

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

APPLICATION NO. A/TW/524

<u>Applicant</u>	Flourish Marketing Communications Limited
<u>Premises</u>	Workshop No. 52, G/F, Wing Fung Industrial Building, 40-50 Sha Tsui Road, Tsuen Wan
<u>Total Floor Area of Premises</u>	About 36.2m ²
<u>Lease</u>	Tsuen Wan Inland Lot 30 (Conditions of Sale No. UB5105) (a) to expire on 30.6.2047 (b) restricted to industrial purposes
<u>Plan</u>	Draft Tsuen Wan Outline Zoning Plan (OZP) No. S/TW/34
<u>Zoning</u>	“Other Specified Uses (Business)” (“OU(B)”) (a) maximum plot ratio (PR) of 9.5 (b) maximum building height (BH) of 100 metres above Principal Datum (mPD)
<u>Application</u>	Renewal of Planning Approval for Temporary Shop and Services (Real Estate Agency) for a Period of 3 Years

1. The Proposal

- 1.1. The applicant seeks planning permission to continue to use the application premises (the Premises) at Workshop No. 52, G/F, Wing Fung Industrial Building, 40-50 Sha Tsui Road, Tsuen Wan for ‘Shop and Services (Real Estate Agency)’ for a period of 3 years (**Plans A-1 and A-2**). According to the Notes of the OZP, ‘Shop and Services’ on ground floor of an industrial or industrial-office (I-O) building within the “OU(B)” zone, is a Column 2 use requiring planning permission from the Town Planning Board (the Board).
- 1.2. The Premises has a total area of about 36.2m² and is currently occupied by a real estate agency. It is the subject of two approved planning applications (Nos. A/TW/471 and A/TW/499) submitted by the same applicant for the same proposed use with the latest permission valid until 3.7.2021. There is no change in the development scheme compared with the latest permission. The floor plan and fire services layout plan of the Premises

are shown on **Drawings A-1** and **A-2** respectively.

- 1.3. In support of the application, the applicant has submitted an application form and supplementary document on 27.4.2021 and 29.4.2021 respectively (**Appendix I**).

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the submitted application form at **Appendix I**, and are summarised as follows:

- (a) there are only few ground floor spaces in the vicinity buildings for commercial use; and
- (b) the shop is easily accessible which could facilitate property business transactions.

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

The applicant is not a “current land owner” but has complied with the requirement as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Section 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by giving notification to the current land owner. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

- 4.1. The Town Planning Board Guidelines No. 22D for Development within “OU(B)” Zone (TPB PG-NO. 22D) and No. 34C on Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development (TPB PG-No. 34C) are relevant to this application.
- 4.2. Relevant assessment criteria under TPB PG-No. 22D for development within “OU(B)” zone:
 - (a) the “OU(B)” zone has been introduced to allow maximum flexibility in the use of existing industrial and I-O buildings as well as in the development of new buildings for both commercial and clean industrial uses. The planning intention of the “OU(B)” zone is primarily for general employment uses;
 - (b) for existing industrial or I-O buildings, whilst it is the intention to provide greater flexibility in the use of the existing industrial or I-O buildings before such buildings are redeveloped, it is necessary to ensure that the fire safety and environmental concerns are properly addressed. In view of the possible presence of existing polluting and hazardous industrial uses, it is necessary to ensure compatibility of the uses within the same building until the whole building is modified/converted to accommodate the new non-polluting and less fire hazard-prone uses;
 - (c) the Fire Services Department (FSD) should be satisfied on the risks likely to arise or increase from the proposed commercial use under application. Owing to fire safety concern, the aggregate commercial floor areas on the ground floor of an existing

industrial/I-O building with and without sprinkler systems should as a general principle not exceed 460m² and 230m² respectively. For any application which would result in a slight exceedance of the relevant floor area limit, the applicant has to demonstrate that the fire safety concern can be satisfactorily addressed, and each case will be considered by the Board on its own merits. The above limits on commercial floor area do not apply to uses which are ancillary to or for the purposes of supporting the industrial activities and the routine activities of the workers in the industrial or I-O building. These uses include bank, fast food counter, electrical shop, local provisions store and showroom in connection with the main industrial use; and

- (d) for all new development, redevelopment, conversion and material change of use, adequate parking and loading/unloading spaces should be provided in accordance with the requirements of the Hong Kong Planning Standards and Guidelines, and all other statutory or non-statutory requirements of relevant Government departments must also be met. These include building structure, means of escape and fire safety requirements, which will be considered at the building plan submission stage.

4.3. Relevant assessment criteria under TPB PG-No. 34C for renewal of planning approval:

- (a) whether there has been any material change in planning circumstances since the previous temporary approval was granted (such as a change in the planning policy/land-use zoning for the area) or a change in the land uses of the surrounding areas;
- (b) whether there are any adverse planning implications arising from the renewal of the planning approval (such as pre-emption of planned permanent development);
- (c) whether the planning conditions under previous approval have been complied with to the satisfaction of relevant government departments within the specific time limits;
- (d) whether the approval period sought is reasonable; and
- (e) any other relevant considerations.

