

TOWN PLANNING BOARD

**Minutes of 429th Meeting of the
Rural and New Town Planning Committee held at 2:30 p.m. on 12.11.2010**

Present

Director of Planning
Mr. Jimmy C.F. Leung

Chairman

Ms. Anna S.Y. Kwong

Mr. Timothy K.W. Ma

Dr. C.P. Lau

Dr. W.K. Lo

Dr. W.K. Yau

Chief Traffic Engineer/New Territories West,
Transport Department
Mr. T.K. Choi

Assistant Director (Environmental Assessment),
Environmental Protection Department
Mr. C.W. Tse

Assistant Director/New Territories, Lands Department
Mr. Simon K.M. Yu

Assistant Director of Planning/Board
Mr. Lau Sing

Secretary

Absent with Apologies

Mr. Walter K.L. Chan

Mr. B.W. Chan

Dr. James C. W. Lau

Professor Edwin H.W. Chan

Mr. Rock C.N. Chen

Mr. Y.K. Cheng

Professor Paul K.S. Lam

Ms. Anita W.T. Ma

Mr. Stephen M.W. Yip

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

In Attendance

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

Town Planner/Town Planning Board
Ms. Cindy K.F. Wong

Agenda Item 1

Confirmation of the Draft Minutes of the 428th RNTPC Meeting held on 29.10.2010

[Open Meeting]

1. The draft minutes of the 428th RNTPC meeting held on 29.10.2010 were confirmed without amendments.

Agenda Item 2

Matters Arising

[Open Meeting]

(i) Approval of Draft Plan

2. The Secretary reported that on 2.11.2010, the Chief Executive in Council (CE in C) approved the draft South Lantau Coast Outline Zoning Plan (OZP) (to be renumbered as S/SLC/16) under section 9(1)(a) of the Town Planning Ordinance (the Ordinance) and approval of the plan would be notified in the Gazette on 12.11.2010.

(ii) Reference Back of OZPs

3. The Secretary also reported that on 2.11.2010, the CE in C referred the following OZPs to the Town Planning Board for amendment under section 12(1)(b)(ii) of the Ordinance and the reference back would be notified in the Gazette on 12.11.2010:

- (a) approved Fanling/Sheung Shui OZP No. S/FSS/14;
- (b) approved Tai Tam & Shek O OZP No. S/H18/10;
- (c) approved South West Kowloon OZP No. S/K20/24; and
- (d) approved Tin Shui Wai OZP No. S/TSW/12.

(iii) Appeal Decision Received

Town Planning Appeal No. 5 of 2009

Proposed Petrol Filling Station in “Undetermined” zone
and Area Shown as ‘Road’,

Lots 999 S.E, 1001 S.A RP, 1002 S.A RP and 1327 RP in D.D.115 and

Adjoining Government Land, Au Tau, Nam Sang Wai, Yuen Long

(Application No. A/YL-NSW/182)

4. The Secretary reported that the subject appeal was against the TPB’s decision to approve an application (No. A/YL-NSW/182) for a proposed petrol filling station (PFS) on a temporary basis for a period of 10 years until 6.3.2019, instead of a permanent approval as applied by the Appellant. The appeal site was zoned “Undetermined” (“U”) and an area shown as ‘Road’ on the approved Nam Sang Wai Outline Zoning Plan (OZP) No. S/YL-NSW/8.

5. The appeal was heard on 19.5.2010 and dismissed on 28.10.2010 by the Appeal Board Panel (Town Planning) (ABP). The Appellant’s arguments were as follows :

(a) the TPB on 27.6.1997 approved on review an application (No. A/YL-NSW/17) submitted by the Appellant for a proposed PFS which covered the subject site and the adjoining area on a permanent basis (hereafter referred to as the 1997 Approval). The 1997 Approval was granted on the basis of an undertaking to the TPB which stated that the Appellant would cease operation of the PFS and demolish it to make way for a floodway project. The PFS was subsequently built, and demolished in compliance with the above undertaking; and

(b) the Appellant argued that the 1997 Approval intended to be effective even after the demolition of the PFS built under the 1997 Approval. Given the 1997 Approval was intended to be permanent and the approval was still effective, the Appellant contended that a fresh application for the subject PFS was not necessary. Even if it were required, the TPB should have acted consistently and reasonably and granted permanent approval as it did in 1997.

6. The ABP dismissed the appeal mainly on the following grounds :

- (a) the ABP considered that paragraph 6 of the covering Notes of the approved Nam Sang Wai OZP No. S/YL-NSW/8 which read “Except as otherwise specified by the TPB, when a use or material change of use is effected or a development or redevelopment is undertaken, as always permitted in terms of the Plan or in accordance with a permission granted by the TPB, all permissions granted by the TPB in respect of the site of the use or material change of use or development or redevelopment shall lapse” was applicable to the subject application. As a matter of fact, a PFS had been built under the 1997 Approval. Accordingly, a direct application of the above paragraph would mean that the 1997 Approval had already lapsed and a fresh application was necessary;
- (b) the ABP also considered that the subject application was materially different from the previously approved scheme (No. A/YL-NSW/17) which would also mean that a fresh application was necessary; and
- (c) the ABP considered that the subject application was quite different from the 1997 Approval in terms of the scale, design and development parameters. There were also substantial changes in the prevailing circumstances from that in 1997. In particular, the Pok Oi Hospital which was located in close proximity to the subject site had expanded after the 1997 Approval was granted. The impact of the proposed PFS on the operation of the hospital and the health of the patients as raised by the Secretary for Food and Health would be perpetual if a permanent approval was granted. As such, the ABP agreed that the TPB’s decision was reasonable and being in line with the planning intention.

(iv) Appeal Statistics

7. The Secretary reported that as at 12.11.2010, a total of 25 cases were yet to be heard by the ABP. Details of the appeal statistics were as follows:

Allowed	:	27
Dismissed	:	113
Abandoned/Withdrawn/Invalid	:	142
Yet to be Heard	:	25
<u>Decision Outstanding</u>	:	<u>1</u>
Total	:	308

8. The Chairman said that there was an appeal decision in relating to two appeals (Applications No. A/ST/630 and 658). A copy of the appeal decision was tabled in the meeting for Members' reference. As the appeal was allowed without specifying conditions, liaison with the Department of Justice, the ABP and the Appellant was underway. As the ABP's decision was quite lengthy and covered a number of points which would be considered by the Board, Members might go through the decision first and briefing on the appeal decision would be given in due course.

Sai Kung and Islands District

[Mr. C.F. Yum, Senior Town Planner/Sai Kung and Islands (STP/SKIs), was invited to the meeting at this point.]

Agenda Item 3

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/SK-HC/183 Proposed House (New Territories Exempted House — Small House)
in "Agriculture" zone,
Lot No. 681 RP in D.D. 244, Ho Chung, Sai Kung
(RNTPC Paper No. A/SK-HC/183)

Presentation and Question Sessions

9. Mr. C.F. Yum, STP/SKIs, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed house (New Territories Exempted House — Small House);
- (c) departmental comments – the Director of Agriculture, Fisheries and Conservation (DAFC) did not support the application as the site was a piece of fallow farmland which possessed good potential of agricultural rehabilitation. The Commissioner for Transport (C for T) had reservation on the application since such type of development, outside the “Village Type Development” (“V”) zone, if permitted would set an undesirable precedent for similar applications in the future. The resulting cumulative adverse traffic impact could be substantial. However, the application only involved one Small House, he considered that the application could be tolerated unless it was rejected on other grounds;
- (d) four public comments were received during the statutory publication period. Two public comments were submitted by Sai Kung District Councillors and one public comment was submitted by a member of the general public. They concerned about the issue on village access road and “Agriculture” (“AGR”) zone. One public comment submitted by Designing Hong Kong Limited objected to the application because it was within the “AGR” zone, the area lacked sustainable village layout for infrastructure, public facilities, amenities and public spaces; and
- (e) the Planning Department (PlanD)’s views – PlanD had no objection to the application based on the assessments given in paragraph 11 of the Paper. The application complied with the “Interim Criteria for Consideration of Application for NTEH/Small House in the New Territories” in that the site was within the village ‘environs’ and there was a general shortage of land in meeting Small House development in the “Village Type Development” zone. The proposed NTEH had no adverse drainage, landscape and

environmental impacts on the surrounding areas. Although DAFC advised that the site was a piece of fallow farmland which possessed good potential for agricultural rehabilitation, there were no farming activities at the site and its surroundings. Also, the proposed NTEH was compatible with the surroundings which comprised mainly village houses. Regarding the encroachment onto an existing village access road, the applicant had proposed to re-align a section of the existing emergency vehicular access (EVA) to give way for the proposed Small House development. The Ho Chung Village Committee, which was responsible for the maintenance and management of all EVA in Ho Chung Village, had also agreed with the proposed re-alignment of the existing EVA and supported the proposed Small House development. Regarding the four public comments received, the application was in line with the Interim Criteria and there was no objection by the relevant government departments.

10. Members had no question on the application.

Deliberation Session

11. After deliberation, the Committee decided to approve the application, on the terms of the application as submitted to the Town Planning Board (TPB). The permission should be valid until 12.11.2014, and after the said date, the permission should cease to have effect unless before the said date, the development permitted was commenced or the permission was renewed. The permission was subject to the following conditions :

- (a) the submission and implementation of landscape proposal to the satisfaction of the Director of Planning or of the TPB; and
- (b) the provision of fire fighting access (including the re-aligned Emergency Vehicular Access), water supplies and fire service installations to the satisfaction of the Director of Fire Services or of the TPB.

12. The Committee also agreed to advise the applicant of the following :

- (a) to note the comments of the Director of Water Supplies that for provision of water supply to the development, the applicant might need to extend his/her inside services to the nearest suitable government water mains for connection. The applicant should resolve any land matter associated with the provision of water supply and should be responsible for the construction, operation and maintenance of the inside services within the private lots to the Water Supplies Department's standards. The water main in the vicinity of the site could not provide the standard fire-fighting flow;

- (b) to note the comments of the Antiquities and Monuments Office (AMO) of Leisure and Cultural Services Department that the application site fell within the Ho Chung Archaeological Site and the applicant should provide AMO with sufficient time and let the staff of the AMO enter the application site to conduct an archaeological survey prior to the commencement of construction works;

- (c) to note the comments of the Chief Engineer/Mainland South, Drainage Services Department (DSD) that the application site was within an area where there was no DSD sewage collection available in the vicinity at present. Public sewerage works for Ho Chung area were under planning and were anticipated for completion in 2016. Upon completion of the sewerage works, the Environmental Protection Department would normally serve notice to those concerned lot owners to construct their own terminal manholes for connecting the constructed public sewerage network available to them. The applicant should make due allowance in his sewerage design to allow such connection in future upon the notice served by the Environmental Protection Department;

- (d) to note the comments of the Chief Town Planner/Urban Design and Landscape, Planning Department that establishing a green screen between the proposed house and the village access road, at grade tree planting along the northeast site boundary was highly recommended; and

- (e) to note the comments of the Director of Fire Services that detailed fire safety requirements would be formulated upon receipt of formal application referred by the Lands Department.

Agenda Item 4

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/SK-HH/51 Proposed Utility Installation for Private Project
in “Conservation Area” zone,
Government land adjoining House 3, Chuk Kok, Sai Kung
(RNTPC Paper No. A/SK-HH/51)

Presentation and Question Sessions

13. Mr. C.F. Yum, STP/SKIs, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed utility installation for private project;
- (c) departmental comments – the District Lands Officer/Sai Kung, Lands Department (DLO/SK, LandsD) did not support the application as the site formed part of a private garden situated on unleased government land being illegally occupied by the owner of House 3. In fact, the U-channel was proposed to be constructed along the periphery of the unauthorised private garden. Land control action against the owner of the House was being taken on the illegal occupation of the government land and the unauthorised structures erected thereon. All private drainage works serving the private development should be carried out and located within the private lot on which the House was situated. The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) objected to the development as the proposed alignment of the

drainage services enclosing a large “private garden” in the “Conservation Area” (“CA”) zone was unacceptable; the construction of the proposed drainage service would damage the root zones of the mature trees growing immediately next to the site; and the approval of the application would set an undesirable precedent and attract similar request for utility installation/private garden development on unleased government land within “CA” zone;

- (d) one public comment was received during the statutory publication period. The public comment was submitted by Designing Hong Kong Limited objecting to the application because the land was zoned “CA”, the change did not match the planning intention and the subject area was well-vegetated with woodland; and
- (e) the Planning Department (PlanD)’s views – PlanD did not support the application based on the assessment made in paragraph 10 of the Paper. The proposed utility installation was not in line with the planning intention of the “CA” zone as there was a general presumption against development in this zone and there was no strong justification in the submission for a departure from the planning intention. The site formed part of a private garden situated on unleased government land being illegally occupied by the owner of House 3, Chuk Kok. DLO/SK advised that all private drainage works serving the private development should be located within the private lot on which the House was situated. The submission failed to demonstrate that it was technically infeasible to carry out the proposed drainage works within the private lot of House 3. The construction of the proposed drainage works would damage the root zones of the mature trees growing immediately next to the site. The submission failed to demonstrate that the proposed utility installation would not have adverse landscape impact on the surrounding areas. The approval of the application would set an undesirable precedent for similar applications in this “CA” zone in the future. The cumulative effect of approving such similar applications would result in a general degradation of the environment and bring about adverse landscape impact on the area. The applicant claimed

that a precedent application No. A/SK-HH/30 was approved in the locality. However, that application was to seek planning permission for re-diversion of public drainage pipeline and the re-provision of a local footpath which were to fulfil the requirement under the lease. These works would not involve extensive clearance of natural vegetation. One public comment raising objection to the application was received.

[Ms. Anna S.Y. Kwong and Mr. C. W. Tse arrived to join the meeting at this point.]

14. A Member asked whether the subject public utility installation was to serve the house under construction near the application site. Mr. C. F. Yum replied that the proposed utility installation was not related to the house under construction. It would only serve residential development at House 3 at Chuk Kok.

Deliberation Session

15. After deliberation, the Committee decided to reject the application. Members then went through the reasons for rejection as stated in paragraph 11.1 of the Paper and considered that they were appropriate. The reasons were :

- (a) the proposed utility installation was not in line with the planning intention of the “Conservation Area” (“CA”) zone. There was a general presumption against development in this zone. There was no strong justification in the submission for a departure from the planning intention;
- (b) the submission failed to demonstrate that the proposed utility installation would not have adverse landscape impact on the surrounding areas; and
- (c) the approval of the application would set an undesirable precedent for other similar applications within the “CA” zone. The cumulative effect of approving such similar applications would result in a general degradation of the environment and bring about adverse landscape impact on the area.

[The Chairman thanked Mr. C.F. Yum, STP/SKIs, for his attendance to answer Members' enquires. Mr. Yum left the meeting at this point.]

Sha Tin, Tai Po and North District

[Mr. W.W. Chan and Ms. Lisa L.S. Cheng, Senior Town Planners/Shan Tin, Tai Po and North (STPs/STN), were invited to the meeting at this point.]

Agenda Item 5

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/ST/720 Shop and Services (Money Exchange)
 in "Industrial" zone,
 Unit F (F3 Portion), G/F, On Wah Industrial Building,
 41-43 Au Pui Wan Street, Fo Tan, Sha Tin
 (RNTPC Paper No. A/ST/720)

Presentation and Question Sessions

16. Mr. W.W. Chan, STP/STN, informed the meeting that a missing page of Page 2 of the Appendix I of the Paper had been distributed to Members before the meeting. He then presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the shop and services (money exchange);
- (c) departmental comments – no objection from concerned government departments was received;
- (d) no public comment was received during the statutory publication period

and no local objection/view was received by the District Officer (Sha Tin);
and

- (e) the Planning Department (PlanD)'s views – PlanD had no objection to the application on a temporary basis for a period of three years based on the assessment made in paragraph 11 of the Paper. The money exchange use under application was considered not incompatible with the adjoining units on the ground floor of the same industrial building which were occupied by mixed industrial and commercial uses. In view of its small scale and the nature of operation of the applied use, no adverse environmental, hygienic and infrastructural impacts on the surrounding areas were anticipated and government departments consulted had no adverse comments or objection to the application. The retail shop under application was in line with the Town Planning Board Guidelines for Use/Development within “Industrial” Zone (TPB PG-No. 25D) as the approval of the current application involving a floor area of about 20 m² would not exceed the maximum permissible limit of 460 m², and the applied use would have direct discharge to street and would not adversely affect the traffic conditions in the local road network. A temporary approval of three years was recommended in order not to jeopardise the long term planning intention of industrial use for the subject premises and to allow the Committee to monitor the supply and demand of industrial floor space in the area.

17. Members had no question on the application.

Deliberation Session

18. After deliberation, the Committee decided to approve the application on a temporary basis for a period of 3 years until 12.11.2013, on the terms of the application as submitted to the Town Planning Board (TPB) and subject to the following conditions :

- (a) the submission of the fire safety measures within 6 months from the date of approval to the satisfaction of the Director of Fire Services or of the TPB by 12.5.2011;

- (b) the implementation of the fire safety measures within 9 months from the date of approval to the satisfaction of the Director of Fire Services or of the TPB by 12.8.2011; and
- (c) if any of the above planning conditions (a) or (b) was not complied with by the specified date, the approval hereby given should cease to have effect and should on the same date be revoked without further notice.

19. The Committee also agreed to advise the applicant of the following :

- (a) prior planning permission should have been obtained before commencing the applied use at the application premises;
- (b) a temporary approval of three years was given in order to allow the Committee to monitor the compliance of the approval conditions and the supply and demand of industrial floor space in the area to ensure that the long term planning intention of industrial use for the subject premises would not be jeopardized;
- (c) to apply to the District Lands Officer/Shu Tin, Lands Department for a temporary waiver to permit the applied use;
- (d) to note the comments of the Chief Building Surveyor/New Territories East (1) & Licensing Unit, Buildings Department that the proposed use should comply with the requirements under the Buildings Ordinance. For instance, the shop should be separated from adjoining workshops by compartment walls and floors having a fire resisting period of not less than two hours;
- (e) to note the comments of the Director of Fire Services that detailed fire service requirements would be formulated upon receipt of formal submission of general building plans and a means of escape completely separated from the industrial portion was available for the area under

application; and

- (f) to refer to the ‘Guidance Note on Compliance with Planning Condition on Provision of Fire Safety Measures for Commercial Uses in Industrial Premises’ for the information on the steps required to be followed in order to comply with the approval condition on the provision of fire service installations.

Agenda Item 6

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/ST/721 Proposed Conversion for Office and Other Ancillary Uses
in “Industrial (1)” zone,
5/F and 6/F, Town Health Technology Centre
(Formerly Known as Informtech Industrial Centre),
10-12 Yuen Shun Circuit, Siu Lek Yuen, Sha Tin
(RNTPC Paper No. A/ST/721)

Presentation and Question Sessions

20. Mr. W.W. Chan, STP/STN, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed conversion for office and other ancillary uses;
- (c) departmental comments – no objection from concerned government departments was received;
- (d) no public comment was received during the statutory publication period and no local objection/view was received by the District Officer (Sha Tin);
and

- (e) the Planning Department (PlanD)'s views –PlanD had no objection to the application based on the assessments given in paragraph 11 of the Paper. The planning application was identical to the previous approved scheme under Application No. A/ST/693 approved by the Committee on 5.3.2010 which was revoked on 5.9.2010 for non-compliance with the approval condition on fire safety. The current application was to seek more time for resolving issue related to the fulfilment of approval conditions. This application was considered compatible with the proposed medical and healthcare industries on G/F to 4/F of the building that could be classified as a type of research, design and development centre. According to the Town Planning Board Guidelines for Use/Development within “Industrial” Zone (TPB PG-No. 25D), application for partial conversion should be demonstrated that the proposed use would be acceptable in terms of fire safety, land use, traffic and environmental considerations. In this regard, all concerned departments consulted had no adverse comment on the application. The Committee had in the previous application of A/ST/693 agreed to grant an approval of the proposed office and ancillary uses in the premises for the life time of the existing building to encourage revitalization of the industrial building on the condition that the uses on the lower floors were restricted to Column 1 uses excluding industrial, or uses that were permitted by the Board. Otherwise, the application should only be granted on a temporary basis for a period of three years. As there had been no major change in circumstances, the same considerations would apply to this application and the same approval conditions of the previous application were recommended to be imposed. Since the last approval was revoked due to non-compliance with the approval condition(s), shorter compliance period was proposed to monitor the progress of compliance.

21. Members had no question on the application.

Deliberation Session

22. After deliberation, the Committee decided to approve the application, on the

terms of the application as submitted to the Town Planning Board (TPB). The permission should be valid until 12.11.2014, and after the said date, the permission should cease to have effect unless before the said date, the development permitted was commenced or the permission was renewed. The permission was subject to the following conditions :

- (a) the lower floors (G/F to 4/F) of the industrial building (Informtech Industrial Centre) should be restricted to Column 1 uses except industrial use specified in the “Industrial” (“I”) zone or to uses permitted by the Board;
- (b) if planning condition (a) was not complied with, the permission should be valid on a temporary basis for a period of three years until 12.11.2013, and if planning condition (a) was not complied with after the said period, the approval hereby given should cease to have effect and should on the same date be revoked without further notice;
- (c) the submission of the fire safety measures within 3 months from the date of approval to the satisfaction of the Director of Fire Services or of the TPB by 12.2.2011;
- (d) the implementation of the fire safety measures within 6 months from the date of approval to the satisfaction of the Director of Fire Services or of the TPB by 12.5.2011; and
- (e) if any of the above planning conditions (c) or (d) was not complied with by the specified date, the approval hereby given should cease to have effect and should on the same date be revoked without further notice.

23. The Committee also agreed to advise the applicant of the following :

- (a) in connection with condition (a) above, the applicant was advised that the approval was granted on the understanding that the use of the lower floors being used for non-industrial Column 1 uses or uses permitted by the Board of the “I” zone. If the lower floors were used for industrial purposes, the

approval would only be valid for 3 years;

- (b) should the applicant fail to comply with the approval conditions again resulting in the revocation of the planning permission, sympathetic consideration might not be given by the Committee to any further application;
- (c) to note the comments of the District Lands Officer/Shu Tin, Lands Department (LandsD) that should the application be approved, the applicant was required to apply for lease modification or temporary waiver from LandsD to implement his proposal. If such lease modification or waiver application was approved by LandsD in its capacity as the landlord at its discretion, it would be subject to such terms and conditions including, inter alia, payment of premium or waiver fee as imposed by LandsD; and
- (d) to note the comments of the Chief Building Surveyor/New Territories East (2) & Rail, Buildings Department that the proposed conversion constituted a material change in the use of the building and was subject to Section 25(1) of the Buildings Ordinance and the general building plan (Alteration and Addition) (A&A) submitted on 5.11.2009 and approved on 25.3.2010 was still based on the use of ‘workshop’ at 5/F and 6/F though the A&A work was completed and acknowledged by his department on 11.6.2010. Detailed comments would be given at building plan submission stage.

