

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-SK/350

<u>Applicant</u>	:	Universal Chemical Enterprises represented by KTA Planning Limited
<u>Site</u>	:	Lots 987 and 988 in D.D. 106 and Adjoining Government Land, Shek Kong, Yuen Long, New Territories
<u>Site Area</u>	:	About 4,940.3m ² (including about 58.1m ² of Government land (GL) (about 1.2%))
<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>	:	“Agriculture” (“AGR”)
<u>Application</u>	:	Proposed Temporary Open Storage of Electric Vehicles with Charging Facilities and Ancillary Site Office 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 open storage of electric vehicles (EVs) with charging facilities and ancillary site office for a period of 3 years (**Plan A-1**). The proposed use is neither a Column 1 nor Column 2 use for the “AGR” zone. According to the covering Notes of the OZP, temporary use or development of any land not exceeding a period of 3 years requires planning permission from the Town Planning Board (the Board). The Site is mostly vacant and partly used for open storage of EVs without planning permission. It is partly fenced and has been hard-paved with concrete before the first gazette of statutory plan in 1990 (**Plans A-3 to A-4**). The Site was mostly formed and partly covered by structures before the date of the first publication in the Gazette of the Notice of the draft Shek Kong OZP No. S/YL-SK/7 in 2005 when land filling control within “AGR” zone was imposed.
- 1.2 According to the applicant, the proposal involves one single-storey non-domestic structure with floor area of about 14.2m² and building height of not more than 2.5m within the Site for office use. Two open storage areas are designated within the Site. Two private car parking spaces and two charging facilities will also be provided. The proposed operation hours are from 9am to 6pm from Mondays to

Fridays and from 9am to 12pm on Saturdays and Sundays with no operation on public holidays. The Site is accessible from Shek Kong Airfield Road (**Plans A-1 to A-2**). The layout plan submitted by the applicant is at **Drawing A-1**.

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

- (a) Application Form with attachments received on (Appendix I)
20.7.2023
- (b) Planning Statement received on 20.7.2023 (Appendix Ia)
- (c) Supplementary information (SI) received on 20.7.2023 (Appendix Ib)
- (d) Further Information (FI) received on 29.8.2023* (Appendix Ic)
- (e) FI received on 29.9.2023# (Appendix Id)
- (f) FI received on 20.11.2023# (Appendix Ie)

**accepted but not exempted from publication and recounting requirements*

#accepted and exempted from publication and recounting requirements

1.4 At the request of the applicant, the Committee on 27.10.2023 agreed to defer making a decision on the application.

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the Application Form, Planning Statement, SI and FIs at **Appendices I to Ie** respectively and summarized below:

- (a) The proposed use, which intends to facilitate the temporary logistical arrangement during the processing period of the first registration of vehicles by Transport Department, is generally in-line with the Government's policy on promotion of EVs and can meet the increasing demand of EVs.
- (b) The Site has been re-classified from Category 3 to Category 2 under Town Planning Board Guidelines for 'Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance' (TPB PG-No. 13G) in order to make more available land for open storage uses. The proposed use is considered in line with the prevailing TPB PG-No. 13G.
- (c) The Site is a spade-ready site that has been paved and used as open storage since early 1980s. No additional site formation and construction work is needed for the proposed use. With the good accessibility from Shek Kong Airfield Road, the site is readily available.

(d) No adverse traffic, drainage and environmental impacts are anticipated.

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 sending notification letter to relevant owner. Detailed information would be deposited at the meeting for Members’ inspection. For the GL portion, the “Owner’s Consent/Notification” Requirements are not applicable.

4. **Town Planning Board Guidelines**

The Town Planning Board Guidelines for ‘Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance’ (TPB PG-No. 13G) promulgated on 14.4.2023 are relevant to the application. The Site falls within Category 2 areas under the Guidelines. Relevant extract of the Guidelines is at **Appendix II**.

5. **Background**

The Site is subject to planning enforcement action (No. E/YL-SK/251) against unauthorized development (UD) involving storage use (**Plan A-2**). Enforcement Notice was issued on 5.7.2023 requiring discontinuation of the UD. Site inspection on 24.11.2023 revealed that the UD still continued upon expiry of the notice, prosecution action may be followed.

6. **Previous Application**

There is no previous application in the past 5 years.

7. **Similar Application**

There is no similar application within the same “AGR” zone in the past 5 years.

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

8.1 The Site is:

- (a) partly vacant and partly used for open storage of EVs;
- (b) partly fenced and hard-paved with concrete; and
- (c) accessible from Shek Kong Airfield Road.

- 8.2 The surrounding areas are predominantly rural in character intermixed with cultivated/ fallow agricultural land, domestic dwellings/structures and vacant/unused land (**Plans A-2 to A-3**).

9. Planning Intention

The planning intention of the “AGR” zone is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.

10. Comments from Relevant Government Departments

- 10.1 Apart from the government bureau/departments as set out in paragraphs 10.2 to 10.3 below, other 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.

- 10.2 The following bureau supports the application:

Policy Aspect

- 10.2.1 Comments of the Secretary for Environment and Ecology (SEE):

he supports the applicant's proposal from electric vehicle (EV) charging network point of view since it is in line with the Government's policies and directions in promoting the wider use of EVs in Hong Kong.

- 10.3 The following government department does not support/ has adverse comments on the application:

Agriculture and Nature Conservation

- 10.3.1 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

- (a) he does not support the application from agricultural perspective as the Site possesses potential for agricultural rehabilitation;
- (b) the Site falls within the “AGR” zone and is a cemented vacant land. The agricultural activities are active in the vicinity, and agricultural infrastructures such as road access and water source are also available. The Site can be used for agricultural activities such as greenhouses, plant nurseries, etc; and
- (c) no comment on the application from nature conservation perspective.

11. Public Comments Received During Statutory Publication Periods

On 28.7.2023 and 1.9.2023, the application was published for public inspection. During the statutory public inspection periods, 58 public comments from the representatives of the indigenous villagers of Pat Heung Shui Lau Tin Tsuen, a former district councilor, Kadoorie Farm & Botanic Garden Corporation and an individual were received (**Appendices VI-1 to VI-58**) objecting to the application mainly on the grounds that the proposed use will result in adverse traffic and environmental impacts. Some commenters also raise concern on any enforcement action taken against the use of open storage at the Site prior to planning approval.

12. Planning Considerations and Assessments

12.1 The application is for a proposed temporary open storage of electric vehicles with charging facilities and ancillary site office for a period of 3 years. The planning intention of the “AGR” zone is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes, and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. Although the proposed use is not in line with the planning intention of the “AGR” zone and DAFC does not support the planning application from agricultural perspective, SEE supports the application in promoting the wider use of EVs. Taking into account the planning assessments below, the proposed use on a temporary basis of 3 years could be tolerated.

12.2 The surrounding areas are predominantly rural in character intermixed with cultivated/ fallow agricultural land, domestic dwellings/structures and vacant/unused land. The proposed use is considered generally not incompatible with the surrounding areas.

12.3 The Site falls within Category 2 areas under the TPB PG-No. 13G. The following considerations in the Guidelines are relevant:

Category 2 areas: planning permission could be granted on a temporary basis up to a maximum period of three years, subject to no adverse departmental comments and local objections, or the concerns of the departments and local residents can be addressed through the implementation of approval conditions. Technical assessments, where appropriate or if required, should be submitted to demonstrate that the proposed uses would not have adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas.

12.4 The proposed use is generally in line with the TPB PG-No. 13G in that relevant government departments, including the Commissioner for Transport, Director of Environmental Protection, Chief Engineer/Mainland North of Drainage Services Department, Director of Fire Services and Chief Town Planner/Urban Design and Landscape of Planning Department have no objection to or no adverse comment on the application. The proposed use will unlikely create adverse traffic, environmental, drainage, fire safety and landscape impacts to the surrounding areas. To address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 13.2 below.

- 12.5 Regarding the public comments objecting to the application as stated in paragraph 11 above, the departmental comments and planning considerations above are relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comments mentioned in paragraph 11, the Planning Department considers that the proposed use could be tolerated for a period of 3 years.
- 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 until 12.1.2027. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) the submission of a revised 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 **12.7.2024**;
- (b) in relation to (a) above, the implementation of the revised 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 **12.10.2024**;
- (c) in relation to (b) above, the implemented drainage facilities on the site shall be maintained at all times during the planning approval period;
- (d) 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 **12.7.2024**;
- (e) in relation to (d) 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 **12.10.2024**;
- (f) if the above planning condition (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; and
- (g) if any of the above planning condition (a), (b), (d) or (e) 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**.

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

the proposed use is not in line with the planning intention of the "AGR" zone which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. No strong planning justification has been given 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 applicant.

15. Attachments

Appendix I	Application Form with attachments received on 20.7.2023
Appendix Ia	Planning Statement received on 20.7.2023
Appendix Ib	SI received on 20.7.2023
Appendix Ic	FI Received on 29.8.2023
Appendix Id	FI Received on 29.9.2023
Appendix Ie	FI Received on 20.11.2023
Appendix II	Extract of Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance (TPB PG-No.13G)
Appendix III	Government Departments' General Comments
Appendix IV	Recommended Advisory Clauses
Appendix V	'Good Practice for Open Storage Sites' issued by the Fire Services Department
Appendices VI-1 to VI-58	Public Comments
Drawing A-1	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan

Plan A-3

Aerial Photo

Plan A-4

Site Photos

**PLANNING DEPARTMENT
JANUARY 2024**