

**Submissions from the Alliance for the Concern over Columbarium Policy
and Local Concern Groups on Columbarium Development**

1. Purpose

The purpose of this paper is to brief Members on the submissions from the Alliance for the Concern over Columbarium Policy (the Alliance) (各界關注骨灰龕法案大聯盟), the Incorporated Owners of Parkland Villas and the indigenous villagers of Mong Tung Wan, South Lantau and to seek Members' views on the responses to the submissions.

2. Background

2.1 In procession applications for columbarium use, strong public objections mainly from local residents against the operation and development of columbarium in their neighbourhood have been received. The Alliance is also active in raising comments and objections to the applications.

2.3 At the request of the Alliance, on 1.3.2011, the Secretariat met representatives of the Alliance and representatives from local concern groups on columbarium developments in Mong Tung Wan, Tai O, Tsuen Wan Lo Wai, Tao Fung Shan, Yuen Long, Lau Fau Shan, Tuen Mun Parkland Villas, Hung Hom and Kowloon Tong to listen to their concerns on the processing of rezoning and planning applications for columbarium use. Three written submissions were made by the Alliance and other representatives at the meeting and they requested that their submissions should be submitted to the Board for considerations (**Annexes I to III**).

3. Main Requests made at the Meeting and in the Written Submissions

The requests made by the attendees during the meeting on 1.3.2012 and stated in the written submissions on the processing of rezoning and planning applications for columbarium use are summarized below.

- (a) the Town Planning Board (the Board) should set out clear guidelines on requests for deferral and documents to be submitted to the Board in the applications, in order not to allow deliberated action to delay submission of the applications to the Board for consideration;
- (b) the Board should step up action against “destroy first, build later” (先破壞、後發展) activities. The Board should refuse to consider and not to approve applications if the columbaria involve unauthorized development (UD) and violation or infringement of the lease conditions and/or other regulations as the columbaria are built and operated without first obtaining relevant approvals;

- (c) the consultation procedures on planning applications should be improved. The applicants should be required to submit documents for planning applications in both Chinese and English, so that the public would be aware of and understand the columbarium proposal and can make comments to the Board;
- (d) people who are affected by the proposed columbarium use should be allowed to review the decision of the Board, if they are aggrieved by such decision;
- (e) the Board should set out clear guidelines for consideration of rezoning and planning applications for columbarium use; and
- (f) the Town Planning Ordinance (the Ordinance) should be amended to extend the enforcement power to the urban area.

4. Responses to the Requests

Repeated Requests for Deferral

- 4.1 According to the Ordinance, the Board shall within 3 months and 2 months respectively of the receipt of the rezoning and planning applications consider the applications. However, there may be circumstances or upon request of the applicant that the Board may defer making a decision on the application. The Board has already promulgated a set of guidelines on deferment of decision on applications (TPB Guidelines No. 33) (**Annex V**). The Board would not accept deferral request without reasonable grounds and the proposed deferment period should not be indefinite. The Board would also not accept the request if it affects the right or interest of concerned parties.
- 4.2 The Board has also promulgated guidance notes, which provide guidelines on what documents are required for the submission of application. For application, including application for columbarium use, which involves a particular use or development that may have implications on the environment, drainage, traffic, infrastructure, landscape and topography, etc., technical assessments on the impacts of the proposed use or development may be required. However, it is up to the applicant to submit relevant information in support of the application. Failure to submit sufficient information to support the application may render the application being rejected by the Board.
- 4.3 According to the Ordinance, further information may be submitted to supplement the information included in the application. The application shall be regarded as received when the further information is received. This provision allows time for the processing of the application, as the further information, unless exempted, would be published for public comments. The recounting of the submission date is not to delay the processing of the application, but to allow the public to provide comments on the application based on the updated information provided by the applicant. The requirement is one of the amendments incorporated in the Town Planning (Amendment) Ordinance 2004, the objective of which is to enhance the transparency and public involvement in the planning approval process.

- 4.4 In addition, the Board has also promulgated a set of guidelines on submission of further information (TPB Guidelines No. 32) (**Annex IV**). Further information resulting in a material change of the nature of the application will not be accepted and a fresh application would need to be submitted.
- 4.5 It should be noted that processing of applications under the Ordinance should not affect enforcement/regulatory actions to be undertaken by the relevant authorities.

Stepping Up Measures to Deter “Destroy First, Build Later” Activities

- 4.6 In order to send a clear signal to the community that the Board is determined to preserve the rural and natural environment and will not tolerate any deliberate action to destroy the rural and natural environment in the hope that Board would give sympathetic consideration to subsequent development, on 24.6.2011, the Board adopted measures to deter “destroy first, build later” activities. Such measures have been promulgated in the press release on 4.7.2011. The measures however are not related to developments which involve violation or infringement of the lease conditions and/or other regulations which is outside the purview of the Board.
- 4.7 Planning considerations are those relating to the use and development of land. As confirmed in previous legal advice, the track record of an applicant or an application site should not be taken as a relevant consideration in assessing an application. It is not recommended that the Board should refuse to consider and reject an application only on ground that the application site involves UD and violation or infringement of the lease conditions and/or other regulations.

Consultation Procedures

- 4.8 As required under the Ordinance, rezoning and planning applications submitted to the Board will be published for public comments. Upon receipt of an application, a notice will be published in the newspaper and posted in a prominent position on or near the application site at the beginning of the public inspection period.
- 4.9 In addition, as an administrative measure, a notice will also be uploaded to the Board’s website; posted at the Secretariat of the Board, the Planning Department (PlanD) Enquiry Counters, the relevant District Planning Office, local community centre, District Office and Rural Committee office (where appropriate); and sent to the Owners’ Corporation(s) or other committee(s) of the buildings within 100 feet (around 30m) from the boundary of the application site at the beginning of the public inspection period.
- 4.10 The above practices have been adopted since the enactment of the Town Planning (Amendment) Ordinance, with an objective to enhance the transparency and public involvement in the planning approval process. They provide reasonable channels for the public to notice the application and to provide comments.
- 4.11 Since both English and Chinese are official languages used in Hong Kong, it would not be appropriate to require applicants to make submissions in both English and Chinese. However, as stated in the guidance notes for submission of application, the applicant is advised to submit an Executive Summary (500 words)

on the submission in both English and Chinese, if the application contains any supplementary information such as planning studies and reports on technical assessments. A bilingual gist of the application will also be unloaded to the Board's website to facilitate public understanding of the application. The public may also seek help from the PlanD Enquiry Counters if they have difficulties in understanding the planning applications and the submitted documents.

Right to Review

- 4.12 According to s.17 of the Ordinance, where an applicant is aggrieved by a decision of the Board under s.16 or 16A, the applicant may apply for a review of the Board's decision. There is no provision for a review by a third party. There is no provision for review of the Board's decision under s.12A.
- 4.13 In accordance with the provision of the Ordinance, rezoning and planning applications under s.12A and s.16 will be published for public comments and the Board shall take into account the comments received. It should also be noted that if the Board agrees to a s.12A application, the amendment will be incorporated in the OZP and exhibited for public inspection in accordance with the provisions of the Ordinance. The public can submit representations in respect of the amendment for consideration by the Board. The representers can attend the hearing and make representations to the Board.

Town Planning Board Guidelines on Columbarium Use

- 4.14 Since the Government is conducting a review on columbarium policy, consideration could be given to prepare a set of guidelines for consideration of applications for columbarium use after the completion of the review.

Enforcement within the Urban Area

- 4.15 There is no provision under the Ordinance for enforcement within the urban area. Enforcement and prosecution of UD under the Ordinance is under the jurisdiction of the PA and outside the purview of the Board.

5. Advice Sought

The Board is requested to consider the requests made by the concern groups and the responses stated in paragraphs 3 and 4 above. Subject to the Board's views, a suitable reply to the written submissions would be made by the Secretariat.

6. Attachments

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| Annexes I to III | Submissions made by the Alliance for the Concern over Columbarium Policy, the Incorporated Owners of Parkland Villas and the indigenous villagers of Mong Tung Wan, South Lantau on 1.3.2012 |
| Annex IV | Town Planning Board Guidelines No. 32 on Submission of Further |

Information in Relation to Applications for Amendment of Plan,
Planning Permission and Review made under the Town Planning
Ordinance

Annex V

Town Planning Board Guidelines No. 33 on Deferment of Decision
on Representations, Comments, Further Representations and
Applications made under the Town Planning Ordinance

Town Planning Board Secretariat
March 2012

致城規會主席及各委員台啓：

杜絕一切〔先違規，後申請〕的項目

各界關注骨灰龕法案大聯盟是由各地區關注團體組成，我們多年來一直關注違規骨灰龕的問題，並多次向政府部門遞交意見書，表達我們的意見及訴求。

1. 利用城規漏洞，不斷延期申請：

政府推出表列骨灰龕場，主要針對違反土地規劃用途的龕場；因此，現時不少龕場，向城規會申請改變土地用途，不斷使用拖延政策，而在申請延期期間，政府部門又表示不能執法，這種游走城規及執法漏洞的不良行徑，屢見不鮮！此等發展商往往在會議日期前申請延期，不但浪費公帑，而且令受影響的居民疲於奔命，精神極受困擾，亦令執法部門有藉口不執法，市民投訴無門，反對無從，而其對市民滋擾及破壞持續。我們希望針對此項無了期申請的漏洞，貴會應考慮定下延期的準則，在申請原因無大更改的情況下不批准其延期，甚至否決其再申請的資格。

2. 請清晰界定“先破壞，後發展”的準則：

城規會曾公開表示不會批准“先破壞，後發展”的項目，究竟有何準則定義為“先破壞，後發展”？我們看到不斷出現郊野生態，民居的破壞；大型龕場以至小型住宅，是否都包括在內？大嶼山望東灣，流浮山的骨灰龕場又是否符合上述的準則？我們希望城規會有更清晰的準則，以有效地制止上述破壞公眾利益，環境生態的行徑，方能符合貴會原先定下此原則的目的。

3. 法治社會，不應容許多重違反，杜絕一切〔先違規，後申請〕的項目：

不少違規龕場的申請都涉及多重違規，我們認為此等申請亦應在遞交申請時由各政府部門附上，讓委員作其中一個重要的準則參考，如果〔先違規，後申請〕都可以成功，那麼香港的法治及執法的精神便蕩然無存。政府應製訂指引，杜絕一切〔先違規，後申請〕的項目，特別是多重違規的申請。

4. 諮詢工作，鬼鬼崇崇欠公開

城規會就申請項目的諮詢工作常被咎病，受影響的市民往往在不知情的情況下無法給予意見。以大嶼山望東灣為例，若非原居民回鄉祭祖，就不知道有關發展商計劃在望東灣發展六萬個龕位。而且，只在申請地點張貼通告，往往因人為或非人為的因素不翼而飛，城規會必須改善諮詢程序，保障公眾，特別是受影響的市民的知情權及表達意見的權利。

5. 申請文件大部份只提供英文版本，違反平等機會原則

在申請發展骨灰龕的顧問公司報告往往以英文為主，特別交通及環境影響評估，一般市民，對掌握有關專有名義已有困難，更何況是要理解一份英文版本的專業報告，根本是剝奪市民的知情權，亦無法參與反映意見。大聯盟已向平等機會委員會投訴，要求所有申請文件，申請人必須提供中/英兩個版本，供公眾查閱。

6. 只許申請人上訴，不准受害人反對

根據程序，申請項目被城規會否決後，可以根據第 17 款向城規會提出上訴，城規會必須啟動程序，予以處理。然而，受影響人士卻不能不同意城規會的決定提出上訴，有關程序，完全傾斜發展商的利益。大聯盟認為，申請人及受影響人士都應該有上訴的機制。

城規會作為一審批更改土地用途的把關者，在杜絕大肆破壞生態環境，滋擾居民，多重違規的骨灰龕商無法無天的發展下，實在應該檢討及修訂現時城規漏洞！

各界關注骨灰龕法案大聯盟謹啓

2012 年 3 月 1 日

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2012 MAR -1 P 5:21
TOWN PLANNING BOARD

敬啟者：

嚴厲杜絕先破壞後建設的規劃申請

2009 年末，仁展有限公司在大嶼山南區望東灣村的農地及政府土地上，以清理非法棄置的物件及颱風吹斷的樹枝為名，在綠化地帶進行平整土地工程，企圖在該地段興建九萬多個骨灰龕。他們用推土機移平梯田，清除了地面的植物，並翻起了地下深層的黃土，令該綠化地帶滿目瘡痍。有外籍行山人士及長春社保育經理李少文先生發現該違規發展，先後報警。其後，發展機遇委員會以「先破壞後建設」的理由否決了他們在望東灣村建靈灰安置所的第一次申請。

2011 年 2 月初，仁展有限公司向 貴會申請(Y/SLC/2)，改劃望東灣綠化地帶的用途，並指定用於靈灰安置所。仁展有限公司擬在該幅土地(包括農地及政府土地)上興建 66000 個骨灰龕位，30000 個送給政府，6000 個送給鄉議局基金，30000 個歸仁展有限公司。該公司事前要求望東灣村長范國維簽署一封支持信，聲稱得到望東灣村民一致支持在望東灣興建 11 座 3 層高靈灰安置所。就此事件，望東灣村民召開會議，罷免村長范國維，並進行多次抗爭活動，迫使仁展有限公司向 貴會申請延期審議，並於 2011 年 7 月尾撤回申請。

2011 年 8 月初，仁展有限公司再次向 貴會申請(Y/SLC/3)，改劃上述土地為靈灰安置所用地，骨灰龕位略減至 55000 個，25000 個送給政府，5000 個送給鄉議局基金，25000 個歸仁展有限公司。在得到大嶼山南區鄉事委員會、大嶼山南區居民、長洲居民、各界關注骨灰龕法案大聯盟、嘉道理農場、各環保團體的反對下，仁展有限公司又一次向 貴會申請延期審議及撤回申請。

我們檢視 2011 年 7 月 4 日的新聞公報(<http://www.info.gov.hk/gia/general/201107/04/P201107040256.htm>)，得悉 貴會對「先破壞、後建設」的違法行為，會採取以下措施：

城規會經討論後決定採取以下措施以杜絕「先破壞、後建設」的行為。

如申請改劃用途地帶或規劃許可的土地涉及非法填土／填塘等違例發展，就該違例發展是否濫用規劃程序的調查完成前，城規會不會對該申請作出決定。此外，如規劃監督就涉及規劃申請的土地已進行執行管制行動，及已根據城市規劃條例發出「恢復原狀通知書」，城規會將根據「恢復原狀通知書」所規定的土地復修後的狀況考慮該項申請。城規會在考慮有關申請時，不會將根據「恢復原狀通知書」所規定的土地復修後的狀況視為一項規劃增益。

城規會決心保護鄉郊及天然環境，不會容忍任何蓄意破壞鄉郊及天然環境的行動，企圖使城規會對有關土地上的其後發展給予從寬考慮。

仁展有限公司在 2009 年率先破壞大嶼山南區望東灣村的綠化地帶，繼而先後三次申請在該土地上興建靈灰安置所，此舉已違反 貴會 2011 年 7 月 4 日訂立的措施。日後，仁展有限公司或其代理人再次申請在上述土地興建靈灰安置所，貴會應即時拒絕該申請，以免浪費大量的人力物力，進行冗長的公眾諮詢及審議。我們支持 貴會杜絕「先破壞、後建設」的行為，並期望貴會能保護大嶼山南區望東灣的綠化地帶，為香港人保留一片難得的美麗淨土。

此致

城規會主席

大嶼山南區望東灣村原居民 謹啟

(范維福  代行)

二零一二年三月一日

通訊地址：大嶼山南區 貝澳 羅屋村 大嶼山南區鄉事委員會 轉交



棄耕三十多年的農地，長滿樹木，形成一片茂密的再生林。



2009 年末，農地上的樹木遭斬伐淨盡，梯田被移為平地，



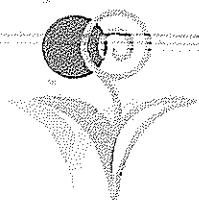
官地也遭破壞，滿目瘡痍。



破壞土地的機械仍留在望東灣。



被破壞的地段，經過一年多的自然修復，已長滿野草，要回復原來的樹林面貌，得等待 30 多年。



疊茵庭業主立案法團 The Incorporated Owners of Parkland Villas

檔案編號：PV/OI-L2012-016

城市規劃委員會秘書
北角渣華道 333 號
北角政府合署 15 樓

敬啟者：

**有關：新界屯門虎地屯富路屯安里丈量約份第 132 約地段
第 2011 號(部份)及毗連政府土地
擬議靈灰安置所及住宿機構(宿舍)(極樂寺重建計劃)
(申請編號:A/TM/419)**

早前發展局公佈私營違規骨灰龕場中，以「極樂寺」擁有「三違規」最為嚴重，包括非法佔用政府土地、不符合規劃用途和違反地契用途。現時，根據「極樂寺」向「城規會」之申請內容表示寺內已經非法存放達數千個骨灰龕位連祖先牌位與及將申請重建2座巨型建築物及地庫龕場。雖然各政府部門於這三年間曾向「極樂寺」提出多次警告及發出清拆令，而高等法院亦已裁決「極樂寺」申請司法覆核敗訴，而屯門裁判處亦就「極樂寺」佔用政府土地判決敗訴，地政處亦於2012年1月16日再次向「極樂寺」發出最後通牒，飭令要求在2012年4月16日前停止繼續霸佔政府土地及完成清拆違規興建的骨灰龕場。惟現今的法例因存在漏洞，讓違規寺廟仍可繼續營運。敬請政府及貴會謹重考慮：

1. 「極樂寺」背景資料

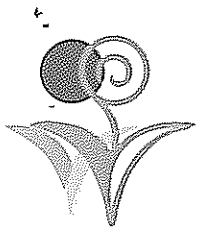
政府早年批租此地段予「極樂寺」創寺人智梵法師是給他作誦經及靜修之用，自1995年起，「極樂寺」一方面繼續註冊為非牟利慈善機構，享有豁免繳付稅務的優惠，但另一方面在1996年10月成立一間"GIG LOK MONASTERY LIMITED"的有限公司，並在2006年興建地庫龕場「蓮池堂」，這不免令人懷疑「極樂寺」表面為一間寺廟，實質是否為售賣違規骨灰龕的業務，利用政府對宗教團體的支持，隱瞞當局其營運骨灰龕業務的收益，並藉此逃避繳稅？

2. 地庫龕場，帶來極大潛在安全危機

無論私營或公營龕場地點均必須遠離民居，就公營骨灰龕政策而言，政府一向選址審慎，原因是帶有潛在危險的龕場，無論預防機制何等精密，配套設施何等完美，也不能百分百保證意外不會發生。

1. 地庫龕場一旦發生火警，孝子賢孫容易被燒死或踩死

「極樂寺」最新提交給城規會的圖則將提供近五千個骨灰龕位的骨灰龕樓，全部移至寺廟大樓的地庫。資深工程師黃澤恩接受報章訪問時指地庫興建骨灰龕場風險高，「萬一發生花園街排檔大火，孝子賢孫好難走！」而骨灰龕場置於地庫，有潛在消防及人流控制風險。如以警方估計「歸元精舍」方法計算，「極樂寺」在春秋二祭將有約二萬多人前往拜祭，每小時近3,556人同一時間停留在地庫內，萬一發生意外，後果不堪設想。



疊茵庭業主立案法團

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2. 違例泊車嚴重，阻塞唯一通往「疊茵庭」與「極樂寺」的屯安里道路

屯安里是唯一通往「疊茵庭」與「極樂寺」的通路，本苑業主及訪客車輛、學童校巴及屋苑邨巴及緊急車輛均靠此道路進出屋苑，而屯安里為「盡頭路」，絕不能承受重建項目和春秋二祭所帶來的額外交通流量。

本法團根據2011年清明節前夕及重陽節拍攝的實況，發現有多部車輛違泊在屯安里上，而在2012年2月5日，有多輛旅遊巴停泊在屯富路及屯安里，警方多次驅趕後，旅遊巴亦不斷折返，造成浪費警力及阻塞道路；於2012年2月26日，本苑再次發現有旅遊巴停泊在屯安里迴旋處，導致車輛出入時均要避過有關旅遊巴。

本法團推算日後全數售出5,700個龕位和神主位，多達40多輛車輛將違例停泊在屯安里兩旁，更有可能伸延至近虎地消防局的屯富路，大量違規停泊的車輛亦容易因不小心流後做成交通意外，再者，屯富路及屯安里附近全是宗教機構，包括「天濟善堂」、「清涼法苑」及「神召神學院」，萬一其他機構爭相仿效「極樂寺」之做法，屆時屯安里及屯富路一定不勝負荷。

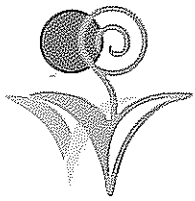
3. 斜坡上挖掘地庫興建骨灰龕場所引發危機

「極樂寺」修改重建內容，將會興建2座大型建築物及地庫龕場，從「極樂寺」所提交資料，其中將興建包括飯堂、近百廁所位、消防水缸等等，但「極樂寺」位於斜坡上，而此斜坡屬於較鬆軟的黃泥土，如其中有喉管或水缸出現滲漏，大量水源將會滲透進地底鬆軟泥土中，在積聚到飽和狀態後，容易出現滑坡現象，在山坡下的「清涼淨恩安老院」就會首當其衝受到衝擊，造成大量人命傷亡，因此，這斜坡絕對不能承受興建大型工程，將引發極大危機。

3. 高院駁回「極樂寺」私人龕場司法覆核，屯門裁判處判決「極樂寺」敗訴

地政總署遂於2011年6月向「極樂寺」發出清拆通知，要求寺方在2011年10月10日前清拆在政府土地上的僭建物及交還政府土地。「極樂寺」不滿地政署之行動，向高等法院申請司法覆核，高院法官林文瀚否決「極樂寺」的司法覆核提請。高院法官林文瀚指出，該署早於2007年已表明「極樂寺」是霸佔政府土地，政府在2007年及2009年向「極樂寺」發出的通知已指出骨灰龕堂非法佔用政府土地，但「極樂寺」無處理。法官認為「極樂寺」不應有這合理期望，並批評寺方提出司法覆核，目的只想拖延時間。

政府於2012年1月16日正式檢控「極樂寺」違反清拆令和霸佔政府土地，屯門裁判處對「極樂寺」因佔用政府土地上興建僭建物而作出裁決，「極樂寺」須繳付罰款共\$13,200.00。而地政處已於2012年1月16日再次向「極樂寺」發出最後通牒，飭令要求在2012年4月16日前停止繼續霸佔政府土地及完成清拆違規興建的骨灰龕場。



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如這些被政府檢控的非法龕場也不幸地獲 貴會通過規範化，市民將對政府處事方法感到懷疑，不明白為何違反法律的龕場還能通過規範化，敬希 貴會能緊守這防線，與政府共同對抗有關違規龕場，再者，「極樂寺」被判司法覆核敗訴至今，並未有將非法龕位搬離政府土地範圍，無視法紀。

4. 周一嶽局長言論

根據食物及衛生局局長周一嶽於 2011 年 11 月 3 日在北京接受報章訪問時表示任何違反地政規劃條件的骨灰龕場都不會獲承認，即使將來立法規管後，部門亦不會審批。因此，就周一嶽局長所言，「極樂寺」由於嚴重違反地政條例，如非法霸佔政府土地、違反土地契約和不符合規劃用途及與「疊茵庭」只一牆之隔，所以絕對不符合周一嶽局長所言的合法規範化條件。

5. 「極樂寺」出入口位置人車爭路，勢成樽頸位

「極樂寺」的申請重建文件中顯示，大門入口車輛通道位置只有 6 米，而行人路則規劃於政府土地上，本法團質疑「極樂寺」以申請重建為由，佔用政府土地以納入為該寺之行人路，取巧地誇大門口之闊道。而且，「極樂寺」的入口只有 6 米，如要附設車輛道路及行人路，定必不能附合緊急車輛通道規定。

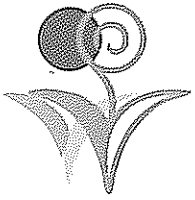
再者，其重建文件中顯示，這行人路的設計不符合行人的習慣性，因為拜祭人士如要離開時，定必跨越行車線前往大門入口位離開，此舉容易造成意外發生。更甚是「極樂寺」竟建議安排 3 名職員駐守大門及行人路附近位置，此建議罔顧 3 位職員的安全性，任由他們在這繁忙行車路上工作，危及生命安全。

