

**APPLICATION FOR RENEWAL OF PLANNING APPROVAL
FOR TEMPORARY USE
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

APPLICATION NO. A/YL-TT/454

<u>Applicant</u>	: Ming Fung Auto Car Limited represented by R-riches Property Consultants Limited
<u>Site</u>	: Lots 1012 S.A RP, 1037(A) & (B), 1038, 1039, 1040, 1041 and 1042 in D.D. 115, Au Tau, Yuen Long, New Territories
<u>Site Area</u>	: 1,708 m ² (about)
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Tai Tong Outline Zoning Plan (OZP) No. S/YL-TT/16
<u>Zoning</u>	: “Residential (Group C)” (“R(C)”) (restricted to a maximum plot ratio of 0.4 and a maximum building height of 3 storeys (9m))
<u>Application</u>	: Renewal of Planning Approval for Temporary "Wholesale Centre of Auto Parts and Car Sales Centre" for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning approval for temporary wholesale centre of auto parts and car sales centre for a period of 3 years at the application site (the Site) for a further period of 3 years (**Plan A-1**). The Site is currently occupied for the applied use with valid planning permission under Application No. A/YL-TT/374 (**Plans A-2 and A-4a to A-4c**).
- 1.2 The Site was subject to 5 previous planning applications (No. A/YL-TT/140, 203, 260, 314 and 374) for similar temporary wholesale centre for auto parts and/or showroom/ car sales centre use. The last application (No. A/YL-TT/374) for temporary wholesale centre of auto parts and car sales centre was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Town Planning Board (the Board) for a period of 3 years on 18.3.2016. All the time-limited approval conditions under the last application (No. A/YL-TT/374) have been complied with and the permission is valid up to 18.3.2019. Details of

the previous applications are at paragraph 6 and **Appendix III**. Compared with the last application, the current application is submitted by the same applicant for the same applied use on the same site with the same layout and development parameters.

- 1.3 The Site is accessible from Castle Peak Road – Yuen Long to its north via a local access track. An ingress/egress is provided at the southwestern periphery of the Site (**Plan A-2 and Drawing A-1**). According to the applicant, no workshop activities will be carried out on the Site. No medium or heavy goods vehicle exceeding 5.5 tonnes will be allowed to enter/be parked at the Site. The proposed parking spaces are for the employees and visitors. Plans showing the vehicular access leading to the Site, the site layout, landscape and drainage proposal submitted by the applicant are at **Drawings A-1 to A-4** respectively.
- 1.4 The major development parameters, which are the same as application No. A/YL-TT/374, are as follows:

Site Area	About 1,708 m ²
Total Floor Area (Non-domestic)	702.8 m ²
No. of Structures	7 (for site office and reception, car show room, fire system pump and control room, storage of auto part and vehicles and toilet)
Height of Structures	2.5m to 5.8m (about) (1-2 storeys)
Parking Spaces	11 (for private cars)
Loading/Unloading Spaces	1 (for light goods vehicle)
Operation Hours	9:00 a.m. to 6:00 p.m. daily

- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with plans and appendix received on (**Appendix I**) 5.12.2018
 - (b) Further Information received on 22.1.2019 providing (**Appendix Ia**) clarifications on the operation hours, workshop activities and estimated vehicular trip generation
[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 in the appendix of the application form at **Appendix I** and supplementary information at **Appendix Ia**. They can be summarised as follows:

- (a) The Site is currently used for the applied use with valid planning permission under Application No. A/YL-TT/374. Compared with the last approved application, the subject application is for the same use with the same major development parameters and operation hours.
- (b) Only private car and light goods vehicle not exceeding 5.5 tonnes will be allowed to enter/be parked at the site. There would be no dismantling, maintenance, repairing, cleansing, paint spraying, car washing or other workshop activities on the Site. The estimated vehicular trip generation of the site is about 3 to 10 trips per hour. Vehicles will also be prohibited to queue back to or reverse onto/from public road.

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 a notice of the application outside the Site and sending the notice to the Shap Pat Heung Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

The Town Planning Board Guidelines for “Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development” (TPB PG-No. 34B) are relevant to the application. The relevant assessment criteria are attached at **Appendix II**.

5. Background

Since the Site is covered by valid planning permission (No. A/YL-TT/374) it is currently not subject to any planning enforcement action. Follow-up investigation will be taken upon expiry of the current planning permission if the subject application is not approved by the Board.

6. Previous Applications

- 6.1 The Site was the subject of 5 previous planning applications (No. A/YL-TT/140, 203, 260, 314 and 374) for similar temporary wholesale centre for auto parts and/or showroom/car sales centre uses submitted by various applicants covering the same site except for Application No. A/YL-TT/140 which covered a much larger site. Details of the applications are summarised in **Appendix III** and the boundaries of the sites are shown on **Plan A-1**.
- 6.2 Application No. A/YL-TT/140 submitted by a different applicant for temporary showroom and godown for car accessories and parts with ancillary workshop for

installation work was approved with conditions for a period of 3 years by the Board on review on 23.5.2003 on the consideration that the proposed use was tidy and akin to a shop; it would be operated within enclosed structures; and the applicant had undertaken to exclude the workshop use from the application. All the time-limited approval conditions were complied with and the planning permission lapsed on 24.5.2006.

- 6.3 Applications No. A/YL-TT/203, 260 and 314 for temporary wholesale centre of auto parts and storage submitted by a different applicant were approved with conditions each for a period of 3 years by the Committee on 2.2.2007, 23.4.2010 and 2.8.2013 respectively on the consideration that similar approval was granted and the applied use would be operated within enclosed structures and there were no environmental complaints and no adverse departmental comments. The planning permissions under Applications No. A/YL-TT/203 and 314 were subsequently revoked on 2.11.2009 and 2.7.2015 respectively due to non-compliance with approval conditions on fire safety aspect.
- 6.4 Application No. A/YL-TT/374 for the same use as the current application was approved with conditions by the Committee on 18.3.2016. All the time-limited approval conditions under this application have been complied with and the planning approval is valid up to 18.3.2019.
- 6.5 Compared with the last application, the current application is submitted by the same applicant for the same use on the same site with the same site layout and development parameters.

7. The Site and Its Surrounding Areas (Plans A-1 and A-2 to A-4c)

7.1 The Site is:

- (a) accessible from Castle Peak Road – Yuen Long to its north via a local road;
- (b) largely fenced off and paved; and
- (c) currently occupied for the applied use with valid planning permission under Application No. A/YL-TT/374.

7.2 The surrounding areas have the following characteristics:

- (a) the surrounding land uses are mixed with residential developments, various government, institution or community facilities (including schools, elderly home, electricity substation and premises for various associations), petrol filling station, parking of vehicles, open storage yards, vehicle repair workshops, vacant land/structures and some unused land (**Plan A-2**);
- (b) a petrol filling station is located to its immediate west in an area zoned “Other Specified Uses” annotated “Petrol Filling Station” on the OZP;

- (c) an elderly home and residential developments are located to its immediate northeast, east and southeast, with the nearest residence located to the immediate south of the Site separated by fencing; and
- (d) some open storage yards, storages and vehicle repair workshop in the subject “R(C)” zone and the “Undetermined” zone on the approved Nam Sang Wai OZP No. S/YL-NSW/8 across the Castle Peak Road – Yuen Long are suspected unauthorised developments subject to enforcement action taken by the Planning Authority.

8. Planning Intention

The planning intention of the “R(C)” zone is primarily for low-rise, low-density residential developments where commercial uses serving the residential neighbourhood may be permitted on application to the Board.

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/Yuen Long, Lands Department (DLO/YL, LandsD):

- (a) The Site comprises Old Schedule Agricultural Lots held under Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.
- (b) Lot Nos. 1012 S.A RP, 1037 (A) & (B), 1038 & 1041 in D.D. 115 are covered by Short Term Waiver (STW) No. 3449 and Lot Nos. 1039, 1040 & 1042 in D.D. 115 are covered by STW No. 3450, both of which permit the structure(s) erected thereon for the purpose of “Wholesale center of auto parts & storage”.
- (c) The Site is accessible from Castle Peak Road – Yuen Long via Government Land (GL). Her office provides no maintenance work for the GL involved and does not guarantee any right-of-way over the GL to the Site.
- (d) The Site falls within Shek Kong Airfield Height Restriction Area (SKAHRA). The height of the proposed structure(s) shall not exceed the relevant airfield height limit within SKAHRA.
- (e) Should planning approval be given to the subject application, the STW holder(s) will need to apply to her office for modification of the STWs conditions where appropriate. Besides, given the

proposed use is temporary in nature, only application for regularisation or erection of temporary structure(s) will be considered. No construction of New Territories Exempted Building(s) will be considered or allowed. Applications for any of the above will be considered by her department acting in the capacity as landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application(s) 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 her department.

Traffic

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

- (a) The land status of the access road/path/track leading to the Site from Castle Peak Road – Yuen Long should be checked with the lands authority.
- (b) The management and maintenance responsibilities of the access road/path/track should be clarified with the relevant management and maintenance authorities accordingly.
- (c) The applicant is reminded that sufficient space should be provided within the site for manoeuvring of vehicles. In addition, no parking, queuing and reverse movement of vehicles on public road are allowed.
- (d) No medium or heavy goods vehicle exceeding 5.5 tonnes, including container tractor/trailer, should be allowed to park or enter/exit the Site.

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

- (a) The proposed access arrangement of the Site from Castle Peak Road – Yuen Long should be commented by the Transport Department.
- (b) His department shall not be responsible for the maintenance of the existing vehicular access connecting the Site and Castle Peak Road – Yuen Long.
- (c) Adequate drainage measures should be provided at the Site to prevent surface water running from the Site to nearby public roads and drains.

Environment

9.1.4 Comments 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” (Code of Practice), he has no objection to the application and the applicant is advised to follow the Code of Practice.
- (b) There was no environmental complaint concerning the Site received in the past 3 years.

Drainage

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

- (a) He has no in-principle objection to the proposed development.
- (b) Based on the application (**Appendix I**), the applicant would maintain the same drainage facilities as those implemented under the previous Application No. A/YL-TT/374.
- (c) Should the Board consider that the application is acceptable from the planning point of view, approval conditions requiring the maintenance of the existing drainage facilities implemented under Application No. A/YL-TT/374 and the submission of records of the existing drainage facilities on the site to the satisfaction of the Director of Drainage Services or of the Board should be stipulated.

Fire Safety

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

- (a) He has no objection in-principle to the proposal subject to fire service installations (FSIs) being provided to his satisfaction.
- (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.
 - (ii) The location of where the proposed FSIs to be installed should be clearly marked on the layout plans.
- (c) However, the applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (BO) (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Building Matters

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

- (a) As there is no record of approval by the Building Authority for the structures existing at the site, he is not in position to offer comments on their suitability for the use proposed in the application.
- (b) The applicant's attention is drawn to the following points:
 - (i) Before any new building works (including containers/ open sheds as temporary buildings) are to be carried out on the site, prior approval and consent of BD should be obtained, otherwise they are unauthorised building works (UBW). An Authorised Person should be appointed as the co-ordinator for the proposed building works in accordance with BO.
 - (ii) If the existing structures (not being a New Territories Exempted House) are erected on leased land without approval of BD, they are UBW under BO and should not be designated for any approved use under the application.
 - (iii) For UBW erected on leased land, enforcement action may be taken by 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 BO.
 - (iv) 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 (B(P)R) 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 B(P)R at the building plan submission stage.

District Officer's Comments

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

His office has not received any public comments during the consultation period.

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

- (a) Director of Agriculture, Fisheries and Conservation (DAFC);
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (c) Director of Electrical and Mechanical Services (DEMS);
- (d) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD); and
- (e) Commissioner of Police (C of P).

10. Public Comment Received During the 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, one public comment from a private individual was received raising objection to the application on the grounds that the subject use should not be allowed to frustrate the planning intention of the OZP (**Appendix IV**).

11. Planning Considerations and Assessments

- 11.1 The subject application is for renewal of the planning permission under previous Application No. A/YL-TT/374 for temporary wholesale centre of auto parts and car sales centre for a period of 3 years at a site zoned “R(C)” on the OZP. The planning intention of the “R(C)” zone is primarily for low-rise, low-density residential developments and the applied use is not entirely in line with the planning intention of the “R(C)” zone. However, as the application is for temporary use of the Site for 3 years only, approval of the application on a temporary basis would not frustrate the long term planning intention for the Site.
- 11.2 The subject site is located at the fringe of the “R(C)” zone with a petrol filling station adjoining to its immediate west and some residential structures/development in the vicinity. The site is also abutting the major thoroughfare of Castle Peak Road – Yuen Long. The proposed wholesale/car sales centre use with operation within enclosed structures is considered not incompatible with the surrounding land uses.
- 11.3 The application is generally in line with TPB PG-No. 34B in that there has been no material change in planning circumstances since the granting of the previous approval under Application No. A/YL-TT/374; the approval conditions of the previous application have been complied with; the 3-year approval period sought is of the same timeframe as the previous approval; and no adverse planning implications arising from the renewal of the planning approval is envisaged.
- 11.4 Concerned Government departments consulted, including DEP, CE/MN, DSD, C for T and D of FS, have no adverse comment on the application. There has been no environmental complaint concerning the Site in the past 3 years. Relevant approval conditions are also recommended in paragraph 12.2 below to mitigate any potential nuisance generated by the use or to address the technical concerns of the concerned Government departments. Any non-compliance with the approval

conditions will result in revocation of the planning permission and unauthorised development on the Site will be subject to enforcement action by the Planning Authority. Moreover, the applicant will be advised to follow the latest Code of Practice in order to minimise any potential environmental impact and to keep the site in a clean and tidy condition at all times.

- 11.5 The Site has been granted with 5 previous approvals (Applications No. A/YL-TT/140, 203, 260, 314 and 374) for similar temporary wholesale centre and/or showroom/car sales centre. Approval of the renewal application is in line with the Committee's previous decisions. All the time-limited approval conditions under the last application have been complied with and the permission is valid up to 18.3.2019.
- 11.6 There is one public comment (**Appendix IV**) received during the statutory publication period raising objection on the ground that the subject use should not be allowed to frustrate the planning intention of the OZP. The above planning considerations and assessments in paragraphs 11.1 to 11.5 are relevant.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comment as mentioned in paragraph 10 above, the Planning Department considers that the temporary wholesale centre of auto parts and car sales centre could be tolerated for a period of 3 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 further period of 3 years from 19.3.2019 to 18.3.2022. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 6:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the site during the planning approval period;
- (b) no dismantling, maintenance, repairing, cleansing, paint spraying, car washing or other workshop activities, as proposed by the applicant, is allowed on the site at any time during the planning approval period;
- (c) no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractor/trailer, as defined in the Road Traffic Ordinance, is allowed to be parked/stored on or enter/exit the site, as proposed by the applicant, at any time during the planning approval period;
- (d) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (e) the existing drainage facilities on the site shall be maintained at all times during the planning approval period;

- (f) the submission of records of the existing drainage facilities on the site within **3** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 19.6.2019;
- (g) all existing trees and landscape plantings within the Site 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 the Director of Fire Services or of the Town Planning Board by 19.9.2019;
- (i) in relation to (h) above, the implementation of fire service installation proposal within **9** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 19.12.2019;
- (j) if any of the above planning conditions (a), (b), (c), (d), (e) 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 conditions (f), (h) or (i) 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; and
- (l) upon the expiry of the planning permission, the reinstatement of the site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

[Approval conditions (a) to (f) and (h) to (i) are the same as those under the permission for application No. A/YL-TT/374, while the approval condition on submission and implementation of tree preservation and landscape proposal is deleted and an approval condition requiring the maintenance of all existing trees and landscape plantings is updated to accord with the department's latest requirements.]

Advisory clauses

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

- 12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the applied use is not in line with planning intention of the "Residential (Group C)" zone which is primarily for low-rise, low-density residential developments. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis.

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 reasons for rejection should be given to the applicant.

14. Attachments

Appendix I	Application Form with plans and appendix received on 5.12.2018
Appendix Ia	Further Information received on 22.1.2019 providing clarifications on the operation hours, workshop activities and estimated vehicular trip generation.
Appendix II	Relevant extract of the Town Planning Board Guidelines for Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development (TPB PG-No. 34B)
Appendix III	Previous Applications covering the Application Site
Appendix IV	Public Comment received during the Statutory Publication Period
Appendix V	Recommended Advisory Clauses
Drawing A-1	Plan showing the Vehicular Access Leading to the Site
Drawing A-2	Site Layout Plan
Drawing A-3	Landscape Plan
Drawing A-4	Drainage Plan
Plan A-1	Location Plan with Previous Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A-4c	Site Photos

**PLANNING DEPARTMENT
FEBRUARY 2019**