

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

**APPLICATION NO. A/ST/953**

<b><u>Applicant</u></b>	:	Mr. Yip Cheuk Kun (葉卓鈞) and Miss Yip Pui Yin (葉嫻延) represented by Oneland Property Limited
<b><u>Premises</u></b>	:	Part C of Workshop 6, Level L1, Wah Yiu Industrial Centre, 30-32 Au Pui Wan Street, Fo Tan, Sha Tin, N.T.
<b><u>Floor Area</u></b>	:	About 8.42m <sup>2</sup>
<b><u>Lease</u></b>	:	(a) STTL No. 142 (New Grant No. 11611) (b) to be expired on 30.6.2047 (c) restricted to industrial and/or godown purposes or both
<b><u>Plan</u></b>	:	Draft Sha Tin Outline Zoning Plan (OZP) No. S/ST/33
<b><u>Zoning</u></b>	:	“Industrial” (“I”)
<b><u>Application</u></b>	:	Shop and Services (Real Estate Agency)

1. **The Proposal**

- 1.1. The applicants seek planning permission to use the application premises (the Premises) for ‘Shop and Services (Real Estate Agency)’ use. According to the Notes of the OZP, ‘Shop and Services (not elsewhere specified) (ground floor only, except in wholesale conversion of an existing building and Ancillary Showroom which may be permitted on any floor)’<sup>1</sup> use in “I” zone requires planning permission from the Town Planning Board (the Board).
- 1.2. The Premises, with a floor area of about 8.42m<sup>2</sup>, is located on the ground floor (Level L1) of Wah Yiu Industrial Centre abutting Au Pui Wan Street. The subject real estate agency is currently operating without valid planning permission.
- 1.3. In support of the application, the applicants submitted the application form on 9.4.2018 (**Appendix I**). The floor plan and layout plan of the Premises submitted by the applicants are shown in **Drawings A-1 and A-2**.

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<sup>1</sup> ‘Shop and Services (Motor-vehicle Showroom on ground floor, Service Trades only)’ is always permitted in the “I” zone.

**2. Justifications from the Applicants**

The justifications put forth by the applicants in support of the application are detailed in part 9 of the application form at **Appendix I**, which states that the proposal responds to the market need and business development, and will not generate any adverse impacts on vehicular and pedestrian traffic flow to the surrounding areas.

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

The applicants are the sole “current land owners”. Detailed information would be deposited at the meeting for Members’ inspection.

**4. Town Planning Board Guidelines**

The ‘Town Planning Board Guidelines for Use/Development within “Industrial” Zone’ (TPB PG-No. 25D), which was revised and promulgated in September 2007, is relevant to this application. For a proposed commercial use in an industrial building, relevant planning assessment criteria are summarized as follows:

- (a) it should be demonstrated that there is a genuine need for the proposed use under application and no suitable alternative accommodation can be found in the vicinity. The location and scale of the proposed use should be justified on operational grounds;
- (b) there should be an adequate provision of parking and loading/unloading facilities within the site in accordance with the Hong Kong Planning Standards and Guidelines and to the satisfaction of the Transport Department. The inclusion and operation of the proposed commercial use should not adversely affect the traffic conditions in the local road network; and
- (c) the Fire Services Department should be satisfied on the risks likely to arise or increase from the proposed commercial use under application. Owing to fire safety concern, the aggregate commercial floor areas on the ground floor of an existing industrial building with and without sprinkler systems should as a general principle not exceeding 460m<sup>2</sup> and 230m<sup>2</sup> respectively. The limits on aggregate commercial floor area do not apply to uses which are ancillary to or for the purposes of supporting the industrial activities and the routine activities of the workers in the industrial building. These uses include bank, fast food counter (sited at street level without seating accommodation and licensed as food factory), electrical shop, local provisions store and showroom in connection with the main industrial use. Moreover, the 230m<sup>2</sup>/460m<sup>2</sup> criteria do not apply to cases involving conversion of the low zone of an existing industrial building for commercial uses if the commercial portion is completely separated from the industrial portion on the upper floors by a buffer floor of non-hazardous occupancy such as a car-parking floor. In all cases, separate means of escape should be available for the commercial portion.

## 5. Previous Application

The Premises is part of the subject of a previous application No. A/ST/212 for 'Showroom (Industrial Pneumatic Machineries)' use approved by the Rural and New Town Planning Committee (the Committee) in 1992 (**Plan A-2 and Appendix II**). In view that the applied use under planning application No. A/ST/212 had ceased operation, the planning permission granted has lapsed.

## 6. Similar Applications

6.1. Wah Yiu Industrial Centre is located on a sloping ground. The ground floor (i.e. Levels L1 and L2) of the building, where commercial floor spaces are found, are abutting Au Pui Wan Street, Sui Wo Road and Kwei Tei Street respectively. There are 17 similar applications for commercial uses on the ground floor of Wah Yiu Industrial Centre. Except application No. A/ST/214, all applications were approved with or without conditions by the Committee between 1992 and 2017 (**Plan A-2 and Appendix III**). The following similar application is still valid and should be counted towards the maximum permissible limit of 460m<sup>2</sup> for aggregate commercial floor area on the ground floor of an industrial building (with sprinkler system) according to TPB PG-No. 25D:

Application No.	Application Premises	Applied Use	Floor Area (About) (m <sup>2</sup> )	Date of Consideration
A/ST/588	9B (Level L1)	Wholesale Centre (Stationery)	25	9.1.2004
<b>Total :</b>			<b>25m<sup>2</sup></b>	

6.2. According to the TPB PG-No. 25D, the limits on aggregate commercial floor area are applicable to the subject application. The limits on aggregate commercial floor area do not apply to local provisions store and fast food counter which is sited at street level without seating accommodation and licensed as food factory.

## 7. The Premises and its Surrounding Areas (Plans A-1 to A-4)

7.1. The Premises is:

- (a) located on street level (Level L1) of Wah Yiu Industrial Centre in Fo Tan industrial area; and
- (b) with direct access to Au Pui Wan Street.

7.2. The subject industrial building is:

- (a) 18 storeys in height bounded by Au Pui Wan Street, Sui Wo Road and Kwei Tei Street. Car parking and loading/unloading spaces are provided on Level L3 of the building with vehicular access from Kwei Tei Street; and

- (b) currently occupied by the following uses on various floors:

Floor	Current Uses
L1/F	<b>Application premises</b> , canteens, wholesale centre (stationery) <sup>@</sup> , glass workshop, decoration company <sup>#</sup> , real estate agency <sup>#</sup> , pharmacy <sup>#</sup> , money exchange <sup>#</sup> , fast food shops <sup>*^~</sup> , herbal tea shop <sup>#</sup> , vehicle repair workshop, pneumatics machinery wholesale <sup>#</sup> , godowns, frozen meat wholesale <sup>#</sup> and locked premises
L2/F	Godowns, vehicle repair workshops and locked premises
L3/F	Car park and loading/unloading
1/F to 15/F	Offices, godowns, workshops, cafe <sup>#</sup> , vacant and locked premises

<sup>@</sup> The planning approval for such use remains valid.

<sup>#</sup> There is no record of planning approval granted for such use.

<sup>\*</sup>The planning approval for such use has revoked for one fast food shop.

<sup>^</sup>The planning approval for such use has expired for one fast food shop.

<sup>~</sup> There is no record of planning approval granted for one fast food shop.

- 7.3. The surrounding areas have the following characteristics:

- (a) Fo Tan is an established industrial area with high-rise industrial buildings;
- (b) MTR Fo Tan Station is located about 600m from the subject industrial building; and
- (c) a centrally located commercial centre (Shatin Galleria) is about 200m from the Premises. Shatin Galleria is zoned “Commercial” (“C”) on the draft Sha Tin OZP No. S/ST/33 (**Plan A-1**) and is the only “C” zone in the vicinity.

## 8. Planning Intention

The “I” zone of Fo Tan is intended primarily for general industrial uses to ensure an adequate supply of industrial floor space to meet demand from production-oriented industries. Information technology and telecommunications industries and office related to industrial use are also always permitted in this zone.

## 9. Comments from Relevant Government Departments

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

### Land Administration

- 9.1.1 Comments of the District Lands Officer/Shatin, Lands Department (DLO/ST, LandsD):

- (a) the Premises is situated on Sha Tin Town Lot No. 142 governed under New Grant No. 11611 (“the New Grant”). Under the New Grant, the lot shall not be used for any purpose other than industrial

or godown purposes or both excluding offensive trade. No building or buildings shall be erected on the lot except a factory or factories or a godown or godowns or both, ancillary offices and such canteen and other welfare facilities for workmen employed on the lot as may be in the opinion of the Director of Lands be necessary and such quarters for watchmen or caretakers as considered essential by Commissioner for Labour; and

- (b) the proposal under the application to use the Premises as ‘Shop and Services (Real Estate Agency)’ is not permitted under the New Grant. If the application is approved by the Board, the owner of the Premises has to apply to LandsD for a waiver. However, there is no guarantee that the waiver application will be approved. Such application, if received by LandsD, will be considered by LandsD acting in the capacity as the landlord at its sole discretion and any approval would be subject to such terms and conditions including among others, the payment of waiver fee and administrative fee as may be imposed by LandsD.

### **Building Matters**

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

- (a) the use shall comply with the requirements under the Buildings Ordinance. For instance, the shop shall be separated from adjoining workshops by fire barriers with Fire Resistance Rating of 120 minutes, and the means of escape of the existing adjoining workshop shall not be adversely affected; and
- (b) the subdivision of the unit/ premises should comply with the provisions of Buildings Ordinance/ Building (Minor Works) Regulations. The applicants should engage a registered building professional under the Buildings Ordinance to co-ordinate the building works, if any.

### **Fire Safety**

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

- (a) he has no objection in principle to the application subject to:
  - (i) fire service installations and equipment being provided to the satisfaction of his department. Detailed fire safety requirements will be formulated upon receipt of formal submission of general building plans; and
  - (ii) means of escape separated from the industrial portion is available for the subject unit.
- (b) the building is protected with a sprinkler system so that the maximum permissible aggregate commercial floor area on G/F is

460m<sup>2</sup> in accordance with TPB PG-No.25D. The applied use should be counted up to the aggregate commercial floor area;

- (c) regarding matters related to fire resisting construction of the Premises, the applicants are reminded to comply with the 'Code of Practice for Fire Safety in Buildings' which is administered by the Building Authority; and
- (d) the applicants should pay attention to the 'Guidance Note on Compliance with Planning Condition on Provision of Fire Safety Measures for Commercial Uses in Industrial Premises' if the application is approved.

9.2 The following Government departments have no comment on / objection to the application:

- (a) Commissioner for Transport; and
- (b) District Officer/Shu Tin, Home Affairs Department.

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

On 17.4.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, no comment was received.

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

- 11.1. The planning intention of the "I" zone is to reserve land primarily for general industrial uses to ensure adequate supply of industrial floor space to meet demand from production-oriented industries. However, commercial uses in industrial buildings within the "I" zone may be permitted on application to the Board based on individual merits and the planning assessment criteria set out in the TPB PG-No. 25D.
- 11.2. The Premises is located on the ground floor (Level L1) of an existing industrial building with direct access to Au Pui Wan Street. The 'Shop and Services (Real Estate Agency)' use under application is small in scale and considered not incompatible with the industrial and industrial-related uses in the subject industrial building and the surrounding developments. Similar applications for a range of mixed 'Shop and Services' uses including fast food shop and retail shop have been approved for other units on the ground floor of the subject industrial building (**Plan A-2 and Appendix III**) and its vicinity.
- 11.3. The subject industrial building is subject to a maximum permissible limit of 460m<sup>2</sup> for aggregate commercial floor area on the ground floor. Currently, the approved aggregate commercial floor area of 'Shop and Services' use on the ground floor of the subject building is 25m<sup>2</sup>. If the floor area of the Premises (8.42m<sup>2</sup>) is included, the aggregate commercial floor area will be 33.42m<sup>2</sup>, which is within maximum permissible limit of 460m<sup>2</sup>. D of FS has no in-principle objection to the application subject to approval conditions on provision of fire service installations for firefighting and equipment.

- 11.4. The 'Shop and Services (Real Estate Agency)' use under application generally complies with the relevant considerations set out in the TPB PG-No. 25D including the fire safety and traffic aspects. Relevant Government departments including BD and TD have no objection to or no adverse comment on the application.
- 11.5. A temporary approval of three years is recommended in order not to jeopardise the long term planning intention of industrial use for the Premises and to allow the Committee to monitor the supply and demand of industrial floor space in the area.
- 11.6. No public comment was received during the statutory public inspection period.

## 12. Planning Department's Views

- 12.1. Based on the assessment made in paragraph 11 above, the Planning Department has no objection to the application on a temporary basis for a period of three 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 three years until 1.6.2021. The following approval conditions and advisory clauses are suggested for Members' reference:

### Approval Conditions

- (a) the submission and implementation of the fire safety measures within 6 months from the date of the approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 1.12.2018; and
- (b) if the above planning condition (a) 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 IV**.

- 12.3. There is no strong reason to recommend rejection of the application.

## 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 applicants.

**14. Attachments**

Appendix I	Application form received on 9.4.2018
Appendix II	Previous application at the Premises
Appendix III	Similar applications for Shop and Services at Levels L1 and L2 of Wah Yiu Industrial Centre
Appendix IV	Recommended advisory clauses
Drawings A-1 and A-2	Floor Plan and Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plans A-3a and A-3b	Floor Plans
Plan A-4	Site Photos

**PLANNING DEPARTMENT  
JUNE 2018**