

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-NTM/438

- Applicant** : Mr. FUNG Sau Yu represented by R-riches Property Consultants Limited
- Site** : Lots 1377 RP and 1378 RP in D.D. 105, Ngau Tam Mei, Yuen Long
- Site Area** : About 413 m²
- Land Status** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Ngau Tam Mei Outline Zoning Plan (OZP) No. S/YL-NTM/12
- Zoning** : “Residential (Group C)” (“R(C)”)
[maximum plot ratio of 0.4 and maximum building height of 3 storeys (9m)
including car park]
- Application** : Proposed Temporary Shop and Services for a Period of 5 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 5 years. The Site falls within an area zoned “R(C)” on the approved Ngau Tam Mei OZP No. S/YL-NTM/12 (**Plan A-1**). According to the Notes for the “R(C)” zone, ‘Shop and Services’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is currently vacant.
- 1.2 The Site is accessible to San Tam Road via a footpath (**Plans A-1 and A-2**), according to the layout plan (**Drawing A-1**) submitted by the applicant. One 2-storey structure (about 7m in height) with a total floor area of about 162m² is proposed at the Site for shop and services, washroom, storage of goods and office use to operate a convenience store. The operation hours are between 9:00 a.m. and 6:00 p.m. daily (including public holidays).
- 1.3 In support of the application, the applicant has submitted the following documents:
- (a) Application form received on 1.4.2022

(Appendix I)

- (b) Further Information (FI) received on 10.5.2022 providing **(Appendix Ia)** responses to departmental comments *

*Remark: * 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 and Ia**. They can be summarised as follows:

- (a) The application is only on a temporary basis which will not jeopardise the long term planning intention of the “R(C)” zone. The proposed shop and services use, which is for a convenience store, can serve the local neighbourhood.
- (b) The proposed use will not create significant adverse traffic, environmental, landscape and drainage impacts with adequate mitigation measures.
- (c) The applicant will strictly follow the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” (COP) issued by Director of Environmental Protection (DEP).

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

The applicant is the sole “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

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

5. Previous Application

There is no previous application at the Site.

6. Similar Applications

- 6.1 During the past five years since 2017, there have been seven applications for similar temporary shop and services use within the same “R(C)” zone on the OZP **(Plan A-1)**. All of the applications were approved with conditions by the Committee for reasons that the applied uses would not frustrate the long term planning intention of the “R(C)” zone and were not incompatible with the surrounding land uses; would unlikely generate any adverse impacts and there were no adverse departmental comments. However, planning permissions for application No. A/YL-NTM/369, 375 and 381 were revoked due to non-compliance with approval conditions.

6.2 Details of the applications are summarised at **Appendix II**. There locations are shown on **Plan A-1**.

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

7.1 The Site:

- (a) is accessible to San Tam Road at its north via a footpath; and
- (b) is currently vacant.

7.2 The surrounding areas are rural in character comprising scattered residential dwellings, a shop, grass land, wood land, vacant land and some storage/open storage uses;

- (a) to its north across the nullah is San Tin Highway; to its northeast is an electric sub-station;
- (b) to its east are open storages, parking of vehicles, a temporary shop and services (sales of gardening and building materials) with planning approval (no. A/YL-NTM/419), vacant land and planters;
- (c) to its south and southeast are grass land, vacant land /ruin, some residential dwellings and storage/open storage; and
- (d) to its west and southwest are vacant land, grass land, wood land and storages.

8. Planning Intention

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

9. 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 III and IV** respectively.

10. Public Comment Received During Statutory Publication Period

On 8.4.2022, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 29.4.2022, one objecting public comment was received from an individual (**Appendix V**) raising concerns on no parking provision in the current application.

11. Planning Considerations and Assessments

- 11.1 The application is for temporary shop and services for a period of 5 years at the Site zoned “R(C)”. The planning intention of the “R(C)” zone is primarily for low-rise, low-density residential developments where commercial uses serving the residential neighbourhood may be permitted on application to the Board. Although the proposed shop and services use is not entirely in line with the planning intention of the “R(C)” zone, it could serve the local residents nearby. Approval of the application on a temporary basis for a period of 5 years would not frustrate the long-term planning intention of the “R(C)” zone.
- 11.2 The Site is located at the fringe of the “R(C)” zone with access connected to San Tam Road. The development is not incompatible with the surrounding land uses with scattered residential dwellings, a shop, grass land, wood land, vacant land and storages/open storages.
- 11.3 The development would unlikely cause significant adverse impacts on the area. There are no adverse comments from the concerned Government departments including C for T, CHE/NTW of HyD, DEP, CE/MN of DSD, D of FS and CTP/UD&L of PlanD from traffic, environment, drainage, fire safety and landscape perspectives. Should the application be approved, technical requirements of C for T, CE/MN of DSD and D of FS can be addressed by imposing the approval conditions recommended in paragraphs 12.2 below. The applicant will also be advised to follow the relevant mitigation measures and requirements in the latest COP to minimise any potential environmental impacts.
- 11.4 As detailed in paragraph 6, the Committee has approved seven similar applications for temporary shop and services uses in the same “R(C)” zone in the past 5 years. Approval of the current application is in line with the previous decisions of the Committee.
- 11.5 Regarding the public comment received during the statutory public inspection period as stated in paragraph 10 above, relevant departments’ comments as well as the planning assessments and considerations stated above are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessment in paragraph 11 and having taken into account the public comment 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 5 years until 20.5.2027. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no vehicle is allowed to access the Site 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 20.11.2022;
- (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 20.2.2023;
- (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 **6** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 20.11.2022;
- (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 20.2.2023;
- (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; and
- (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 IV**.

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

the development is not in line with the planning intention of the "R(C)" zone which is 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. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis.

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 1.4.2022
Appendix Ia	FI received on 10.5.2022
Appendix II	Similar applications
Appendix III	Government departments' general comments
Appendix IV	Recommended Advisory Clauses
Appendix V	Public comment
Drawing A-1	Layout Plan
Plan A-1	Location Plan with Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
MAY 2022**