

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/901

<u>Applicant</u>	: 張木金 represented by Goldrich Planners & Surveyors Limited
<u>Site</u>	: Lots 2460 S.A, 2460 S.C, 2460 S.D (Part), 2461 (Part), 2462 RP (Part) and 2464 RP in D.D. 120, Lam Hau Tsuen, Yuen Long, New Territories
<u>Site Area</u>	: 4,733.4m ² (about)
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Draft Tong Yan San Tsuen Outline Zoning Plan (OZP) No. S/YL-TYST/11
<u>Zoning</u>	: “Village Type Development” (“V”) [Restricted to a maximum building height of 3 storeys (8.23m)]
<u>Application</u>	: Proposed Temporary Place of Recreation, Sports or Culture (Hobby Farm) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary place of recreation, sports or culture (hobby farm) for a period of 3 years (**Plan A-1**). According to the Notes of the OZP for the “V” zone, ‘Place of Recreation, Sports or Culture’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The applicant seeks planning permission for 3 years. Currently, the Site is mostly vacant with a temporary structure occupying the western portions of the Site without valid planning permission (**Plans A-2, A-4a to A-4c**). The Site is not involved in any previous application.
- 1.2 The Site is accessible through Lam Hau Tsuen Road via a local track (**Plan A-1 and Drawing A-1**) with two vehicular/pedestrian ingresses/egresses at the southern periphery of the Site (**Plan A-2 and Drawings A-2**). Another four pedestrian entrances are proposed to provide access between the detached part of the Site and the major part of the Site (**Drawing A-2**). According to the applicant, the hobby farm is intended for small groups of people who would like to experience the agricultural lifestyle. 74% of the Site would remain unpaved for open-air farming and internal circulation on existing natural earth ground, whilst

26% of the Site would be paved for proposed structures and car parkings. There are 10 proposed farm areas, of which 6 of them (FA1 to FA6 in **Drawing A-2**) will be used for planting vegetables by its own staff and 4 of them (FA7 to FA10 in **Drawing A-2**) will be rent out to visitors to grow their own crops. The existing on-site structures are made of metal sheets and will be modified accordingly upon approval. No loud speaker, public announcement system or whistle blowing will be allowed on site, and no barbecue activities will be carried out on site. Also, no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, will be allowed on site. A plan showing the vehicular access leading to the Site, the site layout plan, the landscape plan, swept path analysis (vehicle in and out) and a plan showing the paved area submitted by the applicant are at **Drawings A-1 to A-6** respectively.

1.3 The major development parameters of the application are summarized as follows:

Site Area	4,733.4m ²
Total Floor Area (Non-domestic)	170.95m ²
No. of Structures	3 (for resting area, storage, toilet and open shed uses)
Height of Structures	3m (1 storey)
Parking Spaces	2 for light buses and 5 for private cars
Loading/Unloading Spaces	1 for light goods vehicle
Operation Hours	9:00 a.m. to 7:00 p.m. daily (including Sundays and public holidays)
Visitors	Maximum 30 visitors per day

1.4 In support of the application, the applicant has submitted the following documents:

- (a) Application Form with Appendix and Plans received on 17.5.2018 **(Appendix I)**
- (b) Further Information dated 30.5.2018 clarifying the mode of operation of proposed hobby farm **(Appendix Ia)**
- (c) Further Information dated 20.6.2018 providing responses to the Transport Department's comments, information on paved/un-paved area, background and operation details of the Site **(Appendix Ib)**

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the justification statement of the Application Form at **Appendix I** and further information at **Appendices Ia and Ib**. They can be summarized as follows:

- (a) The proposed temporary hobby farm is intended for small groups of people who would like to experience agricultural lifestyle. Visitors can engage in agricultural

activities throughout the week. Daily agricultural works will be maintained by the staff.

- (b) In addition to the existing trees within the Site, vegetables will be planted in the farming area.
- (c) Visitors can hand-pick and purchase the product that are grown by the staff. The hobby farm will provide farming tools, fertilizers, soil and seeds for the participants who have rented a plot of land for hobby farming. Participants can visit the hobby farm and care for their plants during operation hours. Booking in advance is required and number of visitor should be provided before the visit. The targeted visitors are families, schools, and other institutions. The staff will maintain all farm areas and take care of the crops regularly.
- (d) The proposed development promotes agricultural activities and green lifestyle to the public. It improves environmental quality in the vicinity and benefits the local community. It also provides a place for environmental education and eco-tourism activities.
- (e) Part of the Site was the subject of a rejected Small House Application. To utilize the land without hindering its long-term development, the applicant thus proposed to turn it into a hobby farm to promote agricultural activities and green lifestyle to the public. Moreover, due to its close proximity to schools and the Yuen Long town centre, it is convenient for the public and organizations to visit the Site.
- (f) Residential dwellings are found in the proximity of the Site, the applicant thus endeavours to reduce the noise impact from the proposed hobby farm. No loud speaker, public announcement system or whistle blowing will be allowed throughout the approval period. Also, no barbecue activities will be held on site. No adverse noise impact is anticipated to the surrounding environment.
- (g) There will be no adverse visual, landscape and traffic impacts. The proposed development is visually compatible with the surrounding low-density developments. The existing 14 trees will be properly maintained. 2 light bus parking spaces are proposed to serve organisations that bring groups of visitors to the Site. Considering that both 16-seats and 24-seats lights buses will be used for transportation, a corresponding numbers of light bus parking spaces to cater for the maximum 30 visitors per day is proposed. It is expected that most individual participants would drive to the Site to engage in farming activities.

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 near to the entrance of the Site and sending the notice to the Ping Shan Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

Part of the Site is the subject of planning enforcement action on unauthorized parking of vehicles. Enforcement Notice (EN) was issued on 6.2.2018 requiring the concerned parties to discontinue the unauthorized development (UD) by 6.4.2018. The UD was discontinued upon EN expiration and the case is under monitoring by the Planning Authority.

5. Previous Application

The Site was not involved in any previous application.

6. Similar Application

There is no similar application within the subject “V” zone on the OZP.

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

7.1 The Site is:

- (a) accessible through Lam Hau Tsuen Road via a local track;
- (b) partly hard-paved and partly grown with grasses;
- (c) partly fenced off; and
- (d) mostly vacant with a temporary structure for storage and office use occupying the western portions of the Site without valid planning permission.

7.2 The surrounding areas have the following characteristics:

- (a) the surrounding areas mainly comprise rural residential dwellings/structures, small houses which are works in progress, sitting-out area, basketball court, parking of vehicles, shrine, cultivated agricultural land and unused/vacant land;
- (b) to its north is a sitting-out area and basketball court and to its further north is Yuen Long Highway;
- (c) to its east are residential dwellings/structures and parking of vehicles;
- (d) to its south are also residential dwellings/structures, small houses which are works in progress, cultivated agricultural land and unused/vacant land;
- (e) to its west, further west and further southwest are parking of vehicles and vacant land;

- (f) except the shrine to its northwest, the parking of vehicles in its vicinity are mostly suspected UD subject to enforcement action taken by the Planning Authority.

8. Planning Intention

The planning intention of the “V” zone is to designate both existing recognized villages and areas of land considered suitable for village expansion. Land within the zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within the zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on the ground floor of a New Territories Exempted House. Other commercial, community and recreational uses 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 summarized 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 the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.
- (b) The Site is accessible to Lam Hau Tsuen Road via GL. Her office does not provide maintenance work for GL involved and does not guarantee any right-of-way over the GL to the Site.
- (c) There is no Small House application approved/under processing at the Site currently.
- (d) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (e) Portion of the Site falls within “Fung Shui Area” of Lam Hau Tsuen.
- (f) Should planning approval be given to the subject planning application, the lot owner(s) will need to apply to her office to permit the structures to be erected or regularize any irregularities on site. Such application(s) will be considered by LandsD acting in the capacity as the landlord or lessor at

its sole discretion and there is no guarantee that such application(s) 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 LandsD.

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 Lam Hi Road shall be checked with the lands authority.
- (b) The management and maintenance responsibilities of the access road/path/track shall 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.

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

- (a) The access arrangement should be commented by the Transport Department.
- (b) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads/drains.
- (c) His department shall not be responsible for the maintenance of any access connecting the Site and Lam Hi Road.

Environment

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

- (a) Provided that the applicant would minimize any noise from the proposed use such as prohibiting the use of public announcement system, portable loudspeakers or any form of audio amplification system so that it would not cause any environmental nuisance to nearby sensitive receivers, he has no objection to the application from environmental planning perspective. The applicant is advised to follow the relevant mitigation measures and requirements in the revised “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” to minimise any potential environmental nuisance.
- (b) The applicant should be reminded that it is the obligation of the

applicant to meet the statutory requirements under relevant pollution control ordinances and provide adequate supporting infrastructure/ facilities for proper collection, treatment and disposal of waste/ wastewater generated from the proposed use. Sewage discharge should be directed to nearby public sewer. If septic tank and soakaway system will be used in case of unavailability of public sewer, its design and construction shall follow the requirements of the Environmental Protection Department's Practice Note for Professional Person (ProPECC) PN 5/93 "Drainage Plans subject to Comment by the Environmental Protection Department".

Landscape

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

- (a) The Site located in Lam Hau Tsuen falls within an area zoned "V" on the draft Tong Yan San Tsuen Outline Zoning Plan No. S/YL-TYST/11. The current application is for planning permission for recreation, sports or culture (hobby farm) uses for a period of 3 years.
- (b) With reference to the information submitted and her site visit dated 8.6.2018, there are some existing trees along/ in the proximity of the boundary and will be preserved on site that significant landscape impact arising from the proposed uses on the area is not anticipated. Therefore, she has no objection to the application from the landscape planning perspective.
- (c) Should the Board approve this application in view of the above, she would recommend the approval condition for maintenance of all existing trees and landscape plantings within the Site at all times be applied in the planning permission.
- (d) The applicant should note that with reference to her site visit dated 8.6.2018, the existing trees as shown in **Drawing A-3** seems to be inaccurate.
- (e) The applicant shall take reference to the following information/guideline published by the Greening, Landscape and Tree Management Section, Development Bureau for tree maintenance: 私人物業樹木護理資料 Information About Tree Maintenance For Private Properties (https://www.greening.gov.hk/tc/tree_care/Handbook_on_Tree_Management.html), 護養樹木的簡易圖解 Pictorial Guide for Tree Maintenance (https://www.greening.gov.hk/filemanager/content/pdf/tree_care/Pictorial_Guide_for_Tree_Maintenance.pdf).

9.1.6 Comments of the Director of Leisure and Cultural Services (DLCS):

According to the applicant's application for permission under section 16 of the Town Planning Ordinance (Cap.131) (Form No. S16-3), it is said that the development proposal would not involve felling of trees and/or cause damage to branches and roots of trees. However, the applicant is reminded of the followings:

- (i) From tree preservation point of view, every possible effort should be made to preserve existing trees within and adjacent to the work site and minimize the adverse impact to them during the works period.
- (ii) If trees are inevitably affected including dead trees, Tree Preservation and Removal Proposal (TPRP) should be submitted for approval in accordance with DEVB TC(W) No. 7/2015.
- (iii) Maintenance of the trees should rest with the project proponent/management of the Site, as appropriate.

Drainage

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

- (a) He has no in-principle objection to the proposed development from the public drainage point of view.
- (b) Should the Board consider the application is acceptable from the planning point of view, approval conditions requiring the submission and implementation of a drainage proposal to the satisfactions of the Director of Drainage Services or of the Board, and maintenance of the drainage facilities should be stipulated.

Fire Safety

9.1.8 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. In addition, 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 (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Building Matters

9.1.9 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 (BA) for the existing structures at the Site, he is not in a 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) If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of the Building Department (BD), they are unauthorised building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any proposed use under the application.
 - (ii) 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 works or UBW on the Site under the BO.
 - (iii) 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 BD should be obtained, otherwise they are UBW. An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the 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

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

His office has received one reply from local consultees regarding the application. The comment received is identical to one of the comments received by the Board (**Appendix II-2**). Details of the comments are in paragraph 10.2 below.

9.2 The following government departments have no comments on the application:

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

10. Public Comment Received During the Statutory Publication Period

10.1 On 29.5.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 19.6.2018, a total of three public comments were received from members of the public.

10.2 A commenter has concern on spreading of virus from the hobby farm (**Appendix II-1**). Another commenter objects to the application on the grounds that the Site is located within the Fung Shui area of Lam Hau Tsuen and there are UD and traffic issues (**Appendix II-2**). The remaining commenter suggests using the Site for temporary housing (**Appendix II-3**).

11. Planning Considerations and Assessments

11.1 The current application is for temporary place of recreation, sports or culture (hobby farm) at the Site zoned "V" on the OZP. The planning intention of the "V" zone is primarily to designate both existing recognized villages and areas of land considered suitable for village expansion and for development of Small Houses by indigenous villagers. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on the ground floor of a NTEH. Other commercial, community and recreational uses may be permitted on application to the Board. The applied use is not entirely in line with the planning intention of "V" zone. However, according to DLO/YL of LandsD, there is no Small House application approved/under processing at the Site currently. In this regard, temporary approval of the application would not frustrate the long-term planning intention of the zoned use on the OZP.

11.2 The proposed development is not incompatible with the surrounding uses which are predominantly rural residential uses mixed with sitting-out area, basketball

court, parking of vehicles, shrine, cultivated agricultural land and unused/vacant land.

- 11.3 No significant nuisance to the surroundings is anticipated. Government departments consulted, including DEP, C for T, CHE/NTW of HyD, CE/MN of DSD, D of FS and LCSD, have no objection to or adverse comment on the application. Significant adverse environmental hygiene, traffic, landscape, drainage and sewerage impacts on the surrounding area are not envisaged. To avoid possible noise nuisance arising from the proposed development and to minimise other possible environmental nuisance, approval conditions restricting the operation hour, use of loud speaker, public announcement system and whistle blowing, as well as prohibiting barbecue activity are recommended in paragraphs 12.2(a) to (c) below. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorized development on the Site will be subject to enforcement action by the Planning Authority. Should the planning application be approved, the applicant will also be advised to follow the latest “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” in order to minimize any potential environmental impact and it is the obligation of the applicant to meet the statutory requirements under relevant pollution control ordinances and provide adequate supporting infrastructure/facilities for proper collection, treatment and disposal of waste/wastewater generated from the proposed development.
- 11.4 There are three public comments (**Appendices II-1 to II-3**) received during the statutory publication period as summarised in paragraph 10. Relevant government departments, including DLO/YL, CBS/NTW, BD and C for T, have been consulted and they have no adverse comments on or objection to the application. The planning considerations and assessments in paragraph 11.1 to 11.3 are also relevant.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments as mentioned in paragraph 10 above, the Planning Department considers that the temporary place of recreation, sports or culture (hobby farm) 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 period of 3 years until 6.7.2021. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation between 7:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no loud speaker, public announcement system and whistle blowing, as proposed by the applicant, is allowed on the Site at any time during the planning approval period;

- (c) no barbecue activity, as proposed by the applicant, is allowed on the Site 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) no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance, as proposed by the applicant, are allowed to be parked/stored on or enter/exit the Site, at any time during the planning approval period;
- (f) the provision of boundary fence on the Site within **6** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 6.1.2019;
- (g) the existing trees and landscape planting on the Site shall be maintained at all times during the approval period;
- (h) the submission of a drainage proposal within **6** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 6.1.2019;
- (i) in relation to (h) above, the implementation of the drainage proposal within **9** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 6.4.2019;
- (j) in relation to (i) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (k) the submission of a 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 6.1.2019;
- (l) in relation to (k) above, the implementation of fire service installations 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 6.4.2019;
- (m) if any of the above planning conditions (a), (b), (c), (d), (e), (g) or (j) 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;
- (n) if any of the above planning conditions (f), (h), (i), (k) or (l) 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
- (o) 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.

Advisory clauses

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

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

the proposed development is not in line with the planning intention of the "V" zone which is primarily for development of Small Houses by indigenous villagers. No strong planning justification has been given in the submission to justify 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 Appendix and Plans received on 17.5.2018
Appendix Ia	Further Information dated 30.5.2018 clarifying the mode of operation of proposed hobby farm
Appendix Ib	Further Information dated 20.6.2018 providing responses to the Transport Department's comments, information on paved/un-paved area, background and operation details of the Site
Appendices II-1 to II-3	Public Comments received during Statutory Publication Period
Appendix III	Recommended Advisory Clauses
Drawing A-1	Site Plan showing vehicular access leading to the Site
Drawing A-2	Site Layout Plan
Drawing A-3	Landscape Plan
Drawing A-4	Swept Path Analysis- Vehicle In
Drawing A-5	Swept Path Analysis- Vehicle Out

Drawing A-6	Plan showing the Paved Area
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A-4c	Site Photos

**PLANNING DEPARTMENT
JULY 2018**