而警方預計當「極樂寺」重建後會有貨車、私家車、的士、大型貨車、小巴或旅遊巴等進出「極樂寺」，車輛流量亦比「極樂寺」報告預期多，再者「極樂寺」地方有限，沒有其他出入口及道路舒緩交通，萬一 貴會批准「極樂寺」興建骨灰龕場，屆時門口勢必人車爭路，成為樽頸位，寺內亦擠滿車輛。倘若發生意外，拜祭人士便無路可逃，危及人命安全。

6. 「極樂寺」住持和職員不負責任，誠信存疑

2010 年 12 月 9 日亞視新聞報導，講述「極樂寺」由 1955 年起霸佔政府土地，現任住持訪問時表示：「是我師傅遺留下來的……他老人家說的……我沒可能不信。」

2011 年 10 月 10 日，明珠台「明珠檔案」播放以「極樂寺」骨灰龕為題之節目，「極樂寺」住持訪問時表示：「對事件願意負責，願意更正。」但為何「極樂寺」要向高等法院申請司法覆核，控訴地政署給予期望？說話是否前後矛盾？住持在訪問時更表示：「叫拆就拆，叫搬就搬，怎向千多個家屬交代？難道把全部骨灰龕搬到地政總署？」「極樂寺」住持說法是否利用苦主威脅地政總署？



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而有報章更報導有「極樂寺」職員對苦主聲稱，可將非法骨灰龕位搬到鄰近的「清涼法苑」上。以上種種行為，令人覺得他們的行為極為不負責任。經過電視、電台及報章多次專題報導「極樂寺」違規事宜後，全港市民清楚及了解其違規嚴重性，「極樂寺」現任住持的操守嚴重缺失，直接令千多名不慎購買龕位的市民變作其與政府談判的籌碼，增加政府執法難度！試問各位，誠信對一個申請者是否重要嗎？「極樂寺」多年來有計劃地非法售賣骨灰龕位，怎還有資格向貴會申請規範化呢？如果批准一個沒有誠信的申請者經營骨灰龕場，怎能令日後購買的買家或周遭居民安心呢？

7. 申訴專員證實「極樂寺」偷步興建及非法營運骨灰龕業務

在申訴專員向本苑業主的回覆信件中提到『儘管如此，一如許多類似個案，「極樂寺」多年來非法佔用政府土地及違規興建骨灰龕，是有目共睹。當局自數年前收到投訴後，至今仍未能圓滿解決問題，確甚不理想。本署注意到，該寺未向有關當局申請便偷步興建及營運骨灰龕業務，然後再透過申請規範化及擬更改土地用途及規劃，地政處便因而暫緩執法行動。這無疑構成了漏洞，讓違規者可有機可乘，先斬後奏，並拖延本應立即進行的糾正。』及『有見及此，本處促請當局正視在新界到處出現的非法佔用政府土地及違反地契條款的問題，及早加緊執法，把問題消滅於萌芽，以儆效尤。』

8. 此地段禁止擺放骨灰龕位，「極樂寺」違反與「元朗理民府」所定立的土地契約

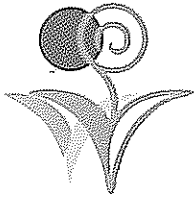
根據「元朗理民府」與「極樂寺」於1961年所定下的土地契約(見地契)，清楚證明「極樂寺」違反以下幾點：

1. 「極樂寺」土地用途為私人住宅地，其實興建寺廟也不容許，更何況經營骨灰龕場；
2. 在地段邊界15呎範圍內不准許有建築物；
3. 任何建築物高度不得超過25呎及總樓宇面積不得超過4,000呎，地庫並不獲得豁免；
4. 不准許設有骨灰龕；
5. 「極樂寺」如需加建任何新建築物前必須入紙並得到屋宇署書面批准才能興建。

綜合上述各項要點可證明「極樂寺」完全漠視和政府所訂立的租務條例，僭越擴充並霸佔更多政府土地，並大張旗鼓經營骨灰龕業務以圖利，視政府規管法例如無物。

9. 切勿立下壞先例，以免鄰近宗教機構以相同理由申請經營骨灰龕業務

「極樂寺」在申請文件中多次提及靈灰安置所(骨灰龕場)在重建項目的重要性，敬希貴會能明白靈灰安置所和宗教絕無必然關係，如果不幸地「極樂寺」申請成功，這事必做成壞先例，並讓虎地範圍鄰近宗教機構如「天濟善堂」、「清涼法苑」及「神召神學院」亦可向規劃署及城規會以相同理由將政府、機構或社區地帶申請作骨灰龕業務，幫助日常營運開支，屆時虎地範圍將變成大型骨灰龕場，並對交通、環境、排污、視覺和心理的影響將倍增。而且，這必做成全港性問題，



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全港所有宗教機構亦能以相同理由申請經營骨灰龕業務，屆時，受影響的市民將無法估計。

10. 靈灰安置所太貼近民居，並與周圍土地用途不相協調

虎地範圍已城市化，民居密集在「極樂寺」周圍，這裡已經形成一個住宅群，本苑與「極樂寺」只是一牆之隔，其興建骨灰龕場與本苑距離不足 20 米，所引起的滋擾將無可避免地發生，直接影響本苑的居民(尤其是老人、學生、及小朋友)使用游泳池、網球場、寵物公園、親子農場和花園等康樂休閒設施，現敬希 貴會不要將陽宅和陰宅混在一起，一個成功的規劃可以令居住或生活在此地帶各人和諧共處，現在的衝突是由於毗鄰在「極樂寺」四周的居民，發現其未經城規會批准非法營運骨灰龕業務所導致，這明顯與附近住宅環境不協調。

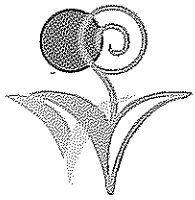
此外，本法團參閱另一申請私營骨灰龕場的「粉嶺物流中心」個案，申請編號Y/FSS/6，貴會否決的主要原因是骨灰龕場太接近距離約40米的「祥華邨」及其他住宅發展項目，因骨灰龕場明顯與周圍的土地用途不相協調，本苑希望 貴會能明白我們與「極樂寺」的距離較「祥華邨」與「粉嶺物流中心」還要接近，望 貴會以同樣理由否決「極樂寺」興建骨灰龕場的申請，重新為虎地範圍規劃成一個和諧共處的社區環境，將陽宅和陰宅分開。

11. 最接近「極樂寺」七大屋苑超過二萬居民及多名議員齊聲反對有關申請

「疊茵庭」、「名賢居」、「聚康山莊」、「彩暉花園」、「景峰花園」和「兆康苑第三期」及「兆康苑第四期」是最接近「極樂寺」的七大屋苑，合共提供 7,028 伙住宅單位，住戶人數超過二萬人，七大屋苑的業主立案法團或互助委員會和多名議員亦一同就此項申請提出強烈反對，各法團已代表屋苑居民清楚表明反對意見，明確表明「極樂寺」對鄰近的區內居民、老人、學生、及其他人士等可構成嚴重的心理威脅，破壞環境衛生，擾亂一貫安寧的社區生活，嚴重漠視區內所有居民的公眾利益。此外，居民亦對現有非法龕場或擬申請興建的靈灰安置所（骨灰龕場）十分反感，認為經營這類骨灰龕場業務有別於純粹的宗教寺廟，骨灰龕場所帶來的滋擾如違例泊車、燃燒冥鏹、打齋之聲浪等，嚴重影響居民日常生活，並與附近周圍土地用途不配合。若政府批准有關申請，將有違法治精神！我們只要求合情、合理和合法。

12. 交通影響評估報告存在嚴重誤導之嫌

「極樂寺」所提交之交通影響評估報告存在嚴重誤導之嫌，未有提供多項數據，並有計算失實之情況，使人感覺數據混淆。本法團曾參考警方計算善信在特別日子進入「歸元精舍」之人數，如套用在「極樂寺」進出人流數據必定有所出入，一定會令附近已接近飽和的公共交通系統癱瘓，「極樂寺」亦未必能有效地作出如此大量的人流管理，容易引致混亂及意外，而本法團亦發現在春秋二祭時，「極樂寺」善信多數使用私家車，阻塞本苑與「極樂寺」之間迴轉處的道路，「極樂寺」申請重建計劃中只提供兩個私家車位、1 個電單車位及 1 個輕型貨車位，由於車位數目嚴重不足，而最近「極樂寺」的公眾停車場如「富泰邨」及「兆康苑」亦需步行超過十分鐘，萬一 貴會批准



