

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL/241

<u>Applicant</u>	: Myland Property Agency Limited represented by Goldrich Planners & Surveyors Limited
<u>Site</u>	: Lot 4290 in D.D. 116, Tai Tong, Yuen Long, New Territories
<u>Site Area</u>	: 250.1m ² (about)
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Yuen Long Outline Zoning Plan (OZP) No. S/YL/23
<u>Zoning</u>	: “Open Space” (“O”)
<u>Application</u>	: Proposed Temporary Shop and Services (Car Beauty Services) for a Period of 6 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary shop and services (car beauty services) for a period of 6 years (**Plan A-1**). According to the Notes of the OZP for “O” zone, the proposed “Shop and Services” use is a Column 2 use which requires planning permission from the Town Planning Board (the Board). On the other hand, temporary uses expected to be 5 years or less of any land or building are always permitted as long as they comply with any other relevant legislation, the conditions of the government lease concerned, and any other government requirements. The applicant currently seeks temporary planning permission for 6 years. The Site is currently vacant, overgrown with vegetation (**Plans A-2 and A-4**), and was not involved in any previous application.
- 1.2 The Site is accessible via a local track leading from Tai Kei Leng Road to its south (**Plan A-2 and Drawing A-1**). According to the applicant, the proposed development would provide car beauty services to serve the needs of local residents and the general public. Only one private car would be served at the Site at a time and no dismantling, maintenance, repairing, paint-spraying or other workshop activities, other than the car beauty services applied for (i.e. car washing, polishing, waxing, vacuuming and application of car stickers), would be carried out on the Site. Plans showing the vehicular access leading to the Site, the

proposed site layout, the elevation, the landscape plan, and the drainage plans submitted by the applicant are at **Drawings A-1 to A-6** respectively.

1.3 The major development parameters of the current application are as follows:

Site Area(m ²)	250.1
Non-domestic Total Floor Area(m ²)/Plot Ratio	223.3/0.89
Non-domestic Site Coverage	58.26%
No. of Structure	1
Uses	Open shed, work area, meeting room, office, pantry and toilets
Height of Structure	7m (2 storeys)
Private Car Parking Spaces	2 (for staff)
Operation Hours	9:00a.m. to 7:00p.m. daily

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

- (a) Application Form received on 22.1.2018 **(Appendix I)**
- (b) Further Information dated 20.2.2018 responding to the Transport Department's comments and providing revised swept path analysis plans **(Appendix Ia)**
- (c) Further Information dated 2.3.2018 providing clarifications on the operation hours, only private cars to be served, and the range of car beauty services offered **(Appendix Ib)**

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Appendix I enclosed in the Application Form (**Appendix I**) and the further information at **Appendices Ia and Ib**. They can be summarized as follows:

- (a) The proposed development is intended to serve the needs of local residents and the general public by providing car beauty services. It can also create employment opportunities to the local residents. Only one private car will be served at a time.
- (b) Adverse visual, landscape and noise impacts are not anticipated due to the small scale of the development and its compatibility with the surrounding environment. Drainage facilities are proposed to minimise adverse impacts on the local drainage system. Given a relatively low trip generation and attraction rates, no significant adverse traffic impact is 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 obtaining consent from the only "current land owner" of

the Site on 9.1.2018. Detailed information would be deposited at the meeting for Members' inspection.

4. Previous Application

The Site is not the subject of any previous application.

5. Similar Applications

- 5.1 There are 8 similar applications (No. A/YL/156, 160, 192, 200, 215, 218, 221 and 233) for various shop and services uses within the same "O" zone. Details of the applications are summarised in **Appendix II** and the locations of the sites are shown on **Plan A-1**.
- 5.2 There are 6 applications (No. A/YL/192, 200, 215, 218, 221 and 233) approved mainly on consideration that approval on temporary basis would not frustrate the long-term planning intention; the proposed use was not incompatible with the surrounding uses; the proposed use would unlikely cause significant adverse impacts; and relevant government departments consulted had no adverse comment. However, amongst these approved applications, the first one was revoked due to non-compliance with approval conditions.
- 5.3 The other 2 applications (No. A/YL/156 and 160) were for temporary place of recreation (including outdoor barbecue area), eating place and shop and services (retail of frozen food) on the same site. They were rejected by the Rural and New Town Planning Committee (the Committee) of the Board mainly on the grounds that the development was environmentally undesirable; insufficient information to demonstrate no adverse impacts on the surrounding areas; and setting undesirable precedent.

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

- 6.1 The Site is:
 - (a) accessible from Tai Kei Leng Road to its south via a local track (**Plan A-3**); and
 - (b) fenced-off and overgrown with vegetation.
- 6.2 The surrounding areas have the following characteristics:
 - (a) generally residential use in nature intermixed with open storage/storage yards, vehicle parks, vehicle workshops, car service yards, barbecue area, fallow/cultivated agricultural land and unused land;
 - (b) to its north is a vehicle park, an elderly recreation centre, and a site with works in progress, which is covered by a planning permission under Application No. A/YL/215 for temporary farm product and grocery shop;

- (c) to its further north are scattered residential structures, fallow/cultivated agricultural land, and a residential development named Sereno Verde on land zoned “Residential (Group B)”;
- (d) to its east are scattered residential structures, open storage yards, vehicle parks, vehicle workshops and car services;
- (e) to its south is Tai Kei Leng Road, to its further south is the Yuen Long Highway; and
- (f) to its west and northwest are a number of sites covered by planning permissions under Applications No. A/YL/218, 221 and 233 for various shop and services uses, as well as a barbecue area, vehicle parks, and residential structures.

7. Planning Intention

The planning intention of the “O” zone is primarily for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residents as well as the general public.

8. Comments from Relevant Government Departments

- 8.1 The following government departments have been consulted and their views on the application are summarized as follows:

Land Administration

- 8.1.1 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 to Tai Kei Leng Road via government land (GL). Her office does not provide maintenance work for GL involved and does not guarantee any right-of-way to the Site.
- (c) The Site does not fall within the Shek Kong Airfield Height Restriction Area.
- (d) Should planning approval be given to the subject planning application, the owner(s) of the lots will need to apply to her office to permit the structures to be erected or regularize any irregularities on site. Such application(s) will be considered by LandsD acting in the capacity as landlord at its sole discretion and there is no guarantee that such application(s) 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.

Traffic

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

- (a) The applicant is reminded that sufficient space within the Site should be provided for manoeuvring of vehicles. In addition, no parking, queuing and reverse movement of vehicles on public road are allowed.
- (b) The land status of the access road/path/track leading to the Site from Tai Kei Leng Road shall be checked with the lands authority.
- (c) The management and maintenance responsibilities of the access road/path/track shall be clarified and consulted with the relevant management and maintenance authorities accordingly.

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

- (a) The proposed access arrangement of the Site from Tai Kei Leng Road should be commented and approved by the Transport Department.
- (b) His department is not and shall not be responsible for the maintenance of vehicular access connecting the Site and Tai Kei Leng Road.
- (c) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

Environment

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

- (a) There was no environmental complaint concerning the Site received in the past 3 years.
- (b) Should the planning application be approved, the applicant will be advised to follow the relevant mitigation measures and requirements in the “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites”.

Landscape

8.1.5 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

- (a) The Site, to the north of Tai Kei Leng Road lies in an area of the “O” zone. The application seeks planning permission for temporary shop for car beauty services for a period of 6 years. The Site is not subject to any previous planning permission.

- (b) With reference to the site visit by his office on 8.2.2018 and aerial photo of 2017, it is observed that the Site is partly vegetated with wild grass and partly hard paved, with a converted container at the eastern portion of the Site. The Site is situated in an area of rural fringe landscape character dominated by active and fallow farmland but disturbed by open storage yards and temporary structures. High rise residential towers are observed to the north of the Site. Significant change to the landscape character arising from the application is not anticipated. Hence, he has no objection to the application from the landscape planning perspective.
- (c) Should the Board approve this application, in view of the above and in consideration that the majority of the uncovered area is proposed to be circulation area or occupied by underground electrical cables, he considers the inclusion of a landscape condition impractical.

Drainage

8.1.6 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.
- (b) He has the following comments on the submitted drainage proposal (**Drawing A-5**):
 - (i) the existing drainage facilities, to which the stormwater of the development from the Site would discharge, are not maintained by his office. The applicant should identify the owner of the existing drainage facilities to which the proposed connection will be made and obtain consent from the owner prior to commencement of the proposal works. In the case that it is a local village drains, District Officer (Yuen Long) should be consulted.
 - (ii) the applicant should check and ensure the hydraulic capacity of the existing drainage facilities would not be adversely affected by the development.
 - (iii) the applicant should consult DLO/YL, LandsD and seek consent from the relevant owners for any drainage works to be carried out outside his lot boundary before commencement of the drainage works.
 - (iv) the detailed comments are at **Appendix III**.
- (c) Should the Board consider the application is acceptable from the planning point of view, approval conditions requiring the

submission of a revised drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board should be stipulated.

Fire Safety

8.1.7 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 (FSIs) being provided to his satisfaction.
- (b) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his Department for approval. In addition, the applicant should be advised on the following points:
 - (i) the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy; and
 - (ii) the location of where the proposed FSIs to be installed should be clearly marked on the layout plans.
- (c) However, the applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (BO) (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Building Matters

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

The applicant's attention is drawn to the following points:

- (i) If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of his department, they are unauthorized building works (UBW) under the BO and should not be designated for any proposed use under the application.
- (ii) 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.
- (iii) Before any new building works (including containers/open sheds as temporary buildings and land

filling) are to be carried out on the Site, prior approval and consent of his department should be obtained, otherwise they are UBW. An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO.

- (iv) 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.
- (v) 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) Regulation at the building plan submission stage.

Geotechnical

8.1.9 Comments of the Head of the Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD):

- (a) He has no in-principle geotechnical objection to the application.
- (b) The Site is located within the Scheduled Area No. 2 and may be underlain by cavernous marble. For any new development at the proposed area, extensive geotechnical investigation will be required. Such investigation may reveal the need for a high level of involvement of an experienced geotechnical engineer both in the design and in the supervision of geotechnical aspects of the works required to be carried out on the Site.
- (c) The applicant is also reminded to submit works to BD for approval as required under the provisions of the BO.

Others

8.1.10 Comments of the Director of Leisure and Cultural Services (DLCS):

- (a) The Site is zoned "O" on the approved Yuen Long OZP No. S/YL/23. It is not on the priority list for development agreed by the Yuen Long District Council. He has no plan to develop the Site into public open space at present.
- (b) Since the application involves private lot only, he has no in-principle objection to the application.

8.1.11 Comments of the Director of Electrical and Mechanical Services (DEMS):

- (a) He has no particular comment on the project from electricity supply safety aspect.

- (b) However, in the interest of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing and supervising any activity near the underground cable or overhead line under the application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within and/or in the vicinity of the Site. They should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and the “Code of Practice on Working near Electricity Supply Lines” established under the Regulation when carrying out works in the vicinity of the electricity supply lines.

District Officer’s Comments

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

The local consultation was completed on 20.2.2018 and his office has not received any comments, from the village representatives in the vicinity regarding the application.

- 8.2 The following government departments have no comment on the application:

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (b) Director of Agriculture, Fisheries and Conservation (DAFC);
- (c) Project Manager (West), CEDD (PM(W), CEDD); and
- (d) Commissioner of Police (C of P).

9. Public Comment Received During the Statutory Publication Period

On 26.1.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 20.2.2018, one public comment was received from a member of the public (**Appendix IV**) objecting to the application on the grounds that “car beauty service” is a repair service in disguise; and the proposed septic tank and catch pit are inappropriate for the Site falling within an “O” zone.

10. Planning Considerations and Assessments

- 10.1 The subject application is for proposed temporary shop and services (car beauty services) for 6 years on a site zoned “O” on the OZP. Although the proposed use is not in line with the planning intention of the “O” zone which is primarily for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residents as well as the general public, DLCS advises that there is no plan to develop the Site into public open space at present. The proposed development could also provide car beauty services to serve any such demand in the area. Approval of the application on a temporary basis would not jeopardize the long-term planning intention of the subject “O” zone.

- 10.2 The proposed development is not incompatible with the surrounding uses which mainly comprise residential uses, open storage/storage yards, vehicle parks, vehicle workshops, car service yards, barbecue area, fallow/cultivated agricultural land and unused land (**Plan A-2**).
- 10.3 Relevant government departments consulted, including DEP, C for T, CE/MN, DSD, D of FS and CTP/UD&L, PlanD have no objection to or adverse comment on the application. Adverse environmental, traffic, drainage, fire safety and landscape impacts are not anticipated. To minimize any potential adverse impacts and nuisance on the surrounding areas or to address the technical requirements of concerned government departments, relevant approval conditions are recommended in paragraph 11.2 below. Any non-compliance with the approval conditions will result in revocation of the planning permission. Should the planning application be approved, the applicant will also be advised to follow the relevant mitigation measures and requirements in the “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” in order to minimize any potential environmental impact.
- 10.4 Given that the Committee has approved 6 other similar applications in the same “O” zone, approval of the application is in line with the Committee’s previous decisions. For the 2 rejected applications, the nature of the applied use were different and outdoor barbecue activities were involved.
- 10.5 There is a public comment received (**Appendix IV**) raising objection to the application mainly on the grounds that “car beauty service” is a repair service in disguise; and the proposed septic tank and catch pit are inappropriate for the Site falling within an “O” zone. In this regard, an approval condition prohibiting workshop activities as proposed by the applicant is recommended. The above planning considerations and assessment are also relevant.

11. Planning Department’s Views

- 11.1 Based on the assessments made in paragraph 10 and having taken into account the public comment mentioned in paragraph 9, the Planning Department considers that the proposed shop and services (car beauty services) could be tolerated for a period of 6 years.
- 11.2 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 6 years until 16.3.2024. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation between 7:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no dismantling, maintenance, repairing, paint-spraying or other workshop activities, as proposed by the applicant, are allowed on the Site at any time during the planning approval period;

- (c) no vehicle without valid licence issued under the Road Traffic Ordinance is allowed to be parked/stored on Site at any time during the planning approval period;
- (d) only private cars as defined in the Road Traffic Ordinance, as proposed by the applicant, are allowed to be parked/stored on or enter/exit the Site at all times during the planning approval period;
- (e) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (f) the provision of boundary fence on the Site within **6** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 16.9.2018;
- (g) 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 16.9.2018;
- (h) in relation to (g) above, the implementation of the 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 16.12.2018;
- (i) 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 16.9.2018;
- (j) in relation to (i) 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 16.12.2018;
- (k) if any of the above planning conditions (a), (b), (c), (d) or (e) 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;
- (l) if any of the above planning conditions (f), (g), (h), (i) or (j) 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; and
- (m) upon the expiry of the planning permission, the reinstatement of the Site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

Advisory clauses

The recommended advisory clauses are at **Appendix V**.

- 11.3 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 “O” zone which is primarily for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residents as well as the general public. There is no strong planning justification in the submission for a departure from such planning intention, even on a temporary basis.

12. Decision Sought

- 12.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 12.2 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.
- 12.3 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.

13. Attachments

Appendix I	Application Form received on 22.1.2018
Appendix Ia	Further Information dated 20.2.2018 responding to the Transport Department’s comments and providing revised swept path analysis plans
Appendix Ib	Further Information dated 2.3.2018 providing clarifications on the operation hours, only private cars to be served, and the range of car beauty services offered
Appendix II	Similar applications within the same “O” zone on the Yuen Long OZP
Appendix III	Detailed departmental comments
Appendix IV	Public comment received during the statutory publication period
Appendix V	Recommended Advisory Clauses
Drawing A-1	Vehicular Access Plan
Drawing A-2	Proposed Layout Plan
Drawing A-3	Elevation
Drawing A-4	Landscape Plan
Drawings A-5 and A-6	Drainage Plans
Plan A-1	Location Plan with Previous and Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
MARCH 2018**