

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL/242

<u>Applicant</u>	:	Bo Fat (Hong Kong) Development Limited represented by Goldrich Planners & Surveyors Ltd.
<u>Site</u>	:	Lot 1890 S.C RP (Part) in D.D. 120 and Adjoining Government Land, Kung Um Road, Yuen Long, New Territories
<u>Site Area</u>	:	72.9m ² (about) (including government land (GL) of about 9.5m ²)
<u>Lease</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Approved Yuen Long Outline Zoning Plan No. S/YL/23 (the OZP)
<u>Zoning</u>	:	“Residential (Group A)1” (“R(A)1”) [restricted to a maximum domestic plot ratio of 5 or a maximum non-domestic plot ratio of 9.5 and a maximum building height of 25 storeys excluding basement(s)]
<u>Application</u>	:	Temporary Shop and Services (Real Estate Agency) for a Period of 6 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary shop and services (real estate agency) for a period of 6 years (**Plan A-1**). According to the Notes of the OZP for “R(A)1” zone, ‘Shop and Services’ use requires planning permission from the Town Planning Board (the Board). For temporary uses of any land or building expected to be over 5 years, the uses must conform to the zoned use or these Notes. As such, the temporary real estate agency for a period of 6 years requires planning permission under section 16 of the Town Planning Ordinance. The Site is currently used for the applied use without valid planning permission (**Plans A-2, A-4a and A-4b**).
- 1.2 The Site was involved in one previous application (No. A/YL/230) by the same applicant for the same use (**Plan A-1**), which was approved by the Rural and New Town Planning Committee (the Committee) of the Board on a temporary basis for a period of 6 years on 7.4.2017. However, the planning permission was subsequently revoked due to non-compliance with associated approval conditions. Compared with the last application, the current application is

submitted by the same applicant for the same use on a similar site with similar layout.

1.3 According to the applicant, the applied development comprises a reception area, a meeting room, offices, a store room and a toilet under a structure covered and partitioned by metal sheets with a total gross floor area (GFA)/plot ratio (PR) of 72.9m²/1, site coverage (SC) of 100% and building height of 4m. The operation hours are between 9:00 a.m and 8:00 p.m. daily. A lot index plan with breakdown of private/government land areas and access road, a site layout plan, a proposed drainage plan and a proposed fire service installations (FSIs) plan submitted by the applicant are shown in **Drawings A-1 to A-4** respectively.

1.4 A comparison of the major development parameters of the current application and the last approved application is as follows:

Major Development Parameters	Previously Approved Application No. A/YL/230 (a)	Current Application No. A/YL/242 (b)	Difference (b)-(a)
Applied Use	Temporary Shop and Services (Real Estate Agency) for a Period of 6 Years		---
Site Area	85.7m ²	72.9m ²	-12.8m ²
Total GFA (Non-domestic)	74.7m ²	72.9m ²	-1.8m ²
No. of Structure	1		---
Uses	Reception area, meeting room, offices and toilets	Reception area, meeting room, offices, store room and toilet	
Height of Structure	4m (1 storey)		---
Operation Hours	9:00 a.m. to 8:00 p.m. daily		---

1.5 In support of the application, the applicant has submitted the following document:

- (a) Application form with attachments received on 13.2.2018 **(Appendix I)**
- (b) Supplementary Information received on 14.2.2018 clarifying the area of GL with replacement pages **(Appendix Ia)**
- (c) Further Information received on 26.2.2018 providing an FSIs proposal **(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 attached to the application form at **Appendix I**. They can be summarised as follows:

- (a) The Site is the subject of a previous approval (No. A/YL/230). A fresh section 16 application is required due to a change in the site area. There has been no significant change of planning circumstances since the last approval. Approval of the current application is in line with the previous decision made by the Committee.
- (b) The Site falls within the “R(A)1” zone on the approved Yuen Long OZP. The planning intention of the zone is for high-density residential development. Commercial uses are always permitted on the lowest three floors of a building or in the purpose-designed non-residential portion of an existing building.
- (c) The temporary real estate agency can provide services to local residents in nearby village houses and high-density development in the “R(A)1” zone. Temporary in nature, the applied development would not hinder long-term high-density residential development in the “R(A)1” zone.
- (d) The development will generate no significant visual, drainage, landscape and traffic impacts. The single-storey structure blends in well with the surrounding environment. Given the 100% SC, no space is available for tree planting (**Drawing A-3**). Rainwater from the roof will be directed to existing drainage facilities near the Site. No vehicular trip is anticipated.

