

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL/247

<u>Applicant</u>	: Wealthy Grand Limited represented by Goldrich Planners & Surveyors Limited
<u>Site</u>	: Lot 104 R.P. (part) in D.D. 115 and Adjoining Government Land, Yuen Long, New Territories
<u>Site Area</u>	: 3200.2m ² (about) (including government land (GL) of about 178.6m ²)
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Yuen Long Outline Zoning Plan (OZP) No. S/YL/23
<u>Zoning</u>	: “Open Space” (“O”) (1,596m ²) (49.9%) and “Village Type Development” (“V”) (1,604.2m ²) (50.1%) [<i>restricted to a maximum building height of 3 storeys (8.23m)</i>]
<u>Application</u>	: Temporary Shop and Services (Motor-vehicle Showroom with Ancillary Offices) 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 (motor-vehicle showroom with ancillary offices) for a period of 6 years (**Plan A-1**). According to the Notes of the OZP for the “O” and “V” zones, ‘Shop and Services’ is a Column 2 use which 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 shop and services (motor-vehicle showroom with ancillary offices) 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 and A-4a to 4c**) and was not involved in any previous application.
- 1.2 The Site is accessible via a local track connecting to Long Yat Road (**Plan A-2 and Drawing A-1**). According to the applicant, the development would provide a venue for car dealers to display second-hand and/or new private cars. There are about 140 cars displayed at outdoor area. No car beauty, car washing, car repairing, car dismantling or other workshop activities will be conducted on the

Site. There are 12 structures made of temporary materials on Site (**Drawing A-2**). They are of 1 to 2 storeys with height not more than 6m and the total floor area is 561.12m². Plans showing the vehicular access leading to the Site, the site layout, the landscape plan, the drainage plan and the motor-vehicle showroom area submitted by the applicant are at **Drawings A-1 to A-5** respectively.

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

Site Area	3200.2m ² (including 178.6m ² GL)
Total Floor Area/Plot Ratio	561.12m ² /0.175
Covered Area/Site Coverage	454.77m ² /14.21%
No. of Structures	12
Uses	Display of vehicles, office, sitting/resting area, open shed and storage
Height of Structure	3-6m (1-2 storeys)
Private Car Parking Spaces	10 (for staff and customers)
Operation Hours	11:00a.m. to 9:00p.m. daily

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

- (a) Application Form received on 19.6.2018 **(Appendix I)**
- (b) Supplementary Information dated 27.6.2018 with plan showing vehicle showroom area **(Appendix Ia)**
- (c) Supplementary Information dated 28.6.2018 with replacement pages clarifying the proposed use **(Appendix Ib)**
- (d) Further Information received on 2.8.2018 in response to departmental comments on traffic issues (*accepted and exempted from publication and recounting requirements*) **(Appendix Ic)**
- (e) Further Information received on 7.8.2018 in response to further departmental comments on traffic issues (*accepted and exempted from publication and recounting requirements*) **(Appendix Id)**

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Appendix I enclosed in the Application Form (**Appendix I**). They can be summarized as follows:

- (a) The development can create employment opportunities to the local residents. It can also fulfil the local demand for private cars. No car beauty, car washing, car repairing, car dismantling or other workshop activities will be conducted on the Site.
- (b) Adverse visual and landscape impacts are not anticipated due to presence of screening trees outside the western and southern boundary. All surface run-off will be discharged into existing drainage facilities within the Site which will be

maintained in good condition. Sufficient manoeuvring space will be provided within the Site and no queueing, reversing and manoeuvring of vehicles out of the Site is required. Given a relatively low trip generation and attraction rates, no significant adverse traffic impact 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.31A) by posting a notice near the entrance of the application site and sending a notice to the Shap Pat Heung Rural Committee through registered post on 8.6.2018 and 11.6.2018 respectively. Detailed information would be deposited at the meeting for Members’ inspection.

4. Previous Application

The Site is not the subject of any previous application.

