

**Minutes of 958<sup>th</sup> Meeting of the  
Town Planning Board held on 14.5.2010**

**Present**

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

Chairman

Mr. Stanley Y.F. Wong

Vice-Chairman

Mr. Walter K.L. Chan

Mr. B.W. Chan

Ms. Maggie M.K. Chan

Mr. Raymond Y.M. Chan

Mr. Felix W. Fong

Ms. Anna S.Y. Kwong

Mr. Rock C.N. Chen

Mr. Timothy K.W. Ma

Professor Eddie C.M. Hui

Ms. Julia M.K. Lau

Mr. Laurence L.J. Li

Dr. W.K. Lo

Mr. Roger K.H. Luk

Ms. Pansy L.P. Yau

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. Benny Y.K. Wong

Assistant Director (2), Home Affairs Department  
Mr. Andrew Y.T. Tsang

Director of Lands  
Miss Annie Tam

Director of Planning  
Mrs. Ava S.Y. Ng

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

Secretary

**Absent with Apologies**

Mr. K.Y. Leung

Mr. Y.K. Cheng

Professor Paul K.S. Lam

Dr. James C.W. Lau

Professor Edwin H.W. Chan

Mr. Maurice W.M. Lee

Dr. Winnie S.M. Tang

Professor P.P. Ho

Dr. C.P. Lau

Professor Joseph H.W. Lee

Mr. Clarence W.C. Leung

Ms. Anita W.T. Ma

Professor S.C. Wong

**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  
Ms. Maggie M.Y. Chin

**Agenda Item 1**

[Open Meeting]

**Confirmation of Minutes of the 957<sup>th</sup> Meeting held on 30.4.2010**

[The meeting was conducted in Cantonese.]

1. The minutes of the 957<sup>th</sup> meeting held on 30.4.2010 were confirmed without amendments.

**Agenda Item 2**

[Open Meeting]

**Matters Arising**

[The meeting was conducted in Cantonese.]

2. The Secretary reported that there were no matters arising.
3. As the applicant for the review application under Agenda Item 3 had not yet arrived, the Chairman proposed and Members agreed to proceed with the Procedural Items and other Agenda Items first.

**Procedural Items**

**Agenda Item 8**

[Open Meeting]

Submission of the Draft Cheung Chau Outline Zoning Plan No. S/I-CC/4A to the Chief Executive in Council for Approval under Section 8 of the Town Planning Ordinance (TPB Paper No. 8543)

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[The meeting was conducted in Cantonese.]

4. The Secretary briefly introduced the Paper.
5. After deliberation, the Town Planning Board (the Board):

- (a) agreed that the draft Cheung Chau Outline Zoning Plan (OZP) No. S/I-CC/4A together with its Notes at Annexes A and B respectively of the Paper were suitable for submission under section 8 of the Town Planning Ordinance to the Chief Executive in Council (CE in C) for approval;
- (b) endorsed the updated Explanatory Statement (ES) for the draft Cheung Chung OZP No. S/I-CC/4A at Annex C as an expression of the planning intentions and objectives of the Board for the various land use zones on the draft OZP and to be issued under the name of the Board; and
- (c) agreed that the updated ES for the draft Cheung Chau OZP No. S/I-CC/4A was suitable for submission to CE in C together with the draft OZP.

### **Agenda Item 9**

[Open Meeting]

Submission of the Draft Mid-levels East Outline Zoning Plan No. S/H12/11A to the Chief Executive in Council for Approval under Section 8 of the Town Planning Ordinance (TPB Paper No. 8542)

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[The meeting was conducted in Cantonese.]

- 6. Dr. W.K. Lo had declared an interest on this item as he owned a flat at Kennedy Road. Since the item was procedural in nature, Members agreed that Dr. W.K. Lo could stay at the meeting.
- 7. The Secretary briefly introduced the Paper.
- 8. After deliberation, the Town Planning Board (the Board):
  - (a) agreed that the draft Mid-levels East Outline Zoning Plan (OZP) No. S/H12/11A together with its Notes at Annexes A and B respectively of the Paper were suitable for submission under section 8 of the Town

Planning Ordinance to the Chief Executive in Council (CE in C) for approval;

- (b) endorsed the updated Explanatory Statement (ES) for the draft Mid-levels East OZP No. S/H12/11A at Annex C as an expression of the planning intentions and objectives of the Board for the various land use zones on the draft OZP and to be issued under the name of the Board; and
- (c) agreed that the updated ES for the draft Mid-levels East OZP No. S/H12/11A was suitable for submission to CE in C together with the draft OZP.

