

RNTPC Paper No. A/YL-MP/295
For Consideration by
the Rural and New Town
Planning Committee
on 15.9.2020

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-MP/295

- Applicant** : Universal Faith Development Limited represented by Mr. KWOK Chi Man
- 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 498 m² (including about 137 m² of GL (about 27.5%))
- 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** : Temporary Shop and Services (Real Estate Agency) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary shop and services (real estate agency) for a period of 3 years (**Plan A-1**). According to the Notes of the OZP, ‘Shop and Services’ use within “R(C)” zone is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The northern part of the Site is currently occupied by temporary structures for real estate agency use with valid planning permission, while the southern part is occupied by temporary structures for storage and office use without valid permission (**Plans A-2 and A-4**).
- 1.2 The northern part of the Site is the subject of a previous Application No. A/YL-MP/273 submitted by the same applicant for the same applied use, which was approved by the Rural and New Town Planning Committee (the Committee) of the Board on 21.9.2018 for a period of 3 years until 21.9.2021.
- 1.3 According to the applicant, the real estate agency is to serve the nearby residents. As shown on the site plan at **Plan A-2** and layout plan at **Drawing A-1**, the Site is accessible via a local track leading from Fairview Park Boulevard. The Site has been hard paved and partially fenced off by solid boundary wall. The major parameters of the previous and current applications are summarized as follows:

	Previous Application (No. A/YL-MP/273)	Current Application (No. A/YL-MP/295)
Site Area	About 380m ² (including about 26m ² of GL)	About 498m ² (including about 137m 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 	2 structures for shop and services <ul style="list-style-type: none"> • structure No.1 of 1 to 2 storeys and about 5.5m high with floor area of about 91.5m² • structure No.2 of 2 storeys of about 6.5m high with a 1-m high canopy above (total 7.5m), and a total floor area of about 183.5m²#
No. of Parking Space	1 (private car)	
Operation Hours	9:00a.m. to 8:00p.m. daily (including Sundays and public holidays)	

#The structures proposed under Application No. A/YL-MP/273 have been slightly modified

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

- (a) Application Form received on 15.6.2020 **(Appendix I)**
- (b) Letter received on 19.6.2020 clarifying the layout plan and the building height **(Appendix Ia)**
- (c) Further Information (FI) 1 in response to comments of Commissioner of Transport (C for T) and clarification on the current use of real estate agency **(Appendix Ib)**
(exempted from publication requirement)

1.5 In light of the special work arrangement for government departments due to the novel coronavirus infection, the meeting originally scheduled for 7.8.2020 for consideration of the application has been rescheduled, and the Board has agreed to defer consideration of the application. The application is now scheduled for consideration by the Committee at this meeting.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Application Form at **Appendix I**. They can be summarized as follows:

- (a) The Site is zoned “R(C)” on the approved Mai Po and Fairview Park Outline Zoning Plan. The small-scale real estate agency can serve the daily needs of villagers and is in line with the planning intention for low-rise, low-density residential developments, where commercial uses serving the residential neighbourhood may be permitted on application to the Board. It is not incompatible with the surrounding rural landscape character.
- (b) One of the structures within the lot in the Site is not included in the previous approval under Application No. A/YL-MP/273 and the applicant intends to expand the real estate agency to include this structure as well. Therefore, a fresh application is submitted.
- (c) The northern part of the Site has been used as real estate agency as approved under Application No. A/YL-MP/273, and also provides clerical support to applicant’s other business. The applicant has complied with the approval conditions on the submission of drainage proposal and submission and implementation of FSIs proposal. Submission on the implementation of drainage proposal has been made and approval is pending.
- (d) No adverse or significant traffic, environmental and drainage impacts are anticipated. No workshop activity will be carried out on site. The Site is conveniently located and the staff and customers will commute to the Site by public transport. There is only one private car parking space proposed for staff’s use in the Site. The applicant would comply with approval conditions to address technical concerns of Government departments and follow “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” to minimize environmental impacts on the surroundings.

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**

Part of the Site is the subject of a previous application (No. A/YL-MP/273) for the same applied use submitted by the same applicant for a period of 3 years which was approved by the Committee on 21.9.2018 mainly on the considerations that approval of the application on a temporary basis would not frustrate the long-term planning intention of the “R(C)” zone, the proposed use was not incompatible with the surrounding land uses, and concerned Government departments did not have adverse comments on the application. Details of the application are summarized at **Appendix II**. Its location is shown on **Plan A-2**.

7. **Similar Applications**

7.1 Since 2010, within the same “R(C)” zone on the OZP, there are 3 similar applications for similar temporary shop and services (real estate agency) uses (Applications No. A/YL-MP/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 3 applications are summarized at **Appendix III**. 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 partially fenced off, and occupied by structures for storage and office uses;

- (c) located within the WBA of Deep Bay Area.

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 and a cycle track currently under construction;
- (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, Kam Pok Road and residential dwellings;
- (c) to the south is a local track. To the further south are a restaurant approved under Application No. A/YL-NSW/279, 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 the residential development of 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 GL and 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 137m² in area (subject to verification) included in the Site. The act of 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) 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, if any. 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. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. 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 C for T:

- (a) He has no comment on the application from traffic engineering point of view.
- (b) 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.
- (c) Should the application be approved, the following conditions should be incorporated:
 - (i) no vehicle is allowed to queue back to or reverse onto/from the Site at any time during the planning approval period; and
 - (ii) no vehicle (exclude private car) is allowed to access to the Site.

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 and approved by TD.
- (b) HyD shall not be responsible for the maintenance of any access connecting the Site and Fairview Park Boulevard.
- (c) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

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

As the Site falls outside any administrative route protection boundary, gazetted railway scheme boundary or existing railway protection boundary of any railway systems, he has no comment on the above application from railway development point of view.

Environment

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

- (a) In accordance with the latest “Code of Practice on Handling the Environmental Aspects of Temporary uses and Open Storage Sites”, he has no comment on the application.
- (b) There was no environmental complaint related to the Site in the past 3 years.

Nature Conservation

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

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

Landscape

10.1.7 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 the landscape planning perspective.
- (b) The Site, located to west of Yau Pok Road and east of Hong Kong and Macau Lutheran Church Wong Chan Sook Ying Memorial School, falls within an area zoned “R(C)” on the approved Mai Po & Fairview Park OZP No. S/YL-MP/6. Part of the Site was the subject of a previous planning application (No. A/YL-MP/273) for the same use for a period of 3 years, which was approved with conditions by the Committee of the Board on 21.9.2018 valid till 21.9.2021.
- (c) Based on the site record conducted on 10.8.2018, the Site was hard paved and fenced off. An existing tree with good condition is observed within the site boundary of the current application. According to the applicant, the proposed use is still in operation and the proposed temporary structures are not in conflict with the existing tree. Further significant impact on the landscape character and resources arising from the continuous use in the Site is not anticipated.

Fire Safety

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

- (a) He has no objection in principle to the proposal subject to 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.

Building Matters

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

- (a) As there is no record of approval granted by the Building Authority (BA) for the existing structures at the Site, he is not in a position to offer comments on their suitability for the use proposed in the application.
- (b) If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of the BA, they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any proposed use under the application.
- (c) For UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with the prevailing 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.
- (d) Before any new building works (including containers/open sheds as temporary buildings, demolition and land filling) are to be carried out on the Site, prior approval and consent of the BA should be obtained, otherwise they are UBW. An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with

the BO.

- (e) 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.
- (f) The Site does not abut on a specified street of not less than 4.5m wide and its permitted development intensity shall be determined under Regulation 19(3) of the Building (Planning) Regulation at the building plan submission stage.

Drainage

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

He has no objection in principle to the proposed development from the public drainage point of view. 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 submit a drainage proposal and (ii) to implement and maintain the drainage proposal for the development to the satisfaction the Director of Drainage Services or of the Board.

