to use the application site (the Site) for temporary open storage of construction machinery and material for a period of 3 years (**Plan A-1a**). Although the applied use is neither a Column 1 or 2 use in the “R(A)3” zone, according to the Notes of the OZP, temporary use or development of any land or buildings not exceeding a period of three years requires planning permission from the Town Planning Board (the Board) notwithstanding that the use or development is not provided for under the Notes of the OZP, while the covering Notes of the OZP also states that all uses or developments within areas shown as ‘Road’ require planning permission from the Board. The Site is currently occupied by the applied use with planning permission under application No. A/YL-TYST/882.
- 1.2 The Site involves 8 previous applications for various temporary open storage uses with/without ancillary office. The last application (No. A/YL-TYST/882) for the same use as the current application was approved with conditions for a period of 3 years by the Rural and New Town Planning Committee (the Committee) of the Board on 16.3.2018. All the time-limited approval conditions under the last

application had been complied with and the permission is valid up to 16.3.2021. Compared with the last application, the current application is submitted by the same applicant for the same use on the same site with the same site layout and development parameters.

- 1.3 According to the applicant, no workshop activities will be carried out at the Site and the construction material and machinery stored at the Site includes pipes, metal, elevated platforms and electric generators. No heavy goods vehicles exceeding 24 tonnes, including container trailers/tractors, will access the Site. Plans showing the vehicular access leading to the Site, site layout, tree preservation proposal, as-built drainage facilities and fire service installations (FSIs) proposal submitted by the applicant are at **Drawings A-1 to A-5** respectively.
- 1.4 The major development parameters of the current application are the same as the previously approved application No. A/YL-TYST/882, which are summarised as follows:

| <b>Major Development Parameters</b>         | <b>Previously Approved Application No. A/YL-TYST/882 (a)</b>  | <b>Current Application No. A/YL-TYST/1067 (b)</b> |
|---|---|---|
| Applied Use                                 | Temporary Open Storage of Construction Machinery and Material for a Period of 3 Years   |   |
| Site Area                                   | About 1,655 m <sup>2</sup>  |   |
| Total Floor Area (Non-domestic)             | About 380 m <sup>2</sup>  |   |
| No. and Height of Structures                | 3<br><ul style="list-style-type: none"> <li>• two for storage use (7m, 2 storeys)</li> <li>• one for toilet (3.5m, 1 storey)</li> </ul> |   |
| No. of Parking and Loading/Unloading Spaces | 1<br>(for medium goods vehicle) (11m x 3.5m)  |   |
| Operation Hours                             | 7:00 a.m. to 7:00 p.m., with no operation on Sundays and public holidays  |   |

- 1.5 In support of the application, the applicant has submitted the following documents:

- (a) Application Form with annex and plans received on 22.12.2020 (**Appendix I**)
- (b) Supplementary Information received on 24.12.2020 providing FSIs proposal with fire certificate and clarifying the operation (**Appendix Ia**)

## **2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the Application Form and Supplementary Information (**Appendices I and Ia**). They can be summarised as follows:

- (a) The Site has been the subject of 7 previous planning permissions for the same use since 2006. All the approval conditions imposed to the last application (No.

A/YL-TYST/882) had been complied with.

- (b) The proposal is in line with the Town Planning Board Guidelines for “Application for Open Storage and Port Back-up Uses” (TPB PG-No. 13F).
- (c) The temporary proposal would not jeopardise the long-term planning intention. A number of open storage yards and port back-up uses have been approved by the Board in the vicinity of the Site and their planning circumstances are similar to that of the Site. The proposal is compatible with the surrounding environment. Besides, there is a shortage of land for port back-up purpose in Tong Yan San Tsuen.
- (d) There will be minimal traffic, environmental and drainage impacts arising from the proposal.

### **3. Compliance with the “Owner’s Consent/Notification” Requirements**

The applicant is not a “current land owner” but has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting site notice and sending notice to the Shap Pat Heung Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection.

### **4. Town Planning Board Guidelines**

- 4.1 On 27.3.2020, the Board promulgated the revised Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13F). The Site falls within Yuen Long South (YLS) Development Area. The criteria for New Development Areas (NDAs) (including potential development areas) under the revised Guidelines are applicable. Relevant extracts of the Guidelines are attached at **Appendix II**.
- 4.2 The Town Planning Board Guidelines on Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development (TPB PG-No. 34C) are also relevant to the application. The relevant assessment criteria are at **Appendix III**.

### **5. Background**

The Site is currently not subject to planning enforcement action.

### **6. Previous Applications**

- 6.1 The Site involves 8 previous applications for various temporary open storage uses with/without ancillary office covering different extents of the Site. Details of the applications are summarised in **Appendix IV** and the boundaries of the sites are shown on **Plan A-1b**.

***Rejected Application (1 Case)***

- 6.2 Application No. A/YL-TYST/542 for temporary open storage of construction machinery and materials with ancillary office was rejected by the Committee in 2011 mainly on the grounds that the development would generate adverse environmental impacts; the width of the vehicular access was inadequate for use by heavy vehicles; and approval of the application with repeated non-compliances with approval conditions would set an undesirable precedent for other similar planning permissions for temporary uses, thus nullifying the statutory planning control system.

***Approved Applications (7 Cases)***

- 6.3 Applications No. A/YL-TYST/318, 390, 465, 513, 571, 717 and 882 were all approved with conditions each for a period of 2 or 3 years by the Committee between 2006 and 2018, mainly on the considerations that the proposals were not incompatible with the surrounding uses; the proposals would not frustrate the long-term development of the area; and the concerns of relevant government departments could be addressed by imposing approval conditions. However, the planning permissions under applications No. A/YL-TYST/390, 465 and 513 were revoked between 2009 and 2011 due to non-compliance with time-limited approval conditions.
- 6.4 Compared with the last application (No. A/YL-TYST/882), the current application is submitted by the same applicant for the same use on the same site with the same site layout and development parameters.

**7. Similar Applications**

13 similar applications for various temporary open storage uses with or without other uses within/straddling the same “R(A)3” zone<sup>1</sup> have been approved with conditions by the Committee each for a period of 1 or 3 years since 2015, mainly on similar considerations that the developments were not incompatible with the surrounding uses and the concerns of relevant departments could be addressed by imposing approval conditions. However, two of the planning permissions were subsequently revoked due to non-compliance with approval conditions. Details of the applications are summarised in **Appendix V** and the locations of the sites are shown on **Plan A-1a**.

**8. The Site and Its Surrounding Areas (Plans A-1a to A-4b)**

8.1 The Site is:

- (a) accessible via a local track leading from Kung Um Road to its east;
- (b) paved and fenced off; and
- (c) currently occupied by the applied use with valid planning permission under application No. A/YL-TYST/882 (**Plan A-1b**).

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<sup>1</sup> 12 of the 13 similar applications were approved prior to the rezoning of the sites to “R(A)3” on the subject OZP.

8.2 The surrounding areas have the following characteristics:

- (a) comprise predominantly open storage/storage yards, warehouses, vehicle repair workshops with scattered residential structures, agricultural land and vacant land/structures;
- (b) there are residential structures in the vicinity of the Site with the nearest one located to its immediate north;
- (c) to its further east and further north is an area zoned “Open Space” on the OZP;
- (d) to its west is a nullah flanked by Lam Tai East Road and Lam Tai West Road; and
- (e) except for five open storage yards and three warehouses in the vicinity operating with valid planning permissions (applications No. A/YL-TYST/888, 935, 957, 962, 1005, 1016, 1032 and 1036), the other open storage/storage yards and a vehicle repair workshop in the vicinity are suspected unauthorised developments (UD) subject to enforcement action taken by the Planning Authority.

## **9. Planning Intention**

The planning intention of the “R(A)” zone is primarily for high-density residential developments. Commercial uses are always permitted on the lowest three floors of a building or in the purpose-designed non-residential portion of an existing building.

## **10. Comments from Relevant Government Departments**

10.1 The following Government departments have been consulted and their views on the application and public comments, where relevant, are summarised as follows:

### **Land Administration**

10.1.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):

- (a) The Site comprises Old Schedule Agriculture Lots held under Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.
- (b) Lot Nos. 2417 and 2418 in D.D.120 are covered by Short Term Waiver (STW) No. 3790 to permit structures erected thereon for the purpose of “Ancillary Use to Open Storage of Construction Machinery and Materials”.
- (c) Should planning approval be given to the subject planning application, the STW holder will need to apply to her office for modification of the STW conditions where appropriate. The owner of the lot without STW

will need to apply to her office to permit the structures to be erected or regularise any irregularities on site, if any. Besides, given the proposed use is temporary in nature, only application for regularisation or erection of temporary structure(s) will be considered. Applications for any of the above will be considered by her department acting in the capacity as the landlord or lessor at its sole discretion and there is no guarantee that such application(s) will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of premium or fee, as may be imposed by her department.

### **Traffic**

#### 10.1.2 Comments of the Commissioner for Transport (C for T):

- (a) The land status of the access road/path/track leading to the Site from Kung Um Road shall be checked with the lands authority.
- (b) The management and maintenance responsibilities of the access road/path/track shall be clarified with the relevant management and maintenance authorities accordingly.
- (c) The applicant is reminded that sufficient space should be provided within the Site for manoeuvring of vehicles. In addition, no parking, queuing and reverse movement of vehicles on public road are allowed.

#### 10.1.3 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads/drains.
- (b) His department shall not be responsible for the maintenance of any access connecting the Site and Kung Um Road.

### **Environment**

#### 10.1.4 Comments of the Director of Environmental Protection (DEP):

- (a) He does not support the application as there are sensitive receivers of residential use in the vicinity (with the nearest one located to the immediate north of the Site) (**Plan A-2**) and the applied use will cause traffic of heavy vehicles; environmental nuisance is expected.
- (b) There was no substantiated environmental complaint concerning the Site received in the past three years.
- (c) Should the planning application be approved, the applicant should be advised to follow the relevant mitigation measures and requirements in the latest "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Use" (Code of Practice) to

minimise any potential environmental nuisances on the surrounding area.

### **Drainage**

10.1.5 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

- (a) He has no objection in principle to the application.
- (b) Based on the planning statement enclosed in the application, apparently the applicant would maintain the same drainage facilities as those implemented under the previous planning application No. A/YL-TYST/882.
- (c) Should the Board consider that the application is acceptable from the planning point of view, approval conditions requiring the maintenance of the drainage facilities implemented under application No. A/YL-TYST/882 and the submission of records of the existing drainage facilities on site to the satisfaction of the Director of Drainage Services or of the Board should be stipulated.

### **Building Matters**

10.1.6 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

The applicant should be reminded of the detailed comments at **Appendix VII**.

### **Fire Safety**

10.1.7 Comments of the Director of Fire Services (D of FS):

He has no objection in principle to the renewal application subject to the existing FSIs implemented on the Site being maintained in efficient working order at all times.

### **Long-Term Development**

10.1.8 Comments of the Chief Engineer/Cross-boundary Infrastructure and Development, Planning Department (CE/CID, PlanD):

- (a) The Civil Engineering and Development Department (CEDD) and PlanD jointly commissioned the “Planning and Engineering Study for Housing Sites in YLS – Investigation”. According to the Revised Recommended Outline Development Plan of YLS promulgated in May 2020, the Site falls partly within an area zoned “Special Residential – Zone 1 – Public Rental Housing (with Commercial)” and partly within an area shown as ‘Road’.
- (b) The objective of YLS is to transform the degraded rural land

predominantly occupied by brownfield operations including open storage yards, warehouses and rural industrial uses into housing and other uses with supporting infrastructure and community facilities, and to improve the existing environment. It is noted that the application is for temporary use for a period of 3 years. In considering the application for temporary uses, due consideration should be given on the possible implication on land clearance which would affect the future implementation of YLS.

10.1.9 Comments of the Project Manager (West), CEDD (PM(W), CEDD):

- (a) He has no objection to the application for temporary use for two years.
- (b) The Site falls within the boundary of YLS Development – Stage 1 (the project). To meet the target first population intake under the project by Q4 of 2028, land clearance is planned to commence in mid 2022 subject to Executive Council's authorisation on land resumption and Finance Committee's funding approval of the project by Q4 2021 and Q1 2022 respectively. The programme of land resumption would follow the project programme notwithstanding the validity period of the planning permission to be granted.
- (c) Should the application be approved by the Board, an advisory clause should be stipulated to remind the applicant that 'the Site might be subject to land resumption for the implementation of the YLS Development – Stage 1 which might take place at any time before the expiry of the temporary planning permission and thus the applicant shall be advised not to carry out any substantial works in view of the planned YLS Development – Stage 1'. His department will give sufficient notice to relevant department(s) for early resumption of the Site if his department's works commence early.

**District Officer's Comments**

10.1.10 Comments of the District Officer/Yuen Long, Home Affairs Department (DO/YL, HAD):

His office has not received any comment from the village representatives in the vicinity regarding the application.

10.2 The following Government departments have no comment on the application:

- (a) Commissioner of Police (C of P);
- (b) Director of Electrical and Mechanical Services (DEMS);
- (c) Director of Agriculture, Fisheries and Conservation (DAFC); and
- (d) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

**11. Public Comments Received During Statutory Publication Period**

On 29.12.2020, the application was published for public inspection. During the first three weeks of the statutory public inspection period, two public comments were received from



individuals. One individual objected to the application on the grounds that the applied use will cause adverse traffic, environmental and fire safety impacts on the surrounding area (**Appendix VI-1**). The other individual raised concerns on the implementation of the planned public housing development at the Site (**Appendix VI-2**).

## **12. Planning Considerations and Assessment**

12.1 The application is for renewal of planning approval for temporary open storage of construction machinery and material for a period of 3 years. Although the applied use is not in line with the planning intention of the “R(A)” zone, which is primarily for high-density residential developments, and the Site falls partly within an area shown as ‘Road’, PM/W, CEDD has no objection to the application for temporary use for two years. It is noted that the programme of land resumption would follow the project programme notwithstanding the validity period of the planning permission to be granted. In this regard, approval of the application on a temporary basis of three years would not jeopardise the long-term development of the Site. Nevertheless, should the application be approved, it is suggested to include an advisory clause to remind the applicant that the Site might be subject to land resumption for the implementation of the YLS Development – Stage 1 which might take place at any time before the expiry of the temporary planning permission and that no substantial works should be carried out at the Site in view of the planned project.

12.2 The surrounding areas comprise predominantly open storage yards, warehouses and vehicle repair workshops (**Plan A-2**). Although there are residential structures in the vicinity, the development is generally not incompatible with the surrounding uses.

12.3 The Site falls within the YLS Development Area. For applications in NDAs (including potential development areas), the following considerations in the TPB PG-No. 13F are relevant:

For existing open storage and port back-up uses with previous planning approval(s) and/or permitted under the previous OZPs, sympathetic consideration may be given to the application (irrespective of whether the application is submitted by the applicant of previous approval or a different applicant) until the concerned site is required for implementation of NDA development, provided that the relevant approval conditions, if any, have been complied with. Technical assessments, where appropriate, should be submitted to demonstrate that the continued operation of the current uses would not have adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas and the concerns of the departments and local residents, if any, can be addressed through the implementation of the approval conditions. In view of the impending implementation of NDAs, new open storage and port back-up uses are generally not encouraged to infiltrate into the NDAs. There is a general presumption against such uses at greenfield areas and/or at sites with land use compatibility issue, e.g. in close proximity to existing residential dwellings which may be subject to environmental nuisances caused by the open storage and port back-up uses.

12.4 The application is generally in line with TPB PG-No. 13F in that the Site falls within the YLS Development Area and previous planning approvals for similar

open storage use have been given under the previous OZPs; all time-limited approval conditions of the previous application have been complied with; relevant proposals have been submitted to demonstrate that the applied use would not generate adverse impacts on the surrounding areas; and the local concerns and technical concerns of relevant departments could be addressed through the imposition of approval conditions.

- 12.5 The application is also generally in line with TPB PG-No. 34C in that approval of the application would not pre-empt the long-term development of the Site; all the time-limited approval conditions under the previous application No. A/YL-TYST/882 had been complied with; and the 3-year approval period sought is reasonable and of the same timeframe as the previous approval.
- 12.6 There is no adverse comment on the application from concerned government departments, except DEP. DEP does not support the application as there are sensitive receivers of residential use in the vicinity of the Site (with the nearest one located to its immediate north) (**Plan A-2**), and the applied use will cause traffic of heavy vehicles; environmental nuisance is expected. However, there has been no environmental complaint concerning the Site received in the past 3 years. Furthermore, relevant approval conditions are recommended in paragraph 13.2 below to minimise any potential environmental nuisances or to address the local concerns and the technical requirements of other concerned government departments. Any non-compliance with the approval conditions will result in revocation of the planning permission and UD on the Site will be subject to enforcement action by the Planning Authority. Should the planning application be approved, the applicant will also be advised to keep the Site clean and tidy at all times and to follow the latest Code of Practice to minimise any potential environmental impact on the surrounding areas.
- 12.7 Given that seven previous approvals for various temporary open storage uses with/without ancillary office have been granted to the Site and 13 similar applications within/straddling the subject “R(A)3” zone have been approved since 2015, approval of the current application is generally in line with the Committee’s previous decisions.
- 12.8 Two public comments were received during the statutory publication period as summarised in paragraph 11. The planning considerations and assessments in paragraphs 12.1 to 12.7 above are relevant.

### **13. Planning Department’s Views**

- 13.1 Based on the assessments made in paragraph 12, and having taken into account the public comments summarised in paragraph 11 above, the Planning Department considers that the temporary open storage of construction machinery and material could be tolerated for a further period of 3 years.
- 13.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 3 years and be renewed from 17.3.2021 to 16.3.2024. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation between 7:00 p.m. and 7:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Sundays or public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) no workshop activities, as proposed by the applicant, are allowed on the Site at any time during the planning approval period;
- (d) no heavy goods vehicles exceeding 24 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance, as proposed by the applicant, is allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (e) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (f) the existing trees within the Site shall be maintained at all times during the planning approval period;
- (g) the existing boundary fencing on the Site shall be maintained at all times during the planning approval period;
- (h) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (i) the submission of a condition record of the existing drainage facilities on the Site within 3 months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 17.6.2021;
- (j) the existing fire service installations implemented on the Site shall be maintained in efficient working order at all times during the planning approval period;
- (k) if any of the above planning conditions (a), (b), (c), (d), (e), (f), (g), (h) or (j) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (l) if the above planning condition (i) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.

*[Approval conditions (a), (b), (c), (d), (e), (f), (h), (i) and (j) are the same as those under the permission for application No. A/YL-TYST/882, condition (g) has been updated as per the current proposal, and the reinstatement clause and the stacking height of stored materials clause have been deleted to accord with the department's latest requirements.]*

Advisory clauses

The recommended advisory clauses are at **Appendix VII**.

13.3 Alternatively, should the Committee decide to reject the application, the following reasons for rejection are suggested for Members' reference:

(a) the applied use is not in line with the planning intention of the "R(A)" zone which is primarily for high-density residential developments. No strong planning justification has been given in the submission to justify a departure from the planning intention, even on a temporary basis; and

(b) the applicant fails to demonstrate that the applied use would not generate adverse environmental impact on the surrounding areas.

**14. Decision Sought**

14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.

14.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.

14.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

**15. Attachments**

|                                 |  |
|---------------------------------|--|
| <b>Appendix I</b>               | Application Form with annex and plans received on 22.12.2020 |
| <b>Appendix Ia</b>              | Supplementary Information received on 24.12.2020             |
| <b>Appendix II</b>              | Relevant Extracts of TPB PG-No. 13F                          |
| <b>Appendix III</b>             | Relevant Extracts of TPB PG-No. 34C                          |
| <b>Appendix IV</b>              | Previous Applications covering the Site                      |
| <b>Appendix V</b>               | Similar Applications within the same "R(A)3" zone on the OZP |
| <b>Appendices VI-1 and VI-2</b> | Public Comments received during Statutory Publication Period |
| <b>Appendix VII</b>             | Recommended Advisory Clauses                                 |
| <b>Drawing A-1</b>              | Vehicular Access Plan  |
| <b>Drawing A-2</b>              | Site Layout Plan   |
| <b>Drawing A-3</b>              | Tree Preservation Proposal                                   |
| <b>Drawing A-4</b>              | As-built Drainage Plan                                       |
| <b>Drawing A-5</b>              | FSIs Proposal  |

|                                |   |
|--------------------------------|---|
| <b>Plan A-1a</b>               | Location Plan with Similar Applications |
| <b>Plan A-1b</b>               | Previous Applications Plan              |
| <b>Plan A-2</b>                | Site Plan                               |
| <b>Plan A-3</b>                | Aerial Photo                            |
| <b>Plans A-4a<br/>and A-4b</b> | Site Photos                             |

**PLANNING DEPARTMENT  
FEBUARY 2021**