

**Minutes of 863rd Meeting of the
Town Planning Board held on 28.7.2006**

Present

Permanent Secretary for Housing, Planning and Lands (Planning and Lands) Mrs. Rita Lau	Chairperson
Dr. Peter K.K. Wong	Vice-chairman
Mr. Michael K.C. Lai	
Dr. Greg C.Y. Wong	
Ms. Carmen K.M. Chan	
Professor Nora F.Y. Tam	
Mr. Nelson W.Y. Chan	
Mr. David W.M. Chan	
Mr. Edmund K.H. Leung	
Professor N.K. Leung	
Dr. C.N. Ng	
Dr. Daniel B.M. To	
Mr. Stanley Y.F. Wong	
Ms. Sylvia S.F. Yau	
Mr. B.W. Chan	
Mr. Walter K.L. Chan	
Ms. Maggie M.K. Chan	
Mr. Raymond Y.M. Chan	
Mr. Y.K. Cheng	

Mr. Felix W. Fong

Ms. Anna S.Y. Kwong

Professor Paul K.S. Lam

Ms. Starry W.K. Lee

Mr. K.Y. Leung

Principal Assistant Secretary (Transport)
Environment, Transport and Works Bureau
Mr. K.S. Ng

Director of Environmental Protection
Dr. Michael Chiu

Director of Lands
Mr. Patrick L.C. Lau

Director of Planning
Mrs. Ava S.Y. Ng

Deputy Director of Planning/District
Miss Ophelia Y.S. Wong

Secretary

Absent with Apologies

Mr. Erwin A. Hardy

Mr. Leslie H.C. Chen

Dr. Lily Chiang

Professor David Dudgeon

Professor Peter R. Hills

Mr. Tony C.N. Kan

Professor Bernard Vincent W.F. Lim

Mr. Alfred Donald Yap

Dr. James C.W. Lau

Assistant Director(2), Home Affairs Department
Ms. Linda Law

In Attendance

Assistant Director of Planning/Board
Mr. S. Lau

Chief Town Planner/Town Planning Board
Mr. C.T. Ling

Senior Town Planner/Ordinance Review
Ms. Jacinta K.C. Woo

Agenda Item 1

Confirmation of Minutes of the 862nd Meeting held on 14.7.2006

[Open Meeting. The meeting was conducted in Cantonese.]

1. The minutes of the 862nd meeting held on 14.7.2006 were confirmed without amendments.

Agenda Item 2

Matters Arising

[Open Meeting. The meeting was conducted in Cantonese.]

2. The Secretary said that there was no matter arising to report.

[Mr. Felix W. Fong arrived to join the meeting at this point.]

Agenda Item 3

[Open meeting (Presentation and Question Session Only)]

Review of Application No. A/K18/235

Proposed Minor Relaxation of Building Height Restriction from

5 to 7 Storeys for Residential Development in “Residential

(Group C)7” zone, 2 Beacon Hill Road

(NKIL 5271), Kowloon Tong

(TPB Paper No. 7639)

[The hearing was conducted in Cantonese.]

3. The Secretary reported that Professor Bernard Lim and Dr. James Lau declared interests in this item as they had business dealings with the consultants for the applicant, and both Professor Lim and Dr. Lau were not present at the meeting.

Presentation and Question Session

4. The following representatives of Government departments were invited to the meeting at this point:

Mr. Kelvin Chan	District Planning Officer/Kowloon, Planning Department (PlanD)
Mr. C.C. Lau	Senior Town Planner/Kowloon, PlanD
Mr. H.W. Sun) Civic Engineering and Development Department (CEDD)
Mr. Peter Yung)

5. The following applicant's representatives were also invited to the meeting at this point:

Ms Betty Ho)
Miss Ariel Li)
Mr. Tony Lam Chung-wai) Applicant's Representatives
Mr. Carmine Siu)
Mr. Tony Yau)
Mr. Terence Chu)

6. The Chairperson extended a welcome and explained briefly the procedures of the review hearing. The Chairperson then invited Mr. Kelvin Chan to brief Members on the background to the application.

7. With the aid of a Powerpoint presentation, Mr. Kelvin Chan covered the following main aspects as detailed in the Paper:

- (a) the application was for minor relaxation of building height restriction from five storeys to seven storeys with an absolute building height of 80mPD;
- (b) the reasons for rejecting the application was detailed in Paragraph 1.2 of the Paper;
- (c) the plot ratio and building height restrictions were 1.65 and five storeys respectively under the draft Kowloon Tong Outline Zoning Plan (OZP) No. S/K18/12;

- (d) the building height of the adjacent developments ranged from two storeys to 12 storeys and 64.5mPD to 101.2 mPD;
- (e) the site was subject to the constraints posed by the Old Beacon Hill Tunnel (the Tunnel) along its eastern boundary and a gas main located inside the Tunnel;

[Dr. Daniel B.M. To arrived to join the meeting at this point.]

- (f) the currently proposed development was 7.38 metres higher than the previously approved scheme which comprised two blocks of 7-storey buildings with six storeys above ground and a basement car park;

[Ms Carmen K.M. Chan, Mr. Nelson W.Y. Chan and Dr. Peter K.K. Wong arrived to join the meeting at this point.]

- (g) departmental comments – Buildings Department (BD) considered that the gross floor area (GFA) for the clubhouse accounting for about 6.4% of the total GFA was excessive; the Geotechnical Engineering Office (GEO) of CEDD considered that there was insufficient information to justify the conclusion that a basement scheme was not feasible in geotechnical terms; the Architectural Services Department (ArchSD) considered that the design merits in the proposed scheme were justified; and the Chief Town Planner/Urban Design and Landscape (CTP/UD&L) was of the view that the stepped height concept for the area north of Cornwall Street would not be compromised by the minor relaxation of building height restriction on the site but it was advisable to make every endeavour to minimize the deviation from the statutory limit;
- (h) two public comments were received. One considered that the Board should follow its decision on the building height restrictions for the Kowloon Tong OZP, and the other objected mainly on ground of incompatibility with the surrounding area; and
- (i) PlanD did not support the review application for reasons stated in Paragraph 6.2 of the Paper.

[Ms Starry W.K. Lee arrived to join the meeting at this point.]

8. The Chairperson then invited the applicant's representatives to elaborate on the application.

9. With the aid of a Powerpoint presentation, Mr. Tony Yau, Ms Betty Ho, Mr. Carmine Siu and Mr. Tony Lam made the following main points in turn:

OZP Context

- (a) it had been speculated in an article in the Hong Kong Economic Times recently that the subject application would likely be rejected as it was the first application for minor relaxation of building height restriction to be reviewed by the Board since it decided to uphold its decision on the building height restrictions recently imposed in the Kowloon Tong OZP. It would be easy for the Board to reject the application on such ground;
- (b) it was laid down in the Explanatory Statement that each application for minor relaxation of the building height restriction would be considered on its individual merits taking into account relevant planning considerations such as site constraints, impact on existing trees, and innovative building design that would enhance the amenity of the locality and would not have adverse visual and landscape impacts;

Precedent Case

- (c) the Board should consider the application as a unique case. There would not be any other sites in Kowloon Tong which was faced with a similar situation that the site was seriously constrained by the presence of a historical underground tunnel with an active gas main laid inside;

[Ms Anna S.Y. Kwong arrived to join the meeting at this point.]

Previous Approval

- (d) the Board had previously approved an application for minor relaxation of the building height restriction from five storeys to seven storeys including a basement car park on the site. The application was approved subject to, inter alia, the condition to carry out a Heritage Impact Assessment and implement any mitigation measures identified therein. The applicant had already complied with such condition;
- (e) General Building Plans and Structure Plans (superstructure) based on the previously approved scheme were approved by the Building Authority (BA) in December 2003 and April 2004 respectively. The Authorized Person (AP) was required to satisfy comments from Town Gas;
- (f) a Geotechnical Assessment Report (GAR) was submitted together with the Amendment Plans in May 2004. The GAR identified significant increase in soil pressure that could be resulted from temporary construction works and recommended strengthening of the Tunnel. It was also recommended that the vibration caused by temporary construction should be limited to 2mm/second. The GAR was accepted by GEO and Town Gas;
- (g) the scheme with a basement car park required an excavation depth of up to 12 metres and the excavation level would be about 13 metres directly above the Tunnel. The scheme was not accepted by Town Gas unless strengthening work would be carried out inside the Tunnel. However, since the ownership of and right of access to the Tunnel were yet to be rectified, there was uncertainty on whether the applicant could carry out the necessary strengthening works inside the Tunnel;
- (h) despite prolonged discussions with Town Gas since June 2004, the foundation plan and Excavation and Lateral Support (ELS) plans were rejected twice by BA. The previously approved scheme could not be implemented;

Re-assessment of Site Constraints

- (i) the mean site level was at about 54mPD with retaining walls on its northern and western boundaries at 60.73mPD. The Tunnel laid underneath the eastern boundary of the site and Town Gas required a 10-metre structure free zone from the edge of the Tunnel. There was also a 6-metre non-building area under lease along the southern boundary at Beacon Hill Road and an existing large tree (T21) which had to be retained on the site;

- (j) considering the site constraints, uncertainty over the prospect of carrying out the necessary strengthening works to the Tunnel, the need to preserve the integrity of the Tunnel and to ensure the safety to the public and construction workers, a cautious approach was adopted to avoid any disturbance to the Tunnel;

Last Application Rejected by the Board

- (k) an application (No. A/K18/234) for a block of 7-storey residential building comprising five floors with a total of 11 residential units over one storey of clubhouse/flat entrance and one storey of car park was rejected by the Board in January 2006. The floor-to-floor height of the proposed building in that scheme was 4 metres with a maximum building height of 35.77 metres above mean street level (i.e. 83 mPD);

Merits of the Current Proposal

- (l) compared to the previously approved scheme, the current proposal comprised only one block of 7-storey residential building. The number of residential units had been reduced from 20 to 11 in order to reduce the number of car parking spaces from 40 to 22 which had to be accommodated on the ground floor because no basement car park would be provided. As a result, there would be less traffic impact;

- (m) the floor-to-floor height had been reduced from 4 metres (as proposed in the previous Application No. A/K18/234) to 3.5 metres (same as the approved Application No. A/K18/204) in order to minimize the deviation from the statutory height restriction. A green and innovative building design with a stepped height was also adopted. Such design would, on the one hand, take the loading away from the Tunnel and, on the other, reduce the visual mass. The development

would be more integrated with the surrounding developments and landscape;

- (n) the current proposal would comply with the Town Gas's requirements to keep the 10-metre structure-free zone and limit the vibration level to 2mm/second during temporary construction without the need to carry out strengthening works inside the Tunnel. Bored pile founded directly onto the rock was proposed and the superstructure was stepped back and supported by a cantilevered transfer plate taking the load away from directly above the Tunnel. Written acceptance of the current proposal was obtained from Town Gas on 14 June 2006;
- (o) the preservation of the existing tree also required pipe pile and lateral support for the tree pit. Owing to the proximity of the location of the tree to the Tunnel, the depth of the pipe pile could not be lower than the currently proposed level (i.e. 48mPD) if strengthening works were not to be carried out to the Tunnel;
- (p) the lowest site level was now proposed to be at 53mPD. The headroom for the car park and clubhouse was kept to a minimum of 2.5 metres and 3.2 metres respectively. The transfer plate of 1.5 metres deep was necessary to support the superstructure and there should not be any residential units beneath the transfer plate. Hence, the absolute building height at 80 mPD could not be reduced;
- (q) the clubhouse was in fact very small with an area of only about 2000ft² (179.2m²) excluding the covered swimming pool and landscape area. The provision of such recreational facilities was not excessive for the development;
- (r) the surrounding developments include One Beacon Hill Road which was 12 storeys above three storeys of car parks with a maximum building height at 101.2mPD. The proposed increase in height on the subject site was minor compared to this adjacent development; and
- (s) CTP/UD&L had no objection to the proposal and ArchSD also accepted the design merits of the scheme. Other Government departments also had no objection/comment on the proposal.

10. The Chairperson and Members had the following questions/comments:

- (a) whether excavation for the construction of a basement outside the 10-metre structure-free zone would be acceptable in geotechnical terms;
- (b) what was the GEO's requirement for protection of underground tunnels and what was the acceptable excavation limit;
- (c) what was the condition of the granite rock on the site;
- (d) whether it was necessary for the clubhouse to occupy the whole of the first floor, and whether the option of relocating the swimming pool elsewhere, for example, on rooftop, had been explored;
- (e) whether the clubhouse facilities proposed in the current scheme was different from those included in the previously approved scheme and whether the proposed floor area for the clubhouse facilities accounting for 6.4% of the total GFA would be accepted for exemption by BA;
- (f) given the site constraints, whether the maximum plot ratio of 1.65 imposed by the OZP could be achieved without exceeding the 5-storey building height restriction;
- (g) why was the Tunnel not included in the adjacent "Green Belt" ("GB") zone instead of falling within the "Residential (Group C)7" ("R(C)7") zone; and
- (h) whether the method for preserving the existing tree T21 on the site was different from that adopted in the previously approved scheme.

11. In response to the questions raised by the Chairperson and Members, Mr. Kelvin Chan, Mr. C.C. Lau, Mr. H.W. Sun and Mr. Peter Yung made the following points:

- (a) the approval of the General Building Plans by BA in 2003 required that the AP should strictly comply with the requirements and precautionary measures as specified by the Kowloon-Canton Railway Corporation (KCRC) and Town Gas;
- (b) a 20-metre protection zone was normally specified for building over new tunnels

but the loading of the new buildings and the height of the buildings had to be considered on a case-by-case basis;

- (c) the subject site was a special case as the tunnel concerned was a historical tunnel. Since the construction of the Tunnel was not well documented, feasibility of different engineering options for the development would need to be examined carefully. However, the applicant had presented only two extreme methods of construction, namely one with a raft foundation and the other with bored pile foundation despite there being other less extreme options. There was insufficient justification to support the conclusion that a “no basement” scheme would be the only feasible solution;
- (d) according to the BD’s Practice Note for Professional Persons, recreational facilities accounting for a maximum of 5% of the total domestic GFA of a residential development would normally be allowed for exemption from the GFA calculation; the proposed provision of 6.4% was in excess of the guidelines;
- (e) in the previously approved scheme, the clubhouse occupied only part of the ground floor, and no swimming pool was proposed whereas in the current scheme, the clubhouse together with a covered swimming pool and landscaped area occupied the whole of the first floor; and
- (f) the boundaries of the “R(C)7” and “GB” zone were drawn up taking into account the land ownership, topography and existing vegetation on the site.

12. In response to the questions, Mr. Carmine Siu, Ms Betty Ho and Mr. Tony Lam made the following points:

- (a) the Town Gas preferred to adopt a conservative approach as any excavation deeper than that currently proposed might result in vibration during temporary construction exceeding the 2mm/second limit;
- (b) if a basement were to be constructed, deeper site excavation would be required, and it could be testing the limit of the soil pressure that the Tunnel could withstand;

- (c) the 20-metre tunnel protection zone could not be achieved on the subject site. There was another Kowloon-Canton Railway (KCR) tunnel along the western boundary of the site, and the proposed bored pile foundation was only 14 metres from the tunnel but KCRC raised no objection to the proposal;
- (d) the current proposal was more or less the same as the previous scheme in terms of overall height of the building but since the building had to be uplifted to avoid the need for building a basement in order to protect the integrity of the Tunnel, the absolute height in terms of mPD had increased;
- (e) the headrooms for the car park and clubhouse were already very tight and there was no room for further reduction. The building design was also constrained by the transfer plate supported by bored piles which had to be at a certain distance from the Tunnel;
- (f) unless the two floors of car park and clubhouse were to be given up, the proposed development could not be accommodated in five storeys as stipulated under the OZP; and
- (g) in the previously approved scheme, the existing tree T21 was proposed to be preserved by confining the tree trunk inside a large planter box. Based on the landscape architect's recommendation, pile walls were proposed in the current scheme to form the tree pit as it would be a better method for preserving the tree.

13. The Chairperson reminded the meeting that whilst the consultants for the applicant and the representatives from GEO of CEDD had provided useful expert advice covering the engineering and technical aspects, the Board was not the authority to approve any structure plans or geotechnical design. The Board's consideration of the application would focus on the planning merits of the proposal.

14. As the applicant's representatives had no further comment to make and Members had no further question to raise, the Chairperson informed the applicant's representatives that the hearing procedures for the review had been completed and the Board would further deliberate on the application in their absence and inform them of the Board's decision in due course. The

Chairperson thanked the applicant's representatives and the representatives from Government departments for attending the meeting. They all left the meeting at this point.

Deliberation Session

15. The Chairperson said that since the application was for minor relaxation of the building height restriction, the Board should consider two main issues: firstly, whether Members would accept that the constraints of the site were such that it could not be developed to its maximum potential under the 5-storey building height restriction imposed by the OZP, and secondly, whether the increase in building height would result in any adverse impact on the surrounding area and whether there were design merits put forward by the applicant.

16. Members who were sympathetic to the case had the following comments:

- (a) in considering the objections to the Kowloon Tong OZP recently, the Board agreed that minor relaxation of the building height restriction could be considered on a case-by-case basis taking into account the constraints pertinent to a particular site. In this respect, the fact that the site was subject to serious constraints posed by the Tunnel should be acknowledged;
- (b) there were some design merits in the proposal as pointed out by ArchSD. It was also noted that CTP/UD&L considered the scheme not unacceptable;
- (c) genuine efforts had been made by the applicant's consultants in tackling the problem concerning the protection of the Tunnel and the gas main. The efforts made to address the concerns of Town Gas should be appreciated. There could always be alternative options but there would never be a perfect solution to the problem; and
- (d) considering the location of the site at Beacon Hill where it was characterized by luxury flats, it seemed reasonable that a clubhouse was proposed in the development in order to enhance its amenity value. The size of the clubhouse was relatively small and had little impact on the overall development intensity.

17. Other Members had the following comments:

- (a) it was noted that the CTP/UD&L's comments were not in support of the application. It simply pointed out that by comparison, the current proposal was better than the previous proposal that was rejected by the Board. It was not saying that the development could not be implemented without relaxation of the statutory height restriction;
- (b) as it was the Board's intention to continue imposing building height restrictions on the OZPs covering the main urban areas, it should be anticipated that there would be more such applications for minor relaxation to the Board. There could well be sites which were subject to similar constraints whereby a KCR or Mass Transit Railway tunnel was located underneath. The approval of the subject application without strong justifications might set an undesirable precedent;
- (c) the GEO did not support the application as only two extreme cases had been considered by the applicant's consultants. It was not convinced that there were no other better alternatives;
- (d) the reason for allowing a gas main to be built inside a protected historical tunnel could not be traced. The Antiquities and Monument Office's view at that time was also not known. However, since the presence of the gas main was already a fact, it had to be taken as a constraint in the design of the proposed development;
- (e) Town Gas might be conservative in their approach to the problem of ensuring the safety of the gas main whose advice should not be taken as so authoritative as to determine whether the foundation or excavation plans should be approved or rejected. Rather, GEO's comments should be more relevant in the consideration of the ELS submission;
- (f) the applicant should sort out the issues relating to the ownership of and right of access to the Tunnel with the Lands Department. The uncertainty on the issue should not be used as an excuse to preclude the possibility of carrying out the necessary strengthening works to the Tunnel;
- (g) other alternatives for preserving the existing tree T21 should not be precluded if

the in-situ preservation of the tree posed a serious constraint to the development of the site;

- (h) the increase in building height from the previously approved scheme was mainly due to the uplifting of the basement structure. The increase in building height of 7.38 metres (equivalent to two storeys) resulting in an increase in the absolute building height from 72.62mPD to 80mPD seemed not justified;
- (i) the efforts made by the applicant's consultants were appreciated but they failed to demonstrate that there were no other alternatives such that the development potential on the site could not be fully realized without the proposed relaxation of the building height restriction; and
- (j) a clear message should be given to the applicant that the Board acknowledged that the site was subject to constraints and some minor relaxation could be considered if the Board was satisfied that alternatives had been explored and the proposal finally put forward to the Board was the best possible option that could overcome the site constraints and, at the same time, address the concerns on the impact arising from the increase in building height.

18. The Chairperson concluded that the applicant's consultants had made genuine efforts in tackling the problem associated with the Tunnel and gas main. It was acknowledged by the Board that the site was subject to serious constraints and it was important to ensure the integrity of the Tunnel, the protection of the gas main and public safety during construction. The Board would consider minor relaxation of the building height to allow for flexibility in the design of the development. However, the applicant should provide sufficient information to demonstrate that alternative options had been explored and the proposal put forward to the Board was the best possible option, and the proposed relaxation was justified by design merits.

19. After deliberation, the Board decided to reject the application on review and the reasons were:

- (a) there was insufficient information in the submission to demonstrate that the development intensity of the site could not be achieved without minor relaxation of the building height restriction;

- (b) there was insufficient information in the submission to demonstrate that a basement option could not be adopted to overcome the constraints of the site posed by the Old Beacon Hill Tunnel/gas main;
- (c) there was insufficient information in the submission to demonstrate the design merits of the proposed development for minor relaxation of the building height restriction; and
- (d) the approval of the application would set an undesirable precedent for other similar applications.

[The meeting adjourned for five minutes at this point.]

[Ms Carmen K.M. Chan, Mr. Patrick L.C. Lau, Dr. C.N. Ng and Ms Starry W.K. Lee left the meeting at this point.]

Agenda Item 5

Consideration of Validity of Representation No. 2 to the
Draft Sai Ying Pun and Sheung Wan Outline Zoning Plan No. S/H3/21
(TPB Paper No. 7640)

[Open Meeting. The meeting was conducted in Cantonese.]

20. The Secretary briefly introduced the Paper. She said that Representation No. 2 was submitted by the Hong Kong & Kowloon Trades Union Council. The representation expressed the Council's concern that the open space provision in the Urban Renewal Authority's Staunton Street /Wing Lee Street Development Scheme should be increased and the entire Staunton Street especially No. 13 Staunton Street should be included in the second phase redevelopment. It also made some suggestions on the content of the Explanatory Statement of the draft Sai Ying Pun and Sheung Wan Outline Zoning Plan (OZP). The representation was not related to any amendment to the OZP exhibited under the Town Planning Ordinance (the Ordinance).

21. After deliberation, the Board decided that the representation was invalid as it was not

related to any amendment to the draft Sai Ying Pun and Sheung Wan OZP exhibited under the Ordinance. The Secretariat would relay the presenter's views to the Urban Renewal Authority and the concerned Government departments for consideration.

Agenda Item 6

Submission of the Draft San Tin Outline Zoning Plan No. S/YL-ST/7A
under Section 8 of the Town Planning Ordinance
to the Chief Executive in Council for Approval
(TPB Paper No. 7644)

[Open Meeting. The meeting was conducted in Cantonese.]

22. The Secretary briefly introduced the Paper.

23. After deliberation, the Board:

- (a) agreed that the draft San Tin Outline Zoning Plan (OZP) No. S/YL-ST/7A together with its Notes were suitable for submission under section 8 of the Town Planning Ordinance to the Chief Executive in Council (CE in C) for approval;
- (b) endorsed the updated Explanatory Statement (ES) for the draft San Tin OZP No. S/YL-ST/7A as an explanation of the general planning intention and objectives of the Board for the various land use zonings on the draft OZP; and
- (c) agreed that the updated ES for the draft San Tin OZP No. S/YL-ST/7A was suitable for submission to the CE in C together with the draft OZP.

Agenda Item 8

Any Other Business

[Open Meeting. The meeting was conducted in Cantonese.]

24. There being no other business, the meeting was closed at 11:30 a.m.