

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/ST/964

<u>Applicant</u>	:	D&G Motors Limited represented by Anders Surveyors Company Limited
<u>Premises</u>	:	Portion of Workshop F9, LG/F, Wah Lok Industrial Centre Phase 2, 31-35 Shan Mei Street, Sha Tin, N.T.
<u>Floor Area</u>	:	20.13m ² (about)
<u>Lease</u>	:	(a) STTL No. 165 (New Grant No. 11667) (b) to be expired on 30.6.2047 (c) restricted to industrial and/or godown purposes or both
<u>Plan</u>	:	Approved Sha Tin Outline Zoning Plan (OZP) No. S/ST/34
<u>Zoning</u>	:	“Industrial” (“I”)
<u>Application</u>	:	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 premises (the Premises) for temporary ‘Shop and Services (Real Estate Agency)’ use for a period of 3 years. 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)’¹ use in “I” zone requires planning permission from the Town Planning Board (the Board).
- 1.2 The Premises, with a floor area of about 20.13m², is located on the lower ground floor of Wah Lok Industrial Centre Phase 2 abutting Sui Wo Road. It is currently used as a real estate agency without valid planning permission.
- 1.3 In support of the application, the applicant submitted the application form and planning statement on 19.9.2018 at **Appendices Ia and Ib**. The floor plan of the Premises submitted by the applicant is shown in **Drawing A-1**.

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

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the planning statement at **Appendix Ib**, which states that there is an increasing demand for real estate agency in Fo Tan area; the proposal is temporary in nature and will not generate any adverse traffic and environmental impacts on the surrounding areas; and there are similar applications approved for the same use in the vicinity.

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

The applicant is the sole “current land owner”. 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 460m² and 230m² 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 230m²/460m² 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

There is no previous application at the Premises.

6. Similar Applications

Wah Lok Industrial Centre is located on a sloping ground. The lower and upper ground floors of the building, where commercial uses are found, abut Shan Mei Street, Sui Wo Road and Ngau Wu Tok Street. On the upper ground floor, there is no similar application. On the lower ground floor, there are 10 similar applications for commercial uses approved by the Committee (**Plan A-2** and **Appendix II**). The following similar applications are still valid and should be counted towards the maximum permissible limit of 460m² for aggregate commercial floor area on the lower and upper ground floors of an industrial building (with sprinkler system) according to TPB PG-No. 25D:

No.	Application No.	Application Premises	Applied Use	Floor Area (About) (m ²)	Date of Consideration
<i>Lower Ground Floor</i>					
1	A/ST/558	F-9B (Part) and 9C (Part)	Retail Shop (Selling of Metal and Hardware)	20	12.4.2002
2	A/ST/916	D6	Proposed Shop and Services	47.7	17.3.2017
3.	A/ST/941	E3 (Part)	Shop and Services (Real Estate Agency)	7.75	16.3.2018
Total:				75.45m²	

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

7.1 The Premises is:

- (a) located on the lower ground floor (LG/F) of Wah Lok Industrial Centre in Fo Tan industrial area;
- (b) with direct access to Sui Wo Road; and
- (c) used for the applied use without a valid planning permission.

7.2 The subject industrial building is:

- (a) 24 storeys in height bounded by Shan Mei Street, Sui Wo Road and Ngau Wu Tok Street. Car parking and loading/unloading spaces are provided on the first and second floors of the building with vehicular access from Ngau Wu Tok Street; and
- (b) currently occupied by the following uses on various floors:

Floor	Current Uses
LG/F (Plan A-3a)	Application premises , car repairing workshops, metal workshops, freight forwarding service centre, retail shop (selling of metal and hardware), retail shop (selling of industrial safety products) [#] , plumbing and electrical engineering workshop, motor-vehicle showroom and workshop, tutorial centre*, real estate agency, money exchange [#] , locked and vacant premises
UG/F (Plan A-3b)	Car repairing workshops, building material godowns, electrical material godown, locked and vacant premises
1/F-22/F	Carpark, godowns, workshops, canteens, offices, locked and vacant premises

[#] There is no record of planning approval granted for such use.

* Such use is not allowed in an industrial building.

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 700m from the subject industrial building; and
- (c) a centrally located commercial centre (Shatin Galleria) is about 170m from the Premises. Shatin Galleria is zoned “Commercial” (“C”) on the approved Sha Tin OZP No. S/ST/34 (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. 165, and is governed under New Grant No. 11667 (“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; and

- (b) the proposal under the application to use the Premises as ‘Shop and Services (Real Estate Agency)’ purpose 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 will 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) he has no objection to the application subject to that the use shall comply with the requirements under the Buildings Ordinance. For instance, the shop shall be separated from adjoining premises of industrial use by fire barriers with Fire Resistance Rating of 120 minutes, and the means of escape of the existing adjoining premises 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 applicant 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 LG/F and UG/F is 460m² 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 applicant is reminded to comply with the ‘Code of

Practice for Fire Safety in Buildings' which is administered by the Building Authority; and

- (d) the applicant 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 objection to/ comment on the application:

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

10. Public Comment Received During Statutory Publication Period

On 28.9.2018, 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 lower ground floor of an existing industrial building with direct access to Sui Wo Road. The temporary '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 of 'Shop and Services' uses including metal/hardware shop, real estate agency and motor-vehicle showroom have been approved on the lower ground floor of the subject industrial building (**Plan A-2 and Appendix II**).

11.3 The subject industrial building is subject to a maximum permissible limit of 460m² for aggregate commercial floor area on the upper and lower ground floors. Currently, the approved aggregate commercial floor area of 'Shop and Services' use on the upper and lower ground floors of the subject building is 75.45m². If the floor area of the Premises (20.13m²) is included, the aggregate commercial floor area will be 95.58m², which is within maximum permissible limit of 460m². D of FS has no in-principle objection to the application subject to approval conditions on provision of fire service installations and water supplies for firefighting.

11.4 The temporary '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 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 16.11.2021. 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 16.5.2019;
- (b) if the above planning condition 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 III**.

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 applicant.

14. Attachments

Appendix Ia	Application form received on 19.9.2018
Appendix Ib	Planning Statement
Appendix II	Similar applications for 'Shop and Services' use at LG/F of Wah Lok Industrial Centre
Appendix III	Recommended advisory clauses
Drawing A-1	Floor Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plans A-3a and A-3b	Floor Plans
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
NOVEMBER 2018**