

RNTPC Paper No. A/YL-MP/273
For Consideration by
the Rural and New Town
Planning Committee
on 21.9.2018

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-MP/273

- Applicant** : Universal Faith Development Limited represented by Metro Planning and Development Company Limited
- Site** : Lot 3250 S.B ss.48 in D.D. 104 and Adjoining Government Land (GL), Mai Po, Yuen Long, New Territories
- Site Area** : About 380 m² (including about 26 m² of GL)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Mai Po and Fairview Park Outline Zoning Plan (OZP) No. S/YL-MP/6
- Zoning** : “Residential (Group C)” (“R(C)”)
- Application** : Proposed Temporary Shop and Services (Real Estate Agency) for a Period of 3 years

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary shop and services (real estate agency) for a period of 3 years at the application site (the Site) (**Plan A-1**). The Site is currently vacant (**Plan A-2 and A-4**) and is not the subject of any previous planning application.
- 1.2 According to the applicant, the real estate agency is to serve the nearby residents. As shown on the layout plan at **Plan A-2** and **Drawing A-1**, the Site is accessible via a local track leading from Fairview Park Boulevard. The Site has been hard paved and fenced off by solid boundary wall. The applicant has submitted a landscape proposal (**Drawing A-2**) and a drainage impact assessment with drainage proposal (**Appendix Ia** and **Drawing A-3**) in support of the application.
- 1.3 The major parameters of the current application are summarized as follows:

Major Development Parameters	Current Application (A/YL-MP/273)
Applied Use	Proposed temporary shop and services (real estate agency) for a period of 3 years
Site Area	About 380m ² (including about 26m ² of GL)
Structures	2 structures <ul style="list-style-type: none">• 1 real estate agency of 2-storeys (not exceeding 6.5m high) with floor area not exceeding 100m²• 1 toilet of 1-storey (not exceeding 3m high) with floor area not exceeding 2m²
No. of Parking Space	1 (private car)
Operation Hours	9:00a.m. to 8:00p.m. daily (including Sundays and public holiday)

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

- (a) Application Form received on 31.7.2018 **(Appendix I)**
- (b) Planning Statement **(Appendix Ia)**

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Section 3 of the Planning Statement at **Appendix Ia**. They can be summarized as follows:

- (a) The Site is zoned “R(C)” on the approved Mai Po and Fairview Park Outline Zoning Plan for low-rise, low-density residential developments, where commercial uses serving the residential neighbourhood may be permitted on application to the Board. Real estate agency is a ‘Shop and Services’ use under Column 2 of the Notes and may be approved by the Board upon application.
- (b) The nature, form and layout of the proposed development are compatible with the surrounding environment.
- (c) No adverse or significant traffic, environmental and drainage impacts are anticipated.
- (d) Similar applications for real estate agencies in residential zones in the rural New Territories had been approved by the Rural and New Town Planning Committee (the Committee) of the Town Planning Board (the Board).

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

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

4. Town Planning Board Guidelines

According to the Town Planning Board Guidelines for Application for Developments within Deep Bay Area under Section 16 of the Town Planning Ordinance (TPB PG-No. 12C), the Site falls within the Wetland Buffer Area (WBA). The relevant assessment criteria are summarised as follows:

- (a) the intention of the WBA is to protect the ecological integrity of the fish ponds and wetland within the Wetland Conservation Area (WCA) and prevent development that would have a negative off-site disturbance impact on the ecological value of fish ponds; and
- (b) within the WBA, for development or redevelopment which requires planning permission, an ecological impact assessment (EcoIA) would need to be submitted. Some local and minor uses (including temporary uses) are however exempted from the requirement of EcoIA.

5. Background

The Site is not a subject of any active planning enforcement action.

6. Previous Application

The Site is not the subject of any previous application.

7. Similar Applications

7.1 Since 2009, within the same “R(C)” zone on the OZP, there are 4 similar applications for similar temporary shop and services (real estate agency) uses (Application Nos. A/YL-MP/174, 199, 243 and 270). All the applications were approved by the Committee mainly on consideration that the developments provided supporting retail and real estate agency services to residential areas in the vicinity, the developments were not incompatible with the surrounding land uses and the concerns of Government departments could be addressed by imposing approval conditions.

7.2 Details of these 4 applications are summarized at **Appendix II**. Their locations are shown on **Plan A-1**.

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

8.1 The Site is:

- (a) accessible via a local track leading from Fairview Park Boulevard;
- (b) hard paved and fenced off;
- (c) currently vacant; and
- (d) located within the WBA of Deep Bay.

8.2 The surrounding areas have the following characteristics:

- (a) to the north are a vehicle park, a plant nursery and Fairview Park Road South. To the further north across Fairview Park Road South are vacant land, a cycle track area currently under construction and a petrol filling station;
- (b) to the east are a local track, vacant land and a vehicle park, a temporary hardware grocery shop and real estate agency approved under Application No. A/YL-MP/270 and Yau Pok Road. To the further east across Yau Pok Road is a nullah and Kam Pok Road. To the further east across Kam Pok Road are residential dwellings;
- (c) to the south are storage area for containers with site office and a local track. To the further south are a restaurant approved under Application No. A/YL-NSW/256, residential dwellings and open storage yards for construction materials; and
- (d) to the west are a nullah, a school and Bauhinia Road East. To the further west across Bauhinia Road East is a residential development, Fairview Park.

9. Planning Intention

The “R(C)” zone is intended primarily for low-rise, low-density residential developments where commercial uses serving the residential neighbourhood may be permitted on application to the Town Planning Board.

10. Comments from Relevant Government Departments

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

Land Administration

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

- (a) The Site comprises an Old Schedule Agricultural Lot 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) No permission is given for occupation of GL of about 26m² in area (subject to verification) included in the Site. Occupation of GL without Government's prior approval is not allowed.
- (c) The Site is accessible from Fairview Park Boulevard through both GL and private land. His office provides no maintenance work for the GL involved and does not guarantee any right-of-way.
- (d) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (e) Should planning approval be given to the planning application, the lot owner will need to apply to his office to permit the structures to be erected or regularize any irregularity on site. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. No construction of New Territories Exempted Building(s) will be considered or allowed. Furthermore, the applicant has to either exclude the GL from the Site or apply for a formal approval prior to the actual occupation of the GL. Applications for any of the above will be considered by the LandsD acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application 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

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

- (a) The Site is connected to the public road network via a section of a local access which is not managed by Transport Department. The land status of the local access road should be clarified with the LandsD by the applicant. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.
- (b) Should the application be approved, the following conditions should be incorporated:

- (i) No vehicle (excluding private car) is allowed to access the Site.
- (ii) No vehicle is allowed to queue back to or reverse onto/from the Site at any time during the planning approval period.

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

- (a) The proposed access arrangement of the Site from Fairview Park Boulevard should be commented by Transport Department.
- (b) His department does not and will not maintain any access connecting the Site and the Fairview Park Boulevard. Presumably, the relevant departments will provide their comments, if any.
- (c) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public road and drains.

10.1.4 Comments of the Chief Engineer/Railway Development 2-2, Railway Development Office, Highways Department (CE/RD2-2, RDO, HyD):

The Site neither falls within any administrative route protection boundary, gazette railway schemes, nor railway protection boundary of heavy rail systems. As such, he has no comments on the application from railway development viewpoint.

Environment

10.1.5 Comment of the Director of Environmental Protection (DEP):

In accordance with the latest “Code of Practice on Handling the Environmental Aspects of Temporary uses and Open Storage Sites”, he has no objection to the application.

Nature Conservation

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

As the subject site is paved and disturbed, he has no comment on the application from nature conservation point of view.

Fire Safety

10.1.7 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 the D of FS.

- (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 applicant should also be advised on the following points:
 - (i) the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy; and
 - (ii) the location of where the proposed FSIs 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 (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Buildings Matters

10.1.8 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 Buildings 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 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 Building (Planning) Regulation at the building plan submission stage.

Drainage

10.1.9 Comments of the Chief Engineer/Mainland North, Drainage Services

Department (CE/MN, DSD):

- (a) He has no objection in principle to the proposed development from the public drainage point of view.
- (b) The development should neither obstruct overland flow nor adversely affect existing natural streams, village drains, ditches and the adjacent areas, etc.
- (c) If the proposed stormwater drainage facilities would be connected to any existing drainage facilities, the applicant shall seek consent from the relevant owners or parties who are responsible for the maintenance of such existing facilities. The applicant shall check and ensure that the proposed drainage works and their downstream drainage systems have the adequate capacity and are in good conditions to accommodate the surface runoff collected from the Site and its upstream catchments. The applicant shall effect any subsequent upgrading of these proposed works and the downstream drainage systems whenever necessary.
- (d) Standard details should be provided to indicate the sectional details of the proposed u-channels and catchpits.
- (e) Sand trap or provision alike should be provided before the collected runoff is discharged to the public drainage facilities.
- (f) The applicant should consult DLO/YL, LandsD and seek consent from the relevant owners for any drainage works to be carried out outside his lot boundary before commencement of the drainage works.
- (g) Should the Board consider that the application is acceptable from the planning point of view, conditions should be stipulated in the approval letter requiring the applicant (i) to resubmit a drainage proposal and (ii) to implement the drainage proposal for the development to the satisfaction the Director of Drainage Services or of the Board.

Landscape

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

As the Site falls within a non-landscape sensitive zone and there is no landscape resource within the Site, he has no comment on the application from landscape planning perspective.

Others

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

- (a) If any Food and Environmental Hygiene Department (FEHD)'s facility is affected by the development, FEHD's prior consent must be obtained. Reprovisioning of the affected facilities by the project proponent up to the satisfaction of FEHD may be required. Besides, the project proponent should provide sufficient amount of additional recurrent cost for management and maintenance of the reprovisioned facilities to FEHD.
- (b) Proper licence / permit issued by his Department is required if there is any food business / catering service / activities regulated by the DFEH under the Public Health and Municipal Services Ordinance (Cap. 132) and other relevant legislation for the public and the operation of any business should not cause any obstruction.
- (c) 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.

District Officer's Comments

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

He has no comment on the application and the local comments should be submitted to the TPB directly, if any.

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

- (a) Head of the Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD);
- (b) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD);
- (c) Director of Electrical and Mechanical Services (DEMS);
- (d) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD)
- (e) Commissioner of Police (C of P); and
- (f) Director of Leisure and Cultural Services (DLCS).

11. Public Comments Received During Statutory Publication Period

On 7.8.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 28.8.2018, three objecting public comments were received (**Appendix III**) from a Yuen Long District Councillor (submitted three times). The District Councillor objected to the application on the grounds

that the application will create more traffic resulting in obstruction at the already heavily loaded traffic road and that there is no need for another real estate agency in the neighbourhood as there are too many in the area.

12. Planning Considerations and Assessments

- 12.1 The Site falls within “R(C)” zone which is intended for low-rise, low-density residential developments where commercial uses such as shops and services serving the residential neighbourhood may be permitted by the Board on application. The proposed use is not in line with the planning intention of the “R(C)” zone. However, the proposed use could provide temporary real estate agency services to the nearby residents. Approval of the application on a temporary basis of a period of 3 years would not frustrate the long-term planning intention of the “R(C)” zone as there is no immediate permanent development proposal at the Site.
- 12.2 According to the applicant, the proposed temporary shop and services (real estate agency) is to serve the residential neighbourhood and local community. It is considered not incompatible with the surrounding land uses, comprising mainly a school, residential dwellings, plant nursery, open storage yards, vehicle parks and vacant land (**Plan A-2**).
- 12.3 Although the Site falls within the WBA of the TPB PG-No. 12C, the guidelines also specify that planning applications for temporary uses are exempted from the requirement of EcoIA. DAFC has no comment on the application from nature conservation point of view.
- 12.4 Other concerned Government departments, including DEP, C of T, D of FS, CE/MN, DSD and CTP/UD&L have no objection to or no adverse comment on environmental, traffic, fire safety, drainage and landscape aspects respectively. Their technical requirements could be addressed by approval conditions in paragraphs 13.2 (e) to (h) below. Approval conditions restricting the operation hours, restricting only private car to enter/park and no vehicle to queue back or reverse onto/from the Site, and requiring maintenance of paving and boundary fencing are recommended in paragraphs 13.2 (a) to (d) below to minimize any potential environmental nuisance to nearby residents. Non-compliance with any of the approval conditions would result in revocation of the planning permission and unauthorized development on-site would be subject to enforcement action by the Planning Authority. Besides, the applicant should be advised to follow the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” to minimize the possible environmental impacts.
- 12.5 Since 2009, the Committee has approved a total of 4 applications for temporary shop and services uses relating to real estate agency within the same “R(C)” zone. Approval of the current application is in line with the previous decisions of the Committee.
- 12.6 There are three public comments objecting to the application over concerns regarding worsening traffic congestion and a surplus of real estate agencies in the

neighbourhood. In this regard, C for T has no objection to the application. The planning consideration and assessments above are also relevant.

13. Planning Department's Views

13.1 Based on the assessment made in paragraph 12 and having taken into account the public comments mentioned in paragraph 11, the Planning Department considers that the proposed temporary shop and services (real estate agency) could be tolerated for a period of 3 years.

13.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 3 years until 21.9.2021. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 8:00p.m. and 9:00a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) No vehicle (excluding private car) is allowed to access the Site at all times during the planning approval period;
- (c) no vehicle is allowed to queue back to or reverse onto/from the Site at all times during the planning approval period;
- (d) the maintenance of paving and boundary fencing on the Site at all times during the planning approval period;
- (e) the submission of drainage proposal within **6** months to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 21.3.2019;
- (f) in relation to (e) above, the implementation of drainage proposal within **9** months to the satisfaction of the Director of Drainage Service or of the Town Planning Board by 21.6.2019;
- (g) the submission of fire service installations proposal within **6** months to the satisfaction of Director of Fire Services or of the Town Planning Board by 21.3.2019;
- (h) in relation to (g) above, the implementation of fire service installations proposal within **9** months to the satisfaction of Director of Fire Services or of the Town Planning Board by 21.6.2019;
- (i) if any of the above planning conditions (a), (b), (c) or (d) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice;
- (j) if any of the above planning conditions (e), (f), (g) or (h) is not complied with by

the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice; and

- (k) upon the expiry of the planning permission, the reinstatement of the 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 IV**.

- 13.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the temporary development is not in line with the planning intention of the "R(C)" zone. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 14.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.
- 14.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

15. Attachments

Appendix I	Application Form received on 31.7.2018
Appendix Ia	Planning Statement
Appendix II	Similar applications within "Residential (Group C)" zone on the approved Mai Po and Fairview Park OZP No. S/YL-MP/6
Appendix III	Public comments received during statutory publication period
Appendix IV	Recommended advisory clauses
Drawing A-1	Layout Plan

Drawing A-2	Landscape Plan
Drawing A-3	Drainage Plan
Plan A-1	Location Plan and Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
SEPTEMBER 2018**