

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/TM-LTYYY/364

- Applicant** : U-Meaty (Frozen Food) Limited
- Site** : Lot 1150 RP in D.D. 130 and adjoining Government Land, Wong Kong Wai Road, Lam Tei, Tuen Mun, New Territories
- Site Area** : About 546.70 m² (including Government Land of about 142 m² (about 26%))
- Land Status** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Lam Tei and Yick Yuen Outline Zoning Plan (OZP) No. S/TM-LTYYY/10
- Zoning** : “Residential (Group C)” (“R(C)”) (about 339.1 m²) (about 62%)
[Restricted to a maximum plot ratio of 0.4 and a maximum building height of 3 storeys (9m) including car park]
- and
- “Residential (Group D)” (“R(D)”) (about 207.6 m²) (about 38%)
[Restricted to a maximum plot ratio of 0.2 and a maximum building height of 2 storeys (6m)]
- Application** : Proposed House and Minor Relaxation of Plot Ratio and Building Height Restrictions

1. The Proposal

- 1.1 The applicant seeks planning permission for a proposed house on the application site (the Site). The Site falls within “R(C)” (about 62%) and “R(D)” (about 38%) zones on the approved Lam Tei and Yick Yuen OZP No. S/TM-LTYYY/10. According to the Notes of the OZP, ‘House’ within “R(C)” zone is always permitted, while ‘House (not elsewhere specified)’ within “R(D)” zone is a Column 2 use requiring planning permission from the Town Planning Board (the Board). Developments in “R(C)” zone are restricted to a maximum plot ratio (PR) of 0.4 and a maximum building height (BH) of 3 storeys (9m) including car park, while developments in “R(D)” zone are restricted to a maximum plot ratio of 0.2 and a maximum building height of 2 storey (6m). Planning permission is also sought for minor relaxation of PR for the “R(C)” zone portion from 0.4 to 0.5425 and for the “R(D)” zone portion from 0.2 to 0.5425 and minor relaxation of BH for the “R(D)” zone portion from 2 storeys (6m) to 9m. Based on the individual merits of a development, minor relaxation of the plot ratio and building height

restrictions may be considered by the Board on application. The Site is currently occupied by a single-storey structure for storage purpose. The location of the Site is shown in **Plans A-1** and **A-2**.

- 1.2 The Site was involved in a planning application (No. A/TM-LTY/304) for proposed temporary industrial use (food processing factory) for a period of 3 years which was rejected by the Rural and New Town Planning Committee (the Committee) of the Board on 12.8.2016.
- 1.3 According to the applicant, the proposed development is a 3-storey house providing one residential unit with two car parking spaces at the ground floor. The major development parameters of the current application are as follows:

Site Area	About 546.70 m ²
Domestic Gross Floor Area (GFA)	296.6 m ²
Domestic PR	0.5425
No. of Units	1
No. of Block	1
No. of Storeys	3
BH (Main Roof)	9m
Site Coverage	About 17%
Car Parking Spaces	2 for private cars

- 1.4 The proposed development is anticipated to be completed in 2022.
- 1.5 The lot index plan, the proposed master layout plan, the proposed surrender and regrant lot plan and the proposed floor plans submitted by the applicant are shown in **Drawings A-1 to A-7**.
- 1.6 In support of the application, the applicant has submitted the following documents:
- (a) Application Form received on 13.12.2018 **(Appendix I)**
 - (b) E-mail dated 19.12.2018 providing a replacement page of the application form and a revised proposed layout plan **(Appendix Ia)**
 - (c) E-mail dated 24.12.2018 providing minor clarification on sewage treatment and a revised proposed regrant lot plan **(Appendix Ib)**
(accepted and exempted from publication and recounting requirements)
 - (d) E-mail dated 27.12.2018 providing a revised proposed layout plan **(Appendix Ic)**
(accepted and exempted from publication and recounting requirements)
 - (e) E-mail dated 3.1.2019 providing responses to departmental comments **(Appendix Id)**
(accepted and exempted from publication and recounting requirements)
 - (f) E-mail dated 7.1.2019 providing responses to departmental comments and revised planning justification **(Appendix Ie)**
(accepted and exempted from publication and recounting requirements)

- (g) E-mail dated 11.1.2019 providing responses to **(Appendix If)** departmental comments
(accepted and exempted from publication and recounting requirements)

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed at **Appendices I, Ie and If**. They can be summarised as follows:

- (a) The proposed development is in line with the planning intention of the “R(C)” and “R(D)” zones, which are intended for residential developments. An application for land exchange had been filed under a separate cover to the Lands Department.
- (b) The proposed development would fully use the land in residential zone to a residential development to meet the housing demand in Hong Kong.
- (c) For the minor relaxation of building height, it is to be in line the “R(D)” part with the “R(C)” restrictions developments nearby.
- (d) The GFA of the car park at G/F is 92.8m². According to the Notes of “R(C)” zone, the carpark in G/F can be exempted from total GFA. The applicant could not secure Building Department’s (BD’s) confirmation on this exemption at present stage. After this application is approved, the applicant will submit building plans to BD. The PR will be lower if the carpark is exempted from the PR calculation.
- (e) The adjoining government land is waste land in “R(C)” zone. If the Board approves this application, the applicant can maximize the land and manage it.
- (f) The proposed development would not be an undesirable precedent case for other similar applications since the subject lot is uncommon and unique, within “R(C)” and “R(D)” zones and direct adjoining to public road.

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. Background

The Site is not subject to planning enforcement action.

5. Previous Application

The Site is the subject of a previous application No. A/TM-LTY/304 submitted by the same applicant for proposed temporary industrial use (food processing factory) for a period of 3 years which was rejected by the Committee on 12.8.2016 mainly on the grounds that the proposed development is not in line with the planning intentions of the “R(C)” and “R(D)” zones; the applicant fails to demonstrate that the proposed development would not generate adverse water quality impact on the environment, generate adverse traffic impact on the surrounding areas; and the approval of the

application would set an undesirable precedent for similar applications within the “R(C)” and “R(D)” zones. Details of the application are summarized in **Appendix II**.

6. Similar Application

There is no similar application within the same “R(C)” and “R(D)” zones on the OZP.

7. The Site and Its Surrounding Areas (Plans A-1 to A-4b)

7.1 The Site is:

- (a) occupied by a single-storey structure for storage purpose; and
- (b) accessible from Wong Kong Wai Road.

7.2 The surrounding areas have the following characteristics:

- (a) to the immediate east is a metalware factory; to the further east are some godowns, warehouses and vacant land;
- (b) to the west, northwest and north are mainly godowns and a car park with car washing service; to the further north are residential dwellings and storages;
- (c) to the west is Lam Tei Pet Garden; and
- (d) to the south are Wong Kong Wai Road and Kong Sham Western Highway.

8. Planning Intentions

8.1 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 Board.

8.2 The “R(D)” zone is intended primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board.

8.3 According to the Explanatory Statement (ES) of the OZP, to provide flexibility for innovative design adapted to the characteristics of particular sites, minor relaxation of PR and building height restrictions may be considered by the Board through the planning permission system. Each proposal will be considered on its individual planning merits.

9. Comments from Relevant Government Departments

9.1 The following government departments have been consulted and their views on the application are summarized as follows:

Land Administration

9.1.1 Comments of the District Lands Officer/Tuen Mun, Lands Department (DLO/TM, LandsD):

- (a) The Site comprises a private lot (Lot 1150 RP in D.D. 130) and adjoining government land. The said lot is an old schedule 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. A short term waiver (STW) was granted to permit the erection of structures for metalware manufactory purpose. However it is noted that the existing structures on the lot are used for storage purpose which is in breach of the STW.
- (b) The applicant has applied to his office for land exchange of the Site to permit residential development with a maximum plot ratio, site coverage and building height of 0.3468, 40% and 9m respectively. Processing of the land exchange application is withheld as the applicant claimed that he would apply for planning permission to allow the proposed development.
- (c) The site area stated in the planning application, i.e. 546.7m², is slightly different from that of the land exchange application, which is about 547.9m². The proposed development parameters are also different.
- (d) Currently, access to the Site from Wong Kong Wai Road will pass through a private lot, Lot 1150 S.A RP in D.D. 130. The applicant proposed to utilize the adjoining government land to provide access to the Site.
- (e) If planning approval is given to this planning application, the applicant will need to submit a revised land exchange application to LandsD to effect the proposal. He would advise that the land exchange proposal will only be considered upon their receipt of formal application to his office from the applicant. He would also advise that there is no guarantee that the application, if received by LandsD, will be approved or approval will be given to utilize the government land concerned or a right of way will be given. He would reserve his comments on such. The application will be considered by LandsD acting in the capacity as the landlord at his sole discretion. In the event that the application is approved, it would be subject to such terms and conditions as the Government shall deem fit, including, among others, charging the premium and administrative fee as may be imposed by LandsD.
- (f) The Government reserves the right to take enforcement actions against any breach of the lease conditions and the STW. The Government also reserves the right to take enforcement actions against any unauthorized occupation of government land.

- (g) It appears from the photos provided that there may be some public utilities and installations within the government land portion of the Site, e.g. fire hydrant, electricity metre boxes and poles, railing, etc. There is no guarantee that approval will be given for the relocation of these facilities. The issue will be considered in detail at the land exchange stage if the planning application is approved, and his comments are reserved.

Building Matters

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

- (a) There is no record of approval by the Building Authority for the structures existing at the Site.
- (b) The applicant's attention is drawn to the following points:
 - (i) If the existing structures are erected on leased land without approval of the Buildings Department (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.
 - (ii) Before any new building works (including containers / open sheds as temporary buildings) are to be carried out on the Site, the 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 coordinator for the proposed building works in accordance with the BO.
 - (iii) 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.
 - (iv) In connection with (ii) above, 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.
 - (v) 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 Building (Planning) Regulation at the building plan submission stage.

- (vi) Formal submission under the BO is required for any proposed new works, including any temporary structures. Detailed comments will be provided at the building plan submission stage.

Traffic

9.1.3 Comments of the Commissioner for Transport (C for T):

He has no comment on the application from the traffic engineering viewpoints.

9.1.4 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) The proposed access arrangement of the Site from Wong Kong Wai Road should be commented and approved by Transport Department (TD).
- (b) If the access arrangement is agreed by TD, the applicant should construct a run in/out at the access point at Wong Kong Wai Road in accordance with the latest version of Highways Standard Drawing No. H1113 and H1114, or H5133, H5134 and H5135, whichever set is appropriate to match with the existing adjacent pavement.
- (c) The proposed access from the Site to Wong Kong Wai Road is not and will not be maintained by HyD. Presumably, the relevant departments will provide their comments to you, if any.
- (d) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

Environment

9.1.5 Comments of the Director of Environmental Protection (DEP):

- (a) In view of the small scale and nature of the proposed development, the proposed development has no major environmental impact. The applicant should be reminded to comply with all relevant environmental pollution control ordinance during construction of development and to implement appropriate mitigation measures/practices as set out in the Recommended Pollution Control Clauses for Construction Contracts.
- (b) Regarding the proposed on-site septic tank with soakaway pits, please be advised that the Site is located at an unsewered area and the design and construction of the proposed septic tank should follow the requirements of the Practice Note for Professional Persons (ProPECC PN) 5/93 "Drainage Plans subject to Comment by the Environmental Protection Department" and are duly certified by an Authorized Person.

- (c) There was no environmental complaint pertaining to the Site received in the past 3 years (from 2015 to November 2018).

Drainage

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

He has no comment on the application from the public drainage point of view.

Fire Safety

- 9.1.7 Comments of the Director of Fire Services (D of FS):

- (a) He has no objection in principle to the proposal subject to water supplies for firefighting and fire service installations (FSIs) being provided to his satisfaction.
- (b) Detailed fire safety requirements will be formulated upon receipt of formal submission of general building plans.
- (c) Furthermore, the EVA provision in the Site shall comply with the standard as stipulated in Section 6, Part D of the Code of Practice for Fire Safety in Buildings 2011 under Building (Planning) Regulation 41D which is administrated by the Buildings Department.

Urban Design and Landscape

- 9.1.8 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

Visual

- (a) According to the planning application, the proposed PR for house is increased from 0.4 to 0.5425 i.e. +0.1425 in “R(C)” zone; and PR from 0.2 to 0.5425 i.e. +0.3425 in “R(D)” zone. The BH of the house is also increased from 6m to 9m (+3m) in “R(D)” zone. As the scale of the development is small, the proposed PR and BH creating adverse visual impact to the surrounding area is not anticipated. Thus, he has no comment from visual impact point of view.

Landscape

- (b) With reference to the aerial photo of 2018, it is observed that the Site is mainly hard paved with a few trees along the southern periphery. The Site is situated in an area of rural fringe landscape character. Significant change to the landscape character arising due to the application is not envisaged.

Others

- 9.1.9 Comments of the Chief Town Planner/Housing and Office Land Supply, Planning Department (CTP/HOLS, PlanD):

The Site falls within the Study Site of the on-going Preliminary Land Use Study for Lam Tei Quarry and the Adjoining Areas (the Study) jointly commissioned by CEDD and PlanD. He has no specific comment on the application as far as the Study is concerned.

District Officer's Comments

- 9.1.10 Comments of the District Officer (Tuen Mun), Home Affairs Department (DO(TM), HAD):

He has distributed consultation letters to the locals concerned and understand that they would provide their comments (if any) to the Board direct. He has no further comment.

- 9.2 The following government departments have no comment on the application:

- (a) Director of Leisure and Cultural Services (DLCS);
- (b) Director of Food and Environmental Hygiene (DFEH);
- (c) Director of Electrical and Mechanical Services (DEMS);
- (d) Director of Agriculture, Fisheries and Conservation (DAFC);
- (e) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD);
- (f) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (g) Head (Geotechnical Engineering Office), Civil Engineering and Development Department (H(GEO), CEDD);
- (h) Executive Secretary (Antiquities and Monuments), Antiquities and Monuments Office (ES (A&M), AMO); and
- (i) Commissioner of Police (C of P).

10. Public Comment Received During Statutory Publication Period

On 21.12.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 11.1.2019, 14 public comments were received. A member of the Tuen Mun District Council supported the application without giving specific reason (**Appendix III-1**). 12 public comments from local villagers and nearby residents were submitted in standard letter (sample is attached at **Appendix III-2**) object to the application on the grounds of the proposed relaxation would lead to adverse traffic impact, concerns on traffic safety and setting an undesirable precedent to similar planning applications. An individual objects to the application on the ground that the government land with appropriate zoning should be devoted to provide essential homes, but not luxury premises and at grade parking (**Appendix III-3**). All the public comments received are deposited at the Board's Secretariat for Members' reference.

11. Planning Considerations and Assessments

- 11.1 The application is for a proposed house with minor relaxation of plot ratio and building height restrictions. The Site falls within an area partly zoned “R(C)” which is intended primarily for low-rise, low-density residential developments and partly zoned “R(D)” which is intended primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings and also intended for low-rise, low-density residential developments subject to planning permission from the Board. The proposed development is generally in line with the planning intentions of “R(C)” and “R(D)” zones.
- 11.2 According to the Notes of the OZP, ‘House’ within “R(C)” zone is always permitted and restricted to a maximum PR of 0.4 and a maximum BH of 3 storeys (9m) including car park. Within “R(D)” zone, ‘House (not elsewhere specified)’ is a Column 2 use¹ requiring planning permission from the Board and restricted to a maximum PR of 0.2 and a maximum BH of 2 storey (6m). According to the ES of the OZP, the provisions for minor relaxation of the PR and BH restrictions for the zones are to provide flexibility for innovative design adapted to the characteristics of particular sites. Each proposal will be considered on its individual planning merits.
- 11.3 According to the applicant, about 62% of the Site fall within the “R(C)” zone, while about 38% of the Site fall within the “R(D)” zone. Except the proposed BH of 9m in “R(C)” zone portion, which is in line with the development restriction, planning permission is sought for minor relaxation of PR for the “R(C)” zone portion from 0.4 to 0.5425 (+35.6%) and for the “R(D)” zone portion from 0.2 to 0.5425 (+171%) and minor relaxation of BH for the “R(D)” zone portion from 2 storeys (6m) to 9m (+50%). The application site includes a portion of government land (about 142m², 26% of the site area). No strong planning justification has been provided for inclusion of the government land into the Site. If the government land is excluded from PR calculation, the PR for the proposed development will be increased to be about 0.733 (+267%²) which is considered excessive. DLO/TM of LandsD advised that if planning approval is given to the planning application, the applicant will need to submit a revised land exchange application to LandsD to effect the proposal. There is no guarantee that the application, if received by LandsD, will be approved or approval will be given to utilize the government land concerned or a right of way will be given. He would reserve his comments on such.
- 11.4 As stated in the Remarks of the Notes of the OZP for the “R(C)” and “R(D)” zones, ancillary car park may be disregarded for determining the maximum PR. According to the applicant, the GFA of the car park at G/F is 92.8 m². Should the car park GFA be exempted, the PR of the whole development (about 0.3728)

¹ According to the Notes of the OZP, within “R(D)” zone ‘House (Redevelopment; Addition, Alteration and/or Modification to existing house only)’ is always permitted.

² The calculation of PR of development on a site straddling more than one land use zone should base on the zone with lower PR. The PR of about 0.733 would exceed the PR restriction of 0.2 of the “R(D)” zone (+267%).

would still exceed the PR restriction of 0.2 (+86.4%), which should be the basis to assess the minor relaxation of PR for the development on the Site as a whole. According to the applicant, the proposed relaxation of PR restriction is to fully utilize the land to meet the housing demand in Hong Kong, while the proposed relaxation of BH in “R(D)” zone is to follow the restrictions in “R(C)” zone so as to tally with other developments in “R(C)” zone. In this regard, CTP/UD&L of PlanD considers that the proposed PR and BH would unlikely result in adverse visual impacts on the surrounding area. However, in term of his justification to fully utilize the land to meet the housing demand in Hong Kong, the proposed minor relaxation of PR and BH restrictions for one single housing unit is considered not a planning merit.

- 11.5 The applicant has not submitted any strong planning justification for minor relaxation of PR in both “R(C)” and “R(D)” zones and minor relaxation of BH in “R(D)” zone. No similar application has been approved within the planning scheme area.
- 11.6 Other concerned government departments including DLO/TM of LandsD, C for T, CE/MN of DSD, DEP, D of FS and DO(TM) have no objection to or adverse comment on the application.
- 11.7 Regarding the public comments, the planning considerations and assessments in paragraphs 11.1 to 11.6 above are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessment made in paragraph 11 above and having taken into account the public comments mentioned in paragraph 10 above, the Planning Department does not support the application for the following reasons:

there is no strong planning justification in the submission for minor relaxation of the plot ratio and building height restrictions.

- 12.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until 1.2.2023, and after the said date, the permission shall cease to have effect unless before the said date, the development permitted is commenced or the permission is renewed. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) the provision of water supplies for firefighting and fire service installations to the satisfaction of the Director of Fire Services or of the Town Planning Board; and
- (b) the design and provision of vehicular access for the proposed development to the satisfaction of the Commissioner for Transport and the Director of Highways or of the Town Planning Board.

Advisory Clauses

The recommended advisory clauses are at **Appendix IV**.

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 date when the validity of the permission should expire.
- 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 13.12.2018
Appendix Ia	E-mail dated 19.12.2018 providing replacement page of the application form and a revised proposed layout plan
Appendix Ib	E-mail dated 24.12.2018 providing minor clarification on sewage treatment and a revised proposed regrant lot plan <i>(accepted and exempted from publication and recounting requirements)</i>
Appendix Ic	E-mail dated 27.12.2018 providing a revised proposed layout plan <i>(accepted and exempted from publication and recounting requirements)</i>
Appendix Id	E-mail dated 3.1.2019 providing responses to departmental comments <i>(accepted and exempted from publication and recounting requirements)</i>
Appendix Ie	E-mail dated 7.1.2019 providing responses to departmental comments and revised planning justification <i>(accepted and exempted from publication and recounting requirements)</i>
Appendix If	E-mail dated 11.1.2019 providing responses to departmental comments <i>(accepted and exempted from publication and recounting requirements)</i>
Appendix II	Previous Application
Appendices III-1 to III-3	Public Comments received during statutory publication period
Appendix IV	Advisory Clauses
Drawing A-1	Lot Index Plan
Drawing A-2	Proposed Master Layout Plan
Drawing A-3	Proposed Surrender and Regrant Lot Plan
Drawings A-4 to A-7	Proposed Floor Plans
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos