

RNTPC Paper No. A/YL-MP/361A
For Consideration by
the Rural and New Town
Planning Committee
on 19.4.2024

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-MP/361

<u>Applicant</u>	: Universal Faith Development Limited represented by Allgain Land Administrators (Hong Kong) Limited
<u>Site</u>	: 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
<u>Site Area</u>	: About 521m ² (including about 137m ² of GL (about 26.3%))
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Draft Mai Po & Fairview Park Outline Zoning Plan (OZP) No. S/YL-MP/7 (<i>currently in force</i>) Approved Mai Po & Fairview Park OZP No. S/YL-MP/6 (<i>at the time of submission</i>) [The zoning and the development parameters of the application site remain unchanged on OZP No. S/YL-MP/7]
<u>Zoning</u>	: “Residential (Group C)” (“R(C)”) [restricted to a maximum plot ratio of 0.4 and a maximum building height of 3 storeys (9m)]
<u>Application</u>	: Temporary Shop and Services for a Period of 3 Years

1. The Proposal

- 1.1. The applicant seeks planning permission for temporary shop and services for a period of 3 years at the application site (the Site) which falls within an area zoned “R(C)” on the draft Mai Po & Fairview Park OZP No. S/YL-MP/7 (**Plan A-1**). According to the Notes of the OZP for “R(C)” zone, ‘Shop and Services’ is a Column 2 use which requires planning permission from the Town Planning Board

(the Board). According to the applicant, the proposed shop and services use is for a real estate agency. The Site is currently occupied by temporary structures for shop and services use without valid planning permission (**Plans A-2 and A-4**).

- 1.2. The Site is the subject of three previous applications (No. A/YL-MP/273, 295 and 324) approved by the Rural and New Town Planning Committee (the Committee) of the Board between 2018 to 2022 (details at paragraph 6 below). Compared with the last application (No. A/YL-MP/324), the current application is submitted by the same applicant for the same use at the Site with the same development parameters and a similar layout.
- 1.3. According to the layout plan (**Drawing A-1**), there are two existing two-storey structures (not exceeding 7.5m in height with a total GFA of not exceeding 275m²) for a real estate agency. One private car parking space is provided. The operation hours are from 9:00 a.m. to 8:00 p.m. daily, including public holidays. As shown in **Plan A-1** and **Plan A-2**, the Site is accessible from Fairview Park Boulevard via a local track.
- 1.4. In support of the application, the applicant has submitted the following documents:

(a) Application form received on 22.12.2023	(Appendix I)
(b) Supplementary planning statement	(Appendix Ia)
(c) Further information (FI) received on 28.2.2024*	(Appendix Ib)
(d) FI received on 16.4.2024*	(Appendix Ic)

Remarks: * accepted and exempted from publication and recounting requirements.
- 1.5. On 16.2.2024, the Committee agreed to defer making a decision on the application for a period of two months as requested by the applicant.

2. Justifications from the Applicant

- 2.1. The justifications put forth by the applicant in support of the application are detailed in the application form, planning justification and plans at **Appendices I to Ic**. They can be summarised as follows:
 - (a) The applied use is in line with the planning intention of the “R(C)” zone and will not frustrate the long-term planning intention.
 - (b) The applied use of shop and services for a real estate agency can serve the needs of nearby residents. There are shops in the vicinity and the applied use is not incompatible with the surrounding land uses.
 - (c) The previous planning permission was revoked due to the non-compliance with an approval condition on the implementation of drainage proposal. In support of the current application, the applicant has submitted the accepted

fire services installations (FSIs) proposal and accepted drainage proposal (**Appendix Ia**) and has committed to implement the proposals.

- (d) No adverse or significant traffic, environmental, landscape and drainage impacts are anticipated. The applicant will follow relevant requirements in the latest ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ (CoP) issued by Director of Environmental Protection (DEP) to minimise any potential environmental impacts.

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. 31B) by posting site notice and sending notice to the San Tin Rural Committee. Detailed information would be deposited at the meeting for Member’s inspection. For the GL portion of the Site, the “Owner’s Consent/Notification” requirements are not applicable.

4. Town Planning Board Guidelines

Town Planning Board Guidelines for “Application for Developments within Deep Bay Area” (TPB PG-No. 12C) are relevant to this application. The Site falls within the Wetland Buffer Area (WBA) of the TPB PG-No. 12C (**Plan A-2**). The relevant extract of the Guidelines is attached at **Appendix II**.

5. Background

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

6. Previous Applications

- 6.1. The Site (in whole or in part) is the subject of three previous applications (No. A/YL-MP/273, 295 and 324) submitted by the same applicant as the current application for the same temporary shop and services use.
- 6.2. All three applications were approved with conditions each for a period of three years by the Committee between 2018 to 2022 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; and there was no adverse comment from concerned government departments.

The planning permissions for two of the previous applications (No. A/YL-MP/295 and 324) were subsequently revoked in 2021 and 2023 respectively due to non-compliance with time-limited approval conditions on the submission and implementation of drainage proposal (No. A/YL-MP/295) and implementation of drainage proposal (No. A/YL-MP/324).

- 6.3. Details of these applications are summarised at **Appendix III**. Their locations are shown on **Plan A-1**.

7. Similar Application

- 7.1. During the past five years, there is one similar application (No. A/YL-MP/335) for shop and services uses within the same “R(C)” zone which was approved by the Committee of the Board in 2023 mainly on the considerations that the development would serve the need of the nearby residencies; the development was not incompatible with the surrounding land uses and would not frustrate the long-term planning intention of the “R(C)” zone; and there was no adverse comment from concerned government departments.
- 7.2. Details of the application is summarised 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 shop and services uses; and
 - (c) within the WBA of Deep Bay Area.
- 8.2. The surrounding areas are intermixed with low-rise residential development (Fairview Park), residential dwellings, open storage yards, school, plant nursery, vehicle parks, restaurant, nullahs and roads. Sites for proposed temporary shop and services with valid planning permissions (No. A/YL-MP/335 and A/YL-NSW/308) are located to the northeast and east of the Site respectively.

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

All government departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided in **Appendices IV** and **V** respectively.

11. Public Comments Received During Statutory Publication Period

On 5.1.2024, the application was published for public inspection. During the statutory publication period, one comment was received from an individual objecting to the application mainly on the grounds that the previous application was revoked due to non-compliance with approval condition; and GL is involved in the application (**Appendix VI**).

12. Planning Considerations and Assessments

- 12.1. The application is for temporary shop and services for a period of 3 years at the Site within the “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. Although the applied use is not entirely in line with the planning intention of the “R(C)” zone, the proposed temporary shop and service involving a real estate agency is intended to serve the needs of the nearby residents. Besides, there is no immediate permanent development proposal at the Site, and 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.
- 12.2. In view of the scale and nature of the shop and services use to serve the local neighbourhood, the applied use is considered not incompatible with the surrounding land uses which are intermixed with residential dwellings, plant nursery, open storage yards, vehicle parks, restaurant and shop and services (**Plan A-2**).
- 12.3. The Site falls within the WBA of the TPB PG-No. 12C and the guidelines specify that planning applications for temporary uses are exempted from the requirement of an ecological impact assessment. Director of Agriculture, Fisheries and

Conservation has no comment on the application from nature conservation point of view.

- 12.4. Concerned government departments, including the Director of Environmental Protection, Commissioner for Transport, Director of Fire Services (D of FS), Chief Town Planner/Urban Design and Landscape, Planning Department and Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) have no objection to or no adverse comment on environmental, traffic, fire safety, landscape and drainage aspects respectively. Should the application be approved, technical requirements of CE/MN, DSD and D of FS are suggested to be imposed through approval conditions as recommended in paragraph 13.2 below.
- 12.5. The Site is the subject of three previous applications for the same temporary shop and service use as the current application as detailed in paragraph 6 above, which were all approved with conditions each for a period of three years by the Committee between 2018 to 2022. The planning permissions of the latter two applications (No. A/YL-MP/295 and 324) were revoked in 2021 and 2023 respectively due to non-compliance with time-limited approval conditions regarding submission and/or implementation of drainage proposals. The current application is submitted by the same applicant of No. A/YL-MP/324 with similar layout and the same development parameters as that application. The submitted drainage proposal and fire services installation (FSI) proposal in support of the current application have been accepted by CE/MN, DSD and D of FS respectively. Besides, the applicant has committed to implement the accepted drainage proposal and the accepted FSI proposal at the Site. As such, sympathetic consideration may be given to the current application. Should the Committee decide to approve the application, the applicant will be advised that should the applicant fail to comply with the approval condition(s) again resulting in the revocation of the planning permission, sympathetic consideration may not be given by the Committee to any further application.
- 12.6. There was one similar application for temporary shop and services approved by the Committee in 2023 within the same “R(C)” zone on the OZP over the past five years as detailed in paragraph 7 above. Approval of the current application is generally in line with the Committee’s previous decision.
- 12.7. Regarding the public comment received during the statutory public inspection period of the application as detailed in paragraph 11, the planning assessment 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 19.4.2027. 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~~**public road** at all times during the planning approval period;
- (b) the implementation of the accepted drainage proposal within **9** months from the date of planning approval to the satisfaction of the Director of Drainage Service or of the Town Planning Board by 19.1.2025;
- (c) in relation to (b) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (d) the implementation of the accepted fire service installations proposal within **9** months from the date of planning approval to the satisfaction of Director of Fire Services or of the Town Planning Board by 19.1.2025;
- (e) if any of the above planning condition (a) or (c) 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;
- (f) if any of the above planning condition (b) or (d) 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 use 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

Appendix I	Application Form received on 22.12.2023
Appendix Ia	Supplementary Planning Statement
Appendix Ib	FI received on 28.2.2024
Appendix Ic	FI received on 16.4.2024
Appendix II	Relevant Extract of TPB PG-No. 12C
Appendix III	Previous and similar applications
Appendix IV	Government departments' general comments
Appendix V	Recommended Advisory Clauses
Appendix VI	Public comments
Drawing A-1	Layout Plan
Plan A-1	Location Plan with Similar Application
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
APRIL 2024**