5. **Previous Applications**

- 5.1. The Premises is the subject of two previous planning applications (Nos. A/TW/471 and A/TW/499) submitted by the same applicant for the same 'Shop and Services (Real Estate Agency)' use which were approved on a temporary basis for 3 years¹ with conditions by the Committee on 3.7.2015 and 15.6.2018 respectively (**Plan A-1**). The approval conditions of application No. A/TW/499 have complied with and the planning permission will remain valid until 3.7.2021.

- 5.2. Details of these applications are summarised at **Appendix II**.

¹ Under application No. A/TW/471, the Premises was zoned "Industrial" ("I") and the proposed use was applied for permanent basis. A temporary approval of three years, instead of a permanent approval, was recommended in order not to jeopardize the long term planning intention of industrial use for the application premises and to allow the Committee to monitor the supply and demand of industrial floor space in the area. The zoning was subsequently changed from "I" to "OU(B)" in 2016. Renewal application for a period of three year was/is applied under application No. A/TW/499 and the current application.

6. Similar Applications

- 6.1. There are 9 similar applications (Nos. A/TW/442, A/TW/457, A/TW/459, A/TW/460, A/TW/468, A/TW/473, A/TW/484, A/TW/490 and A/TW/501) for ‘Shop and Services’ use within the “OU(B)” zone on the draft Tsuen Wan OZP No. S/TW/34 (**Plan A-1**). Among these applications, 8 of them were approved by the Committee with conditions, except application No. A/TW/442 which was partially approved by the Committee for shop and services in two premises, while the shop and services at another premises without a separate means of escape was rejected. Subsequently, three applications (Nos. A/TW/442, A/TW/457 and A/TW/460) were revoked on 23.5.2014, 27.12.2014 and 22.2.2015 respectively, due to non-compliance of approval conditions. Details of these applications are summarised at **Appendix III** and their locations are shown on **Plan A-1**.
- 6.2. There is no approved commercial use at the G/F of the subject building, except the Premises having an area of 36.2m².

7. The Premises and Its Surrounding Areas (Plans A-1 to A-3 and Photos on Plans A-4 to A-6)

7.1. The Premises:

- (a) is located at the northern corner of G/F of Wing Fung Industrial Building abutting Sha Tsui Road (**Plans A-2 and A-5**); and
- (b) is currently occupied by a real estate agency with valid planning permission under application No. A/TW/499 until 3.7.2021.

7.2. According to the site inspection conducted on 16.6.2021, the major uses of the subject building by floors are summarised as follows (**Plan A-3**):

Floor	Current Uses
G/F	The Premises , workshops, factory canteen, real estate agency*, retail shop*, computer accessories store, transformer rooms and switch rooms (Plan A-3)
M/F-1/F	Car parks
2/F-25/F	Workshops, Offices, Storage and Showrooms

*Note: * without valid planning permission*

7.3. The surrounding areas have the following characteristics:

- (a) to the northeast across Sha Tsui Road are industrial buildings including Technology Plaza and Mantex Industrial Building in the Chai Wan Kok Industrial/Business Area (CWKIBA) within the same “OU(B)” zone; and
- (b) to the southeast, southwest and northwest are surrounded by industrial buildings within CWKIBA.

8. Planning Intention

The planning intention of the “OU(B)” zone is primarily for general business uses. A mix of information technology and telecommunications industries, non-polluting industrial, office and other commercial uses are always permitted in new “business” building. Less fire hazard-prone office use that would not involve direct provision of customer services or goods to the general public is always permitted in existing industrial or I-O buildings.

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:

Lands Administration

9.1.1. Comments of the District Lands Officer/Tsuen Wan and Kwai Tsing, Lands Department (DLO/TW&KT, LandsD):

- (a) the Premises falls within Tsun Wan Inland Lot No. 30 (the Lot) which is held under Conditions of Sale No. UB5105 (the Lease) with a term expiring on 30.6.2047. The Lot shall only be used for industrial purposes; and
- (b) the Premises is currently subject to a temporary waiver for the purpose of shop and services (real estate agency) use with a term of 3 years commencing on 1.6.2015 and thereafter quarterly.

Building Matters

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

- (a) no objection to the application;
- (b) the applicant should be reminded that under the Buildings Ordinance (BO), no person shall commence or carry out any building works without having first obtained approval and consent from the Building Authority before commencement of works unless they are exempted under s.41 of the BO, or fall within minor works under the Building (Minor Works) Regulation;
- (c) any proposed building works should comply with the prevailing requirements under the BO and allied regulations and Code of Practices;
- (d) adequate sanitary fitments complying with the Building (Standards of Sanitary Fitments, Plumbing, Drainage Works and Latrines) Regulations should be provided to the shop and services areas; and
- (e) detailed comments will be given in the building plan submission stage.