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「極樂寺」重建申請，屆時駕駛人士很大機會將車輛停泊在屯安里或屯富路兩旁，而屯安里及屯富路只是一條單線雙程路，而更重要一點是屯門虎地消防局就正正座落在屯安里與屯富路交界，如不幸地遇上火警發生，必定令道路嚴重阻塞，肯定會妨礙消防人員正常運作，阻延救援，後果嚴重。故此 貴會在審核有關申請時，必須慎重考慮有關申請。

13. 興建地庫龕場必然破壞古樹生長，樹木生長亦對結築物構成倒塌危機

「極樂寺」現址和毗鄰政府土地上種有15棵樹齡成熟和健康的樹木，當中有3棵大樹木非常健康，經規劃署園境組職員在2011年6月實地視察後，發現有一棵直徑近2米闊的健康樹木種植在寺內重建範圍內，「極樂寺」亦因此更改有關圖則以免破壞樹木生長。但本法團敬希 貴會明白，興建大型地庫工程，除了對這些健康古樹和其餘樹木帶來破壞性影響，所有進出「極樂寺」的汽車亦會排出廢氣，容易導致樹木枯萎，如僅餘的健康樹木可僥倖生存，樹根亦會不斷生長，並伸延至地庫龕場，長時間會破壞地庫龕場的結構，甚至乎有倒塌危機。此外，重建工程亦可能會導致全部古樹枯萎及將被斬下，這將會對虎地生態帶來嚴重破壞，敬希能尊重有關樹木的生命。故此，為免有人命傷亡，在樹木茂盛的地方是絕不可以興建地庫骨灰龕場的。

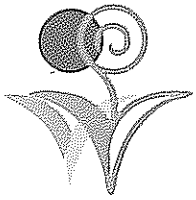
本苑以往曾諮詢地政處，如地政處接受移走樹木，須以不少於1比1的質量及數量比例進行代償性栽種，即代償性樹木的總數及合計幹圍必須相等於或不少於損失樹木的總數及合計幹圍。如「極樂寺」在重建工程時導致樹木需要被砍去，「極樂寺」必須依照地政處之指引作出補償。但本法團希望 貴局明白，再栽種植物需時，日後如樹木生長，樹根亦會不斷伸延及破壞石屎，變相會加速「極樂寺」建築物塌下之危機，拜祭人士生命便受到威脅。

14. 屯門抽水站及濾水廠對「極樂寺」地庫龕場所帶來之風險

鄰近「極樂寺」之屯門抽水站及濾水廠，在興建時沒有預計附近會有大量人流，倘貴會批准「極樂寺」重建，萬一屯門抽水站及濾水廠發生氣氣洩漏，可能會對拜祭人士生命構成危險。再者，氣氣是比氧氣重，當濾水廠發生氣氣洩漏，大量氣氣便很大機會進入「極樂寺」地庫內積聚，而拜祭人士亦未能懂得分別香燭煙燻或氣氣，屆時後果不堪設想。由於興建地庫龕場會遇上一定風險，請 貴會謹重考慮有關風險評估，並立即否決有關申請，以免當意外發生才後悔莫及。

15. 合法龕場和民居需保持一定距離，屯門曾咀將提供 110,000 個骨灰龕位

據消費者委員會於2010年4月16日的公佈，附合土地條例的合法骨灰龕場名單中如屯門的青松仙苑、思親公園、善緣；元朗的雲浮仙觀；沙田的道風山、寶福山；粉嶺的龍山寺、蓬瀛仙館等，其坐落位置和民居都有一定距離。另外，立法會發展委員會在2011年11月22日討論文件中表示，擬於屯門曾咀興建110,000個骨灰龕位及1個紀念花園，本法團覺得此建議非常可行，既可分隔陰宅及陽宅一段距離，又可彌補現時全港骨灰龕位不足情況，並附合各區均需設有靈灰安置所之



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方針。

16. 「極樂寺」重建項目需接駁政府渠道

根據「極樂寺」的重建申請計劃書中，要求將其私人污水渠接駁到政府渠道上，本苑法團反對有關建議理由如下：就報告所顯示，最近政府污水渠的位置在屯富路近政府重建已婚宿舍項目附近，距離「極樂寺」約40米。因此，當進行接駁工程時必須封閉屯富路兩條行車線，以供完成其接駁之工程，屆時該段屯富路有可能需要封閉而導致交通阻塞，並嚴重影響救援工作。

「極樂寺」如需接駁政府清水渠，位置很有可能在屯安里斜路與消防局對出的位置，如在此斜路進行挖掘工程，除了有可能做成水土流失外，還需要封閉本苑唯一道路(Emergency Vehicle Access)的一半闊度，這會影響消防車及本苑緊急車輛不能順利進出。「極樂寺」亦有可能將清水渠接駁在青山公路嶺南段與屯富路之交界，這樣亦需封閉現時青山公路雙線行車的一半道路，屆時必須單線行車，對於繁忙的青山公路造成一定壓力，對鄰近的交通必定造成嚴重影響。

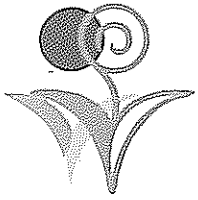
17. 「極樂寺」以重建為藉口，冀圖將非法變合法

本法團不滿「極樂寺」在申請文件中提及因為已經售出及預留1,330個非法骨灰龕位及祖先神位，因此必須繼續提供此服務給購買人士，但本法團希望貴會及政府能明白，「極樂寺」從一開始非法出售骨灰龕位已經是違規在先，今次申請只是以重建為藉口，想將其非法行為變成合法化。本法團望貴會及政府能清楚「極樂寺」所有非法售出龕位的責任必須由它們自行解決和承擔，不能因非法經營在先而以此作為繼續營運下去的理由。

「極樂寺」如果得到城規會及政府批准重建靈灰安置所（骨灰龕場），這必開了一個極壞的先例，等同政府鼓勵不法商人，以先霸佔官地及興建骨灰龕位後，再以申請重建作藉口來達到斂財的目的。如此例一開，全港被政府列入「表二」的58間違規私人骨灰龕場，必同樣以重建為藉由，到時後果將十分嚴重及加重各部門的負擔。

18. 靈灰安置所項目不獲民政事務局支持，而其用途明顯與宗教無關

「極樂寺」申請重建項目中包括一座地庫靈灰安置所，根據民政事務局向本苑法團的回覆信件中提到『本局於去年中曾就「極樂寺」申請規範化一事給予優惠地價的政策支持，惟獲支持的建築只包括宗教設施(如大殿)及附屬設施(如辦公室)等，但並不包括靈灰安置所。』明顯地，民政事務局亦認同靈灰安置所設施不屬宗教附屬設施，與宗教事項無關，所以興建靈灰安置所應剔除在此重建計劃中。本法團懷疑「極樂寺」在今次申請重建的目的不是為著宣揚宗教，而是發展骨灰龕和祖先神位的業務。



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19. 不斷違規擴建，從三座變十六座，罔顧政府法例

根據屋宇署回覆立法會秘書處信中指出，「極樂寺」在私人土地上建有十座建築物，另外，在政府土地上則建有六座建築物，合共建有十六座建築物，但原來「極樂寺」在其私人土地上只獲許豁免興建三座建築物，屋宇署已於2010年12月16日飭令「極樂寺」清拆其中一座僭建物。「極樂寺」現存有十二座僭建物，當中包括地下骨灰龕場在內。

按屋宇署常規，並不會對非法僭建物給予事後追認或批准，因此舉乃變相鼓勵非法僭建。根據本法團所認識，申請建築的正常程序是僭建者應先拆除僭建物，然後向屋宇署呈交圖則，經審批合格後，發給建築動工許可文件。工程進行時及完成後，屋宇署會經常派員監察及查驗，待一切合乎規格後始考慮給予入伙紙，「極樂寺」未經此程序，罔顧政府法例。

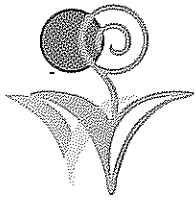
20. 「極樂寺」滋擾不斷，居民觀瞻受阻

雖然「極樂寺」的骨灰龕場建在地庫下，但仍然是一個龕場，與興建在地面上沒有分別，對居民身心理將做成很大負面影響，加上「極樂寺」自開山師祖智梵老法師於2009年圓寂後，這兩年間對本苑及四周居民滋擾不斷，例於門外五光十色燈光、在「盂蘭節」法會採用的強烈射燈、燃燒冥鏹所產生的大量濃煙及違例泊車導致道路嚴重阻塞等問題，對本苑居民構成極大的困擾和不安。儘管「極樂寺」曾向地政處承諾不會在晚上開啟滋擾之燈光，惟本苑居民近日晚上再被有關燈光滋擾影響休息。

總結

綜合上述多項事實和理據，「極樂寺」罔顧政府各部門的申請程序，非法在政府土地範位上興建骨灰龕場，並且非法出售給他人，更忽略綜合環境如交通、道路、環境衛生和居民生活等問題，完全漠視法紀，亦令無辜消費者蒙受金錢上的損失，如果貴會批准此違規者之申請，變相鼓勵申請人本末倒置，造就更多違規者爭相仿效。現希望貴會能體諒「疊茵庭」和附近居民的處境，明白「極樂寺」的位置和居民太接近，如興建地庫龕場，善信於春秋二祭高峰期參拜時，當大批人士聚集在地庫時，而又未有適當人流措施，很可能會發生意外，而地庫龕場亦可能會對附近環境造成水土流失，影響結構，危及附近居民之安全。若批准「極樂寺」重建及同時興建請靈灰安置所（骨灰龕場），對附近居民的滋擾將會倍增，並且立下壞先例，在虎地範圍的宗教機構將以相同理由向當局政府、機構或社區地帶申請作骨灰龕場，屆時，虎地範圍居民所受的影響將難以估計。

最後，敬希政府及貴會能否決「極樂寺」申請重建寺廟、宿舍及靈灰安置所，並接納申訴專員的意見，趁問題仍在萌芽或可糾正階段，將那些先斬後奏，並蓄意利用政策漏洞的不法人士作出嚴厲懲處，維護香港法紀和保護市民應有的權益，樹立良好榜樣。



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本法團現希望 貴會能明白本苑之訴求及加以考慮各方面之論點，否決「極樂寺」重建計劃之申請。
如有任何查詢，歡迎致電 2149 4888 與疊茵庭屋苑主管翁詠智先生聯絡。

此致



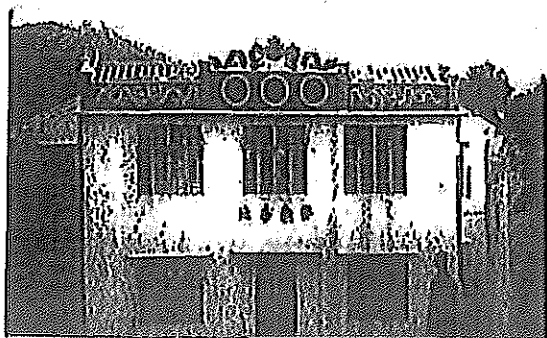
疊茵庭業主立案法團
第四屆管理委員會
主席 陳俊明 謹啟
二零一二年三月十六日

- (附件一：新舊建築物相片記錄)
- (附件二：城規會檔案 A/I-CC/10 報告評估特別日子市民進入歸元精舍之人數)
- (附件三：違例泊車圖片)
- (附件四：模擬如城規會批准「疊茵庭」鄰近宗教機構興建骨灰龕位後，車輛擠塞屯安里及屯富路路面情況)
- (附件五：「極樂寺」申請文件中，顯示入口位置有 6 米闊車路，而 2.5 米闊行人路則規劃在政府土地上)
- (附件六：「極樂寺」附近斜坡相片)
- (附件七：「疊茵庭」與鄰近宗教機構位置圖)
- (附件八：「疊茵庭」與「極樂寺」位置相近之圖片)
- (附件九：「極樂寺」產生濃煙圖片)
- (附件十：日間及深夜時份「極樂寺」燈光影響本苑居民)
- (附件十一：「極樂寺」進行祭祀及法事情況)
- (附件十二：「極樂寺」住持接受「明珠檔案」訪問相片)
- (附件十三：剪報資料)

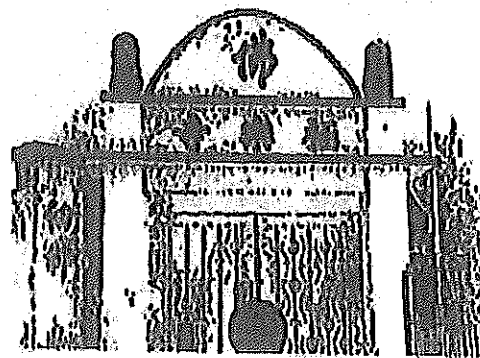
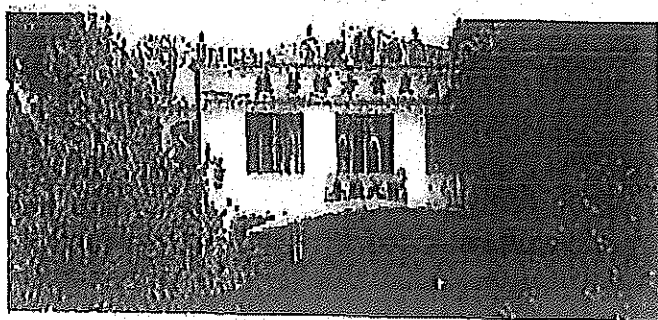
「極樂寺」從1964年至今不斷改變其外觀及加建建築物，當中從沒有向屯門屋宇署入則。

附件二

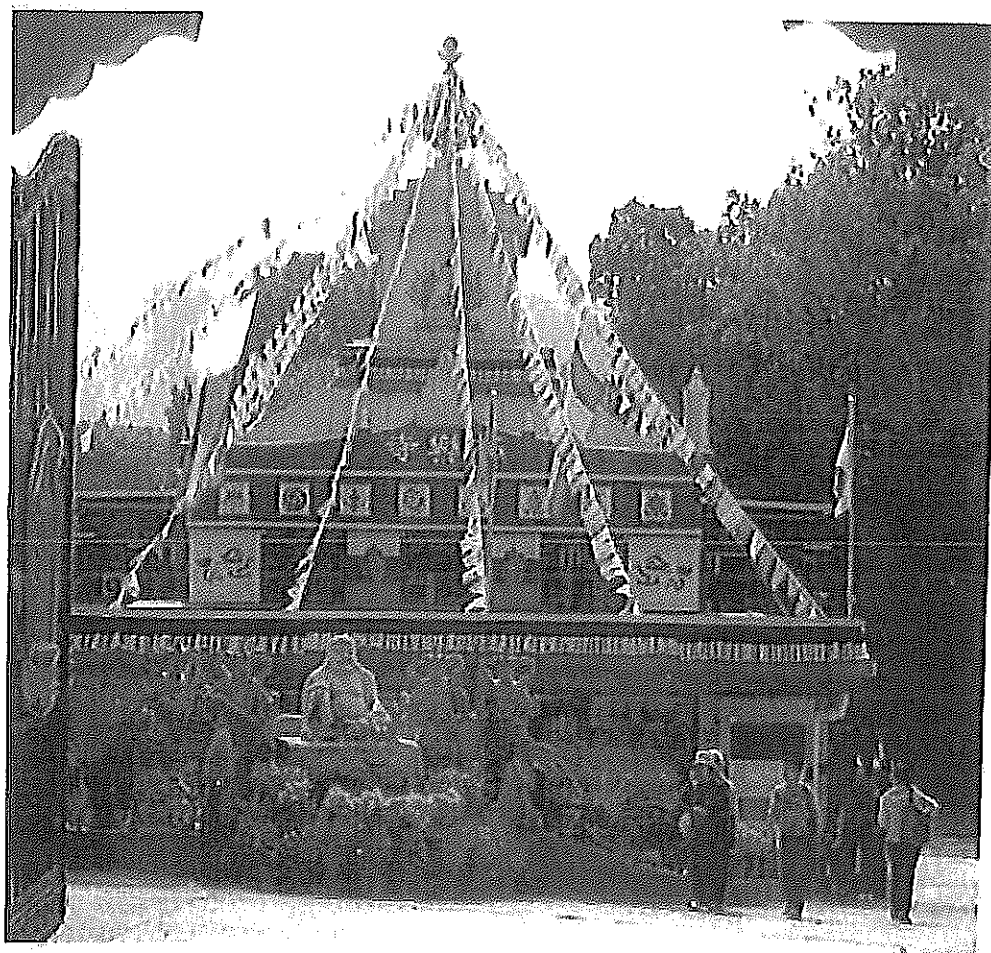
1964年



1995年



2010年至今



城規會檔案 A/I-CC/10 報告評估特別日子市民進入歸元精舍之人數

TOWN PLANNING BOARD

Minutes of 444th Meeting of the
Rural and New Town Planning Committee held at 2:30 p.m. on 8.7.2011

Present

Director of Planning
Miss Ophelia Y.S. Wong

Chairperson

Mr. Walter K.L. Chan

Vice-chairman

Mr. B.W. Chan

Ms. Anna S.Y. Kwong

Professor Paul K.S. Lam

Professor Edwin H.W. Chan

Mr. Timothy K.W. Ma

Dr. C.P. Lau

Ms. Anita W.T. Ma

Dr. W.K. Yau

Chief Traffic Engineer/New Territories West,
Transport Department
Mr. T.K. Choi

Assistant Director (2), Home Affairs Department
Mr. Andrew Y.T. Tsang

Commission on Non-Ionising Radiation Protection guidelines upon the commissioning of the proposed development.

[Ms. Anita W.T. Ma arrived at the meeting at this point.]

Agenda Item 6

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/I-CC/10 Proposed Columbarium
in "Government, Institution or Community (4)" zone,
15 Fa Peng Road, Cheung Chau (Cheung Chau Inland Lot 11 (Part))
(RNTPC Paper No. A/I-CC/10)

Presentation and Question Sessions

13. Miss Erica S.M. Wong, STP/SKIs, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed two-storey columbarium involved the conversion of the ground floor of an existing single-storey Taoist Temple (named 歸元精舍) (about 168m²) and the construction of an additional floor (about 68m²) on-top for columbarium use accommodating a total of 21 355 niches;
- (c) departmental comments were detailed in paragraph 9 of the Paper and highlighted below:
 - (i) the District Lands Officer/Islands advised that according to the Government Lease of the subject lot and G.N. 365 of 1906, there was no restriction on columbarium use within the lot;
 - (ii) the Commissioner for Transport (C for T) considered that as the

proposal would generate a lot of pedestrian traffic, especially on festive days, the applicant should carry out a traffic impact assessment (TIA) to address issues on peak pedestrian flow on festive days; impact on existing road network since most visitors would be required to walk all the way from the ferry pier to the site; demand and adequacy of ferry service; and accessibility of the disabled in wheel-chairs (taking into account the width and gradient of relevant roads). However, the supplementary information provided by the applicant seemed to be an explanation of the applicant's intention and the current situation, rather than an assessment as required by C for T. A TIA was required to provide further justification;

- (iii) the Commissioner of Police (C of P) objected to the application in view of the large quantity (21 355 numbers) of niches at the application site. These niches would attract at least 50 000 people going to the area in one day and the current narrow footpaths along the hillside with insufficient railings were not wide and safe enough to accommodate such a large crowd of people. Also, there was no emergency vehicular access for ambulance/fire engines/police vehicles. Regarding public nuisance and local concerns, C of P had consulted the Chairman of Cheung Chau Rural Committee (RC) and the District Council (DC) members in Cheung Chau and they all raised objection to the application. Moreover, C of P strongly objected to the applicant's suggestion to close and lock the proposed columbarium during Ching Ming and Chung Yeung Festivals and the Saturdays, Sundays and public holidays falling within 7 days preceding and subsequent thereto. C of P was of the view that the applicant was fully aware that such conditions would be ignored by the relatives of the deceased, who would demand their traditional rights of access to pay their respects to their family members on these days. It would only lead to conflict within the community and could not address the genuine safety concerns;

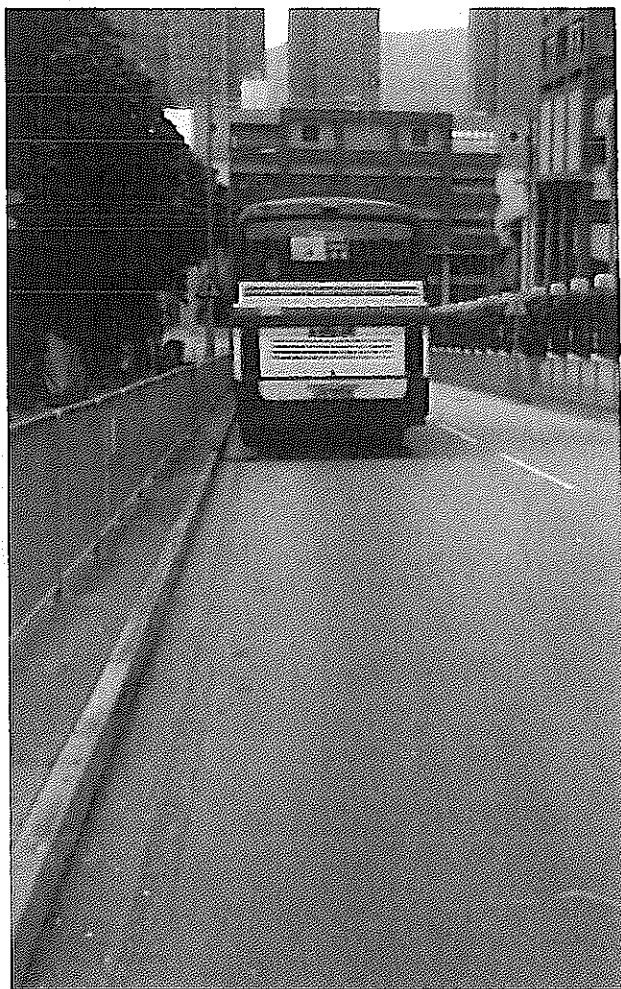
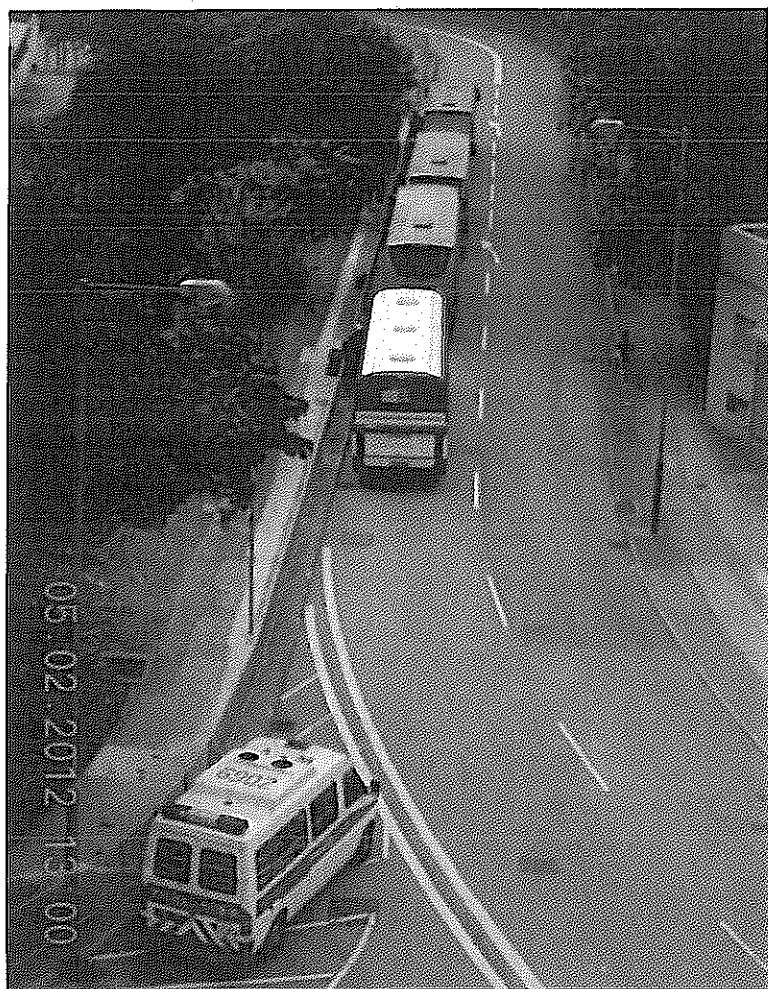
於春秋二祭時，「極樂寺」門外違例泊車情況

附件三



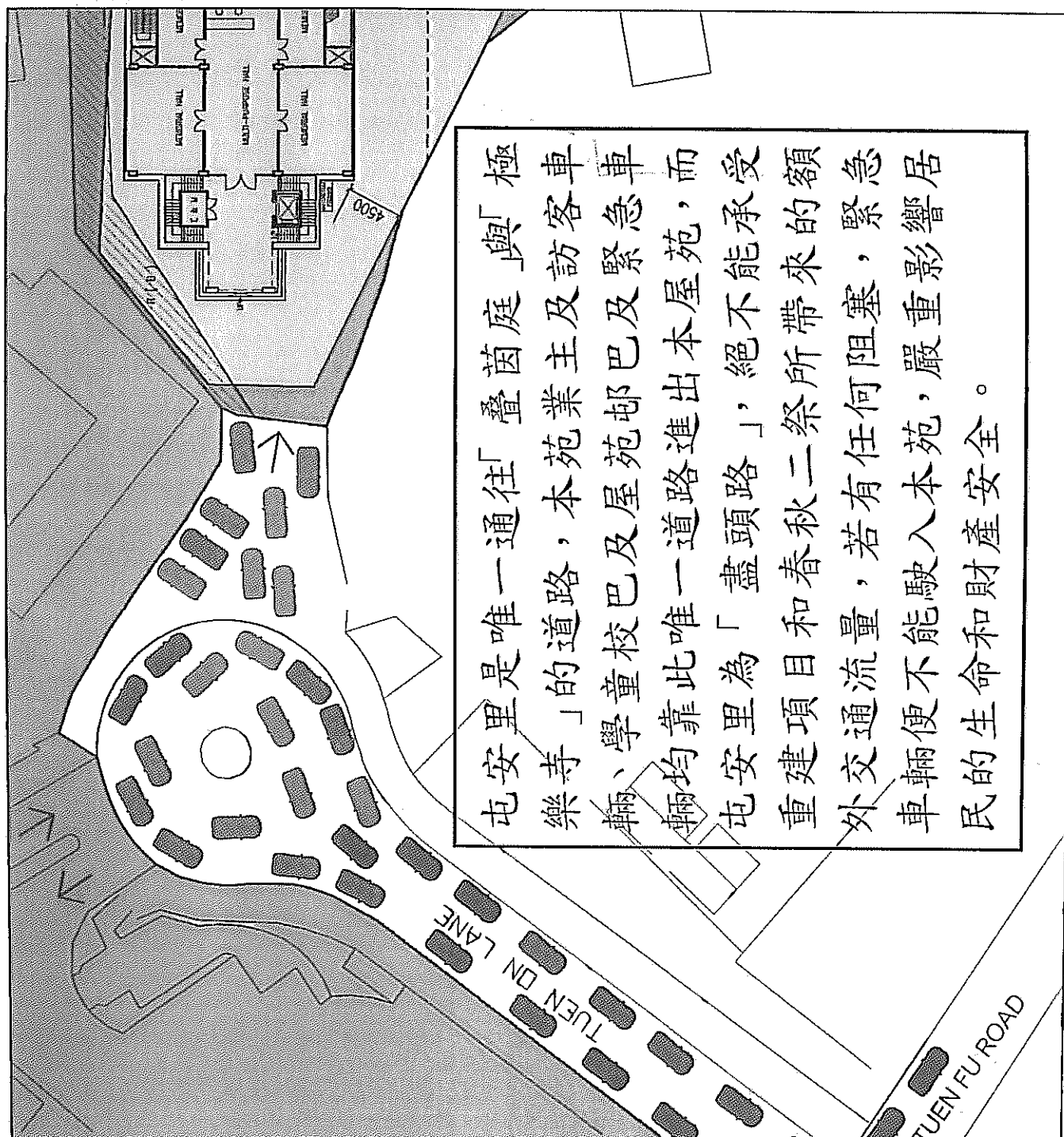
2012年2月5日

附件三 押、2

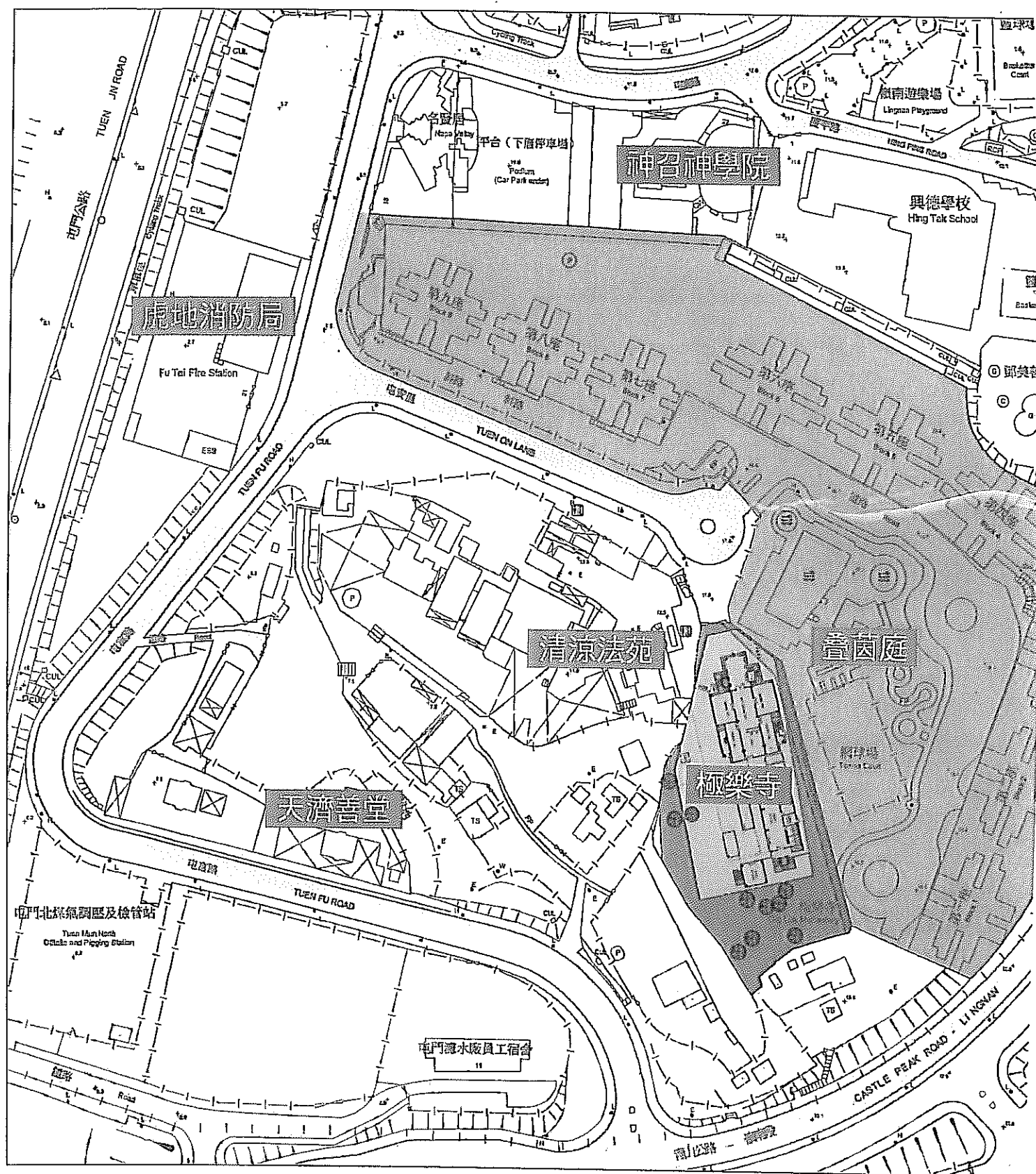


2012年2月26日

