

RNTPC Paper No. A/YL-NSW/286
For Consideration by
the Rural and New Town
Planning Committee
on 30.4.2021

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-NSW/286

<u>Applicant</u>	: Fung Tat Trading Company represented by Allgain Land Administrators (Hong Kong) Limited
<u>Site</u>	: Lots 719 RP (Part), 725 (Part), 726 (Part), 727 RP (Part), 728 (Part), 729, 730, 731 (Part), 758 (Part), 759 (Part), 760 (Part), 774 S.A (Part), 774 S.B and 775 (Part) in D.D. 115, Castle Peak Road-Yuen Long Section, Yuen Long
<u>Site Area</u>	: About 3,526 m ²
<u>Land Status</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Nam Sang Wai Outline Zoning Plan (OZP) No. S/YL-NSW/8
<u>Zoning</u>	: “Undetermined” (“U”)
<u>Application</u>	: Proposed Temporary Shop and Services (Sales of Private Cars) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary shop and services (sales of private cars) for a period of 3 years. The Site falls within an area zoned “U” on the approved Nam Sang Wai Outline Zoning Plan No. S/YL-NSW/8 (**Plan A-1**). According to the covering Notes of the OZP, any use or development in the “U” zone, except those specified as always permitted under the covering Notes, requires planning permission from the Town Planning Board (the Board). The Site is currently not used for the applied use but occupied by some temporary structures used as site offices with open storage of construction materials without planning permission.
- 1.2 The Site is accessible from Yuen Long Tung Shing Lei Road which connects with Castle Peak Road – Yuen Long. The proposed shop and services use is mainly for sale of second hand private cars. The proposed development includes 10 structures (some are existing structures) not exceeding 7.62m in height with a gross floor area of 2,100m² and site coverage of 33.6%, including 2 one-storey structures for indoor vehicle showroom and customer service centre and 8 two-storey structures for shops (sales of vehicles), vehicle showroom, storage and pantry, reception, site office and toilet. 10 visitor private parking spaces are also

proposed at the Site. The layout plan submitted by the applicant is at **Drawing A-1**. The operation hours are 9:00 a.m. to 7:00 p.m. from Mondays to Sundays including public holidays.

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

- (a) Application form received on 5.3.2021. **(Appendix I)**
- (b) Further Information (FI) received on 21.4.2021, 22.4.2021 and 26.4.2021 providing responses to departmental comments and clarifications to the operation and layout of the proposed development.* **(Appendix Ia)**

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 **Appendices I to Ia**. They can be summarised as follows:

- (a) The Site is zoned “U” on the Nam Sang Wai OZP. The proposed development which is temporary in nature would not jeopardise the long term planning intention of the area. The nature and layout of the proposed development is compatible with the surrounding environment. Similar applications for shops and services within the same “U” zone were also approved by the Committee.
- (b) The Site is accessible from Yuen Long Tung Shing Lei Road. The site access is about 8m in width which allows adequate space for private cars to drive through. 10 visitor private car parking spaces are proposed. No other parking or loading/unloading spaces for light goods vehicles or other types of vehicles will be provided.
- (c) There are bus and mini-bus stops near the Site along Castle Peak Road – Yuen Long. Visitors and staff members could easily access the Site via public transport. The traffic impact generated by the proposed development is insignificant. It is estimated that only 20 vehicle trips by visitors will be generated every day.
- (d) The proposed development would not generate adverse environmental, drainage and landscape impacts. The applicant is committed to follow the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” (COP) issued by the Environmental Protection Department. No noise nuisance or air pollution will be resulted. The toilet and pantry will not be open for public. A septic tank will be provided for sewage disposal. Drainage proposal has been submitted. There will be no adverse drainage impact with the implementation of drainage facilities. No tree felling will be involved.