Fire Safety

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

- (a) no in-principle objection to the application provided that:
 - (i) fire services installations and equipment being provided to the satisfaction of his Department. Detailed fire services requirements will be formulated upon receipt of formal submission of general building plans; and
 - (ii) mean of escape completely separated from the industrial portion is available for the subject unit;
- (b) the building is provided with a sprinkler system so that the maximum permissible aggregated commercial floor area on G/F is 460m² in accordance with TPB PG-No. 22D. The applied use should be counted up to the aggregated commercial floor area; and
- (c) the applicant's attention is drawn to the 'Guidance Note on Compliance with Planning Condition on Provision of Fire Safety Measures for Commercial Uses in Industrial Premises' if the application is approved. For compliance with fire safety requirements for the application, the applicant should be advised to provide 2 sets of layout plan of the subject premises with FS Notes and certificate of FSI (FS 251) demonstrating the annual maintenance of the required FSIs in accordance with the Guidance Note on Compliance with Planning Condition on Provision of Fire Safety Measures for Commercial Uses in Industrial Premises.

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

- (a) Director-General of Trade and Industry (DG of TI);
- (b) Director of Environmental Protection (DEP);
- (c) Chief Engineer/Mainland South, Drainage Services Department;
- (d) Chief Engineer/Construction, Water Supplies Department;
- (e) Commissioner for Transport (C for T);
- (f) Commissioner of Police (C of P);
- (g) Chief Highway Engineer/ New Territories West, Highways Department (CHE/NTW, HyD);
- (h) Project Manager (West), Civil Engineering and Development Department; and
- (i) District Officer (Tsuen Wan), Home Affairs Department.

10. Public Comments Received During Statutory Publication Period

During the statutory public inspection periods, a total of two public comments (**Appendix IV**) were received, including one supporting comment from a member of Tsuen Wan West Area Committee and one objection from an individual. Both comments did not provide any reason.

11. Planning Consideration and Assessment

- 11.1. The application seeks renewal of the planning permission to continue the use of ‘Shop and Services (Real Estate Agency)’ at the Premises for a period of 3 years. The current application is the same as the previously approved application No. A/TW/499 in terms of area/boundary, applied use, development parameters and fire service layout as well as the period of planning permission.
- 11.2 The Premises is currently zoned “OU(B)” for general business use. The ‘Shop and Services (Real Estate Agency)’ use under application is small in size (36.2m²) and is considered not incompatible with the industrial-related uses in the subject building and surrounding developments in CWKIBA.
- 11.3 As confirmed by D of FS, the subject building is provided with a sprinkler system subject to a maximum permissible aggregate commercial use floor area on G/F of 460m² in accordance with the TPB PG-No. 22D. Apart from previous applications (Nos. A/TW/471 and A/TW/499) for the same use at the Premises, there is no approved commercial use on the G/F of the subject building. Should the application be approved, the aggregated commercial floor area at G/F of the subject building will be 36.2m², which is within the said permissible limit. Under such circumstance, D of FS has no objection to the application. To address D of FS’s relevant comments on fire safety, specific approval conditions and advisory clause on fire safety measures are recommended in paragraph 12.2 below.
- 11.4 The use complies with the TPB-PG No. 22D in that it would not induce possible adverse fire safety, traffic, environmental and infrastructural impacts to the subject building and adjacent developments. Relevant Government departments consulted including D of FS, DEP, CBS/NTW, BD and C for T have no objection to/no adverse comment on the application.
- 11.5 The application generally compiles with TPB PG-No. 34C. There is no change in zoning since the previous approval under application No. A/TW/499 and the application is considered in line with the planning intention of the “OU(B)” zone. Besides, there is no adverse planning implication arising from the renewal of the planning approval, the approval conditions under the previously approved application have been complied with, and the approval period sought is not unreasonable.
- 11.6 There are similar applications for ‘Shop and Services’ use within the same “OU(B)” zone of the OZP approved by the Board on a permanent or temporary basis. Approval of the application on a temporary basis of 3 years is therefore consistent with the Committee’s previous decision.
- 11.7 The public comment objecting to the application did not provide any particular reason.

12 Planning Department's Views

- 12.1 Based on the consideration and assessment made in paragraph 11, 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 on a temporary basis for a further period of three years from 4.7.2021 to 3.7.2024. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) the submission and implementation of the fire safety measures including provision of separate means of escape and fire service installations and equipment within 6 months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 4.1.2022; and
- (b) if the above planning condition (a) 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.

Advisory clauses

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

- 12.3 There is no strong 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 planning 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 date when the validity of the permission should expire.
- 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

Appendix I	Application form received on 27.4.2021 and supplementary document received on 29.4.2021
Appendix II	Previous applications
Appendix III	Similar applications
Appendix IV	Public comments received during the statutory publication periods
Appendix V	Recommended advisory clauses
Drawing A-1	Ground Floor Plan

Drawing A-2	Fire Services Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Existing Uses on G/F of Wing Fung Industrial Building
Plans A-4 to A-6	Site Photos

PLANNING DEPARTMENT
JUNE 2021