

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-MP/320

<u>Applicant</u>	: Mr. FUNG Hok Lan represented by R-riches Property Consultants Limited
<u>Site</u>	: Lot 1281 (Part) in D.D. 105, Mai Po, Yuen Long
<u>Site Area</u>	: About 396 m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Mai Po and Fairview Park Outline Zoning Plan (OZP) No. S/YL-MP/6
<u>Zoning</u>	: “Village Type Development” (“V”)
<u>Application</u>	: Proposed Temporary Shop and Services for a Period of 5 Years

1. The Proposal

- 1.1 The applicant seeks planning approval for temporary shop and services for interior design and construction services with storage of goods and materials for a period of 5 years at the application site (the Site) which is zoned “V” on the approved Mai Po and Fairview Park OZP No. S/YL-MP/6 (**Plan A-1**). According to the Notes of the OZP, ‘Shop and Services’ is a Column 2 use within “V” zone which requires planning permission from the Town Planning Board (the Board). The Site is currently occupied by a temporary structure with storage use.
- 1.2 As shown in **Plans A-2 and A-3**, the Site is accessible from its northeast via a local track leading from Mai Po Road which connects with Castle Peak Road – Mai Po. The layout of the proposed development is at **Drawing A-1**. Ingress/egress (about 8m wide) to the Site is proposed at the northeastern site boundary. The proposed development includes three single-storey structures (about 2.8m to 4m high) with a total gross floor area (GFA) of 175m² for shop and services use (i.e. interior design and construction services with storage of goods and materials) at the Site. Besides, 2 parking spaces for private cars and 1 loading/ unloading space for light goods vehicle (LGV) are provided. The

operation hours of the Site are 9:00 a.m. to 6:00 p.m. daily, including public holiday.

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

- (a) Application Form received on 26.10.2021 **(Appendix I)**
- (b) Further Information (FI) received on 16.12.2021 **(Appendix Ia)**
clarifying site details and development proposal
and providing response to department comments
and replacement page of the Application Form [#]

[#] *exempted from publication requirement*

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Application Form and FI at **Appendices I and Ia** and can be summarised as follows:

- (a) The temporary application will not frustrate the long term planning intention of the Site. The applicant would like to operate the business of interior design and construction services at the Site serving the nearby locals. Approval of the current application will not frustrate the long term planning intention of the “V” zone.
- (b) The estimated maximum number of visitors to the Site per day are 10 and the maximum number of staff members working at the Site is 5. Visitors are required to make appointment to access the Site and to use the parking spaces. The interior design and construction services company will generate about 27 trips per day (on average 3 trips per hour). Sufficient manoeuvring space is provided within the Site to ensure no vehicle queuing and turning back outside the Site and onto public road. No medium and heavy goods vehicle including container tractor/trailer is allowed to enter/exit the Site. The applicant will continue to liaise with respective departments and land owners for the right of way to the Site. Adverse traffic impact on the surrounding road network is not expected.
- (c) No dangerous goods will be stored at the Site. No dismantling, assembling, repairing or other workshop activities will be carried out at the Site. The applicant will follow the ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ issued by the Environmental Protection Department (EPD) to minimise adverse environmental impacts and nuisance to the surrounding area.
- (d) The development will not create significant adverse traffic, environmental, landscape and drainage impacts to the surrounding areas.

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

The applicant is not a “current land owner” of the private land at the Site 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 site notice and sending notice to the San Tin Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

Town Planning Board Guidelines for Application for Developments within Deep Bay Area under Section 16 of the Town Planning Ordinance (TPB PG-No. 12C)

According to TPB PG-No. 12C, the Site falls within the Wetland Buffer Area (WBA). The relevant assessment criteria are summarised as follows:

- (a) the intention of the WBA is to protect the ecological integrity of the fish ponds and wetland within the Wetland Conservation Area (WCA) and prevent development that would have a negative off-site disturbance impact on the ecological value of fish ponds; and
- (b) within the WBA, for development or redevelopment which requires planning permission, an ecological impact assessment (EcoIA) would need to be submitted. Some local and minor uses (including temporary uses) are however exempted from the requirement of EcoIA.

5. Background

The Site is not subject to any active planning enforcement action.

6. Previous Application

There is no previous application covering the Site.

7. Similar Applications

During the past 10 years, there were three similar planning applications for temporary shop and services use within the same “V” zone on the OZP. All the applications were for real estate agency and approved by the Committee in 2013 mainly on considerations that the developments would not frustrate the long term planning intention of the “V” zone; they would not affect the programme of construction of government project in the

vicinity; they were not incompatible with the surrounding land uses and concerned government departments had no objection to or no adverse comment on the application. The planning permissions for these three applications, however, were revoked on 7.12.2013, 6.3.2014 and 27.6.2014 respectively due to non-compliance with approval conditions on submission and/or provision of drainage, fire service installations (FSIs), landscape proposals and/or paving at the site. Details of these applications are summarised at **Appendix II**.

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

8.1 The Site is:

- (a) currently fenced off and occupied in its eastern part by a single storey structure with storage use; and
- (b) accessible from the northeast via a local track leading from Mai Po Road which connects with Castle Peak Road – Mai Po.

8.2 The surrounding areas are predominantly village houses with restaurant and vehicle parks:

- (a) to its immediate north, northeast, south and west are village houses within Mai Po Tsuen;
- (b) to its north is a vehicle park and a restaurant can be found in the further north near Mai Po Road;
- (c) to its further northwest are an open storage of construction materials, a construction site and vacant land ; and
- (d) to its further northeast along Mai Po Road are vehicle park and vacant land.

9. Planning Intention

The planning intention of the “V” zone is to reflect existing recognised 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.

10. Comments from Relevant Government Departments

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

Land Administration

10.1.1 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) Should planning approval be given to the application, the lot owner(s) will need to immediately apply to his office to permit the structures to be erected or regularise any irregularity on the Site, if any. Besides, given the applied use is temporary in nature, only application for regularisation or erection of temporary structure(s) will be considered. Application for any of the above will be considered by 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 is approved, it will be subject to such terms and conditions, including among others the payment of rent or fees, as may be imposed by LandsD.
- (c) There is no Small House application being processed/approved at the Site.

Traffic

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

- (a) The Site is connected to Mai Po Road via a section of a local access which is not managed by the Transport Department (TD). The land status of the local access should be clarified with LandsD by the applicant. Moreover, the management and maintenance responsibilities of the local access should be clarified with the relevant lands and maintenance authorities accordingly.
- (b) Should the application be approved, a condition should be incorporated that no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period.

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

- (a) The proposed access arrangement of the Site from Mai Po Road should be approved by TD.
- (b) HyD shall not be responsible for the maintenance for any access connecting the Site and Mai Po Road.
- (c) Adequate drainage measures should be provided at the Site to prevent surface water running from the Site to nearby public roads and drains.

Environment

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

- (a) He has no adverse comment on the application provided that it is used as the applied use for a temporary shop and services as an interior design and construction services company and that no medium and heavy vehicles, no dangerous goods as well as no dismantling, assembling, repairing or other workshop activities, as proposed by the applicant, will be involved.
- (b) 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” (the COP) to minimise potential environmental impacts on the surrounding areas.
- (c) There was no environmental complaint relating to the Site was recorded in the past 3 years.

Landscape

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

- (a) The Site falls within the “V” zone which is a non-landscape sensitive zoning and no significant landscape impact arising from the proposed development is anticipated.
- (b) In view of the above, it is considered not necessary to impose any landscape condition should the application be approved by the Board.

Fire Safety

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

- (a) He has no objection in principle to the application subject to FSIs being provided to his satisfaction.
- (b) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. The applicant is advised to 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.

Building Matters

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

- (a) No record of approval granting by the Building Authority (BA) for the existing structures at the Site.
- (b) Before any new building works (including containers and open sheds as temporary buildings, demolition and land filling, etc.) are to be carried out on the Site, prior approval and consent of BA should be obtained, otherwise they are unauthorised building works (UBW). An Authorised Person should be appointed as the coordinator for the proposed building works in accordance with BO.
- (c) For UBW erected on leased land, enforcement action may be taken by BD to effect their removal in accordance with the prevailing enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under BO.
- (d) His detailed comments are at **Appendix IV**.

Drainage

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

- (a) He has no objection in principle to the applied use from drainage operation and maintenance point of view.
- (b) Should the Board consider that the application is acceptable from the planning point of view, the following conditions should be stipulated in the approval letter requiring the applicant (i) to submit a drainage proposal; and (ii) to implement the drainage proposal and maintain the drainage facilities for the development to the satisfaction of the Director of Drainage Services or of the Board.
- (c) His detailed comments are at **Appendix IV**.

10.2 The following Government departments have no comment on or no objection to the application:

- (a) Commissioner of Police;
- (b) Director of Agriculture, Fisheries and Conservation;
- (c) Chief Engineer/Railway Development 2-2, Railway Development Office, Highways Department;
- (d) Project Manager (West), Civil Engineering and Development Department;
- (e) Chief Engineer/Construction, Water Supplies Department; and
- (f) District Officer (Yuen Long), Home Affairs Department.

11. Public Comments Received During Statutory Publication Period

On 2.11.2021, the application was published for public comments. During the first 3 weeks of the statutory publication period which ended on 23.11.2021, a total of 99 public comments were received from the Owners Committee (OC) of Palm Springs Paloma, the OC of Palm Springs Monterey, residents/owners of Palm Springs and Royal Palms and individual raising objection to/concerns about the application (**Appendix III**). These public comments were submitted in response to two applications, i.e. the current application and Application No. A/YL-MP/319 (**Plan A-1**) for temporary shop and services and ancillary office, which is considered by the Committee in the same meeting. The grounds of objection/concerns are mainly on the possible traffic impacts on Palm Springs Boulevard and the environmental concerns.

12. Planning Considerations and Assessments

- 12.1 The application is for proposed temporary shop and services use for interior design and construction services for a period of 5 years at the Site which falls within a “V” zone intended to designate both existing recognised villages and

areas of land considered suitable for land expansion. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. Other commercial, community and recreational uses may be permitted on application to the Board. According to the Notes of the OZP, 'Shop and Services' is a Column 2 use which requires planning permission from the Board. Although the applied use is not entirely in line with the planning intention of the "V" zone, DLO/YL, LandsD advises that there is no Small House application being processed/ approved at the Site. As such, approval of the application on a temporary basis for a period of 5 years would not frustrate the long term planning intention of the "V" zone.

- 12.2 The proposed development is small in scale and not incompatible with the surroundings areas which are predominately village houses with restaurant and vehicle parks. The proposed use can provide interior design and construction services to the local community.
- 12.3 Although the Site falls within WBA of TPB PG-No. 12C, the guidelines also specify that planning applications for temporary uses are exempted from the requirement of EcoIA. DAFC has no comment on the application.
- 12.4 Relevant government departments including C for T, DEP, D of FS, CE/MN of DSD and CTP/UD&L of PlanD have no objection to or no adverse comment on the application. Adverse impacts on traffic, environment, fire safety, drainage and landscape aspects are not envisaged. Should the application be approved, technical requirements of C for T, D of FS and CE/MN of DSD are suggested as approval conditions in paragraph 13.2 below. Concerning the traffic concern raised in the public comments, it is noted that the Site under the current application is accessible via a local track leading from Mai Po Road which connects with Castle Peak Road – Mai Po but not via Palm Springs Boulevard. Also, C for T has no adverse comment on the application including the access arrangement. Regarding the concerns on the potential environmental nuisance generating from the temporary use being applied for, DEP advises that no environmental complaint relating to the Site was recorded in the past 3 years. DEP has no adverse comment on the application as long as it is used as the applied use for a temporary shop and services providing interior design and construction services and no medium and heavy vehicles, no storage of dangerous goods and no workshop activities are involved on-site. Besides, the applicant will be advised to follow the "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites" to mitigate any potential environmental impacts on the surrounding areas.
- 12.5 There are 99 public comments on the application raising objection/concerns on the proposed development as stated in paragraph 11. The planning considerations and departmental comments above are relevant.

13. Planning Department's Views

- 13.1 Based on the assessment made in paragraph 12 and having taken into account the public comments mentioned in paragraph 11 above, the Planning Department has no objection to the application.
- 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 5 years until 24.12.2026. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 6:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no dismantling, assembly repairing or workshop activities, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) only private car and light goods vehicle not exceeding 5.5 tones as defined in the Road Traffic Ordinance are allowed to access the Site at all time during the planning approval period, as proposed by the applicant;
- (d) no medium and heavy vehicles, including container tractor/trailer, as proposed by the applicant, shall access/parked at the Site at all time during the planning approval period;
- (e) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (f) the submission of 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 **24.6.2022**;
- (g) in relation to (f) above, the implementation of 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 **24.9.2022**;
- (h) in relation to (g) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (i) the submission of 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 **24.6.2022**;
- (j) in relation to (i) above, the implementation of fire service installations 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 **24.9.2022**;

- (k) if any of the above planning conditions (a), (b), (c), (d), (e) or (h) 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
- (l) if any of the above planning conditions (f), (g), (i) or (j) 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 IV**.

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

the proposed development is not in line with the planning intention of the "Village Type Development" zone, which is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and re-provisioning of village houses affected by Government projects. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 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.
- 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.

15. Attachments

Appendix I	Application Form received on 26.10.2021
Appendix Ia	FI received on 16.12.2021
Appendix II	Similar Applications
Appendix III	Public comments
Appendix IV	Recommended Advisory Clauses
Drawing A-1	Site Layout Plan
Drawing A-2	Swept Path Analysis
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4	Site Photos