

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/ST/940

<u>Applicant</u>	:	CAC International Limited represented by Multiple Surveyors Limited
<u>Premises</u>	:	Workshop 1 (Part), G/F, Wah Wai Centre, 38-40 Au Pui Wan Street, Fo Tan, Sha Tin, N.T.
<u>Floor Area</u>	:	76.77m ² (about)
<u>Lease</u>	:	(a) STTL No. 140 (New Grant No. 11488) (b) to be expired on 30.6.2047 (c) restricted to industrial and/or godown purposes or both
<u>Plan</u>	:	Draft Sha Tin Outline Zoning Plan (OZP) No. S/ST/33
<u>Zoning</u>	:	“Industrial” (“I”)
<u>Application</u>	:	Proposed Shop and Services (Retail Shop)

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application premises (the Premises) for ‘Proposed Shop and Services (Retail Shop)’ use. According to the Notes of the OZP, ‘Shop and Services (not elsewhere specified) (ground floor only, except in wholesale conversion of an existing building and Ancillary Showroom which may be permitted on any floor)’¹ use in “I” zone requires planning permission from the Town Planning Board (the Board).
- 1.2 The Premises, with a floor area of about 76.77m², is located on the ground floor of Wah Wai Centre abutting Au Pui Wan Street and Kwai Tei Street. It forms part of existing Workshop 1 and is proposed to be separated from the existing workshop by fire rated walls. The proposed retail shop will be used for selling finished products and merchandise from the existing workshop.
- 1.3 The layout plan and floor plan of the Premises submitted by the applicant are shown in **Drawings A-1** and **A-2**.
- 1.4 In support of the application, the applicant submitted the following documents:
 - (a) Application form received on 24.1.2018 **(Appendix I)**
 - (b) Planning Statement **(Appendix Ia)**

¹ ‘Shop and Services (Motor-vehicle Showroom on ground floor, Service Trades only)’ is always permitted in the “I” zone.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the letter attached to the application form and Planning Statement at **Appendices I and Ia**. They can be summarized as follows:

- 2.1 the proposed retail shop will be used for selling finished products and merchandise to support the brand-selling. The proposed use is compatible with the surrounding locality;
- 2.2 the proposed retail shop will not generate any significant traffic impact to the locality considering the scale of the business. The existing parking and unloading /unloading facilities of the building are sufficient to support the proposed use;
- 2.3 the proposed retail shop will be directly accessible from Au Pui Wan Street to avoid disturbance to other occupants of the same building. The proposal will not generate any adverse noise, visual, water supplies and drainage impacts to the surrounding areas and neighbourhood. The applicant is willing to accept any reasonable conditions to improve the site conditions that the Board considers fit for proposed use; and
- 2.4 the proposed retail shop will increase job opportunities for the local community. A diversification of the jobs will be created in the locality and thus reduce the need for residents to commute to work.

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

The ‘Town Planning Board Guidelines for Use/Development within “Industrial” Zone’ (TPB PG-No. 25D), which was revised and promulgated in September 2007, is relevant to this application. For a proposed commercial use in an industrial building, relevant planning assessment criteria are summarized as follows:

- (a) it should be demonstrated that there is a genuine need for the proposed use under application and no suitable alternative accommodation can be found in the vicinity. The location and scale of the proposed use should be justified on operational grounds;
- (b) there should be an adequate provision of parking and loading/unloading facilities within the site in accordance with the Hong Kong Planning Standards and Guidelines and to the satisfaction of the Transport Department. The inclusion and operation of the proposed commercial use should not adversely affect the traffic conditions in the local road network; and
- (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 building with and without sprinkler systems should as a general principle not exceeding 460m² and 230m² respectively. The limits on aggregate 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 building. These uses include bank, fast food counter (sited at street level without seating accommodation and licensed as food factory), electrical shop, local provisions store and showroom in connection with the main industrial use. Moreover, the 230m²/460m² criteria do not apply to cases involving conversion of the low zone of an existing industrial building for commercial uses if the commercial portion is completely separated from the industrial portion on the upper floors by a buffer floor of non-hazardous occupancy such as a car-parking floor. In all cases, separate means of escape should be available for the commercial portion.

5. Previous Applications

There is no previous application at the Premises.

6. Similar Applications

6.1 Wah Wai Centre is located on a sloping ground. The ground floors (i.e. G/F and 1/F) of the building, where commercial floor spaces are found, are abutting Au Pui Wan Street and Kwai Tei Street respectively. On the G/F of Wah Wai Centre, there is one similar application (No. A/ST/355) for fast food shop use approved by the Committee in 1995. There is no similar application on 1/F. Hence, there is no valid application that should be counted towards the maximum permissible limit of 460m² for aggregate commercial floor area on the ground floor of an industrial building (with sprinkler system) according to TPB PG-No. 25D (**Plan A-2 and Appendix II**). Should the floor area of the Premises be included, the aggregate commercial floor area will be 76.77m², which is within the maximum permissible limit of 460m².

6.2 There are 20 similar applications for commercial uses on the ground floor of the adjacent industrial building (i.e. Veristrong Industrial Centre) (**Plan A-2 and Appendix II**). Except two applications (Nos. A/ST/241 and No. A/ST/293), all applications were approved with conditions by the Committee between 1991 and 2016 on the consideration that the applications were not incompatible with the industrial-related uses in the surrounding developments; Director of Fire Services had no objection to the applications from fire safety point of view; and/or the application generally complied with TPB PG-No. 25D.

7. The Premises and its Surrounding Areas (Plans A-1 to A-4)

7.1 The Premises is:

- (a) located on street level (G/F) of Wah Wai Centre in Fo Tan industrial area; and
- (b) with direct access to Au Pui Wan Street.

7.2 The subject industrial building is:

- (a) 19 storeys in height bounded by Au Pui Wan Street and Kwei Tei Street. Car parking and loading/unloading spaces are provided on 2/F and 3/F of the building with vehicular access from Kwei Tei Street; and
- (b) currently occupied by the following uses on various floors:

Floor	Current Uses
G/F	Application premises , godowns, vehicle repair workshops, locked and vacant premises
1/F	Recycle centre, vehicle repair workshops and godowns
2/F to 3/F	Car park and loading/unloading areas
4/F to 18/F	Offices, godowns, workshops, locked and vacant premises

7.3 The surrounding areas have the following characteristics:

- (a) Fo Tan is an established industrial area with high-rise industrial buildings;
- (b) MTR Fo Tan Station is located about 770m from the subject industrial building; and
- (c) a centrally located commercial centre (Shatin Galleria) is about 250m from the Premises. Shatin Galleria is zoned “Commercial” (“C”) on the draft Sha Tin OZP No. S/ST/33 (**Plan A-1**) and is the only “C” zone in the vicinity.

8. Planning Intention

The “I” zone of Fo Tan is intended primarily for general industrial uses to ensure an adequate supply of industrial floor space to meet demand from production-oriented industries. Information technology and telecommunications industries and office related to industrial use are also always permitted in this zone.

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/Shatin, Lands Department (DLO/ST, LandsD):

- (a) the Premises is situated on Sha Tin Town Lot No. 140, and is governed under New Grant No. 11488 (“the New Grant”). Under the New Grant, the lot shall not be used for any purpose other than industrial or godown purposes or both excluding offensive trade. No building or buildings shall be erected on the lot except a factory or factories or a godown or godowns or both, ancillary

offices and such canteen and other welfare facilities for workmen employed on the lot as may in the opinion of the Director of Lands be necessary and such quarters for watchmen or caretakers as considered essential by the Commissioner for Labour; and

- (b) the proposal under the application to use the Premises as 'Shop and Services (Retail Shop)' purpose is not permitted under the New Grant. If the application is approved by the Board, the owner of the Premises has to apply to LandsD for a waiver. However, there is no guarantee that the waiver application will be approved. Such application, if received by LandsD, will be considered by LandsD acting in the capacity as the landlord at its sole discretion and, if approved, it would be subject to such terms and conditions including, among others, the payment of waiver fee and administrative fee as may be imposed by LandsD.

Building Matters

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

- (a) the proposed use shall comply with the requirements under the Buildings Ordinance. For instance, the shop shall be separated from adjoining premises of industrial use by fire barriers with Fire Resistance Rating of 120 minutes, and the means of escape of the existing adjoining premises shall not be adversely affected;
- (b) the subdivision of the unit/ premises should comply with the provisions of Buildings Ordinance/ Building (Minor Works) Regulations. The applicant should engage a registered building professional under the Buildings Ordinance to co-ordinate the building works, if any; and
- (c) as part of the existing toilet areas in the Workshop 1 as shown on the approved plan will be taken up by the proposed shop, the applicant should engage an Authorised Person to ensure adequate toilet facilities are available for the proposed shop and remaining areas of the workshop.

Fire Safety

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

- (a) he has no objection in principle to the application subject to:
 - (i) fire service installations and equipment being provided to the satisfaction of Fire Services Department. Detailed fire services requirements will be formulated upon receipt of formal submission of general building plans; and

- (ii) means of escape separated from the industrial portion is available for the subject unit;
- (b) the building is protected with a sprinkler system so that the maximum permissible aggregate commercial floor area on G/F is 460m² in accordance with TPB PG-No.25D. The applied use should be counted up to the aggregate 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 administered by the Building Authority; and
- (d) the applicant should pay attention 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.

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

- (a) Commissioner for Transport (C for T); and
- (b) District Officer/Shu Tin, Home Affairs Department (DO/ST, HAD).

10. Public Comment Received During Statutory Publication Period

On 2.2.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 23.2.2018, no comment was received.

11. Planning Considerations and Assessments

- 11.1 The planning intention of the "I" zone is to reserve land primarily for general industrial uses to ensure adequate supply of industrial floor space to meet demand from production-oriented industries. However, commercial uses in industrial buildings within the "I" zone may be permitted on application to the Board based on individual merits and the planning assessment criteria set out in the TPB PG-No. 25D.
- 11.2 The Premises is located on the ground floor of an existing industrial building with direct access to Au Pui Wan Street. The proposed 'Shop and Services (Retail Shop)' use under application is considered not incompatible with the industrial and industrial-related uses in the subject industrial building and the surrounding developments. Similar applications for a range of mixed 'Shop and Services' uses including retail shop and fast food shops have been approved on the ground floor of the adjacent industrial buildings (**Plan A-2 and Appendix II**).
- 11.3 The subject industrial building is subject to a maximum permissible limit of 460m² for aggregate commercial floor area on the ground floor. Currently there is no valid approved application for commercial uses on the ground floor of the

subject building. The aggregate commercial floor area will be 76.77m² if the floor area of the Premises is included, which is within the maximum permissible limit of 460m². D of FS has no objection in principle to the application subject to approval conditions on provision of fire service installations.

- 11.4 The proposed 'Shop and Services (Retail Shop)' use under application generally complies with the relevant considerations set out in the TPB PG-No. 25D including the fire safety and traffic aspects. Relevant Government departments, including BD and TD have no objection to or no adverse comment on the application.
- 11.5 A temporary approval of three years is recommended in order not to jeopardise the long term planning intention of industrial use for the Premises and to allow the Committee to monitor the supply and demand of industrial floor space in the area.
- 11.6 No public comment was received during the statutory public inspection period.

12. Planning Department's Views

- 12.1 Based on the assessment made in paragraph 11 above, the Planning Department has no objection to the application on a temporary basis for a period of three years.
- 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 16.3.2021. The following approval conditions and advisory clauses are suggested for Members' reference:

Approval Conditions

- (a) the submission and implementation of the fire safety measures to the satisfaction of the Director of Fire Services or of the Board before operation of the use;
- (b) if the above planning condition is not complied with before the operation of the use, 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 There is no strong 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, 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 received on 24.1.2018
Appendix Ia	Planning Statement
Appendix II	Similar applications for Shop and Services at G/F of Wah Wai Centre and Veristrong Industrial Centre
Appendix III	Recommended advisory clauses
Drawing A-1	Layout Plan
Drawing A-2	Floor Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plans A-3a and A-3b	Floor Plans
Plan A-4	Site Photos

**PLANNING DEPARTMENT
MARCH 2018**