

**Application for Proposed Temporary Private Garden
for a Period of Three Years and Proposed Excavation
and Filling of Land Associated with On-site
Maintenance and Barrier Fence Erection/Replacement
Works, in “Conservation Area” Zone at
Government Land Adjoining Lot No. 210 RP
in D.D. 241, Tai Wong Kung,
Po Toi O, Sai Kung, New Territories**

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Date of Submission : 15 August 2024

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EXECUTIVE SUMMARY

This planning application aims to seek a permission of the Town Planning Board ("**TPB**") for a proposed temporary private garden for a period of three years and proposed excavation and filling of land associated with the subsequent maintenance and erection/replacement of fence barrier works, at an irregular elongated piece of Government Land ("**GL**") (the "**Subject Site**") adjoining Lot No. 210 RP in D.D. 241, Tai Wong Kung, Po Toi O, Sai Kung, New Territories. The Subject Site falls within an area zoned "Conservation Area" ("**CA**") on the Approved Clear Water Bay Peninsula South Outline Zoning Plan No. S/SK-CWBS/2 (the "**OZP**").

The Subject Site has been separated physically from the rest of the "CA" area by an unattended local access road, which was not built by the Government with no vehicle fence barrier nor street lamp. Parking activities are commonly found at the end of this unattended local access road. The levels of this unattended local access are about 2m (in the south) to 3m (in the north) higher than that of the Applicant's house lot (i.e. only 30mPD at site formation level of Lot No. 210 RP in D.D. 241).

It is the intention of the Applicant to regularise the existing garden function of the Subject Site solely for attempting to tackle public security and public safety threatening problems at this secluded, but helpless, part of the Po Toi O residential area until such situations have been improved by the Government. All existing on-site vegetation and trees will retain in-situ. The Applicant has committed to undertake proper monitoring, management and maintenance of all existing on-site vegetation and trees at her own expenses throughout the subsequent Short Term Tenancy ("**STT**") period. If TPB and/or relevant Government department(s) considers appropriate, the Applicant is also willing to submit a bi-annual maintenance report for monitoring purposes throughout the STT period.

The approval of this planning application will not affect the local natural setting nor the planning intention to conserve the "CA" zone in the area. Yet, it is very essential and necessary to the Applicant as a possible interim measure to tackle the local public security and public safety problems confronting her and all users of her house lot. It is also a "win-win" public-private collaboration planning project to the community.

內容摘要

本規劃申請旨懇請城市規劃委員會（下稱為「城規會」）批准位於毗連丈量約份第 241 約地段第 210 段餘段一片長窄不一的政府土地（下稱為「申請地點」）擬議用作為期三年的臨時私人花園用途，及擬議與後續保養該花園和設置/維修圍欄工程相關的挖土及填土的規劃申請。申請地點屬於「清水灣半島南分區計劃大綱核准圖編號 S/SK-CWBS/2」（下稱為「大綱核准圖」）的「自然保育區」地帶。

申請地點現時被一條無監管的小區道路完全分離於其餘的「自然保育區」。該路不是政府單位建造的，沒有設置防撞欄及街燈。該路盡頭常有泊車活動。相對申請人住宅地段（即丈量約份第 241 約地段第 210 段餘段）地盤平整的基準水平 30 米，該路的水平標高超出 2 米（由南段）至 3 米（北段）之高。

申請人希望能夠在未得到實質政府來改善就這片地點隔離但無助的公共治安及公眾安全威脅狀況前，可以繼續保留申請地點的花園功能，加強自保能力作用。申請人承諾，申請地點內的所有植物和樹都會得到原地保留，並在及後的短期租約期內，自資監視、管理及保養好這些植物和樹。如果「城規會」及/或相關政府部門認為適合的話，申請人也願意在短期租約期內，每半年提供一次場地保養報告。

批准是決申請是不會對區內現有自然環境或「自然保育區」的保育意圖造任何影響。相反，對申請人而言，這是她唯一能做到減輕就本區現有存在的公共保安和公眾安全威脅問題的臨時措施。這也代表「公營-私營合作」的社區「多贏」規劃項目。

1 THE APPLICATION

- 1.1 Vision Planning Consultants Limited has been commissioned by Ms. Wai Cheung Wai Kwan ("**the Applicant**"), the owner of Lot No. 210 RP in D.D. 241, to prepare and submit this planning application on her behalf.
- 1.2 This planning application aims to seek a permission of the Town Planning Board ("**TPB**") to include an irregular elongated piece of Government Land ("**GL**") (hereinafter called the "**Subject Site**") adjoining to Lot No. 210 RP in D.D. 241, Tai Wong Kung, Po Toi O, Sai Kung, New Territories, for a proposed temporary private garden for a period of three years and proposed excavation and filling of land associated with the on-site maintenance and erection/replacement of fence barrier works, if so required. The site location and lot index plans of the Subject Site are shown in **Figures 1 and 2**.
- 1.3 The Subject Site falls within an area zoned "Conservation Area" ("**CA**") on the Approved Clear Water Bay Peninsula South Outline Zoning Plan No. S/SK-CWBS/2 (the "**OZP**") (**Figure 1**). In the Notes of the OZP for the "CA" zone, temporary private garden use is neither a Column 1 nor Column 2 use within the "CA" zone. According to the covering Notes of the OZP (**Appendix I**), "*Temporary use or development of any land or building not exceeding a period of three years requires planning permission from the Town Planning Board ("**TPB**"), notwithstanding that the use or development is not provided for in terms of the OZP.*" (**Appendix I**).
- 1.4 In the Remarks (b) and (c) of the same Notes, it also states: "*[...] Any excavation of land [and] any filling of land....., shall not be undertaken.....without the permission of the Town Planning Board under section 16 of the Town Planning Ordinance.*" (**Appendix I**). As the proposed private garden will inevitably involve some kind of on-site excavation and filling of land associated with future maintenance and/or erection/replacement of fence barrier works at different operation stages, a planning permission is thus required.
- 1.5 To facilitate Members of the TPB to consider the present application, a brief description of the Subject Site and its surroundings, the key reasons for this

planning application and commitments from the Applicant to monitor, manage and maintain the Subject Site at her own expenses, and planning justifications are included in this planning statement.

2 SUBJECT SITE AND ITS SURROUNDINGS

- 2.1 As shown in **Figure 2**, the Subject Site is a strip of irregular elongated sloping GL. The Subject Site covers a total land area of about 150m². It is located between a designated "Village Type Development" ("V") zone and an unattended local access road with frequent car parking activities at its end (**Figure 3**). The width of this unattended local access road ranges from about 5.3m to 10.7m. **Figure 4** shows the local road system in association with the village catchment, known as Cala D'or.
- 2.2 When compared to the existing site formation level of the Applicant's house lot (i.e. about 30mPD at BL 1444, Lot No. 210 RP) (as shown in **Figure 2**), the levels of the existing unattended local access road section abutting the Subject Site are 32mPD in the south and 33.8mPD in the north (**Figure 2**). It is an up-slope access road raising from about 2m in the south to 3m in the north. It is understood that this unattended local access road was not built by the Government. No provision of any vehicle fence barrier or street lamp is found.
- 2.3 The Subject Site, together with its adjoining piece of GL located next to the Applicant's house lot within the "V" zone, as shown in **Figure 2**, has been used as a private garden at the present moment. This private garden also serves as a functional buffer against the public security and public safety problems from the existing unattended local access road at its east.
- 2.4 **Figure 3** shows the aerial view of the Subject Site. **Figures 5 to 9** show the existing site profile and conditions of the Subject Site. **Figure 5** shows the down-slope profile of the Subject Site from the northern end of the unattended local access road. Existing fence barrier (about 1.8m tall) and short gardening fencing are being erected. **Figure 6** shows the conditions of the existing trees group north of Subject Site. Unattended dead tree and unmanaged situations are found immediately north of the Subject Site. **Figure 7** shows the external fence barrier treatments of the existing Subject Site.

2.5 **Figures 8 and 9** are the internal views looking towards the Subject Site. The conservation of the overall greenery of the Subject Site remains unaffected. A small simple on-site wooded trellis connecting a flight of man-made stairs to the ground level of the house lot is added for gardeners' regular maintenance purpose.

2.6 The erection of an on-site roadside fence barrier abutting the local access road in the east are mainly due to the following reasons:

- i.* to avoid unauthorised human trespassing activities from this unattended up-slope local access road in this secluded part of the Po Toi O area (**a security problem**);
- ii.* to prevent wild animals (particularly wild boars) entering the house lot and/or its adjoining garden area (**a security problem**);
- iii.* to prevent vehicles losing control and running down from this unattended local access road as no roadside vehicle barrier facility is provided (**a public safety problem**);
- iv.* to prevent further road widening works that may trigger land slide problems (**a public safety problem**);
- v.* to retain existing trees and vegetations from unnecessary human disturbance causing subsequent tree falling problems endangering the users of the lot (**a public safety problem**);
- vi.* to provide greater degree of protection against heavy rainfall pouring from the upper hillslope or even a minor landslide situation via the unattended local access road during rainy season (**a public safety problem**);
- vii.* to prevent illegal dumping activities onto the Subject Site (**a public hygiene and environmental health problem**);
- viii.* to avoid light pollution from this unattended local access road during night time period as no street lamp facility is provided (i.e. completely dark at night) (**a basic living quality problem**); and
- ix.* to enable provision of better and greater privacy for house as there are two hiking trails connecting to this local access road and car parking activities are very frequent at the dead end of this road (**a basic living quality problem**).

3. INTENTION OF THE APPLICATION

- 3.1 The Applicant intends to continue to make positive efforts to maintain the existing on-site vegetation and trees within the Subject Site via this planning application procedure. The approval of this application is essential and necessary to the Applicant as an only possible interim measure to tackle the threatening problems outlined in paragraph 2.6 above.
- 3.2 Upon approval of this planning application, the Applicant is planning to include other irregular-shaped piece of GL which is being sandwiched between the Subject Site and her house lot within "V" zone, as shown in **Figure 2**, to form one integrated private garden for an application to the Lands Department a Short Term Tenancy ("STT") under a proper control and monitor by the Government.
- 3.3 The Applicant is committed that she will retain all existing vegetation and trees in-situ within the Subject Site. She is willing to continue to look after all these on-site landscape features and trees with proper management and maintenance throughout the STT period at her own expenses. If the TPB and/or relevant Government department(s) considers appropriate, the Applicant is also willing to submit to the satisfaction of all body concerned a regular bi-annual maintenance report under a proper monitoring mechanism throughout the STT period.
- 3.4 In the event that minor on-site excavation and filling of land associated with the maintenance works, including planting of new trees/removal of dead trees, or erection/replacement of roadside fence barriers, are required, the Applicant will inform timely the relevant Government department(s) for site inspections before the commencement of such works and after such works have been completed.
- 3.5 If the TPB or relevant Government department(s) considers appropriate, the Applicant is willing to accept relevant planning condition(s) as a mean to monitor the subsequent management and maintenance of the Subject Site.

4 PLANNING JUSTIFICATIONS

- 4.1 The Subject Site is an isolated piece of "CA" site being separated physically from the rest of the "CA" zone in the area by an unattended local access road. It is located

with close proximity to residential houses to its west. It is an up-slope site with raising levels ranged from 2m in the south to 3.3m in the north when compared to that on the Applicant's house lot (**Figure 2**). Abutting the Subject Site to its west is an unattended local access road, which was not built by the Government with no vehicle fence barrier nor street lamp facilities.

- 4.2 The present proposed temporary private garden at the Subject Site serves two main genuine functional purposes both to the Applicant and the local community: one functional purpose is for the Applicant as it will continue to act as the only interim measure against all potential public security and public safety threatening problems that may be generated from the unattended local access road; another functional propose is to the community as a whole as it can serve as a pragmatic measure not only to protect and to conserve all on-site vegetations and trees, but to also prevent the Subject Site from becoming a local dumping area at least throughout the STT period.
- 4.3 The approval of this planning application represents a positive public-private collaboration to protect and to conserve this isolated piece of "CA" site. As promised, all existing on-site vegetations or trees will be retained in-situ, the nature and the character of this part of "CA" site would remain unchanged, yet they will be monitored and maintained properly by the Applicant throughout the STT period, at her own expenses. No impact on the existing local nature setting or character due to the approval of the present application is anticipated. It represents a "win-win" project both to the Applicant and to the community as a whole.

5 CONCLUSION

- 5.1 The present application aims to seek a permission of the TPB for a proposed temporary private garden at the Subject Site for a period of three years, and proposed excavation and filling of land associated with future on-site maintenance and/or erection/replacement of fence barrier works.
- 5.2 Upon approval of this application, the Applicant will include another piece of GL closely abutting her house lot (i.e. BL 1444 at Lot No. 210 RP in D.D. 241, Cala D'or, Tai Wong Kung, Po Toi O, Sai Kung) within "V" zone as one STT application

site to be submitted to the Lands Department for a temporary private garden with a view to ensure all users of her house lot without suffering any risk of public security and public safety problems. This is particularly important to the Applicant as the Subject Site is just abutting an unattended local access road.

- 5.3 The Subject Site, together with its adjoining GL abutting the Applicant's house lot, will become an interim integrated temporary private garden under a STT. The Applicant is willing to provide proper management and maintenance to take care the Subject Site throughout the STT period at her own expenses. If the TPB or relevant Government department(s) considers fit, the Applicant is also willing to provide bi-annual photographic report to reflect the situations.
- 5.4 The approval of this application will not anticipate any significant adverse changes in local greenery setting or the character of the existing "CA" zoning in the area. It helps to prevent creation of planning blight in the area by forming a local dumping area or hygiene/security/safety black spot. The present application represents a "win-win" project to the community.
- 5.5 In view of the above, we respectfully request Members of the TPB to give favourable consideration to and approve the present application so as to allow the Applicant to continue to manage and maintain the Subject Site throughout the STT period.

VISION PLANNING CONSULTANTS LTD.

15 August 2024