

RNTPC Paper No. A/YL-KTS/780  
For Consideration by  
the Rural and New Town  
Planning Committee  
on 4.5.2018

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**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/YL-KTS/780**

<b><u>Applicant</u></b>	: United Ascent Corporation Limited represented by R-riches Property Consultants Limited
<b><u>Site</u></b>	: Lots 1703 (A-C) S.A, 1703 (A-C) S.B and 1703 (A-C) S.C in D.D. 106, Pat Heung, Yuen Long
<b><u>Site Area</u></b>	: About 1,030m <sup>2</sup>
<b><u>Lease</u></b>	: Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	: Drafted Kam Tin South Outline Zoning Plan (OZP) No. S/YL-KTS/14
<b><u>Zoning</u></b>	: “Agriculture” (“AGR”)
<b><u>Application</u></b>	: Proposed Temporary Animal Boarding Establishment for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary animal boarding establishment for a period of 3 years. According to the Noted of the OZP, ‘animal boarding establishment’ is a Column 2 use in “AGR” zone that requires planning permission from the Town Planning Board (the Board). The Site is currently fenced, vacant, partly hard paved and partly covered with vegetation (**Plans A-2, A-3 and A-4**). The Site is not subject to any previous application.
- 1.2 According to the applicant, the proposed temporary animal boarding establishment involves four 1-2 storeys structures with a total floor area of about 315m<sup>2</sup> for 3 animal boarding establishments and a fire service water tank with building height from 2.8m to 7.2m. The applicant advised that the proposed animal boarding establishment will accommodate not more than 25 dogs. All animal will be accommodated in the proposed structures installed with 24-hour mechanical ventilation system, air-conditioning and soundproofing insulation. No

animal will be allowed out-door at all time and no public announcement system or dog training whistle will be used within the Site. There will be 3 private car parking spaces and 1 loading/unloading space for light goods vehicle provided on-site. The operation hours (for animal pick-up and drop off) are between 10 a.m. and 6 p.m. Mondays to Fridays and 11 a.m. to 5 p.m. Saturdays to Sundays including public holidays with 24-hour animal boarding services. The Site is accessible via a local track from Kam Sheung Road. The layout plan, landscape plan and vehicular access plan submitted by the applicant are at **Drawings A-1 to A-3**.

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

- (a) Application form with supplementary information received on 16.3.2018 **(Appendix I)**
- (b) Supplementary Information (SI) received on 21.3.2018 **(Appendix Ia)**
- (c) SI received on 22.3.2018 **(Appendix Ib)**
- (d) Further Information (FI) received on 9.4.2018 in response to departmental comments **(Appendix Ic)**  
*(accepted and exempted from publication and recounting requirements)*

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

The justifications put forth by the applicant in support of the application are detailed in the SI and FI in **Appendices I to Ic**. They can be summarized as follows:

- (a) The proposed development is compatible with the surrounding areas and no land filling/excavation work will be carried out as to minimize the adverse impact on the surrounding areas.
- (b) There will be no adverse environmental and traffic impact on the surrounding area brought by the proposed use.

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

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

#### 4. **Background**

The Site is currently not the subject of active enforcement case. Notwithstanding, if there are suspected unauthorized development found at the Site, investigation will be conducted. Should there be sufficient evidence to prove that the said use is an authorized development under the Town Planning Ordinance (the Ordinance), appropriate enforcement action will be instigated.

#### 5. **Previous Application**

There is no previous application at the Site.

#### 6. **Similar Applications**

6.1 There are three similar applications (Nos. A/YL-KTS/480, 532 and 633) within the same “AGR” zone in the OZP. All the similar applications were approved with conditions by the Rural and New Town Planning Committee (the Committee). Details of these applications are summarized in **Appendix II** while the locations of these applications are shown on **Plan A-1**.

6.2 Application Nos. A/YL-KTS/480, 532 and 633 for animal boarding establishment at the same application site (**Plan A-1**) were approved with conditions by the Committee on 18.12.2009, 15.4.2011 and 21.3.2014 respectively for a period of 3 years on similar reasons that the proposed development was not incompatible with the surrounding land uses, there was no adverse comment from the relevant government departments except the Director of Environmental Protection and the Director of Agriculture, Fisheries and Conservation; and the environmental concerns could be addressed by appropriate approval conditions. All approval conditions of applications have been complied with, except Application No. A/YL-KTS/480 was revoked on 18.12.2010 due to non-compliance with approval conditions.

#### 7. **The Site and Its Surrounding Areas** (Plans A-1 to A-4)

7.1 The Site is:

- (a) currently partly hard-paved, partly covered with vegetation, vacant and fenced; and
- (b) accessible from Kam Sheung Road via a local track.

7.2 The surrounding areas are rural in character surrounded by vacant/unused land, cultivated agricultural land, residential structures/dwellings, parking of vehicles, storage yards and plant nursery (**Plan A-2**):

- (a) to its immediate west across the local track are parking of vehicles and residential structures/dwellings and to its further west are some unused lands and some residential structures/dwellings;
- (b) to its northwest is a cluster of residential structures/dwellings. To its northeast and east are cultivated agricultural land, storage yards, vacant/unused land and residential structures/dwellings; and
- (c) to its immediate south is a storage yard and to its further south are residential structures/dwellings, plant nursery and a hobby farm (with planning permission under application no. A/YL-KTS/733) and parking of vehicles.

## **8. Planning Intention**

The planning intention of the “AGR” zone is to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.

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

- 9.1 The following Government departments have been consulted and their views on the application are summarized as follows:

### **Land Administration**

- 9.1.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):
- (a) The Site comprises Old Schedule Agricultural Lots held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.
  - (b) The Site is accessible to Kam Sheung Road via Government Land (GL). His office provides no maintenance work for the GL involved and does not guarantee any right-of-way to the Site.
  - (c) The Site falls within Shek Kong Airfield Height Restriction Area (SKAHRA). The height of the proposed structure shall not exceed the relevant airfield height limit within SKAHRA.
  - (d) Should planning approval be given to the planning application, the lot owner(s) will need to apply to his office to permit the

structures to be erected or regularize any irregularities on site. Such application(s) will be considered by LandsD acting in the capacity as landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of premium or fee, as may be imposed by the LandsD.

### **Traffic**

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

- (a) He has no comment on the application from traffic engineering perspective. Should the application be approved, an approval condition stating that no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period should be included.
- (b) The Site is connected to the public road network via a section of a local access road which is not managed by TD. The land status of the local access road should be checked with the Lands Department. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.

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

- (a) HyD is not/shall not be responsible for the maintenance of any existing vehicular access connecting the Site and Kam Sheung Road. The applicant should be responsible for his own access arrangement.
- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

### **Environment**

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

- (a) There was no environmental complaint received for the Site in the past 3 years.
- (b) According to the applicant, the proposed use will operate round the clock. The animals will be kept inside the proposed structures at any time. The proposed structures will be enclosed with provision of 24-hour mechanical ventilation and air-conditioning

(MVAC) system. Public announcement system and whistle blowing will not be allowed at the Site.

- (c) The applicant is advised that the facilities should be properly designed and maintained to minimize any potential environmental nuisance, e.g. the MVAC system should be located away from adjacent sensitive receivers and the proposed structures for animal boarding establishment should be enclosed with proper soundproofing materials.
- (d) Moreover, effluent discharges from the proposed use are subject to control under the Water Pollution Control Ordinance (WPCO). A discharge licence under the WPCO shall be obtained before a new discharge is commenced. If septic tank and soakaway system is proposed, its design and construction should follow the requirements of the Practice Note for Professional Person (ProPECC) PN 5/93 “Drainage Plans subject to Comment by the Environmental Protection Department”.
- (e) The applicant is also advised to follow the relevant mitigation measures and requirements in the revised “ Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” (the COP) to minimize any potential environmental nuisances.