Agenda Items 7 & 8

Section 16 Applications

[Open Meeting (Presentation and Question Sessions Only)]

A/TP/459 Proposed House (New Territories Exempted House – Small House)
in “Green Belt” and “Village Type Development” zones,
Lot 80 S.A in D.D. 11, Fung Yuen Lo Tsuen, Tai Po
(RNTPC Paper No. A/TP/459)

[Open Meeting (Presentation and Question Sessions Only)]

A/TP/460 Proposed House (New Territories Exempted House – Small House)
in “Green Belt” zone,
Lot 80 R.P in D.D. 11, Fung Yuen Lo Tsuen, Tai Po
(RNTPC Paper No. A/TP/460)

24. Members noted that the applications were grouped together under one RNTPC Paper as they were similar in nature and the application sites were close to each other and within the same “Green Belt” zone.

Presentation and Question Sessions

25. Ms. Lisa L.S. Cheng, STP/STN, presented the applications and covered the following aspects as detailed in the Paper :

- (a) background to the applications;
- (b) a proposed house (New Territories Exempted House (NTEH) – Small House) at each of the application site;
- (c) departmental comments – the Commissioner for Transport (C for T) had reservation on the subject applications. He advised that the proposed developments located outside “Village Type Development” (“V”) zone, if permitted, would set an undesirable precedent for similar applications in the future and the resulting cumulative adverse traffic impact could be substantial. However, as only one small house at each application site was involved, he considered that the subject applications could be tolerated unless they were rejected on other grounds;
- (d) two public comments from Designing Hong Kong Limited and WWF Hong Kong were received during the statutory publication period. Designing Hong Kong Limited objected to the applications as the sites fell within the “Green Belt” (“GB”) zone; there was a lack of sustainable village layout plan for the area and approval of the developments would set an undesirable precedent for similar applications. WWF Hong Kong

commented that the proposed developments were not in line with the planning intention of the “GB” zone. They were concerned that the proposed houses would undermine the function and value of the “GB” zone and approval of which would set an undesirable precedent for future applications; and

- (e) the Planning Department (PlanD)’s views – PlanD did not support the applications based on the assessment made in paragraph 12 of the Paper. The proposed Small House developments were not in line with the planning intention of the “GB” zoning for the area and there was a general presumption against development within this zone. There was no strong justification in the submission for a departure from the planning intention. Besides, land available in the village was sufficient to meet the future Small House demand. The proposed Small House developments did not comply with the interim criteria for consideration of application for NTEH/Small House in the New Territories in that there was no general shortage of land in meeting the demand for Small Houses in the “V” zone even though the application sites fell entirely within the village ‘environs’. The approval of the applications would set undesirable precedents for similar developments within the “GB” zone. The cumulative effect of approving such applications would result in a general degradation of the natural environment.

26. Members had no question on the application.

Deliberation Session

27. After deliberation, the Committee decided to reject the two applications. Members then went through the reasons for rejection as stated in paragraph 13.1 of the Paper and considered that they were appropriate. The reasons were :

- (a) the proposed Small House was not in line with the planning intention of the “Green Belt” (“GB”) zone which was to define the limits of urban development areas and there was a general presumption against

development within “GB” zone. There was no strong justification in the submission for a departure from the planning intention;

- (b) the proposed Small House did not comply with the Interim Criteria for assessing planning application for New Territories Exempted House/Small House development in the New Territories in that although the application site was completely within the village “environs”, there was no general shortage of land in meeting the demand for Small House development in the “Village Type Development” zone; and
- (c) the approval of the application would set an undesirable precedent for similar developments within the “GB” zone. The cumulative effect of approving such applications would result in a general degradation of the natural environment.

Agenda Item 9

Section 16 Application

[Open Meeting]

A/TP/461 Columbarium in “Government, Institution or Community” zone,
Lot 1006 R.P. in D.D. 5, No. 2 Mui Shu Hang Village, Tai Po
(RNTPC Paper No. A/TP/461)

28. The Committee noted that the applicant’s representative requested on 21.10.2010 for a deferment of the consideration of the application for two months in order to allow time to conduct a traffic impact assessment to address the comments of the Commissioner for Transport.

29. After deliberation, the Committee decided to defer a decision on the application as requested by the applicant pending the submission of additional information from the applicant. The Committee also agreed that the application should be submitted to the Committee for consideration within two months from the date of receipt of additional information from the applicant. The Committee also agreed to advise the applicant that two months were allowed for preparation of the submission of the further information, and no

further deferment would be granted unless under very special circumstances.

[The Chairman thanked Mr. W.W. Chan and Ms. Lisa L.S. Cheng, STPs/STN, for their attendance to answer Members' enquires. Mr. Chan and Ms. Cheng left the meeting at this point.]

Tuen Mun and Yuen Long District

[Ms. S.H. Lam and Mr. Kepler S.Y. Yuen, Senior Town Planners/Tuen Mun and Yuen Long (STPs/TMYL), were invited to the meeting at this point.]

Agenda Item 10

Section 16 Application

[Open Meeting]

A/TM-SKW/67 Temporary Barbecue Area for a Period of 3 Years
in "Village Type Development" zone,
Lots No. 263 S.B (Part) and 268 (Part) in D.D. 385 and
Adjoining Government Land in Tai Lam Chung, Tuen Mun
(RNTPC Paper No. A/TM-SKW/67)

30. The Committee noted that the applicant's representative requested on 22.10.2010 for a deferment of the consideration of the application for two months in order to allow time to address comments of the Drainage Services Department on the drainage proposal and prepare further information to substantiate the application.

31. After deliberation, the Committee decided to defer a decision on the application as requested by the applicant pending the submission of additional information from the applicant. The Committee also agreed that the application should be submitted to the Committee for consideration within two months from the date of receipt of additional information from the applicant. The Committee also agreed to advise the applicant that two months were allowed for preparation of the submission of the further information, and no further deferment would be granted unless under very special circumstances.

Agenda Item 11

Section 16 Application

[Open Meeting]

A/TM/405 Proposed Columbarium in “Green Belt” zone,
G/F and 1/F, at Lot 559 in D.D. 131 within
Tsing Wan Kun, Tuen Mun
(RNTPC Paper No. A/TM/405)

32. The Committee noted that the applicant’s representative requested on 27.10.2010 for a deferment of the consideration of the application for two months in order to allow sufficient time to address the departmental comments on the application.

33. After deliberation, the Committee decided to defer a decision on the application as requested by the applicant pending the submission of additional information from the applicant. The Committee also agreed that the application should be submitted to the Committee for consideration within two months from the date of receipt of additional information from the applicant. The Committee also agreed to advise the applicant that two months were allowed for preparation of the submission of the further information, and no further deferment would be granted unless under very special circumstances.

Agenda Item 12

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-PS/332 Renewal of Planning Approval for Temporary “Public Vehicle Park for Private Cars and Light Goods Vehicles” Use under Application No. A/YL-PS/289 for a Period of 3 Years in “Green Belt” and “Village Type Development” zones, Lots 39 RP (Part), 40 RP, 42 (Part), 43 S.B (Part), 43 S.C (Part), 43 S.D (Part), 43 S.E (Part), 43 S.F (Part) and 43 S.G (Part) in D.D. 122 and Adjoining Government Land, Ping Shan, Yuen Long (RNTPC Paper No. A/YL-PS/332)

Presentation and Question Sessions

34. Ms. S.H. Lam, STP/TMYL, presented the application and covered the following aspects as detailed in the Paper:

- (a) background to the application;
- (b) the renewal of planning approval for temporary “public vehicle park for private cars and light goods vehicles” use under Application No. A/YL-PS/289 for a period of 3 years;
- (c) departmental comments – no objection from concerned government departments was received;
- (d) one public comment from the Designing Hong Kong Limited was received during the statutory publication period, objecting to the application as the change of use did not match with the planning intention. Adequate parking facilities already existed and more parking spaces would promote car ownership. A holistic approach was required regarding vacancy rate and use of parking spaces. Parking availability was a tool in traffic demand management policies to control traffic flows. They also suggested that alternative uses such as public market or open space should

be considered; and

- (e) the Planning Department (PlanD)'s views – PlanD considered that the temporary use could be tolerated for a period of two years based on the assessments given in paragraph 12 of the paper. About 68% of the site fell within an area zoned “Undetermined” at the time of application which had been rezoned to “Green Belt” (“GB”) under the current Outline Zoning Plan and the site was formed and paved. As the subject vehicle park was approved by the Board upon review on 26.11.2004 and was in operation since then, sympathetic consideration could be given to the renewal of the permission. As the application was on a temporary basis, further approval on a temporary basis would not frustrate the long-term planning intention of the “GB” zone on the current OZP. About 32% of the site falls within the “Village Type Development” (“V”) zone. No change had been made to this zoning under the latest revisions to the OZP. According to District Lands Officer/Yuen Long, no Small House applications were received at the site. Besides, as the vehicle park was for parking of the private cars and light goods vehicles only, it would unlikely create significant adverse environmental, traffic, drainage and landscape impacts on the surrounding areas. Any non-compliance with the approval conditions would result in revocation of the planning permission and unauthorised development on-site would be subject to enforcement action by the Planning Authority. The site was involved in three previous applications approved by the Board and all the approval conditions had been complied with by the applicant. However, according to 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. 34B), the approval period should not be longer than the original approval. Since the previous approvals granted were for 2 years, a further period of 2 years instead of 3 years as requested should be given in order to continue monitoring the situation and not to jeopardize the planning intention of the “V” zone. Regarding the public comment received, the proposed temporary vehicle park was not incompatible with the village houses and it could also help to meet some of the car parking demand of villagers.

35. Members had no question on the application.

Deliberation Session

36. After deliberation, the Committee decided to approve the application on a temporary basis for a period of 2 years, instead of 3 years sought, from 18.11.2010 until 17.11.2012, on the terms of the application as submitted to the Town Planning Board (TPB) and subject to the following conditions :

- (a) no night-time operation between 11:00 p.m. and 7:00 a.m. was allowed on the site during the planning approval period;
- (b) no dismantling, repairing of vehicles or other workshop activities were allowed on site at any time during the planning approval period;
- (c) no medium and heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance, and coaches were allowed to be parked on the site at any time during the planning approval period;
- (d) the existing landscape planting on the site should be maintained at all times during the approval period;
- (e) the drainage facilities implemented under planning application No. A/YL-PS/289 should be maintained at all times during the approval period;
- (f) the submission of the condition record of the existing drainage facilities on site within 6 months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Drainage Services or of the TPB by 17.5.2011;
- (g) the submission of fire service installations proposals within 6 months from

the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the TPB by 17.5.2011;

- (h) in relation to (g) above, the implementation of fire service installations proposed within 9 months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the TPB by 17.8.2011;
- (i) if any of the above planning conditions (a), (b), (c), (d) or (e) was not complied with during the planning approval period, the approval hereby given should cease to have effect and should be revoked immediately without further notice;
- (j) if any of the above planning conditions (f), (g) or (h) was not complied with by the specified date, the approval hereby given should cease to have effect and should on the same date be revoked without further notice; and
- (k) upon the expiry of the planning permission, the reinstatement of the application site to an amenity area to the satisfaction of the Director of Planning or of the TPB.

37. The Committee also agreed to advise the applicant of the following :

- (a) to resolve any land issues relating to the development with the concerned owner(s) of the application site;
- (b) a shorter approval period was granted to closely monitor the situation on the site;
- (c) to note the comments of the District Lands Officer/Yuen Long that access to the site opened onto Ha Mei San Tsuen Road via a short stretch of government land (GL). His office did not provide maintenance works for this GL nor guarantee right of way;

- (d) to adopt the “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” issued by the Environmental Protection Department;
- (e) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department that there should be no change to the agreed drainage system on site and they should be properly maintained all the time without adverse drainage impact to the adjacent areas and the existing drainage facilities;
- (f) to note the comment of the Commissioner for Transport that the land status of the road/path/track leading to the site should be checked with the lands authority. The management and maintenance responsibilities of the same road/path/track should be clarified with the relevant lands and maintenance authorities accordingly;
- (g) to note the comments of the Chief Highway Engineer/New Territories West, Highways Department that the applicant should be responsible for his own access;
- (h) to note the comments of the Director of Fire Services on the requirements on formulating fire service installations proposal in Appendix VI of the Paper;
- (i) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department on the removal of unauthorised structures within the site which were liable to action under section 24 of the Buildings Ordinance (BO). The granting of this planning approval should not be construed as condoning to any unauthorised structures existing on the site under the BO and the allied regulations. Actions appropriate under the said Ordinance or other enactment might be taken if contravention was found. Formal submission of any proposed new works, including any temporary structure for approval under the BO was required. Use of container as office was considered as temporary structures and was subject

to control under Building (Planning) Regulations (B(P)R) Part VII. If the site did not abut a specified street having a width of not less than 4.5m, the development intensity should be determined under Building B(P)R 19(3) at building plan submission stage. The applicant's attention was drawn to the requirements on provision of emergency vehicular access to all buildings under B(P)R41D; and

- (j) to resolve any land issues relating to the development with the owner of the adjoining lots affected by the development.

[The Chairperson thanked Ms. S. H. Lam, STP/TMYL, for her attendance to answer Members' enquiries. Ms. Lam left the meeting at this point.]

Agenda Item 13

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-KTN/346 Temporary Container Vehicle/Lorry Park for an Existing Warehouse for a Period of 18 Months in "Industrial (Group D)" zone, Lots 452 S.A (Part), 452 S.B (Part) and 453 (Part) in D.D. 107, Kam Tin North, Yuen Long
(RNTPC Paper No. A/YL-KTN/346)

Presentation and Question Sessions

38. Mr. Kepler S.Y. Yuen, STP/TMYL, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the temporary container vehicle/lorry park for an existing warehouse for a period of 18 months;
- (c) departmental comments – the Director of Environmental Protection (DEP) did not support the application as there were sensitive receivers, i.e.

existing residential structures located to the west and in the vicinity of the site and environmental nuisance was expected. However, there was no environmental complaint received in the past three years;

- (d) no public comment was received during the statutory publication period and no local objection/view was received by the District Officer (Yuen Long); and
- (e) the Planning Department (PlanD)'s views –PlanD considered that the temporary use could be tolerated for a period of 18 months based on the assessments given in paragraph 12 of the paper. The development was generally in line with the planning intention of the “Industrial (Group D)” zone which was primarily for industrial uses that could not be accommodated in conventional flatted factories due to extensive land and/or high ceiling requirement. The proposed development was also considered not incompatible with the surrounding areas. The application site fell within Category 1 within the Town Planning Board Guidelines No. 13E for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13E). The application was generally in line with the TPB PG-No. 13E as it was an application for permission to continue the use approved under the previous Application No. A/YL-KTN/322. Since there was no major change in planning circumstances and the relevant approval conditions under the previous approval had been complied with, there was no strong justification to depart from the Committee's previous decision. Regarding DEP's comments, no environmental complaint had been received in the past three years and no local objection was received during the statutory publication period. Besides, approval conditions restricting the operation hours and prohibiting vehicle dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities were recommended.

39. Members had no question on the application.

Deliberation Session

40. After deliberation, the Committee decided to approve the application on a temporary basis for a period of 18 months until 12.5.2012, on the terms of the application as submitted to the Town Planning Board (TPB) and subject to the following conditions :

- (a) no night time operation between 6:00 p.m. and 9:00 a.m., as proposed by the applicant, was allowed on the site during the planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicant, was allowed on the site during the planning approval period;
- (c) no vehicle dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities should be carried out at the site at any time during the planning approval period;
- (d) the existing trees and landscaping plantings on the site should be maintained at all times during the planning approval period;
- (e) the existing drainage facilities on the site should be maintained at all times during the planning approval period;
- (f) if any of the above planning conditions (a), (b), (c), (d) or (e) 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
- (g) upon expiry of the planning permission, the reinstatement of the application site to an amenity area to the satisfaction of the Director of Planning or of the TPB.

41. The Committee also agreed to advise the applicant of the following :

- (a) to note the comments of the District Lands Officer/Yuen Long that the site was situated on Old Schedule Agricultural Lots held under Block Government Lease upon which no structure was allowed to be erected

without prior approval from his office. The site was accessible through other private land and open government land from San Tam Road. His office did not have maintenance works on the government land nor guarantee the right-of-way;

- (b) to adopt environmental mitigation measures as set out in the “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” issued by the Director of Environmental Protection to minimize any potential environmental nuisances;
- (c) to note the comments of the Commissioner for Transport that the site was not directly connected to San Tam Road. The applicant should seek consent from the relevant lands and maintenance authorities in using the access road leading to the site;
- (d) to note the comments of the Chief Highway Engineer/New Territories West, Highways Department that his department was not/should not be responsible for the maintenance of any existing vehicular access connecting the application site and San Tam Road; and
- (e) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department that the agreed drainage facilities on-site should be maintained in good condition without causing adverse impact to the adjacent areas.

Agenda Item 14

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-KTN/347 Proposed Filling of Pond for Agricultural Use
in “Agriculture” zone,
Lot 72 (Part) in D.D. 109 and Adjoining Government Land,
Kam Tin North, Yuen Long
(RNTPC Paper No. A/YL-KTN/347)

Presentation and Question Sessions

42. Mr. Kepler S.Y. Yuen, STP/TMYL, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed filling of pond for agricultural use;
- (c) departmental comments – the Director of Agriculture, Fisheries and Conservation (DAFC) had reservation on the application. The site consisted of an abandoned fish pond covered with aquatic vegetation and surrounded by mature trees on the embankments. The site also formed a continuous patch of freshwater wetland with adjoining fish ponds and wetlands. In particular, the site was in the vicinity of “Buffalo Fields”, a well-known hotspot for wetland associated birds and one of the few known breeding sites of the locally rare Greater Painted Snipe in the territory. Turning the site into dry agricultural farmland as proposed would likely reduce its naturalness and biodiversity, and hence lowered its ecological value. The subject development was not a comprehensive development and there would be limited room for consideration of alternatives and implementation of mitigation or compensatory measures. It also appeared that the applicant might not be able to conduct a proper ecological impact assessment. Pond filling was also not supported from fish culture point of view. The Chief Town Planner/Urban Design and Landscape

(CTP/UD&L) had some reservations on the application given its likely impact on the existing landscape quality of the area. The site was currently an abandoned fishpond overgrown with common and swamp grass species. Native trees could be found along the pond edge screening the pond and adding to the landscape diversity and landscape quality of the area. Besides, the subject pond was connected to the series of the remaining ponds adjoining the preserved meander of Kam Tin River. Approval of the application would result in the loss of this relatively scarce landscape resource. The Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) requested the applicant to submit drainage proposal including flood relief mitigation measures and implement the drainage facilities and other necessary flood relief mitigation measures prior to any pond filling activities. The District Lands Officer/Yuen Long (DLO/YL) advised that no pond/land filling on the government land portion of the site was allowed and thus this portion should be excluded from the site;

- (d) five public comments were received from a group of seven local villagers, the managers of Tang Chi Ka Tong, a Yuen Long District Councillor, WWF Hong Kong and Designing Hong Kong Limited during the statutory publication period. All the commenters objected to the application mainly on the grounds that the proposed filling of pond would cause adverse ecological, environmental and landscape/visual impacts. In particular, WWF Hong Kong pointed out that one major egret colony was located in the proximity of the site. Feeding habitats including fish ponds within 2km range of the colony were important for the nesting ardeids. Since the site was within that range of the colony, it should be preserved to protect the ardeids from being adversely affected due to the loss of wetland habitat caused by pond filling. Besides, two uncommon species including White-shoulder Starling and Grey-headed Lapwing had been recorded around the area during the summer breeding seasons and winter respectively. There was also concern on the cumulative ecological impact caused by the proposed development and the potential residential development at nearby Nam Sang Wai area on the waterbirds especially

those nesting in Tung Shing Lei. However, the applicant did not assess the ecological impact of the pond filling on the ardeids and the surrounding areas. The Yuen Long District Councillor commented that the number of fish ponds was dwindling in Yuen Long and fish ponds should be preserved for environmental conservation purpose. There were also plenty of agricultural land in Yuen Long and priority should be given to use that agricultural land. Designing Hong Kong Limited suspected that the site which was fenced off would be used for Small House development, and approval of the application would set an undesirable precedent; and

- (e) the Planning Department (PlanD)'s views – PlanD did not support the application based on the assessment made in paragraph 11 of the Paper. The applicant proposed to fill up the site with an area of about 3,600m² by about 3m for organic farming use. Although the site fell within “Agriculture” (“AGR”) zone, there were concerns on the ecological, landscape and drainage impacts of the proposed filling of pond from government departments. The conversion of the site into dry agricultural farmland would undermine the ecological value of the site in terms of its naturalness and biodiversity. Besides, there would be limited opportunity for compensatory measures if the application was approved and would result in a loss of wetland. From the landscape planning perspective, approval of the application would result in the loss of the scarce landscape resource formed by the subject pond, the native trees along the pond edge and the remaining ponds adjoining the preserved meander of Kam Tin River. From the drainage point of view, the proposed pond filling would cause drainage impact on the surrounding areas. In the absence of sufficient information to demonstrate that the proposed pond filling would not cause adverse ecological, landscape and drainage impacts on the site and the surrounding areas, the application could not be supported. Besides, DLO/YL did not agree with the proposed pond filling that would involve government land. The approval of the application would set an undesirable precedent for similar applications within the subject “AGR” zone. The cumulative effect of approving such application would result in adverse ecological impact and loss of fish ponds in the area. Furthermore,

public objections against the application on ecological, environmental and landscape/visual grounds had been received.

43. By referring to Drawing A-2, a Member asked whether the pond was a dry pond. Mr. Kepler Yuen replied that the application site was overgrown with grass and flooded with a small amount of water at the bottom of the pond as shown in Photo 4 on Plan A-4.

Deliberation Session

44. After deliberation, the Committee decided to reject the application. Members then went through the reasons for rejection as stated in paragraph 12.1 of the Paper and considered that they were appropriate. The reasons were :

- (a) the applicant failed to demonstrate in the submission that the proposed filling of pond would not cause adverse ecological, landscape and drainage impacts on the site and the surrounding areas; and
- (b) the approval of the application would set an undesirable precedent for similar applications within the subject “Agriculture” zone. The cumulative effect of approving such application would result in adverse ecological impact and loss of fish ponds in the area.

Agenda Item 15

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-KTN/348 Renewal of Planning Approval for Temporary
“Public Vehicle Park (Excluding Container Vehicle)” Use under
Application No. A/YL-KTN/335 for a Period of 5 Years
in “Village Type Development” zone,
Lot 225 RP (Part) in D.D. 109, Tai Hong Wai, Kam Tin, Yuen Long
(RNTPC Paper No. A/YL-KTN/348)

Presentation and Question Sessions

45. Mr. Kepler S.Y. Yuen, STP/TMYL, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the renewal of planning approval for temporary “public vehicle park (excluding container vehicle)” use under Application No. A/YL-KTN/335 for a period of 5 years;
- (c) departmental comments – no objection from concerned government departments was received;
- (d) District Officer (Yuen Long) (DO(YL)) advised that he had not received any comment from the concerned Village Representatives but he had received a comment from the Chairman of the Kam Tin Rural Committee who supported the application as the development could alleviate the traffic congestion problem near the existing supermarket; and
- (e) the Planning Department (PlanD)’s views –PlanD considered that the temporary use could be tolerated for a period of three years based on the assessments given in paragraph 12 of the paper. Although the public vehicle park was not in line with the planning intention of the “Village Type Development” (“V”) zone, it could satisfy some of the local parking demand. The District Lands Officer/Yuen Long indicated that no Small House application was received at the site or within 30m from the site. Given its temporary nature and there was no Small House application underway, the development would not frustrate the long-term planning intention of the “V” zone. The development of public vehicle park for private cars and light goods vehicles was considered not incompatible with the surrounding land uses which mainly comprised residential buildings/structures with commercial uses on ground floor. The application being a renewal application was in line with the Town Planning Board Guidelines No. 34B on Renewal of Planning Approval and

Extension of Time for Compliance with Planning Conditions for Temporary Use or Development (TPB PG-No. 34B) in that approval conditions related to provisions of boundary fencing and measures for mitigation of possible noise and artificial lighting nuisances, landscape, drainage and fire safety aspects under the previous approval (No. A/YL-KTN/335) had been complied with and no adverse comment from the relevant departments. An approval period of 3 years (instead of 5 years as proposed by the applicant) was recommended to monitor the situation on the site. The 3-year approval period was also in line with the current practice regarding approval period for temporary public vehicle park in “V” zone.

46. Members had no question on the application.

Deliberation Session

47. After deliberation, the Committee decided to approve the application on a temporary basis for a period of 3 years, instead of 5 years sought, from 21.11.2010 until 20.11.2013, on the terms of the application as submitted to the Town Planning Board (TPB) and subject to the following conditions :

- (a) no vehicles without valid licences issued under the Road Traffic (Registration and Licensing of Vehicles) Regulations were allowed to be parked/stored on the site at any time during the planning approval period;
- (b) no medium or heavy goods vehicles exceeding 5.5 tonnes including container vehicles, as defined in the Road Traffic Ordinance were allowed to be parked/stored on the site at any time during the planning approval period;
- (c) no vehicle dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities should be carried out on the site at any time during the planning approval period;

- (d) the existing boundary fencing along the application site should be maintained at all times during the planning approval period;
- (e) the existing measures for mitigation of possible nuisance of noise and artificial lighting on the site implemented under Application No. A/YL-KTN/335 should be maintained at all times during the planning approval period;
- (f) the existing landscape plantings on the site implemented under Application No. A/YL-KTN/335 should be maintained at all times during the planning approval period;
- (g) the existing drainage facilities on the site implemented under Application No. A/YL-KTN/335 should be maintained at all times during the planning approval period;
- (h) the submission of fire service installations proposal within 6 months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the TPB by 20.5.2011;
- (i) in relation to (h) above, the provision of fire service installations within 9 months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the TPB by 20.8.2011;
- (j) if any of the above planning conditions (a), (b), (c), (d), (e), (f) or (g) 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;
- (k) if any of the above planning conditions (h) or (i) was not complied with by the specified date, the approval hereby given should cease to have effect and should on the same date be revoked without further notice; and

- (l) upon expiry of the planning permission, the reinstatement of the application site to an amenity area to the satisfaction of the Director of Planning or of the TPB.

48. The Committee also agreed to advise the applicant of the following :

- (a) a shorter approval period was granted so as to monitor the situation on the site;
- (b) to note the comments of the District Lands Officer/Yuen Long that the site was situated on an Old Schedule Agricultural Lot held under Block Government Lease under which no structure was allowed to be erected without prior approval from his office. His office reserved the right to take lease enforcement against unauthorized structures on the site. The site was accessible from Kam Tin Road through a short stretch of government land (GL) and his office did not carry out maintenance works of the GL. His office did not guarantee right-of-way. The registered owner of the lot should apply to his office for Short Term Waiver (STW) to regularize any structures on the site. Should no STW application be received/approved and unauthorized structures persist on the site, his office would consider taking appropriate lease enforcement action against the registered owner;
- (c) to adopt environmental mitigation measures as set out in the “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” issued by the Director of Environmental Protection to minimize any possible environmental nuisances;
- (d) to note the comments of the Commissioner for Transport that the site was connected to Kam Tin Road via a local access road. The applicant should seek consents from the relevant lands and maintenance authorities on using this local access road leading to the site;
- (e) to note the comments of the Chief Highway Engineer/New Territories West,

Highways Department that his department was not/should not be responsible for the maintenance of any existing vehicular access connecting the application site and Kam Tin Road;

- (f) to note the comments of the Director of Fire Services that in consideration of the design/nature of the proposed structures, fire service installations (FSIs) were anticipated to be required. Therefore, the applicant was advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. In formulating FSIs proposal for the proposed structures, the applicant should note that portable hand-operated approved appliance should be provided as required by occupancy and should be clearly indicated on plans. Should the applicant wish to apply for exemption from the provision of certain FSIs, the applicant was required to provide justifications to his department for consideration; and
- (g) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department that all unauthorized building works/structures should be removed. All building works were subject to compliance with Buildings Ordinance (BO). Authorized Person had to be appointed to coordinate all building works. The granting of planning approval should not be construed as an acceptance of the unauthorized structures on site under the BO. Enforcement action might be taken to effect the removal of all unauthorized works in the future.

Agenda Item 16

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-KTS/508 Temporary Open Public Car Park (Including Private Car, Light Goods Vehicle and Medium Goods Vehicle) for a Period of 3 Years
in “Village Type Development” zone,
Lot 291 (Part) in D.D. 109, Kam Tin, Yuen Long
(RNTPC Paper No. A/YL-KTS/508)

Presentation and Question Sessions

49. Mr. Kepler S.Y. Yuen, STP/TMYL, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the temporary open public car park (including private car, light goods vehicle and medium goods vehicle) for a period of 3 years;
- (c) departmental comments – the Chief Town Planner/Urban Design and Landscape (CTP/UD&L) had some reservations on the application. The southern site boundary was fronting Kam Sheung Road and residential houses were in close proximity to the site. In particular, the building line of three residential blocks was abutting the eastern boundary of the site. It was likely that the development would have adverse landscape impact on the surrounding village residential setting. However, no landscape mitigation measures had been included in the development proposal to alleviate the adverse impact. The Director of Environmental Protection (DEP) did not support the application as sensitive receivers, i.e. existing residential dwellings/structures were located to the immediate east and in the vicinity of the site and environmental nuisance was expected. There was no environmental complaint received in the past three years. The Commissioner for Transport (C for T) concerned that there was no adequate manoeuvring space within the site for 11m long goods vehicles to turn around. Since these goods vehicles would have to reverse in or out of the site, the parking space arrangement was not acceptable;
- (d) five public comments were received from four local residents and a member of the public during the statutory publication period. Out of the five public comments received, four objected or strongly objected to the application and one expressed concerns on the application. The commenters generally objected to the application as the development would cause adverse traffic impact on Kam Sheung Road which was a busy

road and safety problem on the pedestrians in using the nearby narrow pavements. The development would also generate exhaust, noise nuisance and pollution and hygiene problems on the surrounding areas particularly the nearby residential developments; and

- (e) the Planning Department (PlanD)'s views – PlanD did not support the application based on the assessment made in paragraph 11 of the Paper. the development was not in line with the planning intention of the “Village Type Development” (“V”) zone. The development involving parking of goods vehicles which were 7m to 11m in length weighing from 5.5 tonnes to 24 tonnes was not congenial to the rural residential neighbourhood. No strong planning justification had been given in the submission for a departure from the planning intention, even on a temporary basis. The applicant failed to demonstrate in the submission that the development would not generate adverse environmental, landscape, traffic and drainage impacts on the surrounding areas. DEP, C for T and CTP/UD&L had adverse comments/concerns on the application. Although similar applications (No. A/YL-KTS/166 and 481) for public car/vehicle park within the same “V” zone were approved, these applications were for parking of private cars only and did not involve the parking of goods vehicles of over 5.5 tonnes and no adverse departmental comments were received for these applications. The approval of the current application, which involved parking of goods vehicles, would set an undesirable precedent for similar applications within the “V” zone. The cumulative effect of approving such applications would result in a general degradation of the environment of the area.

50. Members had no question on the application.

Deliberation Session

51. The Chairman said that the application site was within “V” zone with residential dwelling in vicinity and it involved parking of goods vehicles of over 5.5 tonnes, sympathetic consideration should not be given for the current application.

52. After deliberation, the Committee decided to reject the application. Members then went through the reasons for rejection as stated in paragraph 12.1 of the Paper and considered that they were appropriate. The reasons were :

- (a) the development was not in line with the planning intention of the “Village Type Development” (“V”) zone on the Outline Zoning Plan, which was to designate both existing recognized villages and areas of land considered suitable for village expansion. Land within the zone was primarily intended for development of Small Houses by indigenous villagers. It was also intended to concentrate village type development within the zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services. The development involving the parking of vehicles of 7m to 11m and exceeding 5.5 tonnes was incompatible with the surroundings which were predominantly rural and residential in character. No strong planning justification had been given in the submission for a departure from the planning intention, even on a temporary basis;
- (b) the applicant failed to demonstrate in the submission that the development would not generate adverse environmental, landscape, traffic and drainage impacts on the surrounding areas; and
- (c) the approval of the application would set an undesirable precedent for similar applications within the “V” zone. The cumulative effect of approving such applications would result in a general degradation of the environment of the area.

Agenda Item 17

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-KTS/509 Temporary Vehicle Repair Workshop for a Period of 3 Years
in “Agriculture” zone,
Lots 355 RP (Part), 356 RP (Part), 359 RP, 360 RP (Part), 361,
362 (Part), 363, 364 (Part) and 435 RP (Part) in D.D. 103 and
Adjoining Government Land, Ko Po San Tsuen, Kam Tin, Yuen Long
(RNTPC Paper No. A/YL-KTS/509)

Presentation and Question Sessions

53. Mr. Kepler S.Y. Yuen, STP/TMYL, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the temporary vehicle repair workshop for a period of 3 years;
- (c) departmental comments – the Director of Environmental Protection (DEP) did not support the application as there were sensitive receivers, i.e. residential structures, located to the south and west of the site and environmental nuisance was expected. However, no environmental complaint had been received in the past three years;
- (d) a public comment from Designing Hong Kong Limited was received during the statutory publication period, objecting to the application as the use of the site (temporary vehicle repair workshop) was a blight on the environment and was not in line with the planning intention of the “Agriculture” (“AGR”) zone; and
- (e) the Planning Department (PlanD)’s views – PlanD considered that the temporary use could be tolerated for a period of three years based on the assessments given in paragraph 11 of the paper. The development was

not incompatible with the surrounding areas which were mixed with scattered residential structures, agricultural land, vacant/unused land, workshops, a warehouse and an open storage yard. The approval of the application on a temporary basis would not frustrate the planning intention of the “AGR” zone. As previous approvals had been granted and there was no major change in the planning circumstances since the last planning approval, sympathetic consideration could be given to the current application. Regarding DEP’s comments, no environmental complaint was received by DEP in the past three years and the objection received during the statutory publication period was not related to environmental nuisance aspect. Approval conditions restricting the operation hours and maintenance of the boundary fencing were recommended to address the potential environmental nuisance. Regarding the public comments received, the development was considered not incompatible with the surrounding land uses and a temporary planning permission would not frustrate the planning intention of the “AGR” zone. Since the last Application No. A/YL-KTS/404 was revoked due to non-compliance with the approval condition, shorter compliance periods were proposed to monitor the progress of compliance.

54. Members had no question on the application.

Deliberation Session

55. After deliberation, the Committee decided to approve the application on a temporary basis for a period of 3 years until 12.11.2013, on the terms of the application as submitted to the Town Planning Board (TPB) and subject to the following conditions :

- (a) no night-time operation between 6:00 p.m. and 9:00 a.m., as proposed by the applicant, was allowed on the site during the planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicant, was allowed on the site during the planning approval period;

- (c) the boundary fencing on the site should be maintained at all times during the planning approval period;
- (d) the existing trees and landscape plantings on the site should be maintained at all times during the planning approval period;
- (e) the existing drainage facilities on the site should be maintained at all times during the planning approval period;
- (f) the submission of drainage proposal within 3 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the TPB by 12.2.2011;
- (g) in relation to (f) above, the implementation of drainage facilities within 6 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the TPB by 12.5.2011;
- (h) the submission of fire service installations proposal within 3 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the TPB by 12.2.2011;
- (i) in relation to (h) above, the provision of fire service installations within 6 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the TPB by 12.5.2011;
- (j) if any of the above planning conditions (a), (b), (c), (d) or (e) 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;
- (k) if any of the above planning conditions (f), (g), (h) or (i) was not complied with by the specified date, the approval hereby given should cease to have effect and should on the same date be revoked without further notice; and

- (l) upon expiry of the planning permission, the reinstatement of the application site to an amenity area to the satisfaction of the Director of Planning or of the TPB.

56. The Committee also agreed to advise the applicant of the following :

- (a) planning permission should have been obtained before continuing the applied use at the application site;
- (b) shorter compliance periods were imposed so as to monitor the situation and fulfilment of approval conditions on the site;
- (c) should the applicant fail to comply with the approval conditions again resulting in the revocation of the planning permission, sympathetic consideration might not be given by the Committee to any further application;
- (d) to resolve any land issues relating to the development with the concerned owners of the site;
- (e) to note the comments of the District Lands Officer/Yuen Long that the site was situated on Old Schedule Agricultural Lots held under the Block Government Lease upon which no structure was allowed to be erected without prior approval from his office. Letter of approval (L of A) No. MT/LM6213 for Lots 362, 363 and 364 was granted permitting erection of some agricultural structures. Apparently, all these structures had been removed or converted and enlarged for non-agricultural use. Upon verification, his office would cancel this L of A. Besides, no permission had been given for occupation of the government land (GL) within the site. However, there was a proposal for a Short Term Tenancy (STT) in respect of the occupied GL (i.e. STT1554) and his office had received applications for Short Term Waiver (STW) in respect of various lots for regularization of the structures erected on the site. If planning permission was given, his office would resume processing the STT/STW

applications. In addition, the site was accessible to Ko Po San Road via a short stretch of open GL. His office would not provide maintenance works for this GL nor guarantee right-of-way;

- (f) to adopt environmental mitigation measures as set out in the “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” issued by the Director of Environmental Protection to minimize any potential environmental nuisances;
- (g) to note the comments of the Commissioner for Transport that the site was connected to Kam Tin Road via local access roads. The applicant should seek consents from the relevant lands and maintenance authorities on using these local access roads leading to the site;
- (h) to note the comments of the Chief Highway Engineer/New Territories West, Highways Department that his department was not/should not be responsible for the maintenance of any existing vehicular access connecting the application site and Kam Tin Road;
- (i) to note the comments of the Director of Fire Services on the submitted fire service installations (FSIs) that a clear and concise layout plan should be drawn to scale and depicted with dimensions and nature of occupancy. Besides, the type of usage for all the structures should be clearly indicated on the layout plan and all the proposed FSIs with fire service notes should be clearly indicated and stated on plan(s). Should the applicant wish to apply for exemption from the provision of certain FSIs, he was required to provide justifications to his department for consideration; and
- (j) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department that all unauthorized structures on the site should be removed. All building works were subject to compliance with the Buildings Ordinance (BO). Authorized Person had to be appointed to coordinate all building works. The granting of planning approval should not be construed as an acceptance of the unauthorized structures on the site

under the BO. Enforcement action might be taken to effect the removal of all unauthorized works in the future.

Agenda Item 18

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-TYST/496 Renewal of Planning Approval for Temporary “Retail Shop for Hardware Groceries” Use under Application No. A/YL-TYST/449 for a Period of 3 Years in “Residential (Group B) 1” zone, Lot 1375 RP (Part) in D.D. 121 and Adjoining Government Land, Tong Yan San Tsuen, Yuen Long
(RNTPC Paper No. A/YL-TYST/496)

Presentation and Question Sessions

57. Mr. Kepler S.Y. Yuen, STP/TMYL, informed the meeting of replacement pages of P. 10, 12, 15 and Appendix IV-88 to rectify the total number of public comments received had already been distributed to Members. He then presented the application and covered the following aspects as detailed in the Paper:

- (a) background to the application;
- (b) the renewal of planning approval for temporary “retail shop for hardware groceries” use under Application No. A/YL-TYST/449 for a period of 3 years;
- (c) departmental comments – the Director of Environmental Protection (DEP) advised that there were 2 complaints against the site on 6.12.2007. One was related to noise from loading/unloading activities and the other was related to malodour. There had been a significant number of public comments received during the processing of the previous applications. Since the residential development of Jasper Court was located to the immediate east of the site, if the use would involve workshop activities and

traffic of heavy vehicles, environmental nuisances were anticipated;

- (d) 88 public comments from the Owners' Committee and the local residents of Jasper Court were received during statutory publication period. The commenters objected to the application mainly on the grounds of environmental nuisances including noise and air pollution, road safety, increase of traffic flow, environmental hygiene, fire hazard, incompatible land use, visual impact and public security. They considered that the loading/unloading activities would affect pedestrian/traffic safety; the odour and toxic gas generated by storage of paints and thinner and the noise and odour generated by cutting of metal would affect health; the storage of inflammable materials and goods would pose fire hazard and affected safety of the residents, and lowering of the property value. They felt annoyed by the frequent submission of planning applications from the applicant and the continuous consultations of the Board. They also pointed out that the shop operated on Sundays and holidays and in early morning with workshop activities being carried out, there was illegal extension of the site over the past years and that the retail shop for hardware groceries should be developed elsewhere far away from residential development. There was also suggestion to extend the railings for narrowing the footpath to prevent parking of vehicles on the footpath. The development also involved storage of construction materials, unauthorized structures and illegal occupation of Government land which affected the living environment and was not compatible with the surrounding areas. Environmental assessment should be carried out to assess the impact of noise, air, visual and safety impacts generated by the development. There was no actual need of retail use in the area; and
- (e) the Planning Department (PlanD)'s views –PlanD considered that the temporary use could be tolerated for a period of one year based on the assessments given in paragraph 12 of the paper. The application was generally in line with the Town Planning Board Guidelines No. 34B on Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development (TPB PG-No.

34B) in that there had been no material change in planning circumstances since the granting of the previous temporary approval. It was small in scale and located at the fringe of the “Residential (Group B)1” zone to the east of Tong Yan San Tsuen Road. Besides, there were a restaurant, warehouses and workshops located within the adjoining “Industrial” zone across Tong Yan San Tsuen Road. The temporary retail shop was considered not incompatible with the surrounding land uses. Since there was no known programme for long-term development of the site, it was considered that the renewal of the planning approval on a temporary basis would not frustrate the planning intention of the zoned use. Regarding DEP’s comment, the applicant had provided boundary fence to separate the site and the open area to its north during the approval period of a previous application (No. A/YL-TYST/371). He also confirmed that the retail shop would only be operated within the restricted operation hours with no operation on Sundays and public holidays and no workshop activities would be carried out within the site. Approval conditions restricting the operation hours, prohibiting metal cutting and workshop activities, restricting the type of vehicles used, prohibiting loading/unloading activities along Ma Fung Ling Road and requiring the maintenance of the existing boundary fence on-site were recommended. On the local objections, concerned departments consulted had no adverse comment on the application. Commissioner for Transport (C for T) advised that it was unlikely that the retail shop would generate additional traffic on the road which was still with adequate capacity.

58. A Member noted the objections from 88 commenters and asked whether the adverse impacts/nuisance mentioned by the commenters were valid. Mr. Kepler Yuen replied that the public comments received had been circulated to relevant departments and they had no adverse comment on the application. As regards the public comments that the loading/unloading activities of the retail shop would affect pedestrian/ traffic safety, C for T had advised (in paragraph 10.1.2(b) of the Paper) that loading/unloading was allowed on that road section. Similar public comments had been received in the previous planning applications.

Deliberation Session

59. In response to the Chairman's query, Mr. Kepler Yuen said that site inspection had been carried out by staff of Planning Department on a Sunday and it was found that the shop was closed. According to the applicant, he might need to come back to the shop occasionally on Sundays to pick up his tools but the retail shop was closed on Sundays and public holidays.

60. After further deliberation, the Committee decided to approve the application on a temporary basis for a period of 1 year from 19.12.2010 to 18.12.2011, on the terms of the application as submitted to the Town Planning Board (TPB) and subject to the following conditions :

- (a) no operation between 6:30 p.m. and 8:30 a.m., as proposed by the applicant, was allowed on the application site during the planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicant, was allowed on the application site during the planning approval period;
- (c) no metal cutting or other workshop activities were allowed to be carried out on the application site at any time during the planning approval period;
- (d) no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance were allowed for the operation of the application site at any time during the planning approval period;
- (e) no loading/unloading activities were allowed to be carried out along Ma Fung Ling Road at any time during the planning approval period;
- (f) the existing boundary fence on the application site should be maintained at all times during the planning approval period;
- (g) the existing drainage facilities implemented under Application

No. A/YL-TYST/449 on the application site should be maintained at all times during the planning approval period;

- (h) if any of the above planning conditions (a), (b), (c), (d), (e), (f) or (g) 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
- (i) upon the expiry of the planning permission, the reinstatement of the application site to an amenity area to the satisfaction of the Director of Planning or of the TPB.

61. The Committee also agreed to advise the applicant of the following :

- (a) to resolve any land issue relating to the development with other concerned owner(s) of the application site;
- (b) to note the comments of the District Lands Officer/Yuen Long, Lands Department that the floor area shown in the application could have exceeded the built-over area restriction of 59.6 m² of Short Term Waiver (STW) No. 3294 for Lot 1375 RP in D.D. 121. Besides, no permission had been given for the occupation of about 4 m² of government land (GL) in the site. The lot owner would need to apply to his office from the lease point of view to regularize any irregularities on the site. His office acting in the capacity as landlord might approve such an application at its discretion and, if such approval was granted, it would be subject to the terms and conditions including the payment of premium or fee, as imposed by his office. His office reserved the right to take whatever action it deemed appropriate over the unauthorized occupation of GL. Moreover, the access to the site opened onto pavement at Tong Yan San Tsuen Road via a short stretch of GL for which no maintenance works would be provided by his office;
- (c) to follow the latest “Code of Practice on Handling the Environmental

Aspects of Temporary Uses and Open Storage Sites” issued by the Director of Environmental Protection to minimize any potential environmental nuisances;

- (d) to note the comments of the Director of Fire Services that pursuant to Regulation 8(b) of the Fire Service (Installations and Equipment) Regulations, Chapter 95B of the Laws of Hong Kong, the owner(s) of any fire service installation (FSI) or equipment which was installed in any premises should have such FSI or equipment inspected by a registered FSI contractor at least once in every 12 months;
- (e) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department that unauthorized structures on-site were liable to action under section 24 of the Buildings Ordinance (BO). Moreover, the granting of planning approval should not be construed as condoning to any unauthorized structures existing on the site under the BO and the allied regulations. Actions appropriate under the said Ordinance or other enactment might be taken if contravention was found. Formal submission of any proposed new works, including any temporary structure, for approval under the BO was required. If the site did not abut a specified street having a width of not less than 4.5m, the development intensity should be determined under Building (Planning) Regulations (B(P)R) 19(3) at the building plan submission stage. The applicant should note the requirements on provision of emergency vehicular access to all buildings under B(P)R 41D; and
- (f) to note the comments of the Director of Electrical and Mechanical Services that there was an existing town gas high pressure transmission pipeline running along about 30m from the southern boundary of the site. The project proponent/consultant should be informed and he should maintain liaison/coordination with the Hong Kong and China Gas Company Limited in respect of the exact location of the existing and planned gas pipe routes/gas installations in the vicinity of the proposed work area and the minimum set back distance away from the gas pipelines during the design

and construction stages of the development. Finally, the project proponent/consultant should note the requirements of the Electrical and Mechanical Services Department's "Code of Practice on Avoiding Danger from Gas Pipes" which was available at its webpage.

[The Chairperson thanked Mr. Kepler Yuen, STP/TMYL, for his attendance to answer Members' enquiries. Mr. Yuen left the meeting at this point.]

[Mr. Anthony C.Y. Lee, Senior Town Planner/Tuen Mun and Yuen Long (STP/TMYL), was invited to the meeting at this point.]

Agenda Item 19

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-LFS/206 Temporary Open Storage of Marble with Workshop
for a Period of 3 Years in "Recreation" zone,
Lots No. 2093 (Part), 2095 (Part), 2096 RP (Part) and
2102 S.A (Part) in D.D. 129, Lau Fau Shan, Yuen Long
(RNTPC Paper No. A/YL-LFS/206)

Agenda Item 20

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-LFS/207 Temporary Open Storage of Marble with Workshop
for a Period of 3 Years in "Recreation" zone,
Lots No. 2097 (Part), 2215 S.A RP (Part), 2216 (Part), 2217 (Part)
and 2218 RP (Part) in D.D. 129 and Adjoining Government Land,
Lau Fau Shan, Yuen Long
(RNTPC Paper No. A/YL-LFS/207)

Agenda Item 21

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-LFS/208 Temporary Open Storage of Marble with Workshop
for a Period of 3 Years in “Recreation” zone,
Lots No. 2094 (Part), 2231 RP (Part), 2233 (Part),
2234 (Part), 2235 (Part) and 2237 (Part) in D.D. 129 and
Adjoining Government Land, Lau Fau Shan, Yuen Long
(RNTPC Paper No. A/YL-LFS/208)

Agenda Item 22

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-LFS/209 Temporary Open Storage of Marble
for a Period of 3 Years in “Recreation” zone,
Lots No. 2095 (Part), 2096 RP (Part), 2097 (Part),
2098 (Part), 2099 (Part), 2217 (Part), 2218 RP (Part) and
2219 RP (Part) in D.D. 129 and Adjoining Government Land,
Lau Fau Shan, Yuen Long
(RNTPC Paper No. A/YL-LFS/209)

62. Noting that the four applications were similar in nature and the application sites were close to each other and within the same zone, Members agreed that the applications could be considered together.

Presentation and Question Sessions

63. Mr. Anthony C.Y. Lee, STP/TMYL, informed the meeting that a replacement page of P. 10 to delete the word ‘from the public’ in para 12.3 under planning application No. A/YL-LFS/209 was tabled at the meeting for Members’ reference. He then presented the applications and covered the following aspects as detailed in the Paper :

- (a) background to the applications;
- (b) the temporary open storage of marble with workshop for a period of 3 years

for planning applications No. A/YL-LFS/206 to 208 and the temporary open storage of marble for a period of 3 years for planning application No. A/YL-LFS/209;

- (c) departmental comments – the Director of Environmental Protection (DEP) did not support the four applications as there were sensitive uses (residential dwellings) in the vicinity of the sites and along the access road, Deep Bay Road, and environmental nuisance was expected. However, no environmental complaint pertaining to the sites had been received in the past three years;
- (d) one public comment from a Yuen Long District Council (YLDC) Member objecting to the applications (No. A/YL-LFS/206 to 208) was received during the statutory publication period. The commenter considered the sites to be in close proximity to residential dwellings, which would be affected by the noise and dust nuisance generated by heavy vehicular traffic, loading/unloading and cutting of marbles. No public comment was received for planning application No. A/YL-LFS/209; and
- (e) the Planning Department (PlanD)'s views – PlanD did not support the applications based on the assessment made in paragraph 12 of the Papers. The applied use was not in line with the planning intention of the "Recreation" ("REC") zone which was primarily for recreational developments for the use of the general public. Continual approval of the sites for open storage would frustrate the planning intention of the "REC" zone. No strong justification had been given in the submission for a departure from such planning intention, even on a temporary basis. Although there were open storage uses and workshops in the vicinity of the sites in the subject "REC" zone, many of these developments were suspected unauthorised developments which would be subject to enforcement action. The sites had been re-classified from Category 3 areas under Town Planning Board Guidelines No. 13C for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13C) to Category 4 areas under TPB PG-No. 13D to reflect the Board's intention to phase out

non-conforming uses in the less disturbed areas near the coast to the northwest of Deep Bay Road. The applications did not meet the guidelines in that there was no exceptional circumstance to justify the development and there were adverse comments from DEP for the four applications and the public for the planning applications No. A/YL-LFS/206 to 208, and that it was not in line with the intention of Category 4 areas which was to encourage the phasing out of non-conforming uses. The last previous applications for the same/similar open storage use by the same applicant was approved by the Committee for a period of 2 years to allow time for relocation, upon reclassification of the site to Category 4 areas. Sufficient time had been allowed for, but the applicant had not demonstrated effort or provided information on why relocation to an alternative site could not be made. The site gained access from the single-lane-two-way Deep Bay Road and DEP considered that the open storage of marble on the sites would cause environmental nuisance on sensitive receivers (residential dwellings) in the vicinity of the sites and along the access road.

64. Members had no question on the application.

Deliberation Session

65. After deliberation, the Committee decided to reject the applications. Members then went through the reasons for rejection as stated in paragraph 13.1 of the Papers and considered that they were appropriate. The reasons were :

Application No. A/YL-LFS/206

- (a) continuous occupation of the site for open storage and workshop uses was not in line with the planning intention of the “Recreation” zone, which was primarily for recreational developments for the use of the general public. There was no strong planning justification in the submission for a departure from such planning intention, even on a temporary basis;

- (b) the development was not in line with the Town Planning Board Guidelines No. 13E for Application for Open Storage and Port Back-up Uses in that there was no exceptional circumstance to justify the development, there were adverse departmental comments on the environmental aspect and the development would generate environmental nuisance on the surrounding areas, and that it was not in line with the intention of Category 4 areas which was to encourage the phasing out of non-conforming uses; and
- (c) the last previous application No. A/YL-LFS/164 for a similar open storage use was approved by the Committee for a period of 2 years to allow time for relocation. Sufficient time had been allowed for, but the applicant had not demonstrated effort or provided information on why relocation to an alternative site could not be made.

Application No. A/YL-LFS/207

- (a) continuous occupation of the site for open storage and workshop uses was not in line with the planning intention of the “Recreation” zone, which was primarily for recreational developments for the use of the general public. There was no strong planning justification in the submission for a departure from such planning intention, even on a temporary basis;
- (b) the development was not in line with the Town Planning Board Guidelines No. 13E for Application for Open Storage and Port Back-up Uses in that there was no exceptional circumstance to justify the development, there were adverse departmental comments on the environmental aspect and the development would generate environmental nuisance on the surrounding areas, and that it was not in line with the intention of Category 4 areas which was to encourage the phasing out of non-conforming uses; and
- (c) the last previous application No. A/YL-LFS/161 for the same use was approved by the Committee for a period of 2 years to allow time for relocation. Sufficient time had been allowed for, but the applicant had not demonstrated effort or provided information on why relocation to an

alternative site could not be made.

Application No. A/YL-LFS/208

- (a) continuous occupation of the site for open storage and workshop uses was not in line with the planning intention of the “Recreation” zone, which was primarily for recreational developments for the use of the general public. There was no strong planning justification in the submission for a departure from such planning intention, even on a temporary basis;
- (b) the development was not in line with the Town Planning Board Guidelines No. 13E for Application for Open Storage and Port Back-up Uses in that there was no exceptional circumstance to justify the development, there were adverse departmental comments on the environmental aspect and the development would generate environmental nuisance on the surrounding areas, and that it was not in line with the intention of Category 4 areas which was to encourage the phasing out of non-conforming uses; and
- (c) the last previous application No. A/YL-LFS/162 for the same use was approved by the Committee for a period of 2 years to allow time for relocation. Sufficient time had been allowed for, but the applicant had not demonstrated effort or provided information on why relocation to an alternative site could not be made.

Application No. A/YL-LFS/209

- (a) continuous occupation of the site for open storage use was not in line with the planning intention of the “Recreation” zone, which was primarily for recreational developments for the use of the general public. There was no strong planning justification in the submission for a departure from such planning intention, even on a temporary basis;
- (b) the development was not in line with the Town Planning Board Guidelines No. 13E for Application for Open Storage and Port Back-up Uses in that

there was no exceptional circumstance to justify the development, there were adverse departmental comments on the environmental aspect and the development would generate environmental nuisance on the surrounding areas, and that it was not in line with the intention of Category 4 areas which was to encourage the phasing out of non-conforming uses; and

- (c) the last previous application No. A/YL-LFS/163 for the same use was approved by the Committee for a period of 2 years to allow time for relocation. Sufficient time had been allowed for, but the applicant had not demonstrated effort or provided information on why relocation to an alternative site could not be made.

Agenda Item 23

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-LFS/211 Proposed Temporary Open Storage of Marble and
Construction Materials for a Period of 3 Years
in “Recreation” and “Residential (Group E)” zones,
Lots 2219 RP (Part) and 2226 (Part) in D.D. 129, Deep Bay Road,
Lau Fau Shan, Yuen Long
(RNTPC Paper No. A/YL-LFS/211)

Presentation and Question Sessions

66. Mr. Anthony C.Y. Lee, STP/TMYL, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed temporary open storage of marble and construction materials for a period of 3 years;

- (c) departmental comments – the Director of Environmental Protection (DEP) did not support the application as there were sensitive uses (residential dwellings) in the vicinity of the site and along the access road (Deep Bay Road), and environmental nuisance was expected. No pollution complaint against the site was received from January 2006 to August 2010;

- (d) two public comments were received during statutory publication period. A commenter objected to the application on the grounds of fire risks and noise pollution. He also accused the Administration of approving too many open storage yards, particularly electronic waste (e-waste) recycling yards, around his residence. The other commenter objected to the application on the grounds of heavy vehicular traffic on the narrow Deep Bay Road causing dust impacts and inconvenience to residents, cyclists and tourists; accident, fire and theft cases associated with open storage/recycling yards in recent years; ground water contamination arising from metal storage; operators' lack of self-discipline; and the inability of departments to enforce the laws/approval conditions. The commenter considered that applications for open storage uses should be rejected in view of the development of the area into a tourism node; and

- (e) the Planning Department (PlanD)'s views – PlanD considered that the temporary use could be tolerated for a period of one year based on the assessments given in paragraph 12 of the paper. Though the applied use was not in line with the planning intention of “Residential (Group E)” (“R(E)”) and “Recreation” (“REC”) zones, there was no immediate development proposal for the site and the applied use was temporary in nature which could be tolerated in the interim. The approval of the application on a temporary basis would not frustrate the planning intention of the “R(E)”) and “REC”) zones. The proposed development was not incompatible with the surrounding uses as the subject “R(E)”) zone was mainly occupied by similar open storage uses. The proposed development was in line with the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No.13E) which fell partly within Category 2 areas (73%) and partly within Category 3 areas (27%) in

that there was no adverse comment from concerned government departments and DEP's and the commenters' concerns could be addressed by way of approval conditions. Regarding DEP's comments, approval conditions on restrictions on operation hours, types of vehicles used, types of activity, etc. had been recommended. Furthermore, the Committee had approved a number of previous applications and there had been no material change in the planning circumstance. Approval of the subject application was in line with the Committee's previous decisions. The last approval (Application No. A/YL-LFS/186) was revoked due to non-compliance with the approval conditions and none of the previous applications were approved for a period of more than 1 year. Therefore, a shorter approval period of 1 year and shorter compliance periods were proposed to monitor the situation. Regarding the public comments received, no open storage /recycling yard for e-wastes were found in vicinity. Furthermore, a shorter approval period of 1 year to monitor the situation on-site and the compliance of approval conditions had been recommended. The approval of the application on a temporary basis for 1 year would not frustrate tourism development in the area in future.

67. Noting that the use under the current application was similar to the applications No. A/YL-LFS/206 to 209 which were considered in the same meeting, a Member asked what were the main reasons for the different recommendations by Planning Department between the four applications and the current application. Mr. Anthony Lee responded the sites of the 4 planning applications fell within Category 4 areas whereas the current application site fell partly within Category 2 areas (73%) and partly within Category 3 areas (27%) under the TPB Guidelines No. TPB PG-No. 13E. The land to the north of Deep Bay Road in which the 4 planning applications fell was mainly unused land and cultivated agricultural land whereas the land to the south of Deep Bay Road in which the subject application fell were mainly used as open storage yards. The re-classification of the area to the north of Deep Bay Road from Category 3 to Category 4 under the TPB Guidelines No. TPB PG-No. 13D was intended to phase out the non-conforming uses in the less disturbed areas near the coast to the northwest of Deep Bay Road. The Chairman supplemented that the last planning approvals of the planning applications No. A/YL-LFS/206 to 209 were to allow time for the uses under the four planning applications to relocate to suitable locations.

Deliberation Session

68. After further deliberation, the Committee decided to approve the application on a temporary basis for a period of 1 year until 12.11.2011, on the terms of the application as submitted to the Town Planning Board (TPB) and subject to the following conditions :

- (a) no night-time operation between 7:00 p.m. to 7:00 a.m., as proposed by the applicant, was allowed on the site during the planning approval period;
- (b) no operation on Sundays and public holidays was allowed on the site during the planning approval period;
- (c) no heavy goods vehicles over 24 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance, were allowed to stored/parked at or enter/exit the application site at any time during the planning approval period;
- (d) no dismantling, repairing, melting, cleansing or workshop activity was allowed on the site during the planning approval period;
- (e) the stacking height of materials stored within 5m of the periphery of the site should not exceed the height of the boundary fence during the planning approval period;
- (f) no handling (including dismantling, loading, unloading and storage) of electrical/electronic appliances, computer wastes, cathode-ray tubes (CRT), CRT computer monitors/television sets/equipment was allowed on the site during the planning approval period;
- (g) no open storage of recyclable materials, as proposed by the applicant, was allowed on the site during the planning approval period;
- (h) setting back of the southwestern boundary of the site, as proposed by the

applicant, during the planning approval period;

- (i) no material was allowed to be stored within 1m of any tree on the site during the planning approval period;
- (j) the existing vegetation on the site should be maintained at all times during the planning approval period;
- (k) the existing drainage facilities implemented under the previous approved application No. A/YL-LFS/168 should be maintained at all times during the planning approval period;
- (l) the submission of a condition record of the existing drainage facilities on site within 3 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the TPB by 12.2.2011;
- (m) the replacement of dead trees and the clearance of climbers on the site within 3 months from the date of planning approval to the satisfaction of the Director of Planning or of the TPB by 12.2.2011;
- (n) the provision of fencing for the site within 3 months from the date of planning approval to the satisfaction of the Director of Planning or of the TPB by 12.2.2011;
- (o) if any of the above planning conditions (a), (b), (c), (d), (e), (f), (g), (h), (i), (j) or (k) 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;
- (p) if any of the above planning conditions (l), (m) or (n) was not complied with by the specified date, the approval hereby given should cease to have effect and should on the same date be revoked without further notice; and
- (q) upon the expiry of the planning permission, the reinstatement of the

application site to an amenity area to the satisfaction of the Director of Planning or of the TPB.

69. The Committee also agreed to advise the applicant of the following :

- (a) to note that a shorter approval period of 1 year and shorter compliance periods were granted in order to monitor the situation on-site and the fulfilment of approval conditions. Should the applicant fail to comply with the approval conditions resulting in the revocation of the planning permission, or should there be any complaint against the site or local objection to any future application, sympathetic consideration might not be given by the Committee to any further application;
- (b) the permission was given to the use/development under application. It did not condone open storage of recyclable materials and vehicle park and any other use/development which currently existed on the site but not covered by the application. The applicant should take immediate action to discontinue such use/development not covered by the permission;
- (c) to resolve any land issues relating to the development with the concerned owner(s) of the application site;
- (d) to note the comments of the District Lands Officer/Yuen Long that the site was situated on Old Schedule Agricultural Lots held under the Block Government Lease under which no structure was allowed to be erected without his prior approval. He noted that no structure was proposed within the site. However, should there be any structure subsequently; the applicant was required to apply to him for approval. He might approve such applications at his discretion in the capacity as the landlord, and if such approval was granted, it would be subject to the terms and conditions including the payment of premium or fee, as he might impose. A strip of government land (GL) along Deep Bay Road was currently being occupied without his permission. He reserved the right to take whatever action he deemed appropriate over the unauthorized occupation of GL;

- (e) to follow the latest ‘Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites’ issued by the Director of Environmental Protection to minimize any potential environmental nuisance; and
- (f) to note the comments of the Commissioner for Transport that the land status of the road/path/track leading to the site should be checked with the lands authority. The management and maintenance responsibilities of the same road/path/track should be clarified with the relevant lands and maintenance authorities accordingly.

Agenda Item 24

Section 16 Application

[Open Meeting]

A/YL-LFS/210 Temporary Private Garden for a Period of 3 Years
in “Village Type Development” zone,
Lot No. 1181 in D.D. 129, Mong Tseng Tsuen,
Lau Fau Shan, Yuen Long
(RNTPC Paper No. A/YL-LFS/210)

70. The Committee noted that the applicant requested on 3.11.2010 for a deferment of the consideration of the application for two months in order to allow time to revise the landscape proposal.

71. After deliberation, the Committee decided to defer a decision on the application as requested by the applicant pending the submission of additional information from the applicant. The Committee also agreed that the application should be submitted to the Committee for consideration within two months from the date of receipt of additional information from the applicant. The Committee also agreed to advise the applicant that two months were allowed for preparation of the submission of the further information, and no further deferment would be granted unless under very special circumstances.

Agenda Item 25

Section 16 Application

[Open Meeting]

A/YL-MP/183 Proposed Land and Pond Filling for Permitted New Territories
Exempted House Development
in “Village Type Development” zone,
Lots 2348 S.A to S.K, 2348 RP, 2349 S.A to S.N and
2349 RP in D.D. 104, Chuk Yuen Tsuen, Mai Po, Yuen Long
(RNTPC Paper No. A/YL-MP/183)

72. The Committee noted that the applicant’s representative requested on 26.10.2010 and 27.10.2010 for a deferment of the consideration of the application for two months in order to allow time to resolve the public concerns on existing trees and drainage matter.

73. After deliberation, the Committee decided to defer a decision on the application as requested by the applicant pending the submission of additional information from the applicant. The Committee also agreed that the application should be submitted to the Committee for consideration within two months from the date of receipt of additional information from the applicant. The Committee also agreed to advise the applicant that two months were allowed for preparation of the submission of the further information, and no further deferment would be granted unless under very special circumstances.

Agenda Item 26

Section 16 Application

[Open Meeting]

A/YL-NSW/197

Proposed Residential Development and Filling of Ponds

in “Undetermined” zone,

Lots 12, 13 RP and 14 in D.D. 103 and Lots 625 S.B, 625 RP, 627 RP, 630 S.B RP (Part), 634 S.A (Part), 635 (Part), 636 S.A (Part), 637, 638, 660, 661, 662, 663, 664, 665, 712 RP(Part), 794 S.A(Part), 1288 S.K, 1288 RP, 1292 RP and 1327 RP(Part) in D.D. 115 and

Adjoining Government Land, Tung Shing Lei,

Nam Sang Wai, Yuen Long

(RNTPC Paper No. A/YL-NSW/197)

74. The Committee noted that the applicant’s representative requested on 27.10.2010 for a deferment of the consideration of the application for two months in order to allow sufficient time for the preparation of further information and consultation with relevant departments relating to the environmental and ecological aspects and the possible impacts of the proposed development on the adjacent West Rail Protection zone.

75. After deliberation, the Committee decided to defer a decision on the application as requested by the applicant pending the submission of additional information from the applicant. The Committee also agreed that the application should be submitted to the Committee for consideration within two months from the date of receipt of additional information from the applicant. The Committee also agreed to advise the applicant that two months were allowed for preparation of the submission of the further information, and no further deferment would be granted unless under very special circumstances.

[The Chairman thanked Mr. Anthony C.Y. Lee, STP/TMYL, for his attendance to answer Members’ enquires. Mr. Lee left the meeting at this point.]

Agenda Item 27

Any Other Business

76. There being no other business, the meeting was closed at 3:50 p.m..