

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

**APPLICATION NO. A/ST/970**

<b><u>Applicant</u></b>	:	Forever More Company represented by Centaline Surveyors Limited
<b><u>Premises</u></b>	:	Portion C of Workshop B1, LG/F, Valiant Industrial Centre, 2-12 Au Pui Wan Street, Fo Tan, Sha Tin, New Territories.
<b><u>Floor Area</u></b>	:	25.732m <sup>2</sup> (about)
<b><u>Lease</u></b>	:	(a) STTL Nos. 62, 63 and 64 (New Grant No. 11288, 11289 and 11291) (b) to be expired on 30.6.2047 (c) restricted to industrial and/or godown purposes, excluding offensive trades
<b><u>Plan</u></b>	:	Approved Sha Tin Outline Zoning Plan (OZP) No. S/ST/34
<b><u>Zoning</u></b>	:	“Industrial” (“I”)
<b><u>Application</u></b>	:	Shop and Services (Money Exchange)

**1. The Proposal**

- 1.1 The applicant seeks planning permission to use the application premises (the Premises) for ‘Shop and Services (Money Exchange)’ 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 requiring planning permission from the Town Planning Board (the Board).
- 1.2 The Premises, with a floor area of about 25.732m<sup>2</sup>, is located on the lower ground floor of Valiant Industrial Centre abutting Au Pui Wan Street. It is the subject of a previous application No. A/ST/878 submitted by the same applicant for the same use approved by the Rural and New Town Planning Committee (the Committee) on 5.6.2015 with conditions on a temporary basis for a period of three years. Approval conditions on fire safety measures have been complied with. Planning permission under the previous application is valid until 5.6.2018. The subject money exchange is currently operating without valid planning permission.

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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.

- 1.3 In support of the application, the applicant submitted the application form on 6.3.2018 (**Appendix I**). The floor and layout plans of the Premises submitted by the applicant are shown in **Drawings A-1 and A-2**.

## **2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in Part 9 and the attached email of the application form at **Appendix I**. They can be summarised as follows:

- (a) the Premises is the subject of a previous approved application No. A/ST/878 submitted by the same applicant for the same use. A number of planning permissions for Shop and Services use in the vicinity have been recently granted by the Board;
- (b) the proposal is in line with the government policy to encourage the revitalisation of industrial buildings for promoting the development of higher value-added economic activities. The proposal will maximise the use of existing industrial building and provide employment opportunities;
- (c) the Premises is located on the lower ground floor with direct access via Au Pui Wan Street. There are sufficient parking and loading/unloading facilities in the subject industrial building. The proposal would not impose any adverse impact on the surrounding environment; and
- (d) the ‘Shop and Services (Money Exchange)’ use is targeted to provide services to the occupiers of the buildings in the vicinity. The use is considered not incompatible with the industrial and industrial-related uses in the subject industrial building and the surrounding developments.

## **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. 31) by obtaining consent. 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 Applications

- 5.1 The Premises is the subject of three previous applications (Nos. A/ST/742, A/ST/793 and A/ST/878) for the same use (**Plan A-2** and **Appendix II**). All the previous applications were approved with conditions by the Committee between 2011 and 2015 on the consideration that the applied use was not incompatible with the industrial/industrial-related uses in the surroundings and complied with TPB PG-No. 25D; and the relevant departments had no adverse comment.
- 5.2 The last application No. A/ST/878 which was submitted by the same applicant for the same use was approved with conditions by the Committee on 5.6.2015 on a temporary basis for a period of three years. The approval condition on fire safety measures had been complied with. The planning permission under application No. A/ST/878 is valid until 5.6.2018. The subject money exchange is currently operating without valid planning permission.

## 6. Similar Applications

- 6.1 Valiant Industrial Centre is located on a sloping ground. The lower ground and ground floors of the building, where commercial floor spaces are found, are abutting Au Pui Wan Street, Wo Liu Hang Road and Min Fong Street respectively. There are 34 similar applications for commercial uses on the lower ground and ground floors of Valiant Industrial Centre in the past ten years, where 32 were approved and two were rejected by the Committee between 2010 and 2017 (**Plan A-2** and **Appendix III**). The following 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 lower ground and ground floors 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	Decision
<i>Lower Ground Floor</i>					
A/ST/919	G2	Proposed Shop and Services	51.45	28.4.2017	Approved with conditions on a temporary basis of 3 years
<b>Total:</b>			<b>51.45 m<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. Should the floor area of the Premises (i.e. 25.732m<sup>2</sup>) be included, the aggregated commercial floor area will be 77.182m<sup>2</sup>, which is within the maximum permissible limit of 460m<sup>2</sup>.

## 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 of Valiant 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) a 14-storey industrial building bounded by Au Pui Wan Street, Min Fong Street and Wo Liu Hang Road. Car parking spaces are provided on ground and lower ground floors of the building with vehicular access from Min Fong Street; and
- (b) currently occupied by the following uses on various floors:

Floor	Current Uses
LG/F (Plans A-3a and A-3b)	<b>Application premises</b> , car park, photocopy shop, godowns, vehicle repair workshops, supermarket <sup>^</sup> , real estate agencies <sup>+~</sup> , restaurants <sup>#</sup> , fast food shops <sup>*</sup> , canteens, convenient store, locked and vacant premises
G/F (Plan A-3c)	Car park, godown, forklift shop, real estate agency <sup>^</sup> , locked and vacant premises
1/F to 12/F	Offices, godowns, workshops, showroom <sup>#</sup> , locked and vacant premises

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

\* The planning approval for such use has expired for three fast food shops.

+ The planning approval for such use has expired for two real estate agencies.

~ There is no record of planning approval granted for one real estate agency.

^ The planning approval for such use has expired.

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 300m from the subject industrial building; and
- (c) a centrally located commercial centre (Shatin Galleria) is about 300m 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 Nos. 62,63 and 64 which are governed by New Grant No. 11288, 11289 and 11291 (‘the New Grants’). Under the New Grants, the lots 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 (Money Exchange)’ is not permitted under lease. If the Board approves the application, the owner of the Premises is required to apply for a waiver from LandsD to implement this proposal. However, there is no guarantee that the waiver application will be approved. Such application, if received, will be considered by LandsD acting in its capacity as the landlord at its sole discretion and any approval given will be subject to such terms and conditions including, inter alia, 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 in-principle objection to the application under Building Ordinance subject to the following:
  - (i) the use shall be complied with the requirements under the Building 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 premises shall not be adversely affected;
  - (ii) the subdivision of the unit/ premises should comply with the provision of Building Ordinance/ Building (Minor Works) Regulation. The applicant should engage a registered building professional under the Building Ordinance to co-ordinate the building works, if any; and
  - (iii) adequate access and facilities for persons with a disability should be provided. Building (Planning) Regulation 72 and Design Manual: Barrier Free Access 2008 are relevant.

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 provided that:
  - (i) fire service installations and equipment being provided to the satisfaction of Fire Services Department. Detailed fire services 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 Premises.
- (b) the building is protected with a sprinkler system so that the maximum permissible aggregate commercial floor area on LG/F and 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 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 15.3.2019, 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 Au Pui Wan Street. The 'Shop and Services (Money Exchange)' 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 such as retail shop, real estate agency and fast food shop have been approved for other units on the lower ground and ground floors 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 lower ground and ground floors. Currently, the approved aggregate commercial floor area of 'Shop and Services' use on the lower ground and ground floors of the subject building is 51.45m<sup>2</sup>. If the floor area of the Premises (25.732m<sup>2</sup>) is included, the aggregate commercial floor area will be 77.182m<sup>2</sup>, which is within the 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 safety measures.
- 11.4 The 'Shop and Services (Money Exchange)' 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 The previous application No. A/ST/878 submitted by the same applicant for the same use was approved with conditions by the Committee in 2015 on a temporary basis for a period of three years. The approval conditions related to the submission and implementation of fire safety measures have been complied with. The planning permission expired in June 2018. There is no change in planning circumstances since the approval of the previous application.
- 11.6 A temporary approval of five 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.
- 11.7 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 five 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 five years until 3.5.2024. 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 Board by 3.11.2019;
- (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 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 applicant.

**14. Attachments**

Appendix I	Application form received on 6.3.2019
Appendix II	Previous applications at the Premises
Appendix III	Similar applications for shop and services at G/F and LG/F of Valiant Industrial Centre
Appendix IV	Recommended advisory clauses
Drawings A-1	Floor Plan
Drawing A-2	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plans A-3a to A-3c	Floor Plans
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT  
MAY 2019**