

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/TKO/118**

- Applicant** : Strongly Limited represented by Toco Planning Consultants Limited
- Premises** : Retail 5, G/F and B2/F, Alto Residences, 29 Tong Yin Street, Tseung Kwan O
- Total Area of Premises** : About 510.2 m<sup>2</sup>
- Lease** : (a) Pink Cross-Hatched Black Area located within Area (b) of TKOTL 95  
(b) Restricted to non-industrial (excluding private residential, godown, hotel and petrol filling station) purpose under New Grant No. 21499
- Plan** : Approved Tseung Kwan O Outline Zoning Plan (OZP) No. S/TKO/26
- Zoning** : “Residential (Group A)6” (“R(A)6”) with the following restrictions:

Sub-areas	Maximum Plot Ratio (PR)		Maximum Site Coverage (SC) (excluding basement(s))	Maximum Building Height (BH)
	Domestic	Non-domestic		
Area (a)	2	0.5	50%	50mPD
Area (b)	2	0.5	50%	35mPD
Area (c)	2	0.5	50%	60mPD

- Application** : Proposed Temporary Massage Establishment (Spa Facility) for a Period of 5 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission for proposed temporary massage establishment at G/F and B2/F of a residential cum commercial development (Alto Residences) at 29 Tong Yin Street, Tseung Kwan O (the Premises) for a period of five years. The Premises fall within Area (c) of an area zoned “R(A)6” on the approved Tseung Kwan O Outline Zoning Plan (OZP) No. S/TKO/26 (**Plan A-1**). According to the Notes of the OZP, ‘Commercial Bathhouse/Massage Establishment’ is a Column 2 use in “R(A)” zone which requires planning permission from the Town Planning Board (the Board).

- 1.2 According to the applicant, the operation hours of the Premises will be from 8 a.m. to 10 p.m. daily. The proposed massage establishment is intended to serve 18 guests per day. Reception is proposed to be on G/F, whereas foot massage area and massage rooms will be on B2/F. There is no B1/F at the subject Premises. As the proposed massage establishment aims to serve the local residents nearby, the applicant anticipates that a majority of the customers will visit the Premises on foot and by public transport. The site plan, floor plans and elevation plans of the proposed development submitted by the applicant are shown in **Drawings A-1** and **A-2**.
- 1.3 In support of the application, the applicant has submitted the following documents:
- (a) Application form and letter received on 21.5.2019 (Appendix I)
  - (b) Planning Statement (Appendix Ia)
  - (c) Supplementary Information received on 24.5.2019 providing clarifications on floor area of the Premises (Appendix Ib)
  - (d) Further Information received on 19.6.2019 (Appendix Ic)  
*(exempted from publication and recounting requirements)*

## **2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in **Appendix Ia**. They can be summarised as follows:

- (a) The proposed spa facility is intended to make good use of the Premises to offer high-quality spa services with a selection of beauty, health and massage treatments to meet the increasing demand for massage establishments.
- (b) All therapists in the proposed spa facility received recognised training from certified academy in Thailand to ensure the delivery of high-quality services to customers. A tranquil, private and personalised environment is provided for the therapeutic treatments.
- (c) It is in line with the planning intention of “R(A)” zone to provide commercial uses on the lower floors of a residential development.
- (d) It is in line with the Town Planning Board Guidelines for Application for Massage Establishment in that the proposed spa is located in a mixed-use neighbourhood with residential and commercial uses; located within the commercial podium of a composite commercial/residential development; intended to serve local residents; compatible with the adjacent uses within the same commercial podium, i.e. retail shops and restaurants; separate

entrances to the Premises and the domestic portion of the development; sufficient means of escape and firefighting facilities provided; and statutory and non-statutory requirements of government departments to be met.

- (e) The proposed spa facility is targeted to serve local residents in Alto Residences and residential developments nearby. The operating hours will be from 8 a.m. to 10 p.m. daily. The number of visitors per day will also be limited to 18 with the pre-booking system. Together with the availability of car parking and loading/unloading spaces in Alto Residences, significant traffic impact is not anticipated.
- (f) Small amount of waste water will be produced by the proposed spa facility and they will be discharged from the Premises to existing sewerage manhole. Adverse impacts on noise, air quality and drainage system are not anticipated.
- (g) The temporary nature of the application will not set an undesirable precedent for similar applications.

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

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

**4. Town Planning Board Guidelines**

Town Planning Board Guidelines for ‘Application for Commercial Bathhouse and Massage Establishment under Section 16 of the Town Planning Ordinance’ (TPB PG-No. 14B) is relevant to this application (**Appendix II**). The relevant assessment criteria are as follows:

- (a) the proposed massage establishment will normally not be permitted within a residential neighbourhood;
- (b) the proposed massage establishment should be located within a commercial building or the non-domestic portion of a composite commercial/residential building;
- (c) the proposed use should not be incompatible with other uses within the same building and consideration will normally be given only to the uses permitted in the Occupation Permit (OP) issued by the Building Authority (BA);
- (d) in composite commercial/residential building, access (entrance) to the application premises must be separated from that of the domestic portion of the building by way of separate stairways and/or lifts/escalators exclusively serving non-domestic portion of the building;

- (e) the views of local residents on the proposed massage establishment will be taken into account;
- (f) the Fire Services Department and the Buildings Department should be satisfied within the proposals to comply with the fire safety requirements for the proposed massage establishment in respect of the provision of fire service installations and means of escape, etc; and
- (g) all other statutory or non-statutory requirements of relevant Government departments must be met.

**5. Previous Application**

There is no previous application for the Premises.

**6. Similar Application**

There is no similar application for ‘Massage Establishment’ within “R(A)” zone of the OZP.

**7. The Premises and Its Surrounding Areas (Plans A-1 to A-3 and Photos on Plans A-4a to A-4d)**

7.1 The Premises are:

- (a) located on G/F and B2/F of the non-domestic portion of Alto Residences;
- (b) currently under renovation;
- (c) accessible from Tong Yin Street via a pedestrian walkway which connects Tong Yin Street to the Tseung Kwan O Waterfront Park (**Plans A-2 & A-4b**); and
- (d) about 520m south of MTR Tseung Kwan O Station (**Plan A-1**).

7.2 The subject development (Alto Residences) is a residential cum commercial development which comprises 7 residential towers, 23 houses, with the non-domestic portion comprising commercial accommodation and carpark. According to the OP issued by BA on 2.5.2018, the major uses of the non-domestic portion of Alto Residences are summarised as follows:

<b>Floor</b>	<b>Approved Uses</b>
B2/F	Retail shops, restaurants, residents' recreational facilities, car parking spaces
B1/F (minor portion at southeast part of the development only)	Restaurant
G/F	Retail shops, restaurants
1/F	Restaurants

7.3 Existing uses at the non-domestic portion of Alto Residences include school use (i.e. pre-school and learning centre) on G/F, whereas other shops on B2/F, B1/F, G/F and 1/F are currently vacant. The residential towers and houses are accessible from the main entrance at Tong Yin Street and the side entrance via the pedestrian walkway fronting the proposed town park (**Plan A-2**) and are separated from those of the non-domestic portion including the Premises.

7.4 The surrounding areas have the following characteristics:

- (a) developments in the vicinity are predominantly residential cum commercial developments with commercial uses on the lower floors, which include Capri to its immediate west, The Wings III and Corinthia By The Sea to its northeast (**Plan A-1**);
- (b) to its south is the Tseung Kwan O Waterfront Park and to its east is vacant land zoned "Open Space" which is designated for the proposed town park; and
- (c) to the north across Tong Yin Street are a vacant school site and French International School of Hong Kong.

## **8. Planning Intention**

The planning intention of "R(A)" zone is intended primarily for high-density residential developments. Commercial uses are always permitted on the lowest three floors of a building or in the purpose-designed non-residential portion of an existing building.

## **9. Comments from Relevant Government Departments**

9.1 The following government departments have been consulted and their views are summarized as follows:

### **Land Administration**

9.1.1 Comments of the District Lands Officer/Sai Kung, Lands

Department (DLO/SK, LandsD):

- (a) the subject Premises falls within the Pink Cross-Hatched Black Area located within Area (b) of TKOTL 95 (“the Lot”) and the New Grant No. 21499 dated 17.12.2012 governing the Lot stipulates that the total GFA of the building(s) erected on the Pink Cross-Hatched Black Area located within Area (b) of the lease of the Lot for non-industrial (excluding private residential, godown, hotel and petrol filling station) purpose shall not be less than 450m<sup>2</sup>. No part of any building erected on or over the said Pink Cross-Hatched Black Area shall exceed 2 storeys or in the aggregate exceed a height of 10m above the ground level; and
- (b) there is no in-principle objection to the application with respect to (i) the user restriction and (ii) minimum GFA restriction for non-industrial (excluding private residential, godown, hotel and petrol filling station) purpose within the Pink Cross-Hatched Black Area located within Area (b) and (iii) the height restriction within the said Pink Cross-Hatched Black Area of the lease of the Lot.

### **Traffic**

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

as the subject site is in the shopping mall of Alto Residences and there are provision of visitor carpark and loading/unloading spaces in the mall, she has no comments on the application from traffic viewpoint.

### **Environment**

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

- (a) no objection to the application; and
- (b) it is noted that the proposed massage establishment (spa facility) is located within the retail shop. In view of the small scale and nature of the proposed development, it will unlikely cause major pollution.

### **Building Matters**

9.1.4 Comments of the Chief Building Surveyor/New Territories East (2) & Rail, Buildings Department (CBS/NTE(2)&Rail, BD):

- (a) no in-principle objection under the Buildings Ordinance to the application;

- (b) sufficient means of escape should be provided according to Code of Practice for Fire Safety in Buildings 2011; and
- (c) the applicant should appoint an Authorized Person to submit building plans for BA's approval. Detailed comments would be given at plan submission stage.

### **Fire Safety**

#### 9.1.5 Comments of the Director of Fire Services (D of FS):

- (a) no objection in principle to the application subject to fire service installations and water supplies for firefighter being provided to the satisfaction of his Department;
- (b) detailed Fire Services requirements will be formulated upon receipt of formal submission of general building plans; and
- (c) the Fire Services requirements regarding licensing premises would be imposed upon receipt of formal application via Licensing Authority.

### **Licensing**

#### 9.1.6 Comments of the Commissioner of Police (C of P):

- (a) no comment on the application;
- (b) the application for New Issue of Massage Establishments Licence regarding the Premises is still under consideration;
- (c) the applicant is advised to first apply for a planning permission before submitting an application to the Police Licensing Office for a massage establishments licence; and
- (d) any person who wishes to conduct massage business shall obtain a massage establishments licence under Section 6 of Massage Establishments Ordinance, Cap. 266 from C of P.

### **District Officer's Comments**

#### 9.1.7 Comments of the District Officer (Sai Kung), Home Affairs Department (DO(SK), HAD):

- (a) no comment on the application; and

- (b) Mr. TSE Ching-fung, District Council (DC) member of the constituency and the Owners Committee of Alto Residences have no particular comment on the application. Sai Kung District Office has also conducted a local consultation for “Massage Establishment Licence” and no adverse comment has been received.

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

- (a) Chief Engineer/Mainland South, Drainage Services Department (CE/MS, DSD)
- (b) Chief Engineer/Construction, Water Supplies Department (CE/Construction, WSD);
- (c) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD);
- (d) Project Manager (East), Civil Engineering and Development Department (PM(E), CEDD); and
- (e) Director of Electrical and Mechanical Services (DEMS).

## **10. Public Comments Received During Statutory Publication Period**

On 28.5.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 18.6.2019, one public comment was received from the Chairman of Owners Committee of Alto Residences supporting the application (**Appendix III**).

## **11. Planning Considerations and Assessments**

- 11.1 The current application is to use the Premises which are located within the non-domestic portion of a residential cum commercial development falling within the “R(A)6” zone for a temporary massage establishment. The application is considered in line with the assessment criteria of TPB PG-No. 14B for ‘Application for Commercial Bathhouse and Massage Establishment under Section 16 of the Town Planning Ordinance’ as set out in paragraph 4 above.
- 11.2 The Premises are located at the non-domestic portion of the residential cum commercial development (Alto Residences). According to the OP, G/F and B2/F of the development where the Premises are located are for non-domestic uses including retail shops and restaurants. The proposed massage establishment is considered not incompatible with other non-domestic uses within the development and surrounding developments.
- 11.3 There are independent entrances to the Premises and the residential towers and houses of Alto Residences. The proposed massage establishment, with its small scale, individual direct entrance and small number of daily visitors, would unlikely cause nuisance to the residents of Alto Residences.



- 11.4 Relevant government departments including TD, FSD, BD, DSD and EPD have no objection to or no adverse comments on the application. The proposed development will also be subject to relevant licensing requirements of C of P. To ensure the compliance with fire safety requirements, an approval condition is recommended for the provision of fire service installations for the proposed temporary massage establishment under paragraph 12.2 below.
- 11.5 There is no public objection but a supporting comment received during the statutory public inspection period. As advised by DO(SK), the relevant DC member and Owners Committee have no adverse comment on the application.

## **12. Planning Department's Views**

- 12.1 Based on the assessment made in paragraph 11 and having taken 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 19.7.2024. The following conditions of approval and advisory clauses are also suggested for Members' reference:

### Approval Conditions

- (a) the provision of fire service installations and water supplies for firefighting within 6 months from the date of the approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 19.1.2020; and
- (b) if the above planning condition 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 Alternatively, should the Committee decide to reject the application, the following reasons for rejection are suggested for Members' reference:
- (a) the proposed use is considered not compatible with the residential neighbourhood; and
- (b) approval of the application would set an undesirable precedent for similar applications of massage establishment within "R(A)6" zone.

**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**

<b>Appendix I</b>	Application Form and Letter received on 21.5.2019
<b>Appendix Ia</b>	Planning Statement
<b>Appendix Ib</b>	Supplementary Information received on 24.5.2019
<b>Appendix Ic</b>	Further Information received on 19.6.2019
<b>Appendix II</b>	Town Planning Board Guidelines No. 14B
<b>Appendix III</b>	Public Comment
<b>Appendix IV</b>	Advisory Clauses
<b>Drawing A-1</b>	Site Plan
<b>Drawing A-2</b>	Floor Plan and Elevation Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a to 4d</b>	Site Photos

**PLANNING DEPARTMENT  
JULY 2019**