5. Similar Application

There is no similar application within the same “O” and “V” zones on the OZP.

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

6.1 The Site is:

- (a) accessible from Long Yat Road to its south via a local track (**Plan A-2**); and
- (b) fenced-off and 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;
- (b) to its northeast is Tung Tau Tsuen,
- (c) to its further north is Yuen Long Kau Hui, scattered residential structures on land zoned “V”;
- (d) to its west across Yuen Long Kau Hui Road is a plot of unused land and further west is the village cluster of Nam Pin Wai;
- (e) to its east are shop and services uses (car selling); and
- (f) to its south across Long Yat Road is Yuen Long Station.

7. Planning Intention

The planning intention of the “O” zone is primarily for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residents as well as the general public.

The planning intention of the “V” zone is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by government projects. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this 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.

8. Comments from Relevant Government Departments

8.1 The following government departments have been consulted and their views on the application are summarized 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 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.
- (b) No permission is given for occupation of GL (about 178.6m² 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 Long Yat 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) The Site does not fall within the Shek Kong Airfield Height Restriction Area.
- (e) There is no approved or under processing Small House application within the Site. In the vicinity (30m) of the Site, there is no Small House application under processing and three Small House applications were approved therein.
- (f) Should planning approval be given to the 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. 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 the 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.

8.1.2 Comments of the Chief Estate Surveyor/Railway Development, Lands Department (CES/RD, Lands D):

As the Site partly falls within West Rail Protection Boundary, it is advisable to seek comments from MTR Corporation Limited (MTRCL) on the application.

Traffic

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

- (a) He has no further comments on the applicant's responses at **Appendices Ic and Id** to address his traffic concerns.
- (b) The applicant is reminded that sufficient space within the Site should be provided for manoeuvring of vehicles. In addition, no parking, queuing and reverse movement of vehicles on public road are allowed.
- (c) The Site is connected to the public road network via a section of a local access road which is not managed by Transport Department (TD). The management and maintenance responsibilities of the access road/path/track shall be clarified and consulted with the relevant management and maintenance authorities accordingly.

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

- (a) The proposed access arrangement of the Site from Long Yat Road should be commented by TD.
- (b) His department does not and will not maintain any access connecting the Site and Long Yat Road. Presumably, relevant departments will provide their comments, if any.
- (c) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

8.1.5 Comments of the Chief Engineer/Railway Development 2-2, Railway Development Office, Highways Department (CE/RD2-2, RDO, HyD):

The Site falls within the protection boundary of the West Rail Line. As the operation of the existing railway system is not within the jurisdiction of his office, he has no comment on the application from the railway

development viewpoint. However, with reference to the procedures in PNAP ADM-2 and WBTC No. 19/2002, MTRCL should be consulted with respect to operation, maintenance, safety and future construction of the existing railway system.

8.1.6 Comments of the MTRCL :

From Railway Protection point of view, they have the following comments:

- (a) The Site falls within the West Rail Protection boundary, all works shall comply with the requirements as stated in the Environment, Transport and Works Bureau Technical Circular (Works) No. 33/2003 or PNAP APP-24 whichever is applicable for MTR protection.
- (b) For any construction works that involve lifting appliances adopted on site, they shall be positioned as far as possible away from the West Rail tracks/structures. MTR's prior agreement on the locations of these lifting appliances before their operation on site shall be sought.
- (c) The construction proposal shall be submitted to MTR for comment and prior agreement before commencement of any works on site, which shall include (i) method statements, together with an indication of the tools and plants to be adopted; (ii) programme of work; and (iii) emergency contact list.

Environment

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

- (a) There was no environmental complaint concerning the Site received in the past 3 years.
- (b) Should the planning application be approved, the applicant will 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" ("COP").

Landscape

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

- (a) The Site, located at the junction of Yuen Long Kau Hui Road and Long Yat Road, lies partly in "V" and partly "O" zones. The current application seeks planning permission for temporary shop and services for motor-vehicle showroom with ancillary offices for a period of 6 years. The Site is not subject to any previous planning permission.

- (b) With reference to the site visit by her office on 6.7.2018, it is observed that the Site is hard paved with 3 nos. trees of common species within the site boundary. Other well established amenity trees are found adjoining the southern half of the western boundary, and the southern boundary. The applied use appears to be already in operation. The Site is situated in an area of urban fringe landscape character. Significant change to the landscape character arising from the application is not envisaged. Hence, she has no objection to the application from the landscape planning perspective.
- (c) In view of the above and in consideration that existing temporary structures found scattered along the northern portion of the Site obscuring the views from Tung Tau Tsuen, and adjoining existing well established trees (outside the Site) providing screening for public frontages of the Site, she opines that landscape condition not necessary should the Board approve this application.
- (d) Other detailed comments on the landscape proposals are at **Appendix III**.

Drainage

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

- (a) He has no objection in principle to the development on the understanding that the intended functions of the existing drainage facilities would not be affected.
- (b) Should the Board consider the application is acceptable from the planning point of view, the following approval conditions are recommended to be imposed for the applicant to comply with to the satisfaction of the Director of Drainage Services or of the Board:
 - (i) to maintain the existing drainage facilities within the Site; and
 - (ii) to submit records of the existing drainage facilities on Site.

Fire Safety

8.1.10 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 be advised on the following points:

- (i) the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy; and
 - (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

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

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 BD, they are unauthorized 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 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.
- (iii) Before any new building works (including containers/open sheds as temporary buildings and land filling) are to be carried out on Site, prior approval and consent of the 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 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.

Geotechnical

8.1.12 Comments of the Head of the Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD):

- (a) He has no in-principle geotechnical objection to the application.
- (b) The Site is located within the Scheduled Area No. 2 and may be underlain by cavernous marble. For any new development at the proposed area, extensive geotechnical investigation will be required. Such investigation may reveal the need for a high level of involvement of an experienced geotechnical engineer both in the design and in the supervision of geotechnical aspects of the works required to be carried out on the Site. The applicant is also reminded to submit works to BD for approval as required under the provisions of the BO.
- (c) A number of existing geotechnical features adjacent to the western and southern edges of the Site might affect or be affected by the future development. The applicant is reminded that details of the investigation and assessment of the effects of the future development on these geotechnical features, and vice versa, together with a proposal of any necessary slope stabilisation works should be submitted in conjunction with the development proposal to BD for approval as required under the provisions of the BO.

Open Space Aspect

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

- (a) The Site is partly zoned “V” and partly “O” on the approved Yuen Long OZP No. S/YL/23. The “O” site falls on one of the four potential sites for the implementation of the ex-Municipal Council project “Local Open Space, Kau Hui, Yuen Long” which is on the priority list for development by the Yuen Long District Council (YLDC). There is no implementation programme for the project at present and therefore the exact location of the site to be developed has not yet been determined.
- (b) Whilst they have no in-principle objection to the application, the applicant should be advised that the Site would be resumed when YLDC would like to kick off the development on site.
- (c) It is noted that there are existing trees on the Site. The applicant is reminded that from tree preservation point of view, every possible effort should be made to preserve existing trees within and adjacent to the works site and minimize the adverse impact to the existing trees during the works period. If trees are inevitably affected, Tree Preservation and Removal Proposal (TPRP) should be submitted for approval in accordance with DEVB TC(W) No. 7/2015. All trees within the site boundary should be managed and maintained by the applicant.

District Officer's Comments

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

The local consultation was completed and his office has not received any comments, from the village representatives in the vicinity regarding the application.

8.2 The following government departments have no comment on the application:

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

9. Public Comments Received During the Statutory Publication Period

On 3.7.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 24.7.2018, two public comments were received. One from a member of the public and the other from a District Councillor (**Appendices II-1 and II-2**). The member of the public commented that the development under application was not in line with the intended purposes of "O" and "V" zones which are for residential and recreational open space use. It was unacceptable that land zoned for housing be used for commercial purposes and the Site should be used for temporary housing. The District Councillor indicated that he had no comments on the application.

10. Planning Considerations and Assessments

10.1 The subject application is for temporary shop and services (motor-vehicle showroom with ancillary office) for a period of 6 years on the Site which is partly zoned "V" (50.1%) and partly "O" (49.9%) on the OZP.

10.2 The planning intention of the "V" zone is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by government projects. 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. Although the development under application is not entirely in line with the planning intention of the "V" zone, the motor-vehicle showroom could provide shop and services to serve any such demand in the area. According to DLO/YL of LandsD, there is currently no Small House application under processing by her office at the Site. In this regard, approval of the development on a temporary basis would not frustrate the long-term planning intention of the "V" zone.

- 10.3 Although the proposed use is not in line with the planning intention of the “O” zone which is primarily for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residents as well as the general public, DLCS advises that there is no implementation programme to develop the Site into public open space at present. Approval of the application on a temporary basis would not jeopardize the long-term planning intention of the subject “O” zone.
- 10.4 The proposed development is not incompatible with the surrounding uses which mainly comprise residential uses, motor-vehicle showroom/car selling and unused land (**Plan A-2**).
- 10.5 Relevant government departments consulted, including DEP, C for T, CE/MN, DSD, D of FS and CTP/UD&L, PlanD have no objection to or adverse comment on the application. Adverse environmental, traffic, drainage, fire safety and landscape impacts are not anticipated. To minimize any potential adverse impacts and nuisance on the surrounding areas or 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.
- 10.6 There are two public comments received during the statutory publication period as summarized in paragraph 9. The above planning considerations and assessment are also relevant. As regards the suggestion on temporary housing use, it is subject to technical assessments including the environmental aspect.

11. Planning Department’s Views

- 11.1 Based on the assessments made in paragraph 10 and having taken into account the public comments mentioned in paragraph 9, the Planning Department considers that the shop and services (motor-vehicle showroom with ancillary office) 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 17.8.2024. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation between 9:00 p.m. and 11:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no car beauty, car washing, car repairing, car dismantling or other workshop activities, as proposed by the applicant, are allowed on the Site at any time during the planning approval period;

- (c) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (d) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (e) the submission of a condition record 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 17.11.2018;
- (f) 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 17.2.2019;
- (g) in relation to (f) above, the implementation of the 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 17.5.2019;
- (h) if any of the above planning conditions (a), (b), (c) or (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;
- (i) if any of the above planning conditions (e), (f) or (g) 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
- (j) 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 at **Appendix IV**.

- 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 "V" zone which is primarily for development of Small Houses; and the "O" zone which is primarily for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residents as well as the general public. There is no strong planning justification in the submission for a departure from such planning intentions, 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 reason(s) for rejection should be given to the applicant.

13. Attachments

Appendix I	Application Form received on 19.6.2018
Appendix Ia	Supplementary Information dated 27.6.2018 with plan showing vehicle showroom areas
Appendix Ib	Supplementary Information dated 28.6.2018 with replacement pages clarifying the proposed use
Appendix Ic	Further Information received on 2.8.2018 in response to departmental comments on traffic issues
Appendix Id	Further Information received on 7.8.2018 in response to further departmental comments on traffic issues
Appendices II-1 & II-2	Public comments received during the statutory publication period
Appendix III	Detailed departmental comments
Appendix IV	Recommended Advisory Clauses
Drawing A-1	Locational Plan with Vehicular Access
Drawing A-2	Proposed Layout Plan
Drawing A-3	Landscape Plan
Drawing A-4	Drainage Plan
Drawing A-5	Motor Vehicle Showroom Area Proposal
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to 4c	Site Photos

**PLANNING DEPARTMENT
AUGUST 2018**