

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-SK/254

<u>Applicant</u>	R-riches Property Consultants Limited
<u>Site</u>	Lot 1284 RP (Part) in D.D. 114, Kam Sheung Road, Yuen Long
<u>Site Area</u>	About 752.4m ²
<u>Lease</u>	Block Government Lease (demised for agricultural use)
<u>Plan</u>	Approved Shek Kong Outline Zoning Plan (OZP) No. S/YL-SK/9
<u>Zoning</u>	“Village Type Development” (“V”)
<u>Application</u>	Proposed Temporary Shop and Services (Domestic Goods Retail Shop) for a Period of 5 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary shop and services (domestic goods retail shop) at the application site (the Site) for a period of 5 years. The Site falls within an area zoned “V” on the approved Shek Kong OZP No. S/YL-SK/9 (**Plan A-1**). According to the Notes of the OZP, ‘Shop and Services’ is a Column 2 use within “V” zone, which requires planning permission from the Town Planning Board (the Board). The Site is currently vacant and fenced off.
- 1.2 According to the applicant’s submission, the Site has an area of about 752.4m². Three 1-2 storey structures with a building height about 2.8-7m and a total non-domestic floor area of about 231 m² are proposed for domestic goods retail shops (furniture, pet product and grocery), ancillary office and fire service water tank (**Drawing A-1**). The Site is directly accessible from Kam Sheung Road. Two private car parking spaces and one light goods vehicle loading/unloading space will be provided at the Site. 10m-diameter manoeuvring space is proposed on site. The opening time will be 10 a.m. to 5 p.m. every day (including public holidays). The proposed development is intended to serve the surrounding local community, i.e. residents of To Uk Tsuen, Lai Uk Tsuen and Tsang Uk Tsuen, etc. Delivery services would also be provided by the shop operator. To support the application, the applicant has submitted the layout plan (**Drawing A-1**).

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

- (a) Application form with attachments received on 29.3.2019 **(Appendix I)**
- (b) Further Information (FI) received on 9.5.2019 in response **(Appendix Ia)** to departmental comments

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 are summarized as follows:

- (a) The proposed development is generally not incompatible with the surrounding developments/uses within the “V” zone, and no filling of land or excavation of land will be carried out on site in order to minimize the adverse impact to the surrounding environment.
- (b) The Site is directly accessible from Kam Sheung Road. Only two private car parking spaces and one light goods vehicle loading/unloading space will be provided at the Site in order to minimize the adverse traffic impact to the surrounding areas.
- (c) The proposed development is intended to serve the surrounding local community, i.e. residents of To Uk Tsuen, Lai Uk Tsuen and Tsang Uk Tsuen, etc. The operation hours of the proposed development, as proposed by the applicant, would be restricted from 10:00 a.m. to 5:00 p.m. every day (including public holidays). Besides, there will be 8 staffs on Site.

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

The applicant is not the current land owner but has complied with the requirements as set out in the Town Planning Board (TPB) 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 at the Site and sending notice to Pat Heung Rural Committee by local registered post. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is not subject of any active planning enforcement case.

5. Previous Application

There is no previous application in respect of the Site.

6. Similar Applications

- 6.1 There are 9 similar planning applications for temporary shop and services within the same “V” zone of the Site, which were all approved with conditions by the Committee between 2009 and 2019. Details of these applications are at **Appendix II** and their locations are shown on **Plans A-1** and **A-2**.
- 6.2 6 applications (No. A/YL-SK/152, 160, 167, 185, 214 and 253) for temporary shop and services (real estate agency) at the same application site located in the western part of the same “V” zone were approved with conditions by the Committee for a period of 3 years on 8.5.2009, 28.1.2011, 20.1.2012, 3.5.2013, 22.4.2016 and 3.5.2019 respectively. The considerations for approval were that approvals of the applications on a temporary basis would not jeopardize the planning intention of the “V” zone; the proposed developments could provide real estate agency service to serve the needs of the local villagers and neighbouring residential developments; there was no Small House application at the application site; the developments were considered not incompatible with the surrounding environment; Government departments consulted had no objection to or adverse comment on the applications and approval conditions could be imposed to address the technical departmental concerns. However, the planning approvals under Applications No. A/YL-SK/152 and 167 were revoked on 8.3.2010 and 28.1.2013 respectively due to non-compliance with approval conditions.
- 6.3 The remaining 3 applications (No. A/YL-SK/164, 204 and 234) involved another site located in the eastern part of the same “V” zone with some encroachment on the adjoining “Agriculture” (“AGR”) zone. Application No. A/YL-SK/164 was for temporary shop and services (real estate agency) and ancillary office for a period of 3 years, whereas Applications No. A/YL-SK/204 and 234 were for temporary shop and services (car audio shop) and ancillary office for a period of 3 years. All three applications were approved with conditions by the Committee for a period of 3 years on 18.11.2011, 12.12.2014 and 6.4.2018 respectively. The considerations for approval were that the developments were of a relatively small scale and were not incompatible with the surrounding environment; there was no Small House application at the application site; the approval of the developments on a temporary basis would not frustrate the long-term planning intentions of “V” and “AGR” zones; and Government departments consulted generally had no adverse comment on the applications.

7. The Site and Its Surrounding Areas (Plans A-1, A-2 and photos on Plans A-3 and A-4)

- 7.1 The Site is:
- (a) vacant, gently flat and fenced off; and
 - (b) located along the southern side of Kam Sheung Road, and directly accessible from Kam Sheung Road.

7.2 The surrounding areas have the following characteristics:

- (a) to its north is Kam Sheung Road, and to its further north and northwest are predominantly domestic structures/dwellings intermixed with a car repair workshop;
- (b) to its east are some domestic structures/dwellings, and to its further east is currently a temporary shop and services (car audio shop) and ancillary office use under Application No. A/YL-SK/234 approved by the Committee on 6.4.2018;
- (c) to its south are some domestic structures/dwellings, and to its further south are some vacant land intermixed with active and fallow farmland; and
- (d) to its immediate west is a car repair workshop, and to its further west are some domestic structures/dwellings and vacant land.

8. Planning Intention

The planning intention of “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 the “V” zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within the “V” 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 the ground floor of a New Territories Exempted House. Other commercial, community and recreational uses may be permitted on application to the Board.

9. Comments from Relevant Government Departments

9.1 The following Government departments have been consulted and their views on the application are summarized as follows:

Land Administration

9.1.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):

- (a) the Site comprises an Old Schedule Agricultural Lot held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government;
- (b) the Site is accessible from Kam Sheung Road via Government Land (GL). His office provides no maintenance work for the GL involved and does not guarantee any right-of-way over the GL to the Site;

- (c) the Site falls within Shek Kong Airfield Height Restriction Area (SKAHRA). The height of the proposed structure shall not exceed the relevant airfield height limit within SKAHRA;
- (d) should planning approval be given to the planning application, the lot owner(s) will need to apply to his office to permit the structures to be erected or regularize any irregularities on Site, if any. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. No construction of New Territories Excepted Building(s) will be considered or allowed. Applications for any of the above will be considered by LandsD acting in the capacity as landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of premium or fee, as may be imposed by LandsD; and
- (e) there is no Small House application approved or under processing within the Site.

Traffic

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

- (a) he has no comment on the application from traffic engineering perspective;
- (b) should the application be approved, approval condition on no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period should be included; and
- (c) the Site is connected to the public road network via a section of a local access road which is not managed by his department. The land status of the local access road should be checked with the Lands Department. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.

9.1.3 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) his department does not and will not maintain the access connecting the Site and Kam Sheung Road; and
- (b) adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

Landscape

9.1.4 Comments of the Chief Town Planner/Urban Design & Landscape, PlanD (CTP/UD&L, PlanD):

- (a) he has some reservations on the application from landscape planning point of view;
- (b) the Site is situated in an area of rural landscape character comprising scattered tree groups, active farmland and village houses found within “V” zone surrounding the Site. The proposed use is not incompatible with the surrounding environment;
- (c) with reference to the site visit dated 18.4.2019, the Site is vacant and partly hard paved. One mature tree of *Ficus microcarpa* (細葉榕) (1.5m DBH with 10m spread) in good condition is found along the western boundary and half of the tree crown intrude inside the Site. Referring to the layout plan submitted by the applicant, the proposed structure would be in conflict with the existing tree and extensive pruning is anticipated. The applicant failed to demonstrate that the proposed development would not have adverse impact on the existing mature tree; and
- (d) should the application be approved, approval condition on maintenance of existing trees within the Site satisfactorily at all times during the planning approval period should be included in the planning approval.

Environment

9.1.5 Comments of the Director of Environmental Protection (DEP):

should the application be approved, the applicant should be advised to follow the relevant mitigation measures and requirements in the latest ‘Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites’.

Drainage

9.1.6 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

- (a) he has no objection in-principle to the proposed development from the public drainage point of view; and
- (b) should the application be approved, the conditions requiring the submission of a drainage proposal and implementation and maintenance of the drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board

should be included in the planning approval.

Building Matters

9.1.7 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

- (a) before any new building works (including containers/open sheds as temporary buildings) are to be carried out on the Site, prior approval and consent of the Buildings Department (BD) should be obtained, otherwise they are unauthorized building works (UBW) under the Buildings Ordinance (BO). An Authorized Person (AP) should be appointed as the coordinator for the proposed building works in accordance with the BO;
- (b) for UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO;
- (c) the Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations respectively; and
- (d) if the Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the Building (Planning) Regulations at the building plan submission stage.

Fire Safety

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

- (a) he has no objection in-principle to the proposal subject to fire service installations being provided to his satisfaction;
- (b) in consideration of the design/nature of the proposal, fire service installations are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed fire service installations to his department for approval. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed fire service installations to be installed should be clearly marked on the layout plans; and

- (c) the applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

District Officer's Comments

9.1.9 Comments of the District Officer/Yuen Long, Home Affairs Department (DO/YL, HAD):

he has not received any comments from locals upon close of consultation and he has no particular comments on the application.

9.2 The following Government departments have no objection to/adverse comment on the application. Their comments, if any, are at **Appendix III**:

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (b) Project Manager/West, Civil Engineering and Development Department (PM/W, CEDD);
- (c) Chief Engineer/Railway Department 2-2, Railway Development Office, Highways Department (CE/RD2-2, RDO, HyD);
- (d) Director of Agriculture, Fisheries and Conservation (DAFC);
- (e) Commissioner of Police (C of P); and
- (f) Director of Electrical and Mechanical Service (DEMS).

10. Public Comments Received During Statutory Publication Period

On 9.4.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 30.4.2019, no public comment was received.

11. Planning Considerations and Assessments

11.1 The application is for proposed temporary shop and services (domestic goods retail shop) at the Site for a period of 5 years. Three 1-2 storey structures for domestic goods retail shop, ancillary office and fire service water tank will be erected at the Site. The Site falls within an area zoned "V" on the approved Shek Kong OZP No. S/YL-SK/9 (**Plan A-1**). The shop and services use is not entirely in line with the planning intention of "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. Land within the "V" zone is primarily intended for development of Small Houses by indigenous villagers. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on the ground floor of a New Territories Exempted House. Other commercial, community and recreational uses may be permitted on application to the Board. DLO/YL, LandsD advised that there is no Small House application approved or under process at the Site. Approval of the application on a temporary basis for a period of 5 years

would not frustrate the long term planning intention of the “V” zone.

- 11.2 The proposed development with low-rise structures is not incompatible with the surrounding land uses which are predominated by residential structures/dwellings intermixed with car repair workshops, car audio shop and vacant/unused land (**Plan A-2**). According to the applicant, the proposed development is small in scale and intended to serve the surrounding local community. Two private car parking spaces and one light goods vehicle loading/unloading space will be provided at the Site, and the estimated traffic generation by the proposed development is considered insignificant. C for T has no comment on the application from traffic engineering perspective. Besides, DEP and CE/MN, DSD have no objection to or no adverse comment on the application from environmental and drainage aspects respectively. To mitigate potential environmental impacts on the surrounding areas, approval condition restricting the operation hours is recommended in paragraph 12.2 (a) below. Any non-compliance with the approval condition will result in revocation of the planning permission. Besides, the applicant would be advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by the DEP. The technical requirements of C for T, D of FS and CE/MN of DSD could be addressed by approval conditions in paragraph 12.2 (c) and (e) to (i) below. For landscape aspect, although CTP/UD&L, PlanD has some reservations on the application in relation to the adverse impact on the existing mature tree on Site, his concern could be addressed through the incorporation of approval condition requiring the maintenance of existing trees within the Site at all times during the planning approval period in paragraph 12.2 (d) below.
- 11.3 There is no previous application in respect of the Site. There are 9 similar planning applications for temporary shop and services within the same “V” zone of the Site, which were all approved with conditions by the Committee between 2009 and 2019 (**Plan A-1**) as mentioned in paragraph 6 above. Approval of the current application is in line with the Committee’s previous decisions.
- 11.4 There is no public comment received during the public inspection period.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11, 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 17.5.2024. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation between 5:00 p.m. and 10:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;

- (b) no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance are allowed to be parked/stored on or enter/exit the Site at any time 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) all trees within the Site shall be maintained at all times during the planning approval period;
- (e) the submission of proposal for fire service installations and water supplies for fire-fighting 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 **17.11.2019**;
- (f) in relation to (e) above, the implementation of proposal for fire service installations and water supplies for fire-fighting 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 **17.2.2020**;
- (g) 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 **17.11.2019**;
- (h) in relation to (g) above, the implementation of drainage proposal with **9** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **17.2.2020**;
- (i) in relation to (h) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (j) if any of the above planning conditions (a), (b), (c), (d) or (i) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked without further notice; and
- (k) if any of the above planning conditions (e), (f), (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 III**.

- 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. Land within the "V" zone is primarily intended

for development of Small Houses by indigenous villagers, and for concentrating village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services. No strong planning justification has been given in the submission to justify 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 with attachments received on 29.3.2019
Appendix Ia	FI received on 9.5.2019 in response to departmental comments
Appendix II	Similar Applications
Appendix III	Advisory Clauses
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