#### **Agenda Items 10 to 14**

[Confidential Items]

[Closed Meeting]

- 9. These items were recorded under confidential cover.

#### **Agenda Item 4**

[Open Meeting (Presentation and Question Session Only)]

Review of Application No. A/NE-TK/298

Proposed House (New Territories Exempted House - Small House)

in "Village Type Development" and "Green Belt" zones,

Government Land in D.D. 27, Sha Lan Village, Tai Po

(TPB Paper No. 8538)

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[The hearing was conducted in Cantonese.]

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

- 10. The following representative of the Government and the applicant's representative were 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)
- Mr. Wong Sun Wo, William - Applicant's representative

11. 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.

12. 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 house (New Territories Exempted House (NTEH) – Small House) in an area partly zoned “Village Type Development” (“V”) and partly zoned “Green Belt” (“GB”) on the Ting Kok Outline Zoning Plan (OZP);
- (b) on 29.1.2010, the Rural and New Town Planning Committee (RNTPC) decided to reject the application and the reasons were:
  - (i) the proposed development was not in line with the planning intention of the “GB” zoning for the area which was to define the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There was a general presumption against development within this zone. The applicant failed to provide information in the submission to justify a departure from this planning intention;
  - (ii) the application did not comply with the Town Planning Board Guidelines for Application for Development within “GB” zone under section 16 of the Town Planning Ordinance in that the proposed development would involve cutting of slopes and clearance of trees and natural vegetation that could cause adverse

landscape impact on the surrounding area. The applicant also failed to demonstrate that the proposed development would not adversely affect the slope stability; and

- (iii) 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 and landscape quality of the area.;
- (c) the applicant had provided justifications in support of the review application as summarized in paragraph 3 of the Paper;
- (d) departmental comments were summarised in paragraph 5 of the Paper. The Chief Town Planner/Urban Design & Landscape (CTP/UD&L), PlanD had strong reservation on the application as the site was situated on an existing slope at the foot of a well-vegetated knoll. The construction of the proposed Small House would require cutting of slope and felling of exiting fruit trees on the site. It was likely that the woodland trees on the slope to the immediate south of the site would be affected if slope works was required. Adverse impact on the existing landscape resources was anticipated. The applicant had failed to provide any information regarding the slope works and the impact on the nearby woodland. The Head of Geotechnical Engineering Office (H(CEO)), Civil Engineering and Development Department (CEDD) advised that the site was located below steep natural hillside and met the alert criteria requiring a natural terrain hazard study (NTHS). He would raise in-principle objection to the application unless the applicant was prepared to undertake a NTHS and provide suitable mitigation measures, if found necessary, as part of the development. However, this could have significant cost implication and render the Small House development not economically viable. The applicant was required to submit a Geotechnical Planning Review Report to support the application and to assess the geotechnical feasibility of the proposed development;

- (e) public comment - during the statutory publication period of the review application, no public comment was received;
- (f) PlanD's view - PlanD did not support the review application based on the assessments set out in paragraph 6 of the Paper and they were summarized as follows:
  - i) the proposed development was not in line with the planning intention of the "GB" zone which was primarily for defining the limit of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There was a general presumption against development within this zone;
  - ii) although the application site fell entirely within the village 'environs' and there was a general shortage of land in the "V" zone to meet the estimated Small House demand, the proposed development did not comply with the Town Planning Board Guidelines for Application for Development within "GB" zone as the proposed development would involve clearance of existing trees on site. It was also likely that the woodland trees on the slope to the immediate south of the site would also be affected during the site formation works. This would cause adverse landscape impacts on the surrounding area. In this regard, the CTP/UD&L, PlanD had strong reservation on the application from the landscape planning point of view;
  - iii) the site was located below steep natural hillside and met the alert criteria requiring a NTHS. However, the applicant did not provide any information to demonstrate the geotechnical feasibility of the proposed development. In this regard, the H(GEO), CEDD had raised in-principle objection to the application unless the applicant was prepared to undertake a NTHS and provide suitable mitigation measures, if found necessary, as part of the development. The

applicant was required to submit a Geotechnical Planning Review Report in support of the planning application.

