RNTPC Paper No. A/YL-KTN/770A For Consideration by the Rural and New Town Planning Committee on 10.9.2021

APPLICATION FOR PERMISSION UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/770

<u>Applicant</u>	:	Sage Dynasty Limited represented by Goldrich Planners & Surveyors Limited		
<u>Site</u>	:	Lots 433 S.B (Part), 433 S.C (Part), 1733 RP (Part), 1736 S.C and 1738 (Part) in D.D. 107 and adjoining Government Land, Yuen Long		
<u>Site Area</u>	:	About 2,531m ² (including about 38m ² of Government land (about 1.5%))		
Lease	:	Block Government Lease (demised for agricultural use)		
<u>Plan</u>	:	Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/9		
<u>Zoning</u>	:	"Other Specific Uses" annotated "Railway Reserve" ("OU (Railway Reserve)") (79.6%)		
		"Industrial (Group D)" ("I(D)") (20.4%) [maximum plot ratio of 1.6, maximum site coverage of 80% and maximum building height of 13m]		
<u>Application</u>	:	Temporary Container Vehicle Park with Ancillary Office for a Period of 3 Years		

1. <u>The Proposal</u>

1.1 The applicant seeks planning permission to use the application site (the Site) for temporary container vehicle park with ancillary office for a period of 3 years. The Site falls within the "OU(Railway Reserve)" and "I(D)" zones on the Kam Tin North OZP. While 'Container Vehicle Park' is a Column 2 use within the "I(D)" zone which requires planning permission from the Town Planning Board (the Board), the applied use is neither a Column 1 nor Column 2 use in the "OU(Railway Reserve)" zone. According to the covering Notes of the OZP, temporary use not exceeding a period of 3 years requires planning permission from the Board, notwithstanding that the use or development is not provided for in terms of the OZP. The Site is currently used for container vehicle park without planning permission (**Plans A-2 and A-4**).

- 1.2 The Site, in part or in whole, is the subject of 20 previous applications for various container vehicle park, car park, open storage, warehouse, eating place, warehouse, and logistics uses. The last application No. A/YL-KTN/750 for temporary warehouse for storage of construction materials and miscellaneous goods submitted by a different applicant was approved by the Rural and New Town Planning Committee (the Committee) in March 2021. The planning permission is valid until 12.3.2024.
- 1.3 According to the applicant, the Site with an area of about 2,531m² (includes Government Land of about 38m²), will be occupied by two 2-storey structures (with building height of not more than 6m) and a total floor area of about 93m² for ancillary office. 16 container vehicle parking spaces will be provided at the Site. The operation hours will be 24 hours daily including public holidays. The Site is accessible from San Tam Road via a local track. The layout plan submitted by the applicant is at **Drawing A-1**.
- 1.4 In support of the application, the applicant has submitted the following documents:

(a)	Application f	form with plans	received on 17.5.2021	(Appendix I)
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- (b) Supplementary Information (SI) dated 21.5.2021 (Appendix Ia)
- (c) Further Information (FI) dated 6.8.2021 in response to (Appendix Ib) departmental comments [exempted from publication requirement]
- 1.5 On 9.7.2021, the Committee agreed to defer a decision on the application for two months to allow time for the applicant to prepare FI to address departmental comments. After deferral request, the applicant submitted FI in August 2021 in response to the departmental comments. The application is scheduled for consideration by the Committee at this meeting.

2. <u>Justifications from the Applicant</u>

The justifications put forth by the applicant in support of the application are detailed in the application form, SI and FI in **Appendices I to Ib**. They can be summarized as follows:

- (a) The applied use supports the operation of the warehouse at the eastern side. It serves as a buffer area waiting and parking spaces for the warehouse. The warehouse needs some additional container vehicle waiting spaces to avoid traffic jam and vehicles tailing back into San Tam Road.
- (b) The temporary container vehicle park will not result in adverse impacts on the surrounding area.

- (c) The development is in line with the Town Planning Board Guidelines No. 13F for applications for open storage and port back-up uses.
- (d) There are similar approved applications in the vicinity in the past 12 years. Given that the approved applications in the same zones in vicinity are in similar nature, the applied use is in line with the Committee's previous decisions.

3. <u>Compliance with the "Owner's Consent/Notification" Requirements</u>

The applicant is not the "current land owner" of the private land portion of the Site 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 posting site notice and sending registered mail to the Kam Tin Rural Committee. Detailed information would be deposited at the meeting for Members' inspection. For the Government land portion, the "Owner's Consent/ Notification" Requirements are not applicable.

4. Town Planning Board Guidelines

The Town Planning Board Guidelines for 'Application for Open Storage and Port Back-up Uses' (TPB PG-No. 13F) promulgated by the Board on 27.3.2020 are relevant to the application. The Site falls within the Category 1 and 2 areas (20.4% and 79.6% respectively) under TPB PG-No. 13F. The relevant extract of the Guidelines is attached at **Appendix II**.

5. <u>Background</u>

The Site is currently subject to an on-going planning enforcement action (No. E/YL-KTN/583) against unauthorised development (UD) involving parking of vehicles. Enforcement Notice was issued on 26.3.2021 to the concerned parties requiring discontinuation of the UD.

6. <u>Previous Applications</u>

- 6.1 The Site, in part or in whole, is the subject of 20 previous applications for various uses. Among them, 17 were approved and 3 were rejected. Details of the previous applications are summarized in **Appendix III** and their locations are shown on **Plan A-1b**.
- 6.2 A portion of the Site was once approved for similar use as the current application. Application No. A/YL-KTN/262 for temporary container vehicle park and open storage of vehicle parts with ancillary warehouse was approved with conditions by the Board on review in 2007 for a period of 3 years. The application was

approved mainly on considerations that the application site would be used for parking of the applicant's own container tractor/trailers only and would not be open to other operators; the site was served by a different access road from the one to Fung Kat Heung and the impacts of the proposed use in the area would unlikely be significant; and the other concerns of relevant government departments could be addressed by imposing appropriate approval conditions.

6.3 Planning permissions had also been given by the Committee to the Site (in whole or in part) for 16 applications for car park, temporary open storage/ warehouse, temporary eating place (restaurant) and workshop and temporary logistics uses between 1996 and 2021. The immediate last planning permission of Application No. A/YL-KTN/750, which was submitted by a different applicant for temporary warehouse use, was approved by the Committee in March 2021 and its planning permission is valid until 12.3.2024. For the 3 rejected applications, they are for different uses, i.e. car breaking and stripping workshop, temporary logistic use and ancillary container vehicle park, vehicle repair area and staff canteen, and temporary logistics use, vehicle repair workshop and ancillary container vehicle park.

7. <u>Similar Applications</u>

- 7.1 There are 3 similar applications for various container tractor/trailer park uses within the same "OU(Railway Reserve)" and "I(D)" zones in the vicinity of the Site. Details of the similar applications are summarized in **Appendix IV** and their locations are shown on **Plan A-1a**.
- 7.2 Applications No. A/YL-KTN/78 and 322 for container tractor/trailer and lorry park and vehicle repairing workshop, and proposed temporary container vehicle/lorry park for an existing warehouse were approved by the Committee in 1999 and 2009 respectively mainly on the grounds that the developments were compatible with the land uses of the surrounding areas; the drainage and environmental concerns could be resolved through incorporation of relevant approval conditions; relevant government departments had no adverse comments; and the proposed developments were generally in line with the planning intention of the "I(D)" zone and the then TPB Guidelines on open storage and port back-up uses.
- 7.3 Application No. A/YL-KTN/255 for temporary container tractor/trailer park and repair yard for a period of 3 years was rejected by the Committee in 2006 mainly for reasons that the application did not comply with the then TPB PG-No. 13D in that the application was considered incompatible with the surrounding land uses including residential dwelling and cultivated agricultural land; there were adverse departmental comments and strong local objections against the application; and there was insufficient information in the submission to demonstrate that the development would not generate adverse traffic, environmental and drainage impacts on the surrounding areas.

8. <u>The Site and Its Surrounding Areas</u> (Plans A-1 to A-4)

- 8.1 The Site is:
 - (a) paved, mostly vacant and partly use for parking of container vehicles and storage without planning permission; and
 - (b) accessible via a local track leading from San Tam Road.
- 8.2 The surrounding areas are rural in character intermixed with logistics centres, warehouses, storage yards, residential dwellings/structures, workshops, site office and sewage pumping station:
 - (a) to its immediate north are a vacant storage structure and a site with planning approval (No. A/YL-KTN/632) for temporary open storage of construction machinery, construction materials and ancillary parking of medium/heavy goods vehicles and container trailers/tractors. To its further north are storage yard, vehicle repair workshop and warehouses in "OU Railway Reserve" zone;
 - (b) to its southwest are site office, Sha Po Sewage Pumping Station, a pond and storage yards in "OU Railway Reserve" zone. To its west is a vacant structure and San Tam Road; and
 - (c) to its east and south is "Industrial (Group D)" zone, occupied by logistics centres, a warehouse, a storage yard and a few residential dwellings/structures (the nearest about 20m on southeast).

9. <u>Planning Intentions</u>

- 9.1 The planning intention of the "OU(Railway Reserve)" zone is primarily for railway development. According to the Explanatory Statement of the OZP, the area covers the proposed NOL alignment, and the exact alignment of the NOL has yet to be finalized.
- 9.2 The planning intention of the "I(D)" zone is primarily for industrial uses that cannot be accommodated in conventional flatted factories due to extensive land and/or high ceiling requirements. It is also intended for the redevelopment of existing informal industrial uses, which are operated in workshop premises in rural area, to properly designed permanent industrial buildings.

10. <u>Comments from Relevant Government Departments</u>

10.1 The following Government departments have been consulted and their views on the application are summarized as follows:

Land Administration

- 10.1.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):
 - (a) The Site comprises Old Schedule Agricultural Lots held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.
 - (b) Lot 1733 RP in D.D. 107 is covered by Short Term Waiver (STW) No. 3405 to permit "temporary eating place (restaurant". And Lot 433 S.C in D.D. 107 is covered by STW 4236 for "temporary open storage of construction machinery, construction materials and ancillary parking of medium/heavy goods vehicles and container trailers/tractors".
 - (c) Should the application be approved, the STW holder will need to apply to his office for modification of the STW conditions where appropriate. The owner(s) of the lot(s) without STW will need to apply to his office to permit the structures to be erected or regularize any irregularities on site, if any. Besides, given the applied use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. Applications for any of the above will be considered by the LandsD acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of rent or fee, as may be imposed by the LandsD.
- 10.1.2 Comments of the Chief Estate Surveyor/Railway Development, LandsD (CES/RD, LandsD):

Provided that Railway Development Office of Highways Department has no objection against this application, he has no objection against the application.

<u>Traffic</u>

- 10.1.3 Comments of the Commissioner for Transport (C for T):
 - (a) He has no comment on the application from traffic engineering perspective.

- (c) The Site is connected to the public road network via a section of a local access road which is not managed by the Transport Department. The land status of the local access road should be checked with LandsD. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.
- 10.1.4 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):
 - (a) His department shall not be responsible for the maintenance of any access connecting the Site and San Tam Road.
 - (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.
 - (c) Should the application be approved, the approval conditions on submission and implementation of run-in/out proposal should be imposed to the satisfaction of TD and his department.
- 10.1.5 Comments of the Chief Engineer/Railway Development 2-2, Railway Development Office, Highways Department (CE/RD 2-2, RDO, HyD):
 - (a) The Site falls within the area of influence ("AOI") of the proposed Northern Link ("NOL"), which is a recommended railway scheme under the Railway Development Strategy 2014. Although the programme and the alignment of the proposed NOL are still under review, those areas within the AOI may be required to be vacated at the time for the construction of the NOL and subject to nuisance, such as noise and vibration of the proposed NOL. He has no comment on the application from the development point of view of the NOL, provided that the applicant is satisfied with the surrounding condition of nuisance taking into account the future construction, operation and maintenance of NOL.
 - (b) The NOL alignment and its AOI may be subject to further amendments.

<u>Environment</u>

- 10.1.6 Comments of the Director of Environmental Protection (DEP):
 - (a) There was no environmental complaint concerning the Site received by DEP in the past three years.
 - (b) According to the latest "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites", he does not support the application as sensitive receivers, i.e. residential dwellings/structures are found in the vicinity of the Site (the nearest is about 20m to its southeast (**Plan A-2**)) and the applied use involves the use of heavy vehicles, thus environmental nuisance is expected.
 - (c) Should the application be approved, the applicant is advised to follow the relevant mitigation measures and requirements in the latest "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites" issued by DEP.

Nature Conservation

- 10.1.7 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):
 - (a) Based on the aerial photos of the LandsD, the Site is primarily disturbed in nature. Nevertheless, the Site is immediately adjacent to Sha Po Marsh where the wetland is enhanced as one of the ecological mitigation measures required under an approval condition of the application No. A/YL-KTN/118 (about 100m on south).
 - (b) As it is noted from the FI (**Appendix Ib**) that all pollutants generated from the applied use will be handled properly on-site and the applied use will not cause any ecological impacts to the adjacent stream and Sha Po Marsh, he has no comment on the application from the nature conservation perspective.

Fire Safety

- 10.1.8 Comments of the Director of Fire Services (D of FS):
 - (a) He has no objection in principle to the proposal subject to fire service installations (FSIs) being provided to his satisfaction.
 - (b) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to

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submit relevant layout plans incorporated with the proposed FSIs to his department for approval. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSIs to be installed should be clearly marked on the layout plans.

(c) 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 or referral from relevant licensing authority.

Drainage

- 10.1.9 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):
 - He has no objection in principle to the development from the (a) public drainage point of view.
 - (b) Should the application be approved, approval conditions requiring the applicant to submit a revised drainage proposal and implement and maintain the drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board should be included.
 - His detailed comments on the submitted drainage plan is at (c) Appendix VI.

Building Matters

- 10.1.10 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):
 - (a) Before any new building works (including containers/open sheds as temporary buildings, demolition and land filling, etc.) are to be carried out on the Site, prior approval and consent of the Building Authority should be obtained, otherwise they are unauthorized building works (UBW) under the Buildings Ordinance (BO). An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
 - (b) His detailed comments on UBW, provision of access, temporary or licenced structures are at Appendix VI.
 - Detailed checking under the BO will be carried out at building (c) plan submission stage.

¹⁰ For Consideration by the RNTPC on 10.9.2021

District Officer's Comments

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

His office has not received any locals' comment on the application and he has no comment on the application.

- 10.2 The following Government departments have no comment on / objection to the application:
 - (a) Chief Engineer/Construction, Water Supplies Department;
 - (b) Director of Electrical and Mechanical Services;
 - (c) Project Manager (West), Civil Engineering and Development Department; and
 - (d) Commissioner of Police.

11. Public Comments Received During Statutory Publication Period

On 28.5.2021, the application was published for public inspection. During the three-week statutory publication period, two public comments from individuals were received (**Appendices V-1 and V-2**). They object to the application mainly on the grounds that vehicle park in rural areas will increase traffic flow, which leads to traffic congestion, environmental pollution, and fire hazard risk, and thus affecting the safety and living standard of the villagers.

12. Planning Considerations and Assessments

- 12.1 The application is for temporary container vehicle park with ancillary office for a period of 3 years in "OU(Railway Reserve)"(79.6%) and "I(D)" (20.4%) zones. The applied use is a Column 2 use within the "I(D)" zone which requires planning permission and is neither a Column 1 nor Column 2 use in the "OU(Railway Reserve)" zone, which is intended primarily for development of the NOL. While the temporary container vehicle park use under application is not entirely in line with the planning intention of the "I(D)" zone, it can support the warehouse operation located to the east of the Site. As regards the portion of the Site falling within the "OU(Railway Reserve)" zone, RDO of HyD advised that the alignment and programme of the NOL is still under review and has no adverse comment on the application. It is considered that approval of the application on a temporary basis of 3 years would not jeopardize the long-term planning intention of the "I(D)" zone and the future implementation of the NOL.
- 12.2 The applied use is considered not incompatible with the surrounding land uses which are intermixed with logistics centres, warehouses, storage yards, residential dwellings/structures, workshops, site office and sewage pumping station.

12.3 According to TPB PG-No. 13F, the Site falls within Category 1 and 2 areas in respect of the "I(D)" and "OU (Railway Reserve)" portions respectively. The following guidelines are relevant:

Category 1 areas: considered suitable for open storage and port-backup uses. Favourable consideration will normally be given to applications within these areas, subject to no major adverse departmental comments and local objections, or the concerns of the departments and local residents can be addressed through the implementation of approval conditions. Technical assessments should be submitted if the applied uses may cause significant environmental and traffic concerns;

Category 2 areas: planning permission could be granted on a temporary basis up to a maximum period of 3 years, subject to no adverse departmental comments and local objections, or the concerns of the departments and local residents can be addressed through the implementation of approval conditions. Technical assessments, where appropriate, should be submitted to demonstrate that the applied uses would not have adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas.

- 12.4 The application is generally in line with the TPB PG-No. 13F as relevant departments except DEP have no adverse comments on the application. While DEP does not support the application as there are sensitive receives, i.e. residential structures to the south (about 20m to its southeast) and the applied use involves the use of container vehicles, thus environmental nuisance is expected. Nevertheless, there was no environmental complaint received in the past three years. To minimize any possible environmental nuisance generated by the development, approval condition prohibiting workshop activities is recommended in paragraph 13.2 (a) below. Besides, the applicant will be advised to adopt the latest "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites". Moreover, the technical requirements of C of T, CE/MN of DSD and D of FS could be addressed by approval conditions in paragraphs 13.2 (b) to (i) below.
- 12.5 The Site is involved in 20 previous applications for various uses. Only one of which (Application No. A/YL-KTN/262) was for temporary container vehicle park use, which was approved by the Committee in 2007 for reasons as stated in paragraph 6.2 above. Also, there are two similar applications (No. A/YL-KTN/78 and 322) for container tractor/trailer/vehicle park use within the same "I(D)" zone approved by the Committee in 1999 and 2009 and one similar application (No. A/YL-KTN/255) for temporary container tractor/trailer park and repair yard rejected by the Committee in 2006 as detailed in paragraphs 7.2 and 7.3 above. The circumstances of the only rejected similar application are different in that the development was considered not compatible with the surrounding land uses; the development would generate adverse traffic, environmental and drainage impacts and there were strong local objections

against the application. Approval of this application is in line with the Committee's previous decisions.

12.6 Two public comments objecting to the application were received during the statutory publication period as mentioned in paragraph 11 above. In this regard, the departmental comments and planning assessments and considerations above are relevant.

13. <u>Planning Department's Views</u>

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comments mentioned in paragraph 11, the Planning Department considers that the temporary container vehicle park with ancillary office <u>could</u> <u>be tolerated</u> for a period of 3 years.
- 13.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 3 years until <u>10.9.2024</u>. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no dismantling, maintenance, repairing, cleansing, paint spraying and other workshop activities shall be carried out on the Site at any time during the planning approval period;
- (b) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (c) the submission of a run-in/out proposal to/from San Tam Road within **6** months from the date of planning approval to the satisfaction of the Commissioner for Transport and Director of Highways or of the Town Planning Board by <u>10.3.2022</u>;
- (d) in relation to (c) above, the implementation of the run-in/out proposal to/from San Tam Road within 9 months from the date of planning approval to the satisfaction of the Commissioner for Transport and Director of Highways or of the Town Planning Board by <u>10.6.2022</u>;
- (e) the submission of a 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 <u>10.3.2022</u>;

- (f) in relation to (e) above, the implementation of the revised drainage proposal within **9** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by <u>10.6.2022</u>;
- (g) in relation to (f) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (h) 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 <u>10.3.2022</u>;
- (i) in relation to (h) 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 10.6.2022;
- (j) if any of the above planning condition (a), (b) or (g) 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; and
- (k) if any of the above planning condition (c), (d), (e), (f), (h) or (i) 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 in Appendix VI.

13.3 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 intentions of the "OU(Railway Reserve)" and "I(D)" zones which are primarily for railway development and industrial uses that cannot be accommodated in conventional flatted factories due to extensive land and/or high ceiling requirements respectively. No strong planning justification has been given in the submission for a departure from the planning intentions, even on a temporary basis.

14. <u>Decision Sought</u>

14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission for renewal of the planning approval.

- 14.2 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.
- 14.3 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.

15. <u>Attachments</u>

Appendix I	Application Form with Plans received on 17.5.2021
Appendix Ia	Supplementary Information received on 21.5.2021
Appendix Ib	Further Information received on 6.8.2021
Appendix II	Relevant Extract of TPB PG-No. 13F
Appendix III	Previous Applications covering the Site
Appendix IV	Similar Applications within the Same "OU(Railway Reserve)" and "I(D)" Zones in the vicinity of the Site
Appendix V	Public Comments
Appendix VI	Advisory Clauses
Drawing A-1	Layout Plan
Plan A-1a	Location Plan with Similar Applications
Plan A-1b	Previous Applications Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

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