

RNTPC Paper No. A/YL-MP/324  
For Consideration by  
the Rural and New Town  
Planning Committee  
on 28.1.2022

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

**APPLICATION NO. A/YL-MP/324**

<b><u>Applicant</u></b>	: Universal Faith Development Limited represented by Allgain Land Administrators (Hong Kong) Limited
<b><u>Site</u></b>	: Lots 3250 S.B. ss. 48 and 3250 S.B. ss. 49 (Part) in D.D. 104 and Adjoining Government Land (GL), Mai Po, Yuen Long
<b><u>Site Area</u></b>	: About 521 m <sup>2</sup> (including about 137 m <sup>2</sup> of GL (about 26.3%))
<b><u>Lease</u></b>	: Block Government Lease (demised agricultural use)
<b><u>Plan</u></b>	: Approved Mai Po & Fairview Park Outline Zoning Plan (OZP) No. S/YL-MP/6
<b><u>Zoning</u></b>	: “Residential (Group C)” (“R(C)”)
<b><u>Application</u></b>	: Temporary Shop and Services for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary shop and services for a period of 3 years (**Plan A-1**). According to the Notes of the OZP, ‘Shop and Services’ use within “R(C)” zone is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The northern part of the Site is currently occupied by temporary structures for office use, while the southern part is occupied by temporary structures for storage and office use (**Plans A-2 and A-4**).
- 1.2 The Site is the subject of two previous applications (No. A/YL-MP/273 and 295) submitted by the same applicant for the same use. The last application (No. A/YL-MP/295) was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 15.9.2020 for a period of 3 years until 15.9.2023. However, the planning permission was revoked on 15.9.2021 due to

non-compliance with approval conditions. As compared with the last application, the current application involves a slightly larger site area but with similar layout.

- 1.3 As shown in **Plan A-1** and **Plan A-2**, the Site is accessible from Fairview Park Boulevard via a local track. According to the layout plan (**Drawing A-1**) submitted by the applicant, there are two existing ~~single~~ **two**-storey structures (not exceeding 7.5m in height with a gross floor area of 275m<sup>2</sup>). As clarified in the supplementary information (**Appendix Ia**), the two structures are used for a real estate agency. One private car parking space is provided. The operation hours of the Site are from 9:00 a.m. to 8:00 p.m. daily, including public holidays.
- 1.4 In support of the application, the applicant has submitted the following documents:
  - (a) Application form with planning justifications and (**Appendix I**) plans received on 30.11.2021
  - (b) Supplementary information (SI) received on (**Appendix Ia**) 7.12.2021
  - (c) Further information (FI) received on 12.1.2022 in (**Appendix Ib**) response to departmental comments.\*

Remarks: \* accepted and exempted from publication and recounting requirements.

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

The justifications put forth by the applicant in support of the application are detailed in the application form, planning justification and plans at **Appendix I**. They can be summarized as follows:

- (a) The Site is zoned “R(C)” on the approved Mai Po and Fairview Park Outline Zoning Plan. The applied use is in line with the planning intention of “R(C)” zone and can serve the needs of nearby residents. It is not incompatible with the surrounding rural landscape character.
- (b) The previous planning permission was revoked due to the non-compliance of approval conditions caused by the impact of the COVID-19 pandemic.
- (c) No adverse or significant traffic, environmental and drainage impacts are anticipated.

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

The applicant is one of the “current land owners” of the private lots within the Site and has complied with the requirement 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 Fairview Park Property Management Limited by registered post. Detailed information would be deposited at the meeting for Member’s inspection. The remaining part of the Site is GL, and the “owner’s consent/notification” requirements are not applicable.

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

4.1 According to the Town Planning Board Guidelines for Application for Developments within Deep Bay Area under Section 16 of the Town Planning Ordinance (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 currently not subject to any active enforcement action.

### **6. Previous Application**

- 6.1 The Site in part is the subject of two previous applications (No A/YL-MP/273 and 295) submitted by the same applicant as the current application for the same temporary shop and services for real estate agency.
- 6.2 The last application (No. A/YL-MP/295) was approved by the Committee on 15.9.2020 for a period of 3 years until 15.9.2023 mainly on the considerations that the temporary approval would not frustrate the long term planning intention of the “R(C)” zone; the proposed use was not incompatible with the surrounding land uses; there was no objection to or no adverse comment from concerned

government departments; relevant departmental concerns could be addressed by approval conditions and approval of the application is in line with the previous decisions of the Committee. However, the planning permission was revoked on 15.9.2021 due to non-compliance with the approval conditions on the submission and implementation of drainage proposal. Details of this application are summarised at **Appendix II**.

## **7. Similar Applications**

- 7.1 During the past five years since 2017, there is one similar application (No. ~~A/YL-ST/270~~ **A/YL-MP/270**) for shop and services uses within the same “R(C)” zone on the OZP which was approved by the Committee mainly on the consideration that the developments would provide supporting retail and real estate agency services to residential areas in the vicinity, the developments were not incompatible with the surrounding land uses and the concerns of Government departments could be addressed by imposing approval conditions.
- 7.2 Details of the application are summarized at **Appendix III**. Its location is shown on **Plan A-1**.

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

- 8.1 The Site is:
- (a) accessible via a local track from Fairview Park Boulevard;
  - (b) hard paved and partially fenced off, and occupied by structures for storage and office uses; and
  - (c) within the WBA of Deep Bay Area.
- 8.2 The surrounding areas are a mix of residential development and dwellings, a school, vehicle parks, nullahs and roads:
- (a) to the north are a vehicle park, a plant nursery and Fairview Park Road South. To the further north across Fairview Park Road South are vacant land and a vehicle park;
  - (b) to the east are a local track, vacant land and a vehicle park approved under Application No. A/YL-NSW/284, a hardware workshop and Yau Pok Road. To the further east across Yau Pok Road is a nullah, Kam Pok Road and residential dwellings;

- (c) to the south is a local track. To the further south are a restaurant approved under Application No. A/YL-NSW/279, residential dwellings and open storage yards for construction materials; and
- (d) to the west are a nullah, a school and Bauhinia Road East. To the further west across Bauhinia Road East is the residential development of Fairview Park.

## **9. Planning Intention**

The “R(C)” zone is intended primarily for low-rise, low-density residential developments where commercial uses serving the residential neighbourhood may be permitted on application to the Town Planning Board.

## **10. Comments from Relevant Government Departments**

- 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 Scheduled Agricultural Lots (OSALs) and GL. The OSALs are held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.
- (b) No permission is given for occupation of GL included in the Site (about 137m<sup>2</sup> subject to verification). The act of occupation of GL without Government’s prior approval is not allowed.
- (c) Should planning approval be given to the application, the lot owner(s) will need to immediately apply to this office to permit the structures to be erected or regularise any irregularity on Site, if any. Also, the applicant has to either exclude GL from the Site or apply for a formal approval prior to the actual occupation of the GL. Besides, given the proposed use is temporary in nature, only application for regularisation or erection of temporary structure(s) will be considered. Application(s) 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 fee, as may be imposed by LandsD.

### **Traffic**

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

- (a) He has no adverse comment from traffic point of view.
- (b) 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, Highway Department (CE/NTW, HyD):

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

### **Environment**

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

The applicant is advised to follow the environmental mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” (COP) issued by DEP.

### **Landscape**

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

- (a) No objection to the application from the landscape planning perspective.
- (b) With reference to the aerial photo, the Site is situated in an area of rural inland plains landscape character comprising low-rise residential development, village houses, schools, drainage channel,

temporary structures, vacant land and scattered tree groups, etc. The proposed use is not incompatible with the landscape setting in proximity.

- (c) With reference to the site photos, an existing tree of common species with fair condition is observed within the Site. With reference to the layout plan of the application form, two existing temporary structures would not be in conflict with the existing tree.
- (d) In consideration that there is limited space for meaningful landscape, it is considered not necessary to impose any landscape-related condition should the Board approve the subject application. Advisory comments to the applicant are at **Appendix V**.

### **Drainage**

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

- (a) He has no objection in principle to the proposed development.
- (b) Should the Board consider that the application is acceptable from the planning point of view, conditions should be stipulated in the approval letter requiring the applicant (i) to submit a drainage proposal and (ii) to implement and maintain the drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board

### **Fire Safety**

10.1.7. 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 (FSIs) being provided to his satisfaction.
- (b) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his Department for approval. The applicant should also be advised on the following points:
  - (i) the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy; and

- (ii) the location of where the proposed FSIs to be installed should be clearly marked on the layout plans.
- (c) The applicant is reminded that if any 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.

10.2 The following government departments have no comment on / no objection to the application:

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

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

On 10.12.2021, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 31.12.2021, two comments from individuals were received (**Appendix IV**) raising objection that the proposed use will exacerbate the risk of fire hazard and will cause environmental pollution and degradation of the nearby living environment, as well as non-compliance of approval conditions in the previous application.

## **12. Planning Considerations and Assessments**

- 12.1 The application is for a temporary shop and services. The Site falls within “R(C)” zone which is intended for low-rise, low-density residential developments where commercial uses such as shops and services serving the residential neighbourhood may be permitted by the Board on application. The applied use is not entirely in line with the planning intention of the “R(C)” zone. According to the applicant, the proposed temporary shop and service involving a real estate agency is to serve the needs of nearby residents. Approval of the application on a temporary basis of a period of 3 years would not frustrate the long-term planning intention of the “R(C)” zone as there is no immediate permanent development proposal at the Site.



- 12.2 Given the small scale (total floor area of about 275m<sup>2</sup>) and the nature of the applied use, it is considered not incompatible with the surrounding land uses, comprising mainly a school, residential dwellings, plant nursery, open storage yards, vehicle parks and vacant land (**Plan A-2**).
- 12.3 Although the Site falls within the WBA of the 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 Other concerned Government departments including DEP, C for T, CTP/UD&L of PlanD, CE/MN of DSD and D of FS have no adverse comments on environmental, traffic, landscape, drainage and fire safety aspects respectively, and their technical concerns/requirements could be addressed by approval conditions as recommended in paragraph 13.2 below.
- 12.5 There has been two previously approved applications for the same temporary shop and service use for real estate agency at the Site as detailed in paragraph 6 above. Since 2017, the Committee has approved one similar application for temporary shop and services use within the same “R(C)” zone. Approval of the current application is therefore in line with the previous decisions of the Committee. Shorter compliance periods are recommended to closely monitor the progress of compliance with the approval conditions. Moreover, the applicant will be advised that should the applicant fail to comply with the approval conditions again resulting in the revocation of the planning permission, sympathetic consideration may not be given to any further application.
- 12.6 There were two public comments raising objection/concerns on the application as detailed in paragraph 11. The planning considerations and departmental comments above are relevant.

### **13. Planning Department’s Views**

- 13.1 Based on the assessments made in paragraph 12 and having taking into account the public comment in paragraph 11, 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 3 years up to 28.1.2025. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

### Approval Conditions

- (a) no vehicle is allowed to queue back to or reverse onto/from the Site at all times during the planning approval period;
- (b) the submission of drainage proposal within **3** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 28.4.2022;
- (c) in relation to (b) above, the implementation of drainage proposal within **6** months from the date of planning approval to the satisfaction of the Director of Drainage Service or of the Town Planning Board by 28.7.2022;
- (d) in relation to (c) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (e) the submission of fire service installations proposal within **3** months from the date of planning approval to the satisfaction of Director of Fire Services or of the Town Planning Board by 28.4.2022;
- (f) in relation to (e) above, the implementation of fire service installations proposal within **6** months from the date of planning approval to the satisfaction of Director of Fire Services or of the Town Planning Board by 28.7.2022;
- (g) if any of the above planning condition (a) or (d) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice;
- (h) if any of the above planning condition (b), (c), (e) or (f) 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**.

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

the temporary development is not in line with the planning intention of the "R(C)" zone which is intended primarily for low-rise, low-density residential developments. There is no strong planning justification 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.
- 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 applicants.

**15. Attachments**

<b>Appendix I</b>	Application Form with Planning Justifications and Plans Received on 30.11.2021
<b>Appendix Ia</b>	SI received on 7.12.2021
<b>Appendix Ib</b>	FI received on 12.1.2022
<b>Appendix II</b>	Previous applications
<b>Appendix III</b>	Similar s.16 application within the same “R(C)” zone on the Mai Po and Fairview Park OZP No. S/YL-MP/6
<b>Appendix IV</b>	Public comments received during the statutory publication period
<b>Appendix V</b>	Recommended Advisory Clauses
<b>Drawing A-1</b>	Layout Plan
<b>Plan A-1</b>	Location Plan with Similar Application
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos