

RNTPC Paper No. A/YL-NTM/450
For Consideration by the
Rural and New Town
Planning Committee
on 23.12.2022

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-NTM/450

<u>Applicant</u>	: Zhuang Fortunate Agricultural Co. Limited represented by Mr Wong Sun Wo William
<u>Site</u>	: Lots 1392 RP (Part), 1395 RP, 1396, 1397RP (Part) and 1401 (Part) in D.D. 105 and Adjoining Government Land, Ngau Tam Mei, Yuen Long
<u>Site Area</u>	: About 1,521 m ² (including Government Land (GL) of about 105 m ²)
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Ngau Tam Mei Outline Zoning Plan (OZP) No. S/YL-NTM/12
<u>Zoning</u>	: Residential (Group C) (“R(C)”) [restricted to a maximum plot ratio (PR) of 0.4 and a maximum building height (BH) of 3 storeys (9m) including car park]
<u>Application</u>	: Proposed Temporary Shop and Services (Sales of Gardening and Construction Materials) for a Period of 5 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 gardening and construction materials) for a period of 5 years (**Plan A-1**). According to the Notes of “R(C)” zone of the OZP, the ‘Shop and Services’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). Part of the Site is being used for temporary shop and services (sales of gardening and building materials) without valid planning approval (**Plans A-2 , A-4a and A-4b**).
- 1.2 According to the layout plan (**Drawing A-1**) and information submitted by the applicant, a 8.5m-wide ingress/egress is located at the western side of the Site, which is accessible from San Tam Road via a local access. Eight 1 to 2-storey

structures (3 to 5m in height) with a total gross floor area of about 615m² for shop and services and washroom uses are proposed at the Site. Two private car parking spaces and one light goods vehicle loading/unloading space will be provided. The operation hours will be from 8:00 a.m. to 6:00 p.m. from Mondays to Saturdays, with no operation on Sundays and public holidays.

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

(a) Application form with attachments received on 31.10.2022 (**Appendix I**)

(b) Further Information (FI) received on 16.12.2022 [#] (**Appendix Ia**)

[#] *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 the FI at **Appendices I and Ia**. They can be summarised as follows:

(a) Part of the Site is subject to an approved planning application (No. A/YL-NTM/419) for temporary shop and services (sales of gardening and building materials). The site under the application (No. A/YL-NTM/419) will be resumed by the land owner for provision of temporary transitional housing (Application No. A/YL-NTM/431) (**Plan A-2**). Thus, the operator has to relocate the temporary shop and services use to the Site to continue its operation.

(b) The traffic impact generated by the development is insignificant.

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

The applicant is not a “current land owner” of the private lots within 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 the notice to relevant owners’ corporation(s)/ owners’ committee(s)/ mutual aid committee(s)/ management office(s) or rural committee. Detailed information would be deposited at the meeting for Members’ inspection. For the portion of Government Land, the “Owner’s Consent/Notification” Requirements are not applicable.

4. **Background**

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

5. **Previous Applications**

- 5.1 The Site (in whole or in part) is the subject of four previous applications, of which two (No. A/YL-NTM/175 and 227) were rejected while two (No. A/YL-NTM/369 and 419) were approved by the Committee. Application No. A/YL-NTM/175 for proposed temporary logistics use and container vehicle park and No. A/YL-NTM/227 for proposed temporary sales centre for new private vehicles and lorries (including medium goods vehicles and container tractors) covering a larger site area were rejected by the Committee in 2004 and 2008 respectively.
- 5.2 Part of the Site involves in two previous applications (No. A/YL-NTM/369 and 419) which were submitted by another applicant for temporary shop and services (sales of building materials/sales of gardening and building materials) and were approved by the Committee in 2018 and 2021 respectively on the considerations that the developments would not frustrate the long term planning intention of the “R(C)” zone and were not incompatible with the surrounding land uses; and the developments would unlikely cause significant adverse impacts. Application No. A/YL-NTM/369 was revoked in 2020 due to non-compliance of condition on the implementation of drainage proposal and Application No. A/YL-NTM/419 was revoked in 2022 due to non-compliance of condition on the submission of fire services installations proposal.
- 5.3 Details of these applications are summarised at **Appendix II**. Their locations are shown on **Plan A-1b**.

6. **Similar Applications**

- 6.1 During the past five years, there are eight similar applications for temporary shop and services use within the same “R(C)” zone on the OZP (**Plan A-1a**).
- 6.2 Applications No. A/YL-NTM/375, 381, 422, 423, 425, 438, 441 and 442 for temporary shop and services for sales of building materials/metalware/automated home accessories were approved by the Committee between 2018 and 2022 mainly on the considerations that the developments would not frustrate the long term planning intention of the “R(C)” zone and were not incompatible with the surrounding land uses; and the developments would unlikely generate any adverse impacts. Details of these applications are summarised at **Appendix II**. Their locations are shown on **Plan A-1a**.

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

7.1 The Site is:

- (a) currently partly used for temporary shop and services (sales of gardening and building materials) without valid planning permission, and partly covered with vegetation; and
- (b) accessible from San Tam Road via a local access.

7.2 The surrounding areas have the following characteristics:

- (a) to its north across the watercourse and San Tam Road is the Mai Po Electric Substation; to its northeast are residential dwelling/storage, grassland, a pavilion, an open storage yard for construction materials and some vacant land;
- (b) to its east are fallow agricultural land, grassland and a residential dwelling;
- (c) to its immediate south is the temporary shop and services use (sales of gardening and building materials); to its further south are vacant land/ruin and a residential dwelling; and
- (d) to its west are planters.

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 Comments Received During Statutory Publication Period

On 8.11.2022, the application was published for public comment. During the statutory public inspection period, two public comment was received (**Appendix V**) from individuals objecting to/raising concerns on the application on the grounds that the proposed use could cause environmental pollution; increase risk of fire thereby affecting the safety and living quality of the local residents; and approval conditions of the previous application were not fulfilled.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary shop and services (sales of gardening and building materials) for a period of five years at the Site within “R(C)” zone of the OZP. Part of the Site was subject to two previous applications (No. A/YL-NTM/369 and 419) for temporary shop and services (sales of gardening and building materials) which were approved with conditions by the Committee in 2018 and 2021. As indicated by the applicant, the site under the application (No. A/YL-NTM/419) will be resumed by the land owner for implement of the temporary transitional housing (Application No. A/YL-NTM/431) nearby (**Plan A-2**). The application is therefore to shift the temporary shop and services use to the Site to continue its operation.
- 11.2 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 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 five years would not frustrate the long-term planning intention of the “R(C)” zone as there is no immediate permanent development proposal for the Site.
- 11.3 The Site is located at the fringe of the “R(C)” zone and adjacent to San Tam Road. The proposed use is not incompatible with the surrounding land uses with agricultural land, grassland, scattered residential dwellings and storage.
- 11.4 The proposed use would unlikely cause significant adverse impacts on the area. There are no adverse comments from the concerned Government departments, including Director of Environmental Protection (DEP), Commissioner for Transport, Chief Town Planner/Urban Design and Landscape, Planning Department, Chief Engineer/Mainland North, Drainage Services Department (CE/MN of DSD) and Director of Fire Services (D of FS) on environmental, traffic, landscape, drainage and fire safety aspects. Should the application be approved, technical requirement of CE/MN of DSD and D of FS can be addressed by imposing approval conditions recommended in paragraph 12.2 below. The applicant will also be 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' issued by DEP to minimise any potential environmental impacts.

- 11.5 As detailed in paragraphs 5 and 6, the Committee has approved two previous applications at the Site and eight similar applications for temporary shop and services uses within the same "R(C)" zone in the past five years. Approval of the current application is in line with the previous decisions of the Committee.
- 11.6 Regarding the public comments 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 assessments made in paragraph 11 and having taking into account the public comment 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 23.12.2027. 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 8:00 a.m. on Monday to Saturday, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (d) the submission of a 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 23.6.2023;
- (e) the implementation of the 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 23.9.2023;

- (f) in relation to (e) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (g) the submission of a fire service installation 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 23.6.2023;
- (h) the implementation of the 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 23.9.2023;
- (i) if any of the above planning condition (a), (b), (c) or (f) 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
- (j) if any of the above planning condition (d), (e), (g) or (h) 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 strong reason to recommend rejection of the application

13. Decision Sought

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

15. Attachments

Appendix I	Application form received on 31.10.2022
Appendix Ia	FI received on 16.12.2022
Appendix II	Previous and similar applications

Appendix III	Government departments' general comments
Appendix IV	Recommended advisory clauses
Appendix V	Public comments
Drawing A-1	Layout plan
Plans A-1a and A-1b	Location plans with similar and previous applications
Plan A-2	Site plan
Plan A-3	Aerial photo
Plans A-4a and A-4b	Site photos

**PLANNING DEPARTMENT
DECEMBER 2022**