### **Landscape**

#### 9.1.5 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

- (a) He has no objection to the application from landscape planning point of view.
- (b) The surrounding area of the Site is rural in character occupied with village houses, temporary structures, and vacant land with tree groups. The proposed use is considered not incompatible with the landscape setting in proximity.
- (c) According to the site visit conducted on 27.3.2018, the Site is fenced off, hard-paved and covered with wild groundcovers. 7 nos. of young existing trees found on Site are in fair condition. According to the proposed layout plan, the proposed structure is in direct conflict with all existing trees and tree felling is anticipated. Given the concerned trees are of invasive species and compensatory tree planting will be provided, adverse landscape impact arising from the proposed use is not anticipated.

- (d) Should the application be approved, the approval condition requiring the submission and implementation of landscape proposal is recommended in the planning permission.
- (e) His detailed comments are at **Appendix III**.

### **Agriculture**

9.1.6 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

- (a) Although the Site was partly cemented, it can be used for greenhouse cultivation or plant nursery. As the Site possesses a high potentiality of agricultural rehabilitation, the application is not supported from agriculture point of view.
- (b) The subject address does not associate with any licence granted by this department, nor has he received any application regarding the concerned address. Under the current legislation, any person who provides food and accommodation for animals in return for a fee paid by the owner must apply for a Boarding Establishment Licence from his department.

### **Drainage**

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

- (a) He has no objection in-principle to the development from the public drainage point of view.
- (b) Should the application be approved, approval conditions requiring the submission of a drainage proposal and the implementation and maintenance of the drainage proposal for the development should be included in the planning permission.

### **Fire Safety**

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

- (a) He has no objection in principle to the proposal subject to fire service installations (FSIs) being provided to the satisfaction of his department.
- (b) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. The layout plans should be drawn

to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSI to be installed should be clearly marked on the layout plans.

- (c) The applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (BO) (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

### **Building Matters**

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

- (a) Before any new building works (including containers/open sheds as temporary buildings) are to be carried out on the Site, prior approval and consent of the BD should be obtained, otherwise they are unauthorized building works (UBW) under the Building Ordinance (BO). An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (b) For UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO.
- (c) The Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations B(P)R respectively.
- (d) If the Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.

### **Environmental Hygiene**

9.1.10 Comments of the Director of Food and Environmental Hygiene (DFEH):

- (a) Proper licence/permit issued by his Department is required if food business or related place of entertainment is involved.
- (b) If the proposal involves any commercial/trading activities, no environmental nuisance should be generated to the surroundings.

Also, for any waste generated from the commercial/trading activities, the applicant should handle on their own/at their expenses.

- (c) His detailed comment is at **Appendix III**.

### **District Officer's Comments**

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

- (a) He has no particular comment on the application and his office has not received any comments from locals upon close of consultation.

9.2 The following Government department has no objection/no comment on the application:

- (a) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD);  
(b) Director of Electrical and Mechanical Services (DEMS);  
(c) Chief Engineer/ Construction, Water Supplies Department (CE/C, WSD); and  
(d) Commissioner of Police (C of P).

## **10. Public Comment Received During Statutory Publication Period**

On 23.3.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 13.4.2018, one public comment was received from a member of the public (**Appendix IV**). The commenter object to the application mainly on the grounds that the proposed development is not in line with the planning intention, no information in the submission to demonstrate the propose use would not have environmental and landscape impact on the surrounding areas, no sewerage facilities within the Site and over 50% of the Site will be cemented and approval of the planning application will set an undesirable precedent for similar application.

## **11. Planning Considerations and Assessments**

11.1 The application is for proposed temporary animal boarding establishment. The Site falls within an area zoned "AGR" which is intended to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes, and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. The proposed use is not in line with the planning intention of the "AGR" zone and DAFC does not support the application from the

agriculture point of view as the Site could be used as plant nursery or greenhouse. However, approval of the application on temporary basis for a period of 3 years would not jeopardize the long-term planning intention of the area.

- 11.2 The proposed development comprises four structures not exceeding 7.2m high with a total floor area of 315m<sup>2</sup> is considered not incompatible with the surrounding land uses which is rural in character predominated by residential structures/dwellings, cultivated agricultural land, and vacant/unused land. Although there are residential dwellings in the immediate north of the Site (**Plan A-2**), the applicant advised that all animals will be kept inside the proposed structures and the animal boarding establishment will be provided with soundproofing insulation material with 24 hours mechanical ventilation and air conditioning. DEP has no adverse comment on the application. Also, three similar applications (Nos. A/YL-KTS/480, 532 and 633) located within the same "AGR" zone (**Plan A-1**) have been approved by the Committee. Approval of the current application is in line with the Committee's previous decisions.
- 11.3 Relevant departments consulted, except DAFC, have no adverse comment on the application. To minimise the possible environmental nuisance, approval conditions on restricting the operation hours, prohibiting outdoor animal activities and public announcement system, portable loudspeaker, audio amplification system and whistle blowing are recommended in paragraph 12.2 (a) to (d) below. Any non-compliance with the approval condition will result in revocation of the planning permission and unauthorized development on-site will be subject to enforcement action by the Planning Authority. The applicant will also be advised to adopt the latest 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' in order to alleviate any potential impact. The technical requirements of C for T, CE/MN of DSD, CTP/UD&L of PlanD and D of FS could be addressed by approval conditions (e) to (l) in paragraph 12.2 below.
- 11.4 One public objection to the application was received during the statutory publication period for the reasons as set out in paragraph 10 above. In this regard, relevant Government departments including DEP and CTP/UD&L of PlanD have no objection/adverse comments. The proposed temporary use for a period of 3 years would not jeopardize the long-term planning intention of the area. The planning considerations and assessments above are also relevant.

## **12. Planning Department's Views**

- 12.1 Based on the assessment made in paragraph 11 and having taken into account the public comment in paragraph 10 above, the Planning Department considers that the proposed temporary animal boarding establishment could be tolerated for a period of 3 years.

- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 3 years, until 4.5.2021. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 6:00 p.m. and 10:00 a.m. (except for overnight animal boarding), as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation between 5:00 p.m. to 11:00 a.m. on Saturdays, Sundays, and public holidays (except for overnight animal boarding), as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) all animals shall be kept inside the enclosed structures, as proposed by the applicant, at all times during the planning approval period;
- (d) no public announcement system and whistle blowing, as proposed by the applicant, is allowed to be used on the Site during the planning approval period;
- (e) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (f) the submission of drainage proposal within **6** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 4.11.2018;
- (g) in relation to (f) above, the implementation of drainage proposal within **9** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 4.2.2019;
- (h) in relation to (g) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (i) the submission of landscape proposal within **6** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 4.11.2018;
- (j) in relation to (i) above, the implementation of landscape proposal within **9** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 4.2.2019;
- (k) the submission of fire service installations proposal within **6** months from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 4.11.2018;

- (l) in relation to (k) above, the implementation of fire service installations proposal within **9** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by ~~4.11.2019~~ **4.2.2019**;
- (m) if any of the above planning conditions (a), (b), (c), (d), (e) or (h) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked without further notice;
- (n) if any of the above planning conditions (f), (g), (i), (j), (k) or (l) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked immediately without further notice; and
- (o) 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 Town Planning Board.

#### Advisory Clauses

The recommended advisory clauses are attached at **Appendix V**.

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

The development is not in line with the planning intention of the "AGR" zone which is to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. No strong justification has been given in the submission for a departure from the planning intention, even on temporary basis.

### **13. Decision Sought**

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 13.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.

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

**14. Attachments**

<b>Appendix I</b>	Application Form with plans received on 16.3.2018
<b>Appendix Ia</b>	Supplementary Information received on 21.3.2018
<b>Appendix Ib</b>	Supplementary Information received on 22.3.2018
<b>Appendix Ic</b>	FI received on 9.4.2018 clarifying mode of transport in addressing comments from the C for T
<b>Appendix II</b>	Similar applications within the adjoining “AGR” zone on the Kam Tin South OZP
<b>Appendix III</b>	Detailed Departmental Comments
<b>Appendix IV</b>	Public comment received during the statutory publication period
<b>Appendix V</b>	Advisory Clauses
<b>Drawing A-1</b>	Layout Plan
<b>Drawing A-2</b>	Landscape Plan
<b>Drawing A-3</b>	Vehicular Access Plan
<b>Plan A-1</b>	Location Plan with Similar Applications
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
MAY 2018**