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

The applicant is not the “current land owner” and 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 Shap Pat Heung Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

- 4.1 The Site falls within the “U” zone (26.3 ha) south of the Yuen Long Highway (**Plan A-1**) and has been zoned “U” on the draft Nam Sang Wai OZP No. S/YL-NSW/1 since 3.6.1994. It was so designated as several major transport and drainage projects, including Yuen Long Highway, MTR West Rail (WR) and Yuen Long Bypass Floodway (YLBf), which were under planning at that time, would traverse the area. According to the Explanatory Statement of the Nam Sang Wai OZP, the “U” zone is within a transitional location between the urban and rural areas. Development within the areas has to be comprehensively planned as piecemeal development or redevelopment would have the effect of degrading the environment and thus jeopardising the long-term planning intention of the areas. Under the “U” zone, any developments or redevelopments require planning permission from the Board so as to ensure that the environment would not be adversely affected and that infrastructure, Government, institution or community (GIC) facilities, and open space are adequately provided. The proposed development should also take into account the WR and YLBf.
- 4.2 Following the completion of the infrastructure projects of Yuen Long Highway, WR and YLBf, and upon preliminary review, the subject “U” zone is considered to have potential for housing developments and other uses. According to the 2017 Policy Address, the subject “U” zone is one of the potential sites for public housing development in the short to medium term. The detailed land use proposal and appropriate development parameters are subject to further review. The long term use of the Site will be examined in the future land use review of the subject “U” zone.
- 4.3 The Site is not subject to any active planning enforcement action.

5. Previous Application

There is no previous application at the Site.

6. Similar Application

- 6.1 There are 4 similar applications for temporary shop and services use within the same “U” zone on the Nam Sang Wai OZP (**Plan A-1**).
- 6.2 Applications No. A/YL-NSW/115 for temporary retail shop for wheels and tyres, No. A/YL-NSW/278 for temporary shop and services (sales of private cars), No. A/YL-NSW/283 for temporary shop and services (convenience store and

showroom) and storage use for traffic information technology system facilities with ancillary solar panels and No. A/YL-NSW/285 for temporary vehicle maintenance workshop, retail shop for car components/accessories and convenience store with ancillary uses were approved by the Committee between 2002 and 2021 on considerations that the temporary developments would not jeopardise the long term planning intention of the “U” zone, were not incompatible with the surrounding land uses, the developments would unlikely generate any adverse impacts and there were no adverse departmental comments.

6.3 Details of the applications are at **Appendix II**.

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

7.1 The Site is:

- (a) accessible via Yuen Long Tung Shing Lei Road which connects with Castle Peak Road – Yuen Long (**Plans A-2 and A-3**); and
- (b) paved, formed and occupied by some temporary structures as site offices with open storage of construction materials.

7.2 The surrounding areas have the following characteristics:

- (a) to its north and west are mostly residential dwellings with some vacant land, temples, a metal workshop and parking of vehicles;
- (b) to its south are some vacant/unused land, parking of vehicles and a metal workshop. To its further south is a hotel (Sun Kong Hotel); and
- (c) to its immediate east is a vacant site with planning permission for religious institution (church) (No. A/YL-NSW/263). To its east across Yuen Long Tung Shing Lei Road are mostly parking of vehicles, workshops, warehouse, storage and open storage uses, with some residential dwellings, vacant/unused land and a car beauty and repair workshop with temporary planning permission (No. A/YL-NSW/285).

8. Planning Intention

The “U” zone is subject to impacts from Castle Peak Road, Yuen Long Highway, WR and YLBF. Under the “U” zone, any developments or redevelopments require planning permission from the Board so as to ensure the environment would not be adversely affected and that infrastructure, GIC facilities, and open space are adequately provided. The proposed development should also take into account the WR and YLBF. To realise a built-form which represents a transition from Yuen Long New Town to the rural area, the development intensity should take into account the urban type developments immediately to the west of the “U” zone and the rural characteristics of the area to its north. Development within the areas has to be comprehensively planned as piecemeal development or redevelopment would have the effect of degrading the environment and

thus jeopardising the long-term planning intention of the areas.

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:

Land Administration

9.1.1 Comments of the District Lands Officer/Yuen Long, LandsD (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) Should planning approval be given to the application, the lots owners will need to apply to his office to permit the structures to be erected or regularise any irregularities on Site, if any. Besides, given the proposed use is temporary in nature, only application for regularisation or erection of temporary structure(s) will be considered. Applications for any of the above will be considered by LandsD acting in the capacity as 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.

Traffic

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

- (a) The Site is connected to the public road network via a section of local access road which is not managed by Transport Department (TD). 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.
- (b) Should the application be approved, no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period.

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

- (a) Yuen Long Tung Shing Lei Road is not maintained by HyD.

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

9.1.4 Comments of the Chief Engineer/Railway Development 2-2, Railway Development Office, HyD (CE/RD 2-2, RDO, HyD):

The Site is in close proximity to and with a small portion of the Site falling within the railway protection boundary of the existing West Rail Line. As the operation of the existing railway system is not under the jurisdiction of his office, the applicant should consult the MTR Corporation Limited with respect to operation, maintenance, safety and future construction on the existing railway network with reference to the procedure in PNAP APP-24.

Environment

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

The applicant is advised to follow the environmental mitigation measures and requirements in the latest COP issued by DEP.

Landscape

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

- (a) He has no objection to the application from the landscape planning perspective.
- (b) The Site is located to the north of Castle Peak Road-Yuen Long and to the west of Yuen Long Tung Shing Lei Road. With reference to the aerial photo of 2020, the Site is situated in an area of miscellaneous urban fringe landscape character comprising of temporary structures, village houses, vehicular parking area and cluster of trees. Application No. A/YL-NSW/278 for similar use located to the southeast of the Site was approved in 2020. The proposed development is considered not incompatible with the surrounding landscape setting.
- (c) According to the site photos, the Site is mainly hard paved with some existing temporary structures and storage of construction materials. There are approximate 11 no. of existing trees and some tree groups of common species along the western and southern boundary of the Site. Although it is stated in the planning statement

that no tree felling is involved, it is apparent that the proposed western visitor parking spaces and Structure 5, and the existing Structures 1, 4 and 10 are in conflict or very close to some existing trees within the Site, of which some large mature trees are growing in-between the structures. Noting that information on existing landscape resources within the Site and proposed landscape treatment are not provided in the planning statement, potential impact on the existing landscape resources within the Site cannot be reasonably ascertained. In view that the existing trees within the Site are of common species, significant adverse impact arising from the proposed development is not anticipated.

- (d) It is noted that there is no major public frontage along the site boundary and existing trees are found along the western and eastern site boundary. Should the Board approve the application, it is considered not necessary to impose a landscape condition as its effect on enhancing the quality of public realm is not apparent.
- (e) He has the following advisory comments to the applicant:
 - (i) With reference to the site inspection, it is apparent that the proposed western visitor parking spaces and Structure 5, and the existing Structures 1, 4 and 10 are in conflict or very close to the existing trees within the Site and some large trees are growing in-between the structures. The applicant should review and revise the proposed layout to retain the existing trees as far as possible.
 - (ii) A leaning *Mangifera indica* (芒果) (**Plan A-2**) with sign of root plate movement and a dead tree were found at southern boundary of the Site. Appropriate mitigation measures/tree works should be carried out to minimise tree risk. The applicant is reminded that approval of the application does not imply approval of tree works such as pruning, transplanting, and felling under lease. The applicant should seek comments and approval from the relevant authority on the proposed tree works and compensatory planting proposal, where appropriate.
 - (iii) The applicant is reminded that no materials should be stacked within 1m from the tree trunks to avoid damage to the trees and remove any abrasive materials on tree trunks to avoid them from girdling the trees.

Drainage

9.1.7 Comments of the Chief Engineer/Mainland North, DSD (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 (i) the submission of a drainage proposal; and (ii) the implementation and maintenance of the drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board.

- (c) There is no public sewer connection available in the vicinity, the applicant shall seek views and comments from DEP regarding the sewage disposal arrangement of the proposed development.

Fire Safety

9.1.8 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.

Building Matters

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

- (a) There is no record of approval granted by the Building Authority (BA) for the existing structures at the Site. If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of BA, they are unauthorised building works (UBW) under BO and should not be designated for any proposed use under the application.
- (b) 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.

(c) His detailed comments are at **Appendix IV**.

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

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

10. Public Comments Received During Statutory Publication Period

On 16.3.2021, the application was published for public inspection. During the first 3 weeks of the statutory public inspection period which ended on 7.4.2021, 15 public comments were received from the descendants of the founder of the Tung Shing Lane Village and individuals (**Appendix III**). Amongst the comments received, 11 are objecting to the application mainly on the grounds that the proposed development is incompatible with the locality, it would induce traffic problem, noise and sewage pollution, affect the safety and living quality of the villagers and it is doubtful whether the infrastructure in the area can support the proposed development. 4 are supporting the application in that it provides the neighbourhood with a retail outlet for cars and employment opportunity as well as regularises the proposed development through planning application.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary shop and services (sales of private cars) in the “U” zone on the Nam Sang Wai OZP which was so designated as several major transport and drainage projects, including WR and YLBF, which were under planning at that time, would traverse the area. The above infrastructure projects have been completed. The subject “U” zone has been identified in the 2017 Policy Address with potential for housing development. The detailed land use proposal and appropriate development parameters for the “U” zone are subject to further study. As the long term use of the “U” zone is subject to study, approval of the proposed temporary use for a period of 3 years would not jeopardise the long term land use planning for the area.
- 11.2 The proposed development, which is low-rise in nature, is not incompatible with the urban fringe setting around the Site. Also, the proposed shop and services for sales of private cars is compatible with the surrounding land uses including residential dwellings, vehicle parking and workshop/open storage/warehouse

uses.

- 11.3 The proposed development would unlikely cause significant adverse traffic, environmental, drainage, fire safety and landscape impacts on the area. There are no adverse comments from the concerned departments including C for T, DEP, CE/MN of DSD, D of FS and CTP/UD&L of PlanD. Should the application be approved, approval conditions on traffic, drainage and fire safety requirements are recommended in paragraphs 12.2 (a) to (f) below as per the advice of relevant departments. To mitigate the potential environmental impacts of the proposed development on the surrounding areas, the applicant will be advised to follow the latest COP.
- 11.4 As detailed in paragraph 6, the Committee has approved 4 similar applications for temporary shop and services for sales of wheel and tyres/private cars/convenience store/showroom/retail shop for car components accessories in the same “U” zone. Approval of the current application is in line with the previous decisions of the Committee.
- 11.5 4 supporting and 11 opposing public comments were received during the statutory public inspection period of the application as detailed in paragraph 10. The planning assessment and departmental comments above are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessment made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10, 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 period of 3 years until 30.4.2024. 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 public road at any time during the planning approval period;
- (b) 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 30.10.2021;
- (c) in relation to (b) 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 30.1.2022;
- (d) in relation to (c) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;

- (e) 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 30.10.2021;
- (f) in relation to (e) above, the implementation of 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 30.1.2022;
- (g) if any of the above planning conditions (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; and
- (h) if any of the above planning conditions (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 IV**.

12.3 There is no apparent reason to reject the application.

13. Decision Sought

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

14. Attachments

Appendix I	Application form received on 5.3.2021
Appendix Ia	FI received on 21.4.2021, 22.4.2021 and 26.4.2021
Appendix II	Similar Applications
Appendix III	Public comments
Appendix IV	Recommended Advisory Clauses
Drawing A-1	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo

Plans A-4a to A-4b

Site Photos

**PLANNING DEPARTMENT
APRIL 2021**