

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/FLN/19

<u>Applicant</u>	Best Galaxy Limited represented by Pro Plan Asia Limited
<u>Site</u>	Fanling Sheung Shui Town Lot (FSSTL) No. 262, Ma Sik Road, Fanling, New Territories
<u>Site Area</u>	About 16,187 m ²
<u>Lease</u>	New Grant No. 22584 restricted to private residential purpose only and maximum gross floor area (GFA) of 56,654 m ² and maximum building height (BH) of 60mPD and 75mPD for the eastern and western portions respectively
<u>Plan</u>	Approved Fanling North Outline Zoning Plan (OZP) No. S/FLN/2
<u>Zoning</u>	“Residential (Group B)” (“R(B)”) <i>[a maximum plot ratio (PR) of 3.5 and a maximum BH of 60mPD and 75mPD for the eastern and western portions respectively]</i>
<u>Application</u>	Proposed Minor Relaxation of PR and BH Restrictions for Permitted Residential Development

1. The Proposal

- 1.1 The applicant seeks planning permission for minor relaxation of PR restriction from 3.5 to 3.5151 (+0.0151) and BH restriction from 60mPD to not more than 62.75mPD (+2.75m) and from 75mPD to not more than 78.5mPD (+3.5m) for the eastern and western portions of the the application site (the Site), which is zoned “R(B)” on the approved Fanling North OZP No. S/FLN/2 (**Plan A-1**). The Site is located at the eastern part of the Fanling North New Development Area (FLN NDA), to the north of Luen Wo Hui area. According to the Notes of the OZP, based on the individual merits of a development or redevelopment proposal, minor relaxation of the said PR and BH restrictions may be considered by the Town Planning Board (the Board).

Minor Relaxation of PR Restriction (Approved under Application No. A/FLN/17)

- 1.2 The minor relaxation of PR restriction sought is from 3.5 to 3.5151 to facilitate the provision of a 6m-wide covered pedestrian walkway at the Site to link up the Site with the existing Luen Wo Hui area and the future eastern town centre of FLN NDA (**Plan A-2** and **Drawing A-2**). Planning permission has been granted to the said minor relaxation of PR restriction under Application No. A/FLN/17, which was submitted by the same applicant of the current application and approved with condition on 17.5.2019 by the Rural and New Town Planning Committee (the Committee). For comprehensive presentation of the development scheme at the Site, the applicant has included the approved proposal for minor relaxation of PR restriction in this application. Therefore, the paper will focus on the consideration of the proposed minor relaxation of BH restriction.

Minor Relaxation of BH Restriction

- 1.3 The application is for minor relaxation of the BH restriction from 60mPD to not more than 62.75mPD and from 75mPD to not more than 78.5mPD for the eastern and western portions of the Site respectively. While a set of general building plans (GBPs) for a proposed residential development with 5 blocks complying the BH restrictions on OZP (OZP compliance scheme) has been approved by the Building Authority (BA) on 1.2.2019, according to the applicant's current submission, the BH of Towers A, B and C at the western portion will increase by not more than 3.5m (+4.7%) from 75mPD to 78.5mPD, whereas that of Towers D and E at the eastern part will also increase by not more than 2.75m (+4.6%) from 60mPD to 62.75mPD (**Drawings A-1** and **A-3**) to enable an increase in the floor-to-floor height for typical floors from 2.975m (in the OZP-compliance scheme/approved GBPs) to 3.15m to improve the liveability for the future residents of the proposed development. The layout plan, section plans and photomontages of the proposed residential development are at **Drawings A-2** to **A-4**.
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application Form received on 11.7.2019 **(Appendix I)**
 - (b) Supplementary Planning Statement **(Appendix Ia)**
 - (c) Further Information (FI) dated 3.9.2019 proposing to reduce the maximum BH sought from 80mPD/65mPD (i.e. +5m from 75mPD/60mPD) to 78.5mPD/62.75mPD (i.e. +3.5 to +2.75m) with replaced section plans **(Appendix Ib)**
 - (d) FI dated 3.9.2019 with replaced photomontages **(Appendix Ic)**

2. Justifications from the Applicant

2.1 The justifications put forth by the applicant in support of the application are detailed in **Appendices Ia** and **Ib**. The justifications for the proposed minor relaxation of BH restriction are summarized as follows:

- (a) the magnitude and scale of BH increase are minor and insignificant, and are compatible with those of the two public housing sites (Sites F1 and F2) approved in application No. A/KTN/54 (**Plan A-1**) (i.e. +5-15m and +4-14%). The BH profile stepped down from the west towards the riverside of FLN NDA in the east will still be maintained. Such increase is also generally in line with the urban design concept for a 15m height difference from west to east within the Site;
- (b) the applicant has undertaken a visual appraisal to assess the potential visual impact arising from the minor relaxation of BH. It is observed that the overall visual change in heights is considered slight, and such change would not result in significant visual impact to the surrounding environment and skyline, nor introduce any discernible changes in magnitude of impact on all identified visual sensitive receivers. As such, no mitigation measures are required;
- (c) all other development parameters of the Site, including the overall layout, deposition of residential blocks, number of blocks and flats and range of flat size remain unchanged as per the approved GBPs. As such, approval of the application would not adversely affect the open space, breezeway, parking spaces and infrastructural provisions of the Site; and
- (d) to respond to the recent market demand, the internal living environment of the residential flats could be enhanced by marginally increasing the typical floor-to-floor height from the current 2.975m to the proposed 3.15m, which is extensively found in modern residential developments and other applications approved by the Board. It is considered a major planning gain to dovetail with the urban design objectives to enhance liveability of FLN NDA and fulfill the Board's remit to promote better health and general welfare in the community.

3. Compliance with the "Owner's Consent/Notification" Requirements

The applicant is the sole "current land owner" of the Site. Detailed information would be deposited at the meeting for Members' inspection.

4. Background

4.1 The Site falls within the boundary of Advance Works Phase of the Kwu Tung North (KTN)/FLN NDA development. Following the funding approval by the Finance Committee of the Legislative Council on 3.5.2019, the land resumption and clearance as well as site formation and infrastructural works for the

Advance Works Phase will commence in a progressive manner from the second half of 2019 for the first population intake in 2023 the earliest.

- 4.2 The Site is one of the two approved in-situ land exchange sites of KTN/FLN NDA, with the New Grant No. 22584 executed on 27.12.2017. The latest GBPs for the proposed residential development were approved by BA on 1.2.2019. Site formation work is in progress at the Site.

5. **Previous Applications**

- 5.1 The Site is involved in two previous applications. Details of these applications are summarized at **Appendix II** and their locations are shown on **Plan A-1**.
- 5.2 Application No. A/FSS/32 for religious institution involving a smaller area of the Site which was then zoned “Green Belt” (“GB”) on the draft Fanling/Sheung Shui OZP No. S/FSS/3 was rejected by the Committee on 3.7.1992 for the reasons that the proposed development does not conform with the Town Planning Board Guidelines for Application for Development within Green Belt (TPB PG-No. 10); no traffic noise mitigation measures were provided; and it may cause adverse traffic, sewerage and drainage impacts to the surrounding areas.
- 5.3 As mentioned in paragraph 1.2, Application No. A/FLN/17 for minor relaxation of PR restriction from 3.5 to 3.5151 submitted by the same applicant of the current application to facilitate the provision of the proposed 6m-wide covered pedestrian walkway at the Site was approved by the Committee on 17.5.2019 on considerations that the application involves a minor increase in PR and would not result in any change to the established land use planning and development framework of the KTN/FLN NDA embedded in the OZP; the proposed pedestrian walkway at the Site would enhance public connectivity from/to Luen Wo Hui area and future FLN Town Centre; and Government departments consulted generally had no adverse comment on the application.

6. **Similar Application**

There is one similar application (No. A/KTN/54) for minor relaxation of PR and BH restrictions for 8 public housing sites in KTN/FLN NDA (of which 2 sites are in FLN NDA, i.e. Sites F1 and F2) submitted by the Civil Engineering and Development Department (**Plan A-1**). For Site F1 zoned “Other Specified Uses” annotated “Commercial/Residential Development with Public Transport Interchange (1)” (“OU(CRDPTI)1”), the maximum PR and BH are increased from 5 to 6 (+20%) and from 105mPD (eastern portion) / 125mPD (western portion) to 120mPD / 130mPD (+5-15m, +4-14%) respectively. For Site F2 zoned “R(B)”, the maximum PR and BH are increased from 3.5 to 3.9 (+10%) and from 75mPD to 85mPD (+10m, +13%) respectively. The application was approved by the Committee on 16.11.2018 based on considerations that the proposed minor relaxation would optimise the land resources to address pressing demand on public housing in the territory, and was considered in line with the 2018 Policy Address that 70% of the housing units on Government’s newly

developed land would be for public housing; the application would not result in any change to the established land use planning and development framework, planning themes, objectives and concepts of the KTN/FLN NDA embedded in the OZPs; various technical assessments were conducted to demonstrate that the minor relaxation was technically feasible in terms of traffic, sewerage, drainage, water supply, environmental and visual aspects; and Government departments consulted generally had no adverse comment on the application. Details of the application are at **Appendix III** and the locations of 2 sites in FLN NDA (i.e. Sites F1 and F2) are shown on **Plan A-1**.

7. **The Site and Its Surrounding Areas** (Plans A-1 and A-2, aerial photo on Plan A-3, and site photos on Plan A-4)

7.1 The Site is gently flat and vacant with site formation works in progress. It is accessible via a temporary ingress/egress from Ma Sik Road.

7.2 The surrounding areas are mainly occupied by active/fallow farmlands and some temporary domestic structures in Ma Shi Po. However, these areas would be resumed and cleared by the Government and would form part of the future KTN/FLN NDA development. It would become the future FLN Eastern District Centre, which will serve as one of the major activity nodes of the area, with a mix of residential use, retail, social and community facilities, PTI and public open space (including FLN Town Plaza). The planned land uses are as follows:

- (a) to the immediate north are an area zoned “Open Space” (“O”) which connects the FLN town centre to the Ng Tung River promenade, and an area zoned “OU(CRDPTI)1” (i.e. Site F1) which is planned for a public housing development with commercial uses, social welfare facilities and a PTI. To the further north is Ng Tung River;
- (b) to the east and northeast are a strip of “O” in parallel with the proposed Fanling Bypass Eastern Section and Ma Wat River; and to the further northeast off Ma Wat River are rural dwellings of San Uk Tsuen;
- (c) to the immediate south is Ma Sik Road; and to further south and southwest off Ma Sik Road are the existing high-rise residential buildings in Luen Wo Hui area known as Wing Fai Centre and Belair Monte; and
- (d) to the immediate west is the planned Road L1; and to further west and northwest are a cluster of planned private residential developments zoned “Residential (Group A)1” (“R(A)1”) intermixed with the FLN Town Plaza zoned “O” and a site zoned “Government, Institution or Community” (“G/IC”) planned for schools development.

8. **Planning Intention**

8.1 The planning intention of the “R(B)” zone is primarily for medium-density residential developments where commercial uses serving the residential

neighbourhood may be permitted on application to the Board.

- 8.2 As set out in the Explanatory Statement (ES) of the OZP, to provide flexibility for innovative design adapted to the characteristics of particular sites, minor relaxation of the PR and/or BH restrictions for the “R(B)” zone may be considered by the Board through the planning permission system. Each proposal will be considered on its individual planning merits.

9. Comments from Relevant Government Departments

- 9.1 The following Government departments have been consulted and their views are summarised as follows:

Land Administration

- 9.1.1 Comments of the District Lands Officer/North, Lands Department (DLO/N, LandsD):

- (a) the Site is held under FSSTL No. 262 which is governed by New Grant No. 22584 (the New Grant);
- (b) in accordance with Special Condition (SC) 12(d) of the New Grant, no part of any building or other structure together with any condition or fitting (if any) to such building or structure erected on the lot shall be exceeded +60mPD and +75mPD on the eastern and western portions of the Site respectively, provided that rooftop structure may be allowed to exceed such limit to the satisfaction of the Director of Lands; and
- (c) if the Board approves the application, a lease modification would be required to effect the proposal. If the lot owner submits a lease modification application, such application will be considered by LandsD acting in the capacity of landlord at its sole discretion and there is no guarantee that such application will be approved. In any event, such application, if approved, will be subject to such terms and conditions as considered appropriate including payment of premium and administrative fee.

Building Matters

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

no objection in principle to the application under the Buildings Ordinance.

Traffic

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

no comment on the application from traffic engineering perspective.

Future Development

9.1.4 Comments of the Project Manager/North, Civil Engineering and Development Department (PM/N, CEDD):

no comment on the application from FLN NDA development point of view.

Urban Design and Landscape

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

Visual and Urban Design Aspect

- (a) no adverse comment on the proposed minor relaxation of BH restriction, although apart from improving future residents' liveability, there is no apparent planning or design merit that can be attributed to the proposed minor relaxation of BH restriction;
- (b) the Site is situated within the character area of 'District Centre' at the southeastern edge of FLN NDA. A stepped BH concept is established under the OZP with the development intensity and BH stepping down from the central area of the district node towards the periphery and riverside; and
- (c) the Site is surrounded by planned medium to high-rise residential/commercial developments to its north and northwest subject to BH restrictions ranging from 75mPD to 130mPD and "GIC" developments to its southeast and west of up to 10 storeys (**Plan A-1**). To the south and southwest of the Site across Ma Sik Road are existing high-rise residential developments, namely Belair Monte, Wing Fai Centre, Regentville and Grand Regentville, with BHs ranging from 107mPD to 130mPD (**Plans A-1 and A-2**). The proposed maximum BHs of 62.75mPD to 78.5mPD are generally in line with the stepped BH concept established under OZP and are considered not incompatible with the existing and planned context of the surroundings. Besides, judging from the visual appraisal submitted by the applicant, no significant adverse visual impact is anticipated from the proposed minor relaxation of BH restriction.

Landscape Aspect

- (a) no objection to the application from the landscape planning perspective;
- (b) with reference to the aerial photo taken in 2018, the Site is a vacant land without significant landscape resource. The surrounding area comprises medium-rise residential development, temporary structures, farmlands and scattered tree groups. The proposed residential development at the Site is considered not incompatible with the existing landscape setting in proximity; and
- (c) with reference to paragraph 7.4 of the Planning Statement (**Appendix Ia**), the applicant clarified that the number of blocks, block layout, number of units and range of flat sizes etc. remain as per the approved GBPs, and the proposal will not adversely affect accessibility, open space, parking and infrastructure serving adopted on the approved OZP. Further significant adverse landscape impact arising from the proposed development is not anticipated.

Drainage

- 9.1.6 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

no objection to the application from drainage point of view. His detailed comments are at **Appendix V**.

Water Supply

- 9.1.7 Comments of the Chief Engineer/New Territories East, Water Supplies Department (CE/NTE, WSD):

no objection to the application. His detailed comments are at **Appendix V**.

District Officer's Comments

- 9.1.8 Comments of the District Officer/North, Home Affairs Department (DO/N, HAD):

he has consulted the locals from 29.7.2019 to 27.8.2019.