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

14. Mr. Wong Sun Wo, William, made the following main points:

- (a) the applicant was an indigenous villager who was entitled to build a Small House within his village. The applicant had been living abroad and now he wanted to come back to work and live in his village. As there was no private land available within the village for Small House development, the applicant would need to submit application to build Small House on Government land;
- (b) although the applicant had previously identified three sites on Government land for the Small House development, they had been rejected by the District Lands Officer/Tai Po (DLO/TP), Lands Department (LandsD) as all these sites fell within the "GB zone. As compared with these three sites, 77% of the application site fell within the "V" zone with only 23% of it fell within the "GB" zone;
- (c) after further consulting the architect, the applicant proposed to slightly shift the application site towards the adjacent footpath located to the northeast of the application site so as to minimize the encroachment onto the "GB" zone;
- (d) to address the concern on slope stability, the applicant would build a retaining wall at the slope behind the proposed Small House. With this retaining wall, the existing trees on the slope behind the application site would not be affected; and
- (d) if the application was approved, the applicant would employ a professional to assess the impacts of the proposed Small House on the

existing trees on the slope. The applicant agreed to maintain the slope and replant a number of trees on the slope for greening.

15. In response to a Member's enquiry on the proposed shifting of the application site, Mr. Wong Sun Wo, William, replied that as indicated at Plan R-2 of the Paper, there was 2 m between the north-eastern boundary of the application site and the adjacent footpath. The applicant would shift the proposed Small House towards the adjacent footpath by about 1 m. By doing so, the encroachment onto the "GB" zone by the proposed Small House would be reduced. Another Member asked if the applicant's representative would provide the revised site boundary for the Board's consideration. In response, Mr. Wong Sun Wo, William, said that it was only an initial proposal and the exact boundary had yet to be worked out.

16. A Member noted that there might be room for shifting the application site so as to avoid encroaching onto the "GB" zone. This Member enquired how the application site was first drawn up. Mr. W.K. Hui said that the boundary of the application site was proposed by the applicant. Mr. Wong Sun Wo, William, stated that when the applicant identified the application site, he thought that only a small corner of the proposed Small House fell within the "GB" zone. However, he now found out that about 23 % of the proposed Small House fell within the "GB" zone. In this regard, the applicant would shift the application site away from the "GB" zone as far as possible.

17. In response to a Member's enquiry, Mr. W.K. Hui stated that according to the Notes of the Ting Kok OZP, NTEH (Small House) development was always permitted under the "V" zone and planning permission from the Board was not required.

18. 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 his absence and inform the applicant of the Board's decision in due course. The Chairman thanked the representative of the applicant and DPO/STN for attending the meeting. They all left the meeting at this point.

Deliberation Session

19. A few Members opined that the proposed Small House should not be approved as the applicant had not provided any information to demonstrate the geotechnical feasibility of the proposed development to address H(CEO), CEDD's concern. Another Member said that the proposed development was not in line with planning intention of the "GB" zone and the encroachment onto the "GB" zone by the proposed Small House should not be supported.

20. A Member noted from Plan R-2 of the Paper that a similar Application No. A/NE-TK/300 falling within the "GB" zone to the north west of the application site was approved by the RNTPC. This Member enquired whether the details of this similar application had been covered in the TPB Paper. Mrs. Ava Ng referred to paragraph 4.12 of the TPB Paper and said that the relevant application was approved with conditions by the RNTPC mainly on the consideration that the site was located at the bottom of a natural hillside and there were no existing trees on the site.

21. After further deliberation, the Chairman concluded that the review application should not be approved as it was not in line with the planning intention of the "GB" zone, it did not comply with the Town Planning Board Guidelines for development within "GB" zone, and the approval of the application would set undesirable precedent for similar applications. Members then went through the reasons for rejecting the application as stated in paragraph 7.1 of the Paper and considered that they were appropriate.

22. After further deliberation, the Board decided to reject the application on review for the following reasons:

- (a) the proposed development was not in line with the planning intention of the "Green Belt" zoning for the area which was to define the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There was a general presumption against development within this zone. The applicant failed to provide information in the submission to justify a departure from this planning intention;

- (b) the application did not comply with the Town Planning Board Guidelines for 'Application for Development within "Green Belt" zone under section 16 of the Town Planning Ordinance' in that the proposed development would involve cutting of slopes and clearance of trees and natural vegetation that could cause adverse landscape impacts on the surrounding area. The applicant also failed to demonstrate that the proposed development would not adversely affect the slope stability; and
- (c) 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 and landscape quality of the area.

23. As the applicants for the review applications under Agenda Item 3 and 5 had not yet arrived, the Chairman proposed and Members agreed to adjourn the meeting for a short break and then proceed with Agenda Item 7 first.

[Mr. Walter K.L Chan and Mr. Rock C.N. Chen left the meeting at this point.]

**Agenda Item 7**

[Confidential Item]

[Closed Meeting]

24. This item was recorded under confidential cover.

**Agenda Item 5**

[Open Meeting (Presentation and Question Session Only)]

Review of Application No. A/NE-TKL/332

Proposed Temporary Open Storage of Construction Equipment, Machinery and Materials with Ancillary Caretakers' Quarters for a Period of 3 Years in "Agriculture" zone, Lot 1091 (Part) in D.D. 82, Ping Che Road, Ta Kwu Ling (TPB Paper No. 8539)

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**Presentation and Question Session**

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

Mr. W.K. Hui	- DPO/STN, PlanD
Mr. Chan Ka Wing	- Applicant
Ms. Chan Lai Sin	- Applicant's representative
Mr. Chan Ho Fung	- Applicant's representative
Ms. Chan Po Yee	- Applicant's representative

26. 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.

27. Mr. W.K. Hui 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 construction equipment, machinery and materials with ancillary caretakers' quarters for a period of three years in an area zoned "Agriculture" ("AGR") on the Ping Che and Ta Kwu Ling OZP;
- (b) on 29.1.2010, the Rural and New Town Planning Committee (RNTPC) rejected the application for the reasons that 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 purpose. It 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. Moreover, the proposed use did not comply with the Town Planning Board Guidelines for ‘Application for Open Storage and Port Back-up Uses’ (TPB Guidelines No. 13E) in that the applicant failed to demonstrate genuine efforts in compliance with approval conditions of the previous planning application. There was no technical assessment in the current submission to demonstrate that the temporary open storage use would not generate adverse landscape and environmental impacts on the surrounding areas and there were adverse comments from concerned Government departments on the application;

- (c) the application site was subject to planning enforcement action for unauthorized storage use, including deposit of containers, and workshop use. An Enforcement Notice (EN) was issued to the concerned landowner on 4.12.2009, requiring the said unauthorized development (UD) be discontinued by 4.2.2010. According to the site inspection undertaken upon expiry of the EN, the UD had not been discontinued. Non-compliance with the EN was subject to prosecution action;
- (d) no written submission in support of the review application was submitted by the applicant;
- (e) departmental comments on the review application were summarized in paragraph 4 of the Papers. Assistant Commissioner for Transport/New Territories, Transport Department (AC for T, TD) had no in-principle objection to the review application. However, it was noted that the southern portion of the application site would intrude into the village track and thus might block the existing track. The village track was narrow and substandard, thus was not suitable for medium/heavy goods vehicles. The

Project Manager/New Territories North and West, Civil Engineering and Development Department (PM/NTN&W, CEDD) commented that the application site fell within Ping Che/Ta Kwu Ling New Development Area (NDA). The North East New Territories NDAs Study was anticipated to be completed in 2011. The site formation works for the NDAs development were tentatively scheduled to commence in 2014/2015. She suggested that the effective period of permission for the application should only be granted to a date not later than the year of 2013. The Director of Agriculture, Fisheries and Conservation (DAFC) did not support the application as agricultural activities in the vicinity of the application site were still active and there was a high potential for agricultural rehabilitation. The Director of Environmental Protection (DEP) did not support the application as there were sensitive receivers in the vicinity of the application site and environmental nuisance was expected. The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) objected to the application from the landscape planning point of view. He advised that the application site was the subject of a previously approved application (No. A/NE-TKL/307) for the similar use to which he had objection from the landscape point of view. Subsequently, the approved application was revoked due to non-compliance with planning conditions including landscaping. There were many existing trees/orchards, active farmland or fallow land in the vicinity. The area was of a pleasant rural character and the proposed development was considered not compatible with the surrounding landscape character. There were no landscape mitigation measures proposed in the current application and the applicant's commitment to undertake the landscape measures was in doubt since there was record of the applicant's non-compliance with approval conditions. The District Lands Officer/North, Lands Department (DLO/N, LandsD) did not support the application as his office had reminded the current lot owner to apply for Short Term Waiver (STW) to regularize the erected structures by serving him a recorded delivery letter. However, the applicant failed to make any response to his invitation. Two structures in the northern portion of the application site were believed to be used as

domestic structure by the applicant and his family members. In the course of site inspection, his staff was refused entry to the domestic structures. Three structures in the southern portion of the application site were claimed to be used as ancillary caretakers' quarters. Insufficient information had been submitted to demonstrate that the proposed use was justified. The District Officer/North, Home Affairs Department (DO/N, HAD) stated that an objection was raised by the Vice-Chairman of Ta Kwu Ling District Rural Committee (TKLDRC) as the planning and development of the district might be affected by the application and the application would not be compatible with the overall local development;

- (f) during the statutory publication period, two public comments were received. One comment indicating 'no comment' was submitted by a general public while the other comment submitted by the Vice-chairman of the TKLDRC objected to the application as the development was not compatible with the overall local development;
- (g) PlanD's view - PlanD did not support the review applications based on the assessments set out in paragraph 6 of the Papers, which were summarised below:
  - (i) 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 and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There was no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis;
  - (ii) the proposed use was not in compliance with the TPB Guidelines No. 13E in that the applicant had failed to demonstrate genuine efforts in compliance with approval conditions of the previous planning application and had failed to include in the subject application relevant technical assessments/proposals to demonstrate that the

proposed use would not generate adverse landscaping and environmental impacts on the surrounding areas. There were adverse departmental comments against the application;

- (iii) DAFC did not support the application from the agricultural development point of view as the agricultural activities in the vicinity of the application site were still active and the application site and its surrounding land had a high potential for agricultural rehabilitation;
- (iv) DEP did not support the application as there were sensitive receivers in the vicinity of the application site. The loading/unloading of construction materials/equipment/machinery within the application site might impose adverse impacts on the nearby sensitive receivers, including a domestic structure to the east of the application site at a distance of about 15m and this had not been suitably addressed in the application;
- (v) there were many existing trees/orchards surrounding the application site. The development under application was not compatible with the pleasant rural character which was green and tranquil. CTP/UD&L of PlanD objected to the application as the development under application was neither compatible nor in harmony with the surrounding landscape character; no landscape mitigation measure had been proposed in the current application and the approval of the application would set an undesirable precedent for future cases of a similar nature which would further deteriorate the existing landscape quality in the vicinity;
- (vi) AC for T/NT, TD had also raised a concern on the blocking of the existing village track located at the southern part of the application site. This track was narrow and substandard and it was undesirable for medium/heavy goods vehicles to use the village track from the traffic point of view.

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

29. The applicant and his representatives made the following main points:

- (a) the applicant and his family members had used the site to store their equipment and machinery. The site was for private storage purpose only;
- (b) the construction equipment and machinery were temporarily stored on site and would be removed after the applicant had secured tender. No heavy goods vehicles would be used for transporting goods to/from the application site;
- (c) the application site was remote from the residential area and no adverse noise, sewerage and visual impacts on the area were envisaged;
- (d) trees had been planted in the application site to meet the Board's requirement;
- (e) there was an existing local track running through the southern part of the application site, which was owned by the applicant. However, local villagers were allowed to use the village track;
- (f) there was no active agricultural activity in the adjoining area. The peach blossom gardens were located at a distance far from the application site;  
and
- (g) if the application was approved by the Board, the applicant would implement the approval conditions attached to the planning permission.

30. In response to the Chairman's enquiry, Mr. W.K. Hui replied that the application site was the subject of a previous Application No. A/NE-TKL/307 submitted by the same

applicant for temporary open storage of building materials and machinery with ancillary caretakers' office and quarters for a period of three years. On 8.8.2008, the application was approved on review by the TPB with conditions for one year on sympathetic grounds. However, the planning permission was revoked on 8.11.2008 as the applicant failed to comply with the approval conditions regarding the submission of proposal for car parking, loading/unloading and vehicle manoeuvring spaces, drainage proposals, landscaping proposals and proposals on fire-fighting access, water supplies for fire fighting and fire service installations.

31. Two Members had the following questions:

- (a) When were the temporary structures erected on the application site and were they used for residential purpose ?  
and
- (b) What was the land status of the application site ?

32. For question (a), Mr. Chan Ka Wing said that the temporary structures had been erected on the site when they purchased the application site six years ago. These structures had been used as caretaker' quarters.

33. Regarding question (b), Mr. W.K. Hui replied that the application site was held under Old Scheduled Agricultural Lots restricted to agricultural purpose. According to the comments of DLO/TP, LandsD at paragraph 4.3.4 of the Paper, a two-storey building for domestic use, ancillary caretakers' quarter, shades and container structures had been erected on the site without DLO/TP's approval. DLO/TP, LandsD did not support the application as subsequent to the temporary approval given by the Board on 26.8.2008 in respect of planning Application No. A/NE-TKL307, his office had reminded the current lot owner to apply for a STW to regularize the erected structures. However, the applicant failed to make any response to his invitation so far. Two structures in the northern portion of the application site with an area of about 147 square metres were believed to be used as domestic structure by the applicant and his family members. In the course of site inspection, the staff of DLO/N, LandsD was refused entry to the domestic structures. In response to Mr. W.K. Hui's comments, Ms. Chan Lai Sin said that the structures had been erected on the site for many years. The Government officers had not been refused to enter the site for inspection.