Others

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

- (a) 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.
- (b) His detailed comments are at **Appendix V**.

10.1.12 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):

- (a) Existing water mains will be affected. A waterworks reserve within 1.5m from the center line of the water main shall be provided to WSD. No structure shall be built or materials stored within this waterworks reserve. Free access shall be made available at all times for staff of the Director of Water Supplies or their contractor to carry out construction, inspection, operation, maintenance and repair works.
- (b) No trees or shrubs with penetrating roots may be planted within the Waterworks Reserve or in the vicinity of the water main.

- (c) Government shall not be liable to any damage whatsoever and howsoever caused arising from burst or leakage of the public water mains within and in close vicinity of the Site.

District Officer's Comments

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

His office 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 objection to or no comment on the application:

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

11. Public Comments Received During Statutory Publication Period

On 23.6.2020, the application was published for public inspection. During the three-week statutory publication period, two objecting public comments were received from a Yuen Long District Councillor and an individual. They objected to the application on the grounds that there is no need for another real estate agency in the neighbourhood as there are too many in the area (**Appendix IV**).

12. Planning Considerations and Assessments

- 12.1 The application is for proposed temporary shop and services (real estate agency). 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 applied use is not entirely in line with the planning intention of the "R(C)" zone. According to the applicant, the proposed temporary shop and services (real estate agency) is to serve the daily needs of villagers. 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 Given the small scale (total floor area of about 275m²) and the nature of the applied use, 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 noting that the Site is paved and disturbed.

- 12.4 Other concerned Government departments, including DEP, C of T, D of FS, CE/MN of DSD and CTP/UD&L of PlanD have no objection to or no adverse comment on environmental, traffic, fire safety, drainage and landscape aspects respectively. To mitigate any potential environmental impacts on the surrounding area and to address concerned departments' comments, 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, requiring provision of boundary fencing and technical requirements are recommended in paragraphs 13.2 (a) to (i) below. Besides, the applicant should be advised to follow the "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites".
- 12.5 Part of the Site is subject to a previous Application No. A/YL-MP/273 submitted by the same applicant for the same applied use, which was approved by the Committee for a period of 3 years until 21.9.2021. Since 2010, the Committee has approved a total of 3 applications for temporary shop and services uses involving 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 two public comments objecting to the application as stated in paragraph 11. The planning assessment and departmental comments above are of relevance.

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 has no objection to the application.
- 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 15.9.2023. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 8:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) only private car is allowed to enter/park at 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 provision of boundary fencing on the Site within 6 months from the date of planning approval to the satisfaction of the Director of Planning or

of the Town Planning Board by 15.3.2021;

- (e) 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 15.3.2021;
- (f) 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 Service or of the Town Planning Board by 15.6.2021;
- (g) in relation to (g) above, the implemented drainage facilities shall 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 planning approval to the satisfaction of Director of Fire Services or of the Town Planning Board by 15.3.2021;
- (i) in relation to (i) above, the implementation of fire service installations proposal within **9** months from the date of planning approval to the satisfaction of Director of Fire Services or of the Town Planning Board by 15.6.2021;
- (j) if any of the above planning condition (a), (b), (c), (d) or (g) 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;
- (k) if any of the above planning condition (e), (f), (h), (i) or (j) 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.

Advisory Clauses

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

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 which is intended primarily for low-rise, low-density residential developments. 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 15.6.2020
Appendix Ia	Letter received on 19.6.2020
Appendix Ib	FI 1 received on 29.7.2020
Appendix II	Previous s.16 Application covering the Application Site
Appendix III	Similar applications within “Residential (Group C)” zone on the approved Mai Po and Fairview Park OZP No. S/YL-MP/6
Appendix IV	Public comments received during statutory publication period
Appendix V	Recommended advisory clauses
Drawing A-1	Layout Plan
Plan A-1	Location Plan and Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos