

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-SK/336

<u>Applicant</u>	:	Pinnacle Property Limited represented by Goldrich Planners and Surveyors Ltd.
<u>Site</u>	:	Lot 225 S.D (Part) in D.D. 112, Kam Sheung Road, Yuen Long
<u>Site Area</u>	:	About 225m ²
<u>Lease/ Land Status</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Approved Shek Kong Outline Zoning Plan No. S/YL-SK/9
<u>Zoning</u>	:	“Village Type Development” (“V”)
<u>Application</u>	:	Temporary Shop and Services (Real Estate Agency) 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 (real estate agency) for a period of 3 years (**Plan A-1**). According to the Notes of the OZP, ‘Shop and Services’ is a Column 2 use within the “V” zone, and planning permission from the Town Planning Board (the Board) is required. The Site is currently used as a real estate agency without valid planning permission (**Plans A-3 to A-4b**).
- 1.2 According to the applicant, the applied use involves two 1-storey structures with building height of not more than 3.8m within the Site for office and storeroom uses. The total non-domestic floor area is not more than 97m². No parking provisions are proposed within the Site. The operation hours will be between 9 a.m. to 6 p.m. daily, including public holidays. The Site is accessible from Kam Sheung Road (**Plan A-2**). The location and layout plans submitted by the applicant are at **Drawings A-1 and A-2**.
- 1.3 The Site is the subject of six previous applications (see paragraph 5) for the same shop and services (real estate agency) use. Compared with the last previous approved application No. A/YL-SK/253, there is no change in the development parameters or layout of the development.

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

(a) Application Form with attachments received on **(Appendix I)**
3.10.2022

(b) Further Information (FI) received on 11.11.2022 **(Appendix Ia)**

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Application Form and FI at **Appendices I and Ia** respectively and summarized below:

- (a) the applicant was unable to renew the last approved application No. A/YL-SK/253 in time, thus a fresh application is required;
- (b) the proposed real estate agency will serve nearby local residents, property owners and land owners. It has been in existence at the Site for 13 years;
- (c) there had been six previous applications for the same use at the Site that had all been approved by the Rural and New Town Planning Committee (the Committee) of the Board;
- (d) the proposed development will not result in adverse environmental, drainage, fire safety, and visual and landscape impacts.

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

The applicant is not a “current land owner” 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 taking reasonable steps to give notification to the owner including sending notice to the Pat Heung Rural Committee by registered mail and posting notice at the Site. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is not subject to any active enforcement action.

5. Previous Applications

The Site is the subject of six previous applications (No. A/YL-SK/152, 160, 167, 185, 214 and 253) involving the same real estate agency use approved with conditions by the Committee from 2009 to 2019 on similar considerations that approval of the development would not jeopardize the long-term planning intention of the “V” zone; it was not incompatible with the surrounding environment; and relevant government departments

consulted generally had no adverse comment on the application. The planning permission under applications No. A/YL-SK/152 and 167 had been revoked due to non-compliance with approval conditions. All planning approval conditions of the last approved application No. A/YL-SK/253 had been complied with, and its planning permission lapsed on 4.5.2022. Details of the previous applications are summarized at **Appendix II** and the location is shown on **Plan A-1**.

6. **Similar Applications**

There are three similar applications within the same concerned “V” zones on the OZP for temporary shop and services uses involving real estate agency use. They were approved with conditions by the Committee from 2011 to 2022 on similar considerations as stated in paragraph 5 above. Details of these similar applications are summarized at **Appendix II** and the locations are shown on **Plan A-1**.

7. **The Site and Its Surrounding Areas (Plans A-2 to A-4b)**

7.1 The Site is:

- (a) currently used as shop and services (real estate agency) without valid planning permission; and
- (b) accessible from Kam Sheung Road.

7.2 The surrounding areas are predominantly rural in character intermixed mostly with domestic structures, parking of vehicles, car services and sale of vehicle parts, grassland, plant nursery, fallow/cultivated agricultural land and vacant land (**Plans A-2 and A-3**):

- (a) to its south, west and east are domestic structures, parking of vehicles and fallow agricultural land;
- (b) to its north across Kam Sheung Road in the “V” zone are domestic structures, car service and sale of vehicle parts, grassland and plant nursery; and
- (c) to its further north in the “Agriculture” (“AGR”) zone are domestic structures and fallow/cultivated agricultural land.

8. **Planning Intention**

The planning intention of the “V” zone is primarily to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by government projects. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on ground floor of a NTEH. Other commercial, community and recreational uses may be permitted on application to

the Board.

9. **Comments from Relevant Government Departments**

Government departments consulted have no objection to or no adverse comment on the application. Their 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**

The application was published for public inspection. During the statutory public inspection period, 1 public comment was received from an individual. The individual raised objection to the application mainly on the grounds that the proposed development will result in adverse environmental and fire safety impacts, affecting the safety and living quality of local villagers (**Appendix V-1**).

11. **Planning Considerations and Assessments**

- 11.1 The application is for temporary shop and services (real estate agency) at the Site for a period of 3 years. The planning intention of the “V” zone is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by government projects. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. Although the proposed use is not entirely in line with the planning intention of the “V” zone, DLO/YL of LandsD advises that there is no Small House application approved or currently under processing at the Site. Approval of the application on a temporary basis would not frustrate the long term planning intention of the “V” zone.
- 11.2 According to the applicant, the temporary shop and services (real estate agency) will serve nearby local residents, property owners and land owners. The applied use comprising two 1-storey structures with a total floor area of not more than 97m² and building height of not more than 3.8m is considered not incompatible with the surrounding land uses which are predominantly rural in character intermixed mostly with domestic structures, fallow/cultivated agricultural land and vacant land (**Plan A-2**). Relevant government departments consulted, including C for T, DEP, CTP/UD&L of PlanD, CE/MN of DSD and D of FS have no objection to/no adverse comment on the application. It is anticipated that the proposed development would not have significant adverse traffic, environmental, landscape, drainage and fire safety impacts on the surrounding areas. The technical requirements of CE/MN of DSD and D of FS could be addressed by approval conditions in paragraphs 12.2 (a) to (d). Besides, the applicant will be advised to observe the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” in order to alleviate any potential environmental impact.
- 11.3 The Site is the subject of 6 previous applications involving the same real estate agency use as the current application that had all been approved with conditions by the Committee from 2009 to 2019 on the grounds as detailed in paragraph 5

above. All planning approval conditions of the last application No. A/YL-SK/253 had been complied with. In addition, there are three similar applications for shop and services involving real estate agency use within the same concerned “V” zones, which were approved with conditions by the Committee from 2011 to 2022. The Committee’s consideration as stated in paragraphs 5 and 6 are generally applicable to the current application, and approval of this application is in line with the previous decisions of the Committee.

- 11.4 Regarding the public comment received during the statutory publication period, the departmental comments and the planning considerations and assessments above are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessments 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 three years until 25.11.2025. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) the implementation of the drainage proposal, as proposed by the applicant, 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 **25.5.2023**;
- (b) the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (c) the submission of a 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 **25.5.2023**;
- (d) in relation to (c) above, 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 **25.8.2023**;
- (e) if the above planning condition (b) 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
- (f) if any of the above planning conditions (a), (c) 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 at **Appendix IV**.

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

the proposed development is not in line with the planning intention of the "V" zone which is primarily to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. 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 reasons for rejection should be given to the applicant.

14. Attachments

Appendix I	Application Form with Attachments Received on 3.10.2022
Appendix Ia	FI Received on 11.11.2022
Appendix II	Previous and Similar Applications
Appendix III	Government Departments' Comments
Appendix IV	Recommended Advisory Clauses
Appendix V-1	Public Comment
Drawing A-1	Location Plan
Drawing A-2	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos