

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/K3/586

- Applicant** : New Concordia Investments Limited
- Premises** : Workshops 1-6, G/F, Wing Lee Industrial Building, 54, 56 and 58 Tong Mi Road, Kowloon
- Floor Area** : 182.79 m² (about)
- Lease** : (a) Kowloon Inland Lots (KILs) No. 4318 s.C RP, 4318 s.D RP and 4318 RP
(b) Restricted for industrial and commercial purpose
- Plan** : Approved Mong Kok Outline Zoning Plan (OZP) No. S/K3/32
- Zoning** : “Other Specified Uses” annotated “Business” (“OU(B)”)

 [Restricted to a maximum plot ratio (PR) of 12 and a maximum building height (BH) of 110mPD, or the PR/BH of the existing building, whichever is the greater.]
- Application** : Shop and Services

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application premises (the Premises) for ‘Shop and Services’. The Premises is located at Workshops 1-6 on G/F of an existing industrial building (Wing Lee Industrial Building) which falls within an area zoned “OU(B)” on the approved Mong Kok OZP No. S/K3/32 (**Plan A-1**). According to Schedule II of the Notes of the OZP for the “OU(B)” zone applicable to industrial or industrial-office (I-O) building, ‘Shop and Services (not elsewhere specified)’ on the G/F of an industrial building requires planning permission from the Town Planning Board (the Board).
- 1.2 A major portion of the Premises is the subject of a previous application (No. A/K3/125) for proposed bank use submitted by a different applicant, which was approved by the Board on 22.3.1985 (**Plan A-2a**). The Premises is currently used as a grocery store without a valid planning permission.

1.3 As shown on the layout plan on **Drawing A-1**, the Premises can be accessed directly from Tong Mi Road. The layout plan and floor plan showing the Premises on G/F of the subject building, as submitted by the applicant, are at **Drawings A-1** and **A-2**.

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

- (a) Application form with drawings received on 8.11.2019 (Appendix I)
- (b) Further information dated 12.12.2019 providing responses to public comment (Appendix Ia)
(accepted and exempted from publication and recounting requirement)

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application as set out in **Appendix I** are summarised as follows:

- (a) Tai Kok Tsui has been gradually transformed into a residential area and the demand for industrial use along Tong Mi Road is decreasing; and
- (b) the use under application provides more choices of retail shops and other services for the residents in the area.

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

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

4. Town Planning Board Guidelines

The Town Planning Board Guidelines for Development within “OU(B)” Zone (TPB PG-No. 22D) promulgated in September 2007 are relevant in the following aspects:

- (a) the “OU(B)” zone has been introduced to allow maximum flexibility in the use of existing industrial and I-O buildings as well as in the development of new buildings for both commercial and clean industrial uses. The planning intention of the “OU(B)” zone is primarily for general employment uses;
- (b) whilst it is the intention to provide greater flexibility in the use of the existing industrial or I-O buildings before such buildings are redeveloped, it is necessary to ensure that the fire safety and environmental concerns are properly addressed. In view of the possible presence of existing polluting and hazardous industrial uses, it is necessary to ensure compatibility of the uses within the same building until the whole building is modified/converted to accommodate the new non-polluting and less fire hazard-prone uses;

- (c) the Fire Services Department should be satisfied on the risks likely to arise or increase from the proposed commercial use under application. Owing to fire safety concern, the aggregate commercial floor areas on the ground floor of an existing industrial/I-O building with and without sprinkler systems should as a general principle not exceed 460m² and 230m² respectively. The above limits on commercial floor area do not apply to uses which are ancillary to or for the purposes of supporting the industrial activities and the routine activities of the workers in the industrial or I-O building. These uses include bank, fast food counter, electrical shop, local provisions store and showroom in connection with the main industrial use; and
- (d) for all new development, redevelopment, conversion and material change of use, adequate parking and loading/unloading spaces should be provided in accordance with the requirements of the Hong Kong Planning Standards and Guidelines, and all other statutory or non-statutory requirements of relevant Government departments must also be met.

5. Previous Application

The Premises is the subject of a previous application (No. A/K3/125) (with a slightly smaller floor area of about 175m²) for proposed bank use (**Plan A-2a**) under the previous “Industrial” (“I”) zone. The application was approved by the Board on 22.3.1985 mainly on the ground that the proposed use was in conformity with the guidelines of commercial uses in industrial buildings.

6. Similar Applications

- 6.1 Apart from the previous application (No. A/K3/125) as mentioned in paragraph 5 above, there is no similar application for ‘Shop and Services’ use in respect of the G/F of the subject industrial building.
- 6.2 According to TPB PG-No. 22D, the ‘Shop and Services’ use under application is subject to a maximum permissible limit of 460m² for aggregate commercial floor area on G/F of the subject industrial building with a sprinkler system. Disregarding Application No. A/K3/125 which largely overlaps with the premises under the current application, should the Metro Planning Committee (the Committee) of the Board approve the application, the total approved commercial floor areas on the G/F of the subject industrial building would be about 182.79m².
- 6.3 Since 2001, the Committee has considered one planning application (No. A/K3/455) for ‘Shop and Services’ use on the G/F of an industrial building within another “OU(B)” zone in the Mong Kok area (**Plan A-1**). The application was approved by the Committee on 24.6.2005 with an approval condition on the provision of fire service installations.

7. The Site and Its Surrounding Areas
(Plans A-1 to A-2a and Photos on Plans A-3 to A-5)

7.1 The Premises:

- (a) occupies workshops 1-6 on G/F of an existing industrial building (Wing Lee Industrial Building) at Tong Mi Road;
- (b) has direct frontage to Tong Mi Road; and
- (c) is currently used as a grocery store.

7.2 The subject industrial building has the following characteristics:

- (a) is a 15-storey industrial building completed in 1984 and equipped with a sprinkler system; and
- (b) is currently used for the following purposes:

Floor	Main Uses
G/F	The Premises , metal and electrical shop* and construction material shop*
1/F to 14/F	Industrial-related offices/trading firms, warehouses and workshops

* There is no record of planning approvals granted for such uses (**Plan A-2a**).

7.3 The surrounding areas have the following characteristics:

- (a) it is an established industrial/business area which was rezoned from “I” to “OU(B)” in 2001;
- (b) the subject building is surrounded mainly by industrial and I-O buildings with ‘Shop and Services’ uses on G/F and residential buildings to the west across Tong Mi Road; and
- (c) it is easily accessible by various modes of public transport with MTR Mong Kok Station located within about 280m walking distance (**Plan A-1**).

8. Planning Intention

The planning intention of “OU(B)” zone is primarily for general business uses. A mix of information technology and telecommunications industries, non-polluting industrial, office and other commercial uses are always permitted in new ‘business’ buildings. Less fire hazard-prone office use that would not involve direct provision of customer services or goods to the general public is always permitted in existing industrial or I-O buildings.

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/Kowloon West, Lands Department (DLO/KW, LandsD):

- (a) the Premises is situated at KILs No. 4318 s.C RP, 4318 s.D RP and 4318 RP (the Lots). The Lots are held under Conditions of Sale No. UB 4213 for a term of 75 years commencing from 8.9.1941 renewable for a further term of 75 years. Under the lease conditions, the Lots are restricted to industrial and commercial purposes, and no domestic occupation shall be allowed except such as shall be required for staff and workmen employed on the premises and such portion of the premises so used shall be an integral part of the factory; and
- (b) the 'Shop and Services' use at the Premises does not conflict with the lease conditions.

Building Matters

9.1.2 Comments of the Chief Building Surveyor/Kowloon, Buildings Department (CBS/K, BD):

- (a) no in-principle objection to the application;
- (b) the proposal should in all aspects comply with the Buildings Ordinance (BO) and its allied regulations; and
- (c) detailed comments under the BO will be given at the building plan submission stage.

Traffic

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

- (a) no in-principle objection to the application at nil provision of car parking and loading/unloading spaces from traffic engineering perspective given the following observations:
 - (i) small and constrained layout;
 - (ii) conveniently located to mass transport/ public transport services; and
 - (iii) small scale of development; and

- (b) the applicant should be reminded that C for T has the rights to impose, alter or cancel any car parking, loading/unloading facilities and/or any no-stopping restrictions, on all local roads to cope with changing traffic conditions and needs. The frontage road space would not be reserved for any exclusive uses of the subject development.

Fire Safety

9.1.4 Comments of the Director of Fire Services (D of FS):

- (a) no in-principle objection to the application provided that:
 - (i) fire safety measures are provided to the satisfaction of his department. Detailed fire services requirements will be formulated upon receipt of formal submission of general building plans; and
 - (ii) the means of escape from the Premises should be separated from the industrial portion of the subject building;
- (b) the subject building is protected with a sprinkler system so that the maximum permissible aggregated commercial floor area on the G/F is 460m² in accordance with TPB PG-No.22D. The applied use should be counted up to the aggregated commercial floor area;
- (c) regarding matters related to fire resisting construction of the Premises, the applicant is reminded to comply with the “Code of Practice for Fire Safety in Buildings” which is administrated by the Building Authority; and
- (d) the applicant’s attention should be drawn to the “Guidance Note on Compliance with Planning Condition on Provision of Fire Safety Measures for Commercial Uses in Industrial Premises” if the application is approved.

Drainage and Sewerage

9.1.5 Comments of the Chief Engineer/Mainland South, Drainage Services Department (CE/MS, DSD):

- (a) no objection to the application from public drainage and sewerage operation and maintenance point of view; and
- (b) it is not expected that significant sewage and stormwater flow would be induced due to the subject application. Besides, there is no record of frequent blockage of the public sewerage and stormwater drainage system according to observation in the past two years.

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

- (a) Director of Food and Environmental Hygiene;
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (c) Chief Highway Engineer/Kowloon, Highways Department;
- (d) Director of Electrical and Mechanical Services (DEMS);
- (e) Commissioner of Police; and
- (f) District Officer (Yau Tsim Mong), Home Affairs Department.

10. Public Comment Received During Statutory Publication Period

During the three-week statutory public inspection period which ended on 6.12.2019, one public comment objecting the application submitted by the owners' corporation of the subject building was received. The major concerns include overloading of the existing building structures and public utilities, and possible adverse traffic impact (**Appendix II**).

11. Planning Considerations and Assessments

- 11.1 The application is to seek planning permission for 'Shop and Services' use at the Premises which is currently used as a grocery store without valid planning permission. The Premises is located within the "OU(B)" zone which is intended primarily for general business uses. It allows greater flexibility in the use of the existing industrial or I-O buildings provided that the use would not result in adverse fire safety or environmental impacts. The 'Shop and Services' use at the Premises under application is considered generally in line with the planning intention.
- 11.2 The subject building is surrounded mainly by industrial and I-O buildings with 'Shop and Services' uses on G/F and residential buildings across Tong Mi Road. The applied use is considered not incompatible with the general land use character of the area, as well as with other uses in the same industrial building which mainly comprises industrial and industrial-related offices on the upper floors.
- 11.3 The applied use in general complies with the Town Planning Board Guidelines for Development within "OU(B)" zone (TPB PG-No. 22D) in that it would not induce adverse fire safety, traffic, environmental or infrastructural impacts to the developments within the subject industrial building and the adjacent areas. Relevant government departments including FSD, BD, TD, WSD and DSD have no objection to or no adverse comment on the application.
- 11.4 As confirmed by D of FS, the subject industrial building is protected by a sprinkler system and subject to a maximum permissible limit of 460m² for aggregate commercial floor area on G/F in accordance with TPB PG-No.22D. Should the application be approved, the aggregate commercial floor area approved by the Committee on the G/F of the subject industrial building will be about 182.79m², which is within the maximum permissible limit. To address D of FS's concern of fire safety aspect, an approval condition in paragraph 12.2(a) below to require the

submission and implementation of the proposal for fire safety measures to the satisfaction of D of FS is recommended.

- 11.5 A similar application for ‘Shop and Services’ use on the G/F of an existing industrial building within the “OU(B)” zone in the Mong Kok area was approved with conditions by the Committee in 2005. The approval of the ‘Shop and Services’ use under application is consistent with the previous decision of the Committee on the similar application.
- 11.6 One public comment on the application was received, which is mainly related to the concerns on building structures, public utilities and traffic impacts. The concerned departments including BD, WSD, DSD, EMSD and TD have no objection to or no adverse comment on the application. The departmental comments in paragraph 9 and the planning assessments above are also relevant.

12. Planning Department’s Views

- 12.1 Based on the assessments made 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, no time clause on commencement of development is proposed as the ‘Shop and Services’ use under application is already in existence. The following conditions of approval and advisory clauses are suggested for Members’ reference:

Approval conditions

- (a) the submission and implementation of fire safety measures within six months from the date of the planning approval to the satisfaction of the Director of Fire Services or the Town Planning Board by 3.7.2020; and
- (b) if the above planning condition (a) is not complied by the specified date, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice.

Advisory clauses

The recommended advisory clauses are attached at **Appendix III**.

- 12.3 There is no strong planning 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 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.
- 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
Appendix Ia	Further Information dated 12.12.2019
Appendix II	Public Comment
Appendix III	Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	Ground Floor Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-2a	Previous and Current Applications
Plans A-3 and A-4	Site Photos
Plan A-5	Existing Land Uses in the Surrounding Area

**PLANNING DEPARTMENT
JANUARY 2020**