

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/K2/219**

- Applicant** : Sunlight Beauty Group (Maiden) Limited
- Premises** : 14/F, Full Win Commercial Centre, No. 573 Nathan Road, Mong Kok, Kowloon
- Floor Area** : About 230m<sup>2</sup>
- Lease** : Kowloon Inland Lot (KIL) No. 7073 R.P. and KIL No. 7998
- (a) held under Conditions of Re-grant Nos. 5890 and 6505 for a term of 150 years from 25.12.1887
- (b) the lots shall not be used for industrial purposes and no factory building shall be erected thereon
- Plan** : Draft Yau Ma Tei Outline Zoning Plan (OZP) No. S/K2/23 (currently in force)
- Draft Yau Ma Tei OZP No. S/K2/22 (in force at the time of submission. The zoning and development restrictions for the site remain unchanged on the current OZP except relaxing the building height (BH) restriction from 100mPD to 110mPD)
- Zoning** : “Commercial” (“C”)
- (a) maximum plot ratio (PR) of 12.0
- (b) maximum BH of 110mPD
- Application** : Proposed Massage Establishment

**1. The Proposal**

- 1.1 The applicant seeks planning permission for the proposed massage establishment within a permitted beauty parlour currently operated on the whole 14/F of an existing commercial building (Full Win Commercial Centre) at 573 Nathan Road, Mong Kok, Kowloon (the Premises) (**Plan A-1**) with a total floor area of about 230m<sup>2</sup> (**Drawings A-1 and A-2**). According to the Notes of the OZP for the “C” zone, ‘Commercial Bathhouse/Massage Establishment’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board).

- 1.2 According to the applicant's submission, the Premises will mainly comprise reception area, pantry, salon, laundry, staff room, facial rooms, massage rooms and consultation rooms (**Drawing A-1**). Access to the Premises is via four lifts from ground floor lobby fronting Nathan Road and a pair of staircases in the building (**Drawings A-2 and A-3**). The operation hours of the proposed massage establishment is from 12:00noon to 10:00pm from Monday to Friday, and from 11:00am to 8:00pm on Saturday, Sunday and public holidays.
- 1.3 In support of the application, the applicant has submitted the following documents:
- (a) Application form received on 26.8.2021 (Appendix I)
  - (b) Further information (FI) received on 16.9.2021 (Appendix Ia)  
providing clarification on the anticipated number of  
customers and potential traffic/ pedestrian impacts\*
  - (a) FI received on 28.9.2021 providing response to (Appendix Ib)  
departmental comment\*

*\*Accepted and exempted from the publication and recounting requirements.*

## **2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in Part 10 of the application form and attachments at **Appendices I to Ia**. They can be summarized as follows:

- (a) the Premises is located within an existing commercial building and has been operated as a beauty parlour for more than three years providing beauty services including massage service. To provide confidence to the customers, the applicant would like to seek permission from the Board to use the Premises for massage establishment and apply for a Massage Establishments Licence from the Police Licensing Office;
- (b) the beauty company provides professional beauty services without any illegal activities. The company has obtained ISO 9001 quality management system and ISO 10002 complaints handling certification, and strictly followed the relevant massage establishment regulations; and
- (c) the maximum capacity of the proposed massage establishment would be 20 customers. The subject commercial building is in proximity to MTR Yau Ma Tei and Mong Kok Stations, and is well served by various bus routes along Nathan Road. The proposed massage establishment will not generate any impact on traffic and pedestrian flow to the local area.

## **3. Compliance with the “Owner’s Consent/Notification” Requirements**

The applicant is not a “current land owner” of the Premises 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 notifying the owner of the Premises. Detailed information would be deposited at the meeting for Members' inspection.

#### **4. Town Planning Board Guidelines**

- 4.1 The Town Planning Board Guidelines for 'Application for Commercial Bathhouse and Massage Establishment under Section 16 of the Town Planning Ordinance' (TPB PG-No. 14B) (**Appendix II**) are relevant to the application. As stated in TPB PG-No. 14B, the main concern of the Board on commercial bathhouse and massage establishment is whether the application premises is suitable for these uses from the planning point of view. For example, the establishment may not be fully compatible with residential use and non-domestic uses such as children and youth centre, kindergarten, religious, educational or community institutions. Control of vice and obscenity should be left to the licensing and other relevant authorities.
- 4.2 The relevant assessment criteria are summarised as follows:
- (a) the proposed commercial bathhouse and massage establishment will normally not be permitted within a residential neighbourhood;
  - (b) the proposed establishment should be located within a commercial building or the non-domestic portion of a composite commercial/residential building such as the commercial podium of a composite commercial/residential building;
  - (c) the proposed establishment should not be incompatible with other uses within the same building. In assessing the compatibility with other uses within the same building, consideration will normally be given only to the uses permitted in the occupation permit (OP) issued by the Building Authority;
  - (d) the views of local residents on the proposed commercial bathhouse and massage establishment will be taken into account;
  - (e) the Fire Services Department (FSD) and Buildings Department (BD) should be satisfied with the proposals to comply with the fire safety requirements for the proposed commercial bathhouse and massage establishment in respect of the provision of fire service installations and means of escape, etc.; and
  - (f) all other statutory or non-statutory requirements of relevant government departments must be met.

#### **5. Previous Application**

There is no previous application in respect of the Premises.

## **6. Similar Applications**

- 6.1 There are 12 similar applications for commercial bathhouse and/or massage establishment use within “C” zone in Yau Ma Tei since 1996 (**Plan A-1 and Appendix III**). Amongst them, four applications located in a composite commercial/residential (C/R) building (Application Nos. A/K2/145, A/K2/151, A/K2/164 and A/K2/166) and six applications located in a commercial building (Application No. A/K2/105, A/K2/117, A/K2/120, A/K2/129, A/K2/143 and A/K2/175) were approved with conditions by the Metro Planning Committee (the Committee) of the Board on the consideration that the proposed developments were not incompatible with the existing uses within the building and the surroundings; the proposed developments complied with TPB PG No.14B; and the relevant Government departments had no adverse comment.
- 6.2 Application No. A/K2/216 (application premises located in a composite C/R building) was approved with conditions on a temporary basis for a period of 5 years by the Committee on 17.2.2017 in order to closely monitor the operation of the proposed use within the composite C/R building. The applicant applied, under section 17 of the Ordinance, for a review of the Committee’s decision of the application on a temporary basis for a period of 5 years. The application was then rejected by the Board on review on 2.6.2017, mainly on the grounds that the proposed development would cause nuisance to the occupants of the subject commercial/residential building, and a temporary permission is appropriate in order to closely monitor the operation of the proposed use under application.
- 6.3 Application No. A/K2/155 (application premises located in a composite C/R building) was rejected by the Committee on 25.10.2002, mainly on the grounds of non-compliance with the TPB PG No.14B; no provision of separate access; nuisance to the occupants of the C/R building; and setting of undesirable precedent. Details of these applications are at **Appendix III**.

## **7. The Site and Its Surrounding Areas** **(Plans A-1 and A-2 and Sites Photos on Plans A-3 and A-4)**

- 7.1 The Premises is:
- (a) located at the whole 14/F of an existing commercial building (Full Win Commercial Centre) completed in 1995; and
  - (b) currently being operated as a beauty parlour; and
  - (c) accessible via four lifts that serve the whole building.
- 7.2 The subject commercial building is:
- (a) a 25-storey commercial building (including one level of basement) with main entrance fronting Nathan Road (**Drawing A-3**). According to the OP issued by the Building Authority (BA) on 24.4.1995 (Permit No. K21/95), the whole subject building was approved for non-domestic uses; and

- (b) currently occupied by the following uses on various floors:

<b>Floor</b>	<b>Main Uses</b>
Basement	Retail shop
G/F	Retail shop, eating place and entrance of karaoke lounge
1/F to 3/F	Karaoke lounge
4/F to 6/F	Beauty parlour and offices
7/F to 11/F	Offices
12/F	Offices and beauty parlour
13/F	Office, health centre and medical clinics
14/F	<b>The Premises</b> (whole floor)
15/F to 19/F	Offices
20/F	Offices and beauty parlour
21/F	Offices and optometrist
22/F to 23/F	Offices

7.3 The surrounding areas have the following characteristics:

- (a) to the immediate north and south are predominantly commercial developments with retail shops at ground floor fronting Nathan Road within the same “C” zone (**Plan A-2**);
- (b) to the west and northwest across the rear alley are commercial and C/R developments within the same “C” zone with access via Portland Street and Dundas Street (**Plan A-2**);
- (c) to the southwest across the rear alley is the China Peniel Missionary Society Yau Ma Tei Church and School in a “Government, Institution or Community” site, at the junction of Portland Street and Hamilton Street with access via Portland Street and Hamilton Street (**Plan A-2**); and
- (d) well served by various modes of public transport including buses, public light buses and taxis. The MTR Yau Ma Tei Station is located about 110m from the subject commercial building (**Plan A-1**).

## **8. Planning Intention**

The “C” zone is intended primarily for commercial developments, which may include shop, services, place of entertainment and eating place, functioning mainly as local shopping centres serving the immediate neighbourhood.

## **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/Kowloon West, Lands Department (DLO/KW, LandsD):

- (a) she has no objection to the application; and
- (b) the Premises falls within KIL No. 7073 R.P. and KIL No. 7998 which are held under Conditions of Re-grant Nos. 5890 and 6505 for a term of 150 years from 25 December 1887. The leases restrict that the lots shall not be used for industrial purposes and no factory building shall be erected thereon

### **Building Matters**

9.1.2 Comments of the Chief Building Surveyor/Kowloon (CBS/K), BD:

- (a) he has no objection to the application;
- (b) all proposed building works/change of use should be in compliance with the Building Ordinance (BO);
- (c) the applicant should be advised to appoint an Authorized Person (AP) to assess the feasibility of the proposed alterations and additions works/change of use and ensure that the proposed alterations and additions works/change of use are implemented in compliance with the BO including, inter alia, the provision of means of escape, fire resisting constructions and access and facilities for persons with a disability, etc;
- (d) before any new building works are to be carried out on the Premises, the prior approval and consent of his department should be obtained, otherwise they are Unauthorised Building Works (UBW). An AP should be appointed as the co-ordinator for the proposed building works in accordance with the BO;
- (e) 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 Premises under the BO;
- (f) detailed comments under the BO can only be formulated at the building plan submission stage;
- (g) if the proposed use under application is subject to the issue of a licence, the applicant should be reminded that any existing structures on the Premises intended to be used for such purposes are required to comply with the building safety and other relevant requirements

as may be imposed by the licensing authority; and

- (h) it is noted that the layout of fireman's lift lobby on 14/F does not tally with the latest approved building plan dated 27.3.1995. The applicant is advised to liaise with the owner/building management office of the subject commercial building to reinstate the fireman's lift lobby on 14/F in accordance with the approved building plans.

### **Fire Safety**

#### **9.1.3 Comments of the Director of Fire Services (D of FS):**

- (a) he has no objection in principle to the application subject to fire service installations and water supplies for firefighting being provided to his satisfaction. Detailed Fire Services requirements will be formulated upon receipt of formal submission of general building plans or referral from licensing authority; and
- (b) the applicant is advised to observe the licensing requirements as stipulated in the 'Fire Safety Requirements for Massage Establishment'.

### **Licensing**

#### **9.1.4 Comments of the Commissioner of Police (C of P):**

- (c) if a planning permission from the Board is considered necessary for the proposed location, the applicant is advised to first apply for the same before submitting an application to the Police Licensing Office for a Massage Establishments Licence; and
- (d) any person who wishes to conduct massage business shall obtain a Massage Establishments Licence from the C of P according to Section 6 of Massage Establishments Ordinance, Cap. 266, Laws of Hong Kong. The applicant may also refer to Section 3 of Cap. 266 about the exemption.

### **Traffic**

#### **9.1.5 Comments of the Commissioner for Transport (C for T):**

he has no in-principle objection to the application from traffic engineering perspective given that the site is small with constrained layout, conveniently located to mass transport/public transport services, and the development scale is small.

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

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (b) Director of Environmental Protection (DEP);
- (c) Chief Engineer/Mainland South, Drainage Services Department (CE/MS, DSD); and
- (d) District Officer (Yau Tsim Mong), Home Affairs Department (DO(YTM), HAD).

## **10. Public Comment Received During Statutory Publication Period**

During the statutory public inspection period, one objecting comment from an individual was received (**Appendix IV**). The commenter indicated concerns on the possible nuisance to nearby residents arising from the proposed use.

## **11. Planning Considerations and Assessments**

- 11.1 The application seeks planning permission for the proposed massage establishment within a permitted beauty parlour currently operated on the whole 14/F of an existing commercial building located within “C” zone on the Yau Ma Tei OZP fronting Nathan Road (**Plan A-1**). According to TPB PG-No. 14B for ‘Application for Commercial Bathhouse and Massage Establishment under Section 16 of the Town Planning Ordinance’, the main concern of the Board on commercial bathhouse and massage establishment is whether the Premises is suitable for these uses from the planning point of view.
- 11.2 The Premises is located within an existing commercial building for non-domestic use. The proposed use is considered not incompatible with the existing non-domestic uses within the same building (e.g. offices, health centre, retail shops, etc.) Both D of FS and CBS/K, BD have no objection to the application. An approval condition in respect of the fire service installations under paragraph 12.2 below is recommended at the request of D of FS. In addition, the proposed massage establishment will be subject to relevant licensing requirements of C of P. Other Government departments consulted including DLO/KW, LandsD, DEP and DO(YTM), HAD have no objection to or no adverse comment on the application. In view of the above, the proposed use could meet the planning criteria as laid down in TPB PG-No. 14B under paragraph 4 above.
- 11.3 Among the approved similar applications, a total of six applications for ‘Commercial Bathhouse/Massage Establishment’ are located within commercial building in Yau Ma Tei, which were approved with conditions as the proposed developments were not incompatible with the existing uses within the building and the surroundings, the proposed developments complied with TPB PG No.14B and the relevant departments had no adverse comment. Approval of the subject application is consistent with the previous decisions of the Committee on the similar applications.



- 11.4 Regarding the public comment concerning the possible nuisance to nearby residents caused by the proposed massage establishment, the planning assessments above and the departmental comments in paragraph 9 above 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 mentioned in paragraph 10, the Planning Department has no objection to the application.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 15.10.2025, and after the said date, the permission shall cease to have effect unless before the said date, the development permitted is commenced or the permission is renewed. The following conditions of approval and advisory clauses are suggested for Members' reference:

### Approval conditions

- (a) the submission and implementation of fire service installations and water supplies for firefighting before the operation of the use to the satisfaction of the Director of Fire Services or of the Town Planning Board; and
- (b) if the above planning condition (a) is not complied with before operation of the proposed use, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.

### Advisory clauses

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

- 12.3 There is no strong planning reason to recommend rejection of the application.

## **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.
- 13.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

**14. Attachments**

<b>Appendix I</b>	Application form received on 26.8.2021
<b>Appendix Ia</b>	Further Information received on 16.9.2021
<b>Appendix Ib</b>	Further Information received on 28.9.2021
<b>Appendix II</b>	Town Planning Board Guidelines No. 14B
<b>Appendix III</b>	Similar Applications
<b>Appendix IV</b>	Public Comment
<b>Appendix V</b>	Recommended Advisory Clauses
<b>Drawing A-1</b>	Floor Plan
<b>Drawing A-2</b>	Layout Plan
<b>Drawing A-3</b>	Ground Floor Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plans A-3 and A-4</b>	Site Photos

**PLANNING DEPARTMENT  
OCTOBER 2021**