34. A Member asked whether the application site was for residential use or for commercial purpose. Mr. Chan Ka Wing clarified that the application was for temporary open storage of construction materials and machinery which were owned by his family and used for their own business. The construction materials and machinery would be transported out of the site when required for use of their business. The site was for private storage purpose and would not be rented out for other users.

35. Another Member asked when the applicant purchased the application site and whether the previous planning Application No. A/NE-TKL/307 was submitted by the applicant and, if yes, what the applicant's response was in respect to the revocation of the previous planning permission due to non-compliance with the approval conditions. Mr. Chan Ka Wing replied that they had purchased the application site for six years and the previous application No. A/NE-TKL/307 was submitted by him in 2008. Mr. Chan Ho Fung said that the application site was owned by his family and used for private storage use only. The applied use would not create any adverse environmental impact on the surrounding area.

36. As the applicant and his representatives had no further comment to make and Members had no further question to raise, the Chairman informed the applicant and his representatives 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 applicant and his representatives and DPO/STN for attending the meeting. They all left the meeting at this point.

#### Deliberation Session

37. A Member considered that there was no reason to support the review application. The applied use was not in line with the planning intention of the "AGR" zone, there were adverse departmental comments against the application, and the applicant had failed to demonstrate genuine efforts in compliance with the approval conditions of the previous planning permission. Other Members concurred. Members then went through the reasons for rejection as stated in paragraph 7.1 of the Paper and considered that they were appropriate.

38. After further deliberation, the Board decided to reject the application on review for the following reasons:

- (a) the proposed use was not in line with the planning intention of the “Agriculture” zone in the Ping Che and Ta Kwu Ling area which was primarily to retain and safeguard good agricultural land/farm/fish ponds for agricultural purposes. It was also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There was no strong planning justification in the submission for a departure from such planning intention, even on a temporary basis; and
  
- (b) the proposed use did not comply with the Town Planning Board Guidelines for ‘Application for Open Storage and Port Back-up Uses’ in that the applicant had failed to demonstrate genuine efforts in compliance with approval conditions of the previous planning application and had failed to include in the fresh application relevant technical assessments/proposals to demonstrate that the proposed use would not generate adverse landscaping and environmental impacts on the surrounding areas and there were adverse departmental comments against the application.

### **Agenda Item 3**

[Open Meeting (Presentation and Question Session Only)]

Review of Application No. A/NE -FTA/98

Proposed Temporary Vehicle Repairing Workshop for a Period of 3 Years in "Agriculture" zone, Government Land in D.D. 51, Fu Tei Au, Sheung Shui  
(TPB Paper No. 8537)

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[The hearing was conducted in Cantonese.]

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

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

Mr. W.K. Hui - DPO/STN  
Mr. Chan Yiu Man - Applicant

40. The Chairman extended a welcome and enquired whether Mr. Chan Yiu Man knew that the review hearing for the subject review application was originally scheduled at 9:05am. Mr. Chan Yiu Man replied in the affirmative and said that he felt unwell early this morning and needed to consult a doctor before attending the meeting. He apologized for being late for the meeting. The Chairman then explained the procedures of the review hearing and invited Mr. W.K. Hui to brief Members on the background to the application.

41. Mr. W.K. Hui presented the application on review and covered the following main points as detailed in the Paper:

- (a) the applicant sought planning permission for using the application site as a temporary vehicle repair workshop for a period of three years. The site was zoned "Agriculture" ("AGR") on the Fu Tei Au and Sha Ling Outline Zoning Plan (OZP);
- (b) on 29.1.2010, the Rural and New Town Planning Committee (the RNTPC) rejected the application for the following reasons:

- (i) the use under application was not in line with the planning intention of the “AGR” zone for the area which was primarily intended to retain and safeguard good agricultural land/farm/fish ponds for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. The use under application did not justify a departure from the planning intention even on a temporary basis;
  - (ii) the use under application was not compatible with the surrounding land uses which comprised a number of domestic structures and some fruit trees; and
  - (iii) there were a number of domestic structures in the vicinity of the application site. The use under application would create environmental nuisance to the local residents;
- (c) the applicant had not submitted any written representation in support of the review application;
- (d) departmental comments – the departmental comments were summarized in paragraph 4 of the Paper. The Director of Agriculture, Fisheries and Conservation (DAFC) did not support the application from the agricultural point of view. The application site, which enjoyed good accessibility, was considered suitable for operation of nursery garden and had high potential for agricultural purpose. The Director of Environmental Protection (DEP) did not support the application as there were domestic structures in the vicinity of the application site. The Chief Town Planner/Urban Design & Landscape (CTP/UD&L) had reservation on the application from the landscape planning point of view as many fruit trees/common trees were found along and outside the site boundaries. The use under application was considered not compatible with the existing rural landscape character. The District Officer/North, Home Affairs Department advised that one of the villagers supported the

application but mentioned that for pedestrian safety, vehicles to and from the application site should not obstruct pedestrian passage. Another villager objected to the application on the ground that illegal parking of vehicles might obstruct the access road;

- (e) during the statutory publication period of the review application, one public comment indicating ‘no comment’ was received from a member of the general public;
- (f) PlanD’s view - PlanD did not support the review application based on the assessments set out in paragraph 6 of the Paper, which were summarised below:
  - (i) the development under application was not in line with the planning intention of the “AGR” zone which was primarily to retain and safeguard good agricultural land/farm/fish ponds for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purpose. In this regard, the DAFC did not support the application from agricultural point of view;
  - (ii) although there were open storage yards, workshops, warehouse, car repairing workshop and vehicle parks in the vicinity of the application site, nearly all of them were suspected unauthorized developments subject to enforcement action by the Planning Authority;
  - (iii) there were a number of domestic structures in the vicinity of the application site with the nearest one located to the immediate north of the site and others located at 25m to 30m away from the site. In this regard, environmental nuisance to the local residents was anticipated and DEP did not support the application;
  - (iv) the application site was adjacent to Ng Tung River which was

located to the south west of the site. There were also existing fruit trees to the south of the site. The applied use was not compatible with the existing rural landscape character. The CTP/UD&L, PlanD had reservation on the application from the landscape planning point of view;

- (v) there were four similar applications involving two sites for temporary vehicle repairing workshop in the same “AGR” zone, which were approved by the Committee/the Board on review. The temporary vehicle repairing workshop approved under Applications No. A/NE-FTA/54 and 74 were for private use only and formed part of the large site for a metal melting factory. It would unlikely cause significant adverse impacts on the surrounding area and concerned Government departments had no adverse comment on the applications. For Application Nos. A/NE-FTA/49 and 75, they were approved by the Board on review on the considerations that the site was previously used as a warehouse, relevant departments had no adverse comments, and the Transport Department’s concern could be addressed by imposition of approval condition prohibiting repairing and parking of heavy vehicles. Besides, as all these applications were not close to a large number of domestic structures (with a minimum distance of about 50m away), the environmental nuisance to local residents was expected to be less than the subject application. Nevertheless, the planning permission for these applications had either lapsed or been revoked by the Board; and
  
- (vi) a local objection against the application was received. The objection ground was that the use under application might attract illegal parking and might obstruct the access road.

42. The Chairman then invited the applicant to elaborate on the application.

43. Mr. Chan Yiu Man made the following main points:

- (a) the vehicle repairing workshop had existed on the application site for almost ten years. He had good relationship with the residents living nearby;
- (b) the vehicle repairing workshop only operated from 9:00 a.m. to 6:00 p.m and there was no operation on Sundays;
- (c) a licence pursuant to section 20 of the Water Pollution Ordinance was issued by the DEP. The applicant was also a registered waste producer under the Waste Disposal Ordinance. The licence and permit were shown at the visualiser for Members' information; and
- (d) some fruit trees had been planted in the site.

44. A Member enquired whether the address indicated on the licence and permit was the address of the application site. Mr. Chan Yiu Man said that the address indicated on the said licence and permit was 'Lot 58A1 Shek Wo San Tsuen, Sheung Shui, New Territories'. This was the address of the workshop previously operated by him. The said lot was subsequently resumed by the Government for road works.

45. Another Member asked if the applicant had paid any rent for the application site. Mr. Chan Yiu Man replied that he had not paid any rent for using the site. However, upon obtaining the planning permission, he would apply for a Short Term Tenancy (STT) for using the site. In this regard, the Board should consider allowing the applied use at the site to maximize the use of land resources. The applicant could also be able to earn a living on the site. This was a win-win situation.

46. A Member enquired about the status of a workshop to the east of the application site. Referring to Plan R-2 of the Paper, Mr. W.K. Hui said that the workshop in question had been in existence since 1991 and was regarded as an 'existing use', which could be tolerated under the Town Planning Ordinance.

47. As the applicant had no further comment to make and Members had no further question to raise, the Chairman informed the applicant that the hearing procedures for the

review had been completed and the Board would further deliberate on the application in his absence and inform him of the Board's decision in due course. The Chairman thanked the applicant and DPO/STN for attending the meeting. They all left the meeting at this point.

#### Deliberation Session

48. Mr. Benny Wong stated that the licence and permit shown by the applicant at the meeting were issued under the respective provisions of the environmental legislations. The issuance of such licence and permit should not be taken as the applicant having obtained approval under other regulations or Ordinances.

49. In response to a Member's enquiry, Miss Annie Tam said that as the subject workshop fell within Government land, the applicant could apply for STT to regularize the structures. Upon receipt of the STT application, the District Lands Officer/Tai Po, Lands Department (LandsD) would consider it having regard to various considerations including the Board's decision on the planning application.

50. A Member did not support the review application as the applicant had not provided justification to persuade the Board to vary the RNTPC's decision.

51. Another Member opined that as the subject vehicle repairing workshop had been in operation at the application site for ten years, its surrounding land uses were intermixed with open storage yards, car repairing workshops and vehicle parks, and there was no adverse public comments received during the publication period of the s.17 review, sympathetic consideration might be given to the review application.

52. The Chairman pointed out the applied use was not in line with the planning intention of the "AGR" zone for the area. Mrs. Ava Ng supplemented that in considering the planning applications, the Board should take into account the relevant Town Planning Board guidelines as well as departmental comments. In this regard, DEP did not support the application from the environmental point of view as there were domestic structures in the vicinity of the application site. Referring to Plan R-2 of the Paper, Mrs. Ava Ng continued to point out that almost all of the open storage yards, workshops, warehouse, car repairing workshop and vehicle parks in the vicinity of the application site were suspected

unauthorized developments subject to enforcement action by the Planning Authority. A Member considered that the subject application should not be supported taking into account its departure from the planning intention of the “AGR” zone, its incompatibility with the surrounding land uses, and its environmental nuisance to local residents living in the nearby domestic structures. Other Members agreed. Members then went through the reasons for rejection as stated 7.1 of the Paper and considered that they were appropriate.

53. After further deliberation, the Board decided to reject the application on review for the following reasons:

- (a) the use under application was not in line with the planning intention of the “AGR” zone for the area which was primarily intended to retain and safeguard good agricultural land/farm/fish ponds for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. The use under application did not justify a departure from the planning intention even on a temporary basis;
- (b) the use under application was not compatible to the surrounding land uses which comprised a number of domestic structures and some fruit trees; and
- (c) there were a number of domestic structures in the vicinity of the application site, and the use under application would create environmental nuisance to the local residents.



Mr. Stephen M.W. Yip	being a former non-executive director of the URA with the term of officer ended on 30.11.2008
Mr. B.W. Chan	being the Chairman of the Appeal Board Panel under the URA Ordinance;
Dr. James C.W. Lau	being a Member of the Appeal Board Panel under the URA Ordinance;
Mr. Raymond Y.M. Chan Ms. Maggie M.K. Chan Professor Edwin H.W. Chan	being Members of the Home Purchase Allowance (HPA) Appeals Committee

55. Members noted that Mr. Maurice W.M. Lee, Professor Edwin H.W. Chan and Dr. James C.W. Lau had tendered their apologies for being unable to attend the meeting. Since the item was procedural in nature, Members agreed that the other Members who had declared interests could stay at the meeting.

56. The Secretary briefed Members on the background of the review application No. A/H1/90 as set out in paragraph 1 of the Paper. On 21.4.2010, the applicant wrote to the Secretary of the Board requesting the Board to defer consideration of the review application for three months in order to allow time for the applicant to liaise with URA to exclude the Wing Lee Street buildings from the Development Scheme Plan boundary. The justifications for deferment met the criteria set out in the TPB Guidelines No. 33 on Deferment of Decision on Representations, Comments, Further Representations and Applications made under the Town Planning Ordinance in that the applicant needed more time to consult relevant Government department and to prepare further responses, the deferment period was not indefinite and the deferment would not affect the interest of other relevant parties.

57. After deliberation, the Board agreed to defer consideration of the review application for three months in order to allow time for the applicant to prepare submission of further information. The Board also agreed that the application should be submitted to the Board for consideration within three months from the date of receipt of further

information from the applicant. The Board also agreed to advise the applicant that three months were allowed for preparation of submission of the further information, and no further deferment would be granted unless under very special circumstances.

**Agenda Item 15**

[Open Meeting]

Any Other Business

[The meeting was conducted in Cantonese.]

58. There being no other business, the meeting was closed at 11:05 a.m.