- (a) the 1st and 2nd Vice-Chairmen of Fanling District Rural Committee (RC), the incumbent North District Council (NDC) members of Luen Wo Hui and Tin Ping East Constituencies, 馬屎埔居民關注組 and a total of 243 members of public (including 212 residents of Belair Monte) objected to the

application mainly on the grounds that:

- (i) the proposed minor relaxation of BH restriction would create visual impacts, 'wall effect' and 'heat island effect' on the surrounding environment. Skyline, air quality and ventilation in the area would be adversely affected;
 - (ii) the proposed minor relaxation of BH restriction will bring about more residents at the Site, worsening the traffic congestion problem, noise and other environmental nuisance to the area. Greening, open space and community and medical facilities provision will also be adversely affected;
 - (iii) the Site falls within the boundary of KTN/FLN NDA and the relevant planning works has been completed. Without a change in the planning circumstances, it appears no reason to make changes to the planned developments. In addition, there is no strong justification for applying again for minor relaxation of BH restriction right after the approval of Application No. A/FLN/17 for minor relaxation of PR restriction;
 - (iv) the in-situ land exchange mechanism of the KTN/FLN NDA is considered unfair in nature and favours the interest of private developers. In addition, application for minor relaxation after the completion of in-situ land exchange and agreement of land premium is not justified and may possibly lead to collusion between the Government and the developer;
 - (v) approval of this application will increase the property value of the proposed residential development at the Site, and there is no planning gain to the general public. This would set the precedent to other developers who would seek for minor relaxation of development intensity in other sites at FLN NDA; and
 - (vi) some residents in the area wish to stay in the neighborhood and maintain the current rural/farming lifestyle.
- (b) the incumbent NDC member of Queen's Hill Constituency, the Chairman of Sheung Shui District RC and the Chairman of Belair Monte Owners' Corporation had no comments on the application; and
- (c) the Chairman of Fanling District RC, the Officer-in-charge of the Hong Kong Lutheran Social Service, LS-HKS and the Chairman of Green Code Owners' Committee did not reply to the consultation.

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

- (a) Chief Estate Surveyor/Acquisition, LandsD (CES/A, LandsD);
- (b) Chief Highway Engineer/NT East, Highways Department (CHE/NTE, HyD);
- (c) Director of Fire Services (D of FS);
- (d) Director of Environmental Protection (DEP);
- (e) Director of Electrical and Mechanical Services (DEMS);
- (f) Director of Agriculture, Fisheries and Conservation (DAFC); and
- (g) Commissioner of Police (C of P).

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

On 19.7.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 9.8.2019, two comments from members of public were received. One supports the application on the ground that the proposed minor relaxation would provide a better internal living environment for the future residents (**Appendix IVa**). Another one indicates no comment on the application (**Appendix IVb**).

11. **Planning Considerations and Assessments**

11.1 The application is for minor relaxation of PR and BH restrictions for permitted residential development at the Site, which is zoned “R(B)” on the approved Fanling North OZP (**Plan A-1**). As mentioned in paragraph 1.2 above, planning permission has been granted for minor relaxation of PR from 3.5 to 3.5151 (+0.0151) to facilitate the provision of a 6m-wide covered pedestrian walkway at the Site (**Plan A-2**) under Application No. A/FLN/17, which was submitted by the same applicant of the current application and approved by the Committee on 17.5.2019. This part was included in the application to present a comprehensive picture of the development scheme at the Site.

Minor Relaxation of BH Restriction

11.2 The application seeks relaxation of BH restriction from 60mPD to not more than 62.75mPD (+2.75m, +4.6%) and from 75mPD to not more than 78.5mPD (+3.5m, +4.7%) at the eastern and western portions of the Site respectively. According to the applicant, this would allow achieving a higher typical floor-to-floor height for the proposed residential development as compared with the approved GBPs in compliance with the OZP restrictions, i.e. increasing from 2.975m to 3.15m, to improve the liveability for the future residents of the proposed development (**Drawings A-1 and A-3**). The proposed increase of the overall BH by 2.75m / 3.5m is considered not substantial. As compared with the approved GBPs, there is no change to the overall layout, deposition of residential blocks, number of blocks and flats, and flat size in this application. CTP/UD&L, PlanD considered that the proposed BHs of 62.75mPD and 78.5mPD are still generally in line with the stepped BH concept established under OZP, are not incompatible with the existing and planned developments in

the surroundings, and judging from the visual appraisal submitted, no significant adverse visual impact is anticipated. Other concerned departments have no objection to or adverse comments on the application from traffic, environmental, drainage and landscape aspects.

- 11.3 As set out in the ES of the OZP, application for minor relaxation of BH restriction should be considered on its individual merits. While the applicant has claimed that the minor relaxation of BH is to achieve a higher floor-to-floor height for a better internal living environment of the proposed private residential development, and the proposed BH increase is not substantial and would not bring about unacceptable visual and other technical impacts, the applicant has not demonstrated any planning and design merits to justify the proposed BH relaxation. As revealed in the approved GBPs, the maximum PR of the “R(B)” zone could be accommodated under the current BH restrictions under OZP while meeting the relevant building and planning requirements. There is no strong justification for the minor relaxation of BH restriction.

Similar Application

- 11.4 As set out in paragraph 6 above, a similar application (No. A/KTN/54) for minor relaxation of PR and BH restrictions for 8 public housing sites in KTN/FLN NDA including Sites F1 and F2 north/northwest of the Site (**Plan A-1**) was approved by the Committee on 16.11.2018. The approval has taken into account the planning merits of the application in providing more public housing units to meet pressing demand in the territory, which is in line with the target of allocating 70% of the housing units in NDA for public housing as stated in 2018 Policy Address and has the policy support of the Secretary for Development. In comparison, the proposed BH increase in the application is to improve the internal living environment of the future residents of the proposed private residential development.

Local Views and Public Comments

- 11.5 DO(N), HAD has relayed the views of the Vice-Chairmen of Fanling District RC, some NDC members, 馬屎埔居民關注組 and 243 members of public/locals, who objected to the application mainly on grounds of adverse impacts on the visual quality, air ventilation, traffic, open space and community facilities provision, and character of the surrounding areas and lack of planning justification and planning gain. During the statutory publication period, two comments were received from members of public. One supports the application for achieving a better internal living environment and the other has no comment. Relevant Government departments’ comments and planning considerations set out in paragraphs 11.1 to 11.4 above are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the local views and public comments in paragraphs 9.1.8 and 10, the Planning Department does not support the application for the following reason:

the applicant fails to demonstrate planning and design merits for the proposed minor relaxation of building height restriction for the proposed residential development.

- 12.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until **6.9.2023**, and after the said date, the permission shall cease to have effect unless before the said date, the development permitted is commenced or the permission is renewed. The following condition of approval and advisory clauses are suggested for Members' reference:

Approval Condition

the additional GFA of 246.536 m² allowed is only for the provision of the 6m-wide covered pedestrian walkway at the Site. [Same as that for approved Application No. A/FLN/17]

Advisory Clauses

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

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the permission.
- 13.2 Should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 13.3 Alternatively, 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 date when the validity of the permission should expire.

14. Attachments

Appendix I	Application Form received on 11.7.2019
Appendix Ia	Supplementary Planning Statement
Appendix Ib	FI dated 3.9.2019
Appendix Ic	FI dated 3.9.2019
Appendix II	Previous Applications
Appendix III	Similar Application
Appendices IVa to IVb	Public Comments
Appendix V	Advisory Clauses
Drawing A-1	Layout Plan of the Proposed Residential Development
Drawing A-2	Layout Plan of the Proposed Pedestrian Walkway
Drawing A-3	Section Plan of the Proposed Residential Blocks
Drawings A-4a to A-4b	Photomontages of the Proposed Residential Blocks

Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
SEPTEMBER 2019**