

Previous s.16 Applications covering the Application Site

Approved Applications

| <u>No.</u> | <u>Application No.</u> | <u>Proposed Use(s)/<br/>Development(s)</u>  | <u>Date of Consideration<br/>(RNTPC/TPB)</u> | <u>Approval<br/>Conditions</u>  |
|------------|------------------------|---|--|---------------------------------|
| 1.         | A/YL-MP/174            | Temporary Shop and Services (Hardware Grocery Shop and Real Estate Agency) for a Period of 3 Years                                  | 22.5.2009<br>Approved by RNTPC<br>(3 years)  | (1), (2), (3),<br>(5), (6)      |
| 2.         | A/YL-MP/199            | Renewal of Planning Approval for Temporary Shop and Services (Hardware Grocery Shop and Real Estate Agency) for a Period of 3 Years | 18.5.2012<br>Approved by RNTPC<br>(3 years)  | (1), (2), (3),<br>(4), (5), (6) |
| 3.         | A/YL-MP/243            | Temporary Shop and Services (Hardware Grocery Shop and Real Estate Agency ) for a Period of 3 Years                                 | 5.6.2015<br>Approved by RNTPC<br>(3 years)   | (1), (2), (3),<br>(4), (5), (6) |

Approval Conditions

- (1) The submission and implementation of fire service installations proposal/ the provision of fire extinguisher(s).
- (2) The submission and implementation of drainage proposal/The existing drainage facilities on the site should be maintained at all times during the planning approval period/The submission of a condition record of the existing drainage facilities/The submission of as-built drainage plans and photographic records of the existing drainage facilities.
- (3) The submission and implementation of landscaping and tree preservation proposals/The landscape planting on the site should be maintained at all times during the approval period/The implementation of accepted tree preservation proposal
- (4) The provision of boundary fencing/the paving and boundary fencing on the site should be maintained.
- (5) No operation for certain time limit specified in the approved conditions of respective applications.
- (6) No vehicle washing, dismantling, repairing and workshop activity/No cutting, dismantling, cleansing, repairing, compaction and workshop activity is allowed on the site.



Detailed Departmental Comments

Comments of the Chief Town Planner/Urban Design & Landscape, Planning Department:

It is noted from the FI submission that the Bombax tree is topped due to the public complaints. Proper records relating to the complaints should be provided for consideration. The applicant should keep in mind that except for emergency situation, approval of proposed tree works must be sought from LandsD as required under the land lease with copy to the Director of Planning or the Board prior to their commencement of tree works applications.

Moreover, according to the submitted photos, compensatory tree planting has already been completed on site. The compensatory tree is planted too close to the Bombax tree and in conflict with the vehicular access of the Site. For sustainable tree growth, a minimum spacing of 4m should be provided between trees. Nevertheless, according to our site inspection taken on 13.4.2018, it is noted that there is no available space for compensatory tree planting within the Site.



Recommended Advisory Clauses

- (a) to resolve any land issues relating to the temporary use with the concerned owner(s) of the Site;
- (b) to note DLO/YL, LandsD's comments that 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 prior approval of the Government. The private land of Lot No. 3250 S.B ss.10 S.C RP in D.D. 104 is covered by a Short Term Waiver (STW) No. 3533 for the purpose of "Hardware Grocery Shop and Real Estate Agency Shop". No permission is given for occupation of Government Land (GL) of about 23.6m<sup>2</sup> in area (subject to verification) included in the Site. Occupation of GL without Government's prior approval is not allowed. The Site is accessible to Yau Pok Road through GL. His office provides no maintenance work for the GL involved and does not guarantee any right-of-way over the GL to the Site. The Site does not fall within Shek Kong Airfield Height Restriction Area. Should planning approval be given to the subject planning application, the STW holder will need to apply to his office for modification of the STW conditions if there is any irregularity on site. 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. Such application 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 other the payment of premium or fee, as may be imposed by the LandsD;
- (c) to note CHE/NTW, HyD's comments that his department does not and will not maintain the public U-channels mentioned by the applicant connecting the Site;
- (d) to note CTP/UD&L, PlanD's comments that it is noted from the FI submission that the Bombax tree is topped due to the public complaints. Proper records relating to the complaints should be provided for consideration. The applicant should keep in mind that except for emergency situations, approval of proposed tree works must be sought from LandsD as required under the land lease with copy to the Director of Planning or the Board prior to their commencement of tree works applications. The compensatory tree is planted too close to the Bombax tree and in conflict with the vehicular access of the Site. For sustainable tree growth, a minimum spacing of 4m should be provided between trees. It is noted that there is no available space for compensatory tree planting within the Site. The applicant is reminded to monitor the growth of the topped tree;
- (e) to note D of FS's comments that 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. 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;

- (f) to note CBS/NTW, BD's comments that there is no record of approval by the Building Authority (BA) for the structures existing at the Site and Buildings Department (BD) is not in a position to offer comments on their suitability for the use related to the application. If the existing structures are erected on leased land without approval of the BD (not being a New Territories Exempted House), they are unauthorized under the Buildings Ordinance (BO) and should not be designated for any approved use under the application. Before any new building works (including containers/open sheds as temporary buildings) are to be carried out on leased land of the Site, prior approval and consent of the BD should be obtained, otherwise they are Unauthorized Building Works (UBW). An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO. 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. 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. 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;
- (g) to note CE/MN, DSD's comments that as the applicant would maintain the same drainage facilities as those implemented under previous Application No. A/YL-MP/243, he has no objection in principle to the proposed development. The applicant should inform PlanD if the drainage arrangement is changed;
- (h) to note DEMS's comment that in the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing and supervising any activity near the underground cable or overhead line under the application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within and/or in the vicinity of the Site. They should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and the "Code of Practice on Working near Electricity Supply Lines" established under the Regulation when carrying out works in the vicinity of the electricity supply lines;
- (i) to note DFEH's comment that 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; proper licence / permit issued by FEHD 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. Unless approval has been given by the DLO or other authorities, the applicant shall not affix any banners, bills and posters of commercial nature to retaining walls, flyover pillars, lamp posts, Government parking meters or roadside trees or fastened to railings etc. 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; and

- (j) the applicant is reminded to make reference to the "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites".