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 the current land owner’s consent. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Previous Application**

The Site was involved in one previous application (No. A/YL/230) for the same use by the same applicant on a similar site with similar development parameters which was approved with conditions by the Committee on 7.4.2017 for a period of 6 years. Whilst the approval conditions requiring the submission of drainage and FSIs proposals had been fulfilled, the permission was subsequently revoked on 7.1.2018 due to non-compliance with approval conditions requiring the implementation of the accepted proposals above. Details of the application are summarized at **Appendix II** and the boundary of the Site is shown on **Plan A-1**.

5. Similar Application

There is no similar application within the same “R(A)1” zone on the OZP.

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

6.1 The Site is:

- (a) abutting Kung Um Road to its east; and
- (b) currently used for the applied use without valid planning permission.

6.2 The surrounding areas have the following characteristics:

- (a) generally residential use in nature intermixed with warehouses, car service, workshops, vehicle parks, office and vacant structures;
- (b) to its south and southwest within the same “R(A)1” zone are vacant land and site office (vacant), and a vehicle park;
- (c) to its west is a warehouse, unused land and a vehicle park;
- (d) to its immediate north and further southwest within the same “R(A)1” zone are residential developments namely La Grove and Park Signature respectively;
- (e) to its north, northeast, east and northwest are mainly residential developments/structures and vacant structures on land zoned “Village Type Development” (“V”); and
- (f) to its southeast are warehouses, car service, workshop and office on land zoned “V”.

7. Planning Intention

The “R(A)” zone is intended primarily for high-density residential development. Commercial use are always permitted on the lowest three floors of a building or in the purpose-designed non-residential portion of an existing building.

8. Comments from Relevant Government Departments

8.1 The following government departments have been consulted and their views on the application and/or the public comments received are summarised as follows:

Land Administration

8.1.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):

- (a) The Site comprises an 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) No permission is given for occupation of GL (about 9.5m² subject to verification) included in the Site. Attention is drawn to the fact that any occupation of GL without Government's prior approval is not allowed.
- (c) The Site is accessible to Kung Um Road via GL. Her office does not provide maintenance work for GL involved and does not guarantee any right-of-way to the Site.
- (d) Should planning approval be given to the 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. Furthermore, the applicant has to either exclude the GL portion from the Site or apply for a formal approval prior to the actual occupation of the GL portion. Such application(s) will be considered by her department 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 required by her department.

Traffic

8.1.2 Commissioner for Transport (C for T):

- (a) He notes no vehicular access being proposed for the Site and has no comment on the application from traffic engineering viewpoint.
- (b) Regarding the traffic concerns raised by the public, he has the following comments:
 - (i) There is no vehicular access being proposed for the Site and no vehicular traffic arising from the development is anticipated as advised by the applicant.
 - (ii) Pedestrian traffic arising from the development is anticipated to be light.

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

He has no comment from highways maintenance point of view as there is no vehicular access proposed/granted under the subject application. It is noted from the applicant that no run-in/out and direct vehicular access to the Site are proposed.

Environment

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

- (a) Regarding the public comment received (**Appendix IV-2**), he considers that with proper design and management of the real estate agency, it will unlikely cause adverse impact to the surrounding environment.
- (b) Should the planning application be approved, the applicant should be advised to follow the relevant mitigation measures and requirements in the “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites”.

Drainage

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

- (a) He has the following comments on the submitted drainage proposal (**Drawing A-3**):
 - (i) There is an existing drainage manhole at southeast of the Site. The applicant shall review design of the proposed structure to avoid obstruction to inspection and maintenance of the concerned manhole.
 - (ii) The existing 550mm covered U-channel, to which the stormwater of the development from the Site would discharge, is not maintained by his office. The applicant should identify the owner of the existing drainage facilities to which the proposed connection will be made and obtain consent from the owner prior to commencement of the proposed works.
 - (iii) The applicant should check and ensure the hydraulic capacity of the existing drainage facilities would not be adversely affected by the development.
 - (iv) The development should neither obstruct overland flow nor adversely affect existing natural streams, village drains, ditches and the adjacent areas, etc.

- (v) The applicant should consult DLO/YL, LandsD and seek consent from the relevant owner for any drainage works to be carried out outside his lot boundary before commencement of the drainage works.
- (b) Despite the above, he has no objection in principle to the development from the public drainage point of view. Should the Board consider that the application is acceptable from the planning point of view, approval conditions requiring the submission of a revised drainage proposal, implementation of the drainage proposal and maintenance of the implemented drainage facilities to the satisfaction of the Director of Drainage Services or of the Board should be stipulated.

Fire Safety

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

- (a) He has no objection in principle to the proposal subject to FSIs being provided to his satisfaction.
- (b) Furthermore, the FSIs proposal submitted by the applicant (**Appendix Ib and Drawing A-4**) is considered acceptable to his department. The applicant is advised that the installation/maintenance/modification/repair work of FSIs shall be undertaken by a Registered Fire Service Installation Contractor (RFSIC). The RFSIC shall after completion of the installation/maintenance/modification/repair work issue to the person on whose instruction the work was undertaken a certificate (FS 251) and forward a copy of the certificate to him.
- (c) In addition, 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

8.1.7 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 existing structures on 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 his department, they are unauthorized building works (UBW) under the 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 his department to effect their removal in accordance with his department'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.
- (iii) Before any new building works (including containers/open sheds as temporary buildings and land filling) are to be carried out on the Site, 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 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 the B(P)R at the building plan submission stage.

Others

- 8.1.8 Comments of the Chief Engineer/Cross-boundary Infrastructure and Development, Planning Department (CE/CID, PlanD):

Civil Engineering and Development Department (CEDD) and PlanD jointly commissioned the "Planning and Engineering Study for Housing Sites in Yuen Long South (YLS) – Investigation" (the Study). The Site falls within the Study Area of YLS but outside the development area of YLS. Hence, the Site would not be affected by any development proposal under the Study.

District Officer's Comments

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

- (a) The local consultation was completed on 16.3.2018 and his office has not received any comments from the village representatives in the vicinity regarding the application.
- (b) His office has also received a letter dated 15.3.2018 from the Park Signature Owners Committee (**Appendix III**) which was copied to his office on 19.3.2018.
- (c) According to the letter, the Park Signature Owners Committee objects to the application as the applied development would further aggravate the local vehicular and pedestrian traffic congestion, and urges the relevant government departments to take action to alleviate such issue.

8.2 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) Head of the Geotechnical Engineering Office, CEDD (H(GEO), CEDD);
- (d) Project Manager (West), CEDD (PM(W), CEDD);
- (e) Director of Electrical and Mechanical Services (DEMS);
- (f) Director of Leisure and Cultural Services (DLCS); and
- (g) Commissioner of Police (C of P).

9. Public Comments Received During Statutory Publication Period

9.1 On 23.2.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 16.3.2018, a total of two public comments were received. One from a member of the Yuen Long District Council and the other Incorporated Owners of La Grove raising objection to the application (**Appendices IV-1 and IV-2**).

9.2 The commenters object to the application on grounds of: (i) no economic gain (**Appendix IV-1**); (ii) vehicular and pedestrian traffic congestion; and (iii) air and noise pollution arising from the applied development (**Appendix IV-2**).

10. Planning Considerations and Assessments

10.1 The subject application is for temporary shop and services (real estate agency) at a Site zoned "R(A)1" on the OZP. The planning intention of the "R(A)" zone is primarily for high-density residential development. Although the applied use is not entirely in line with the planning intention of the "R(A)" zone, it could provide real estate agency service to serve any such demand in the area. Approval of the application on a temporary basis would not jeopardize the long-term planning intention of the "R(A)" zone.

- 10.2 The applied development comprises 1 single-storey structure with a total floor area of about 72.9m². It is considered that the applied use and the development scale is not incompatible with the surrounding uses which are predominantly residential uses intermixed with warehouses, office and vehicle parks (**Plan A-2**).
- 10.3 Relevant government departments consulted, including C for T, DEP, CE/MN, DSD and D of FS, have no objection to or adverse comment on the application. No adverse impacts on traffic, environmental, drainage and fire safety from the applied development is expected. To address the technical requirements of concerned government departments, relevant approval conditions are recommended in paragraph 11.2 below. Any non-compliance with the approval conditions will result in revocation of the planning permission. Should the planning application be approved, the applicant will also be advised to follow the relevant mitigation measures and requirements in the “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” in order to minimize any potential environmental impact.
- 10.4 Given a previous approval (A/YL/230) for the same use had been granted to the Site, approval of the current application is in line with the Committee’s previous decision. Nevertheless, the last approval was subsequently revoked due to non-compliance with time-limited approval conditions requiring the implementation of the drainage and FSIs proposals. In this regard, the applicant has submitted a drainage proposal (**Drawing A-3**) and an FSIs proposal (**Appendix Ib** and **Drawing A-4**). D of FS has accepted the FSIs proposal and CE/MN, DSD has no adverse comment on the application. In view of the above, sympathetic consideration may be given to the application. However, shorter compliance period is recommended in order to closely monitor the progress on compliance with associated approval conditions. Moreover, should the application be approved, the applicant will be advised that should he fail to comply with any of the approval conditions again resulting in revocation of the planning permission, sympathetic consideration may not be given to any further application.
- 10.5 There are two public comments received during the statutory publication period as summarised in paragraph 9. An objection letter is relayed from DO(YL), HAD as summarised in paragraph 8.1.9. The planning considerations and assessments in paragraphs 10.1 to 10.4 above are relevant.

11. Planning Department’s Views

- 11.1 Based on the assessments made in paragraph 10 and having taken into account the public comments as mentioned in paragraphs 8.1.9 and 9 above, the Planning Department considers that the temporary shop and services (real estate agency) could be tolerated for a period of 6 years.
- 11.2 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 6 years until 6.4.2024. The following conditions of approval and advisory clauses are also

suggested for Members' reference:

Approval conditions

- (a) no operation between 8:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) the submission of a revised drainage proposal 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 6.7.2018;
- (c) the implementation of the revised 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 6.10.2018;
- (d) in relation to (c) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (e) the implementation of the accepted fire service installation 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 6.10.2018;
- (f) if any of the above planning conditions (a) and (d) 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;
- (g) if any of the above planning conditions (b), (c) and (e) 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
- (h) 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 V**.

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

the development is not in line with the planning intention of the "R(A)" zone which is primarily intended for high-density residential development. No strong planning justification has been given in the submission to justify a departure from the planning intention, even on a temporary basis.

12. Decision Sought

- 12.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 12.2 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.
- 12.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reasons for rejection should be given to the applicant.

13. Attachments

Appendix I	Application form with attachments received on 13.2.2018
Appendix Ia	Supplimentary Informaiton received on 14.2.2018 clarifying the area of GL with replacement pages
Appendix Ib	Further Information received on 26.2.2018 providing an FSIs proposal
Appendix II	Previous application covering the Site
Appendix III	Local comment relayed from DO(YL), HAD
Appendics IV-1 and IV2	Public comments received during statutory publication period
Appendix V	Recommended advisory clauses
Drawing A-1	Lot Index Plan with with Breakdown of Private/Government Land Areas and Access Road
Drawing A-2	Site Layout Plan
Drawing A-3	Proposed Drainage Plan
Drawing A-4	Proposed FSIs Plan
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plans A-4a and A-4b	Site photos

**PLANNING DEPARTMENT
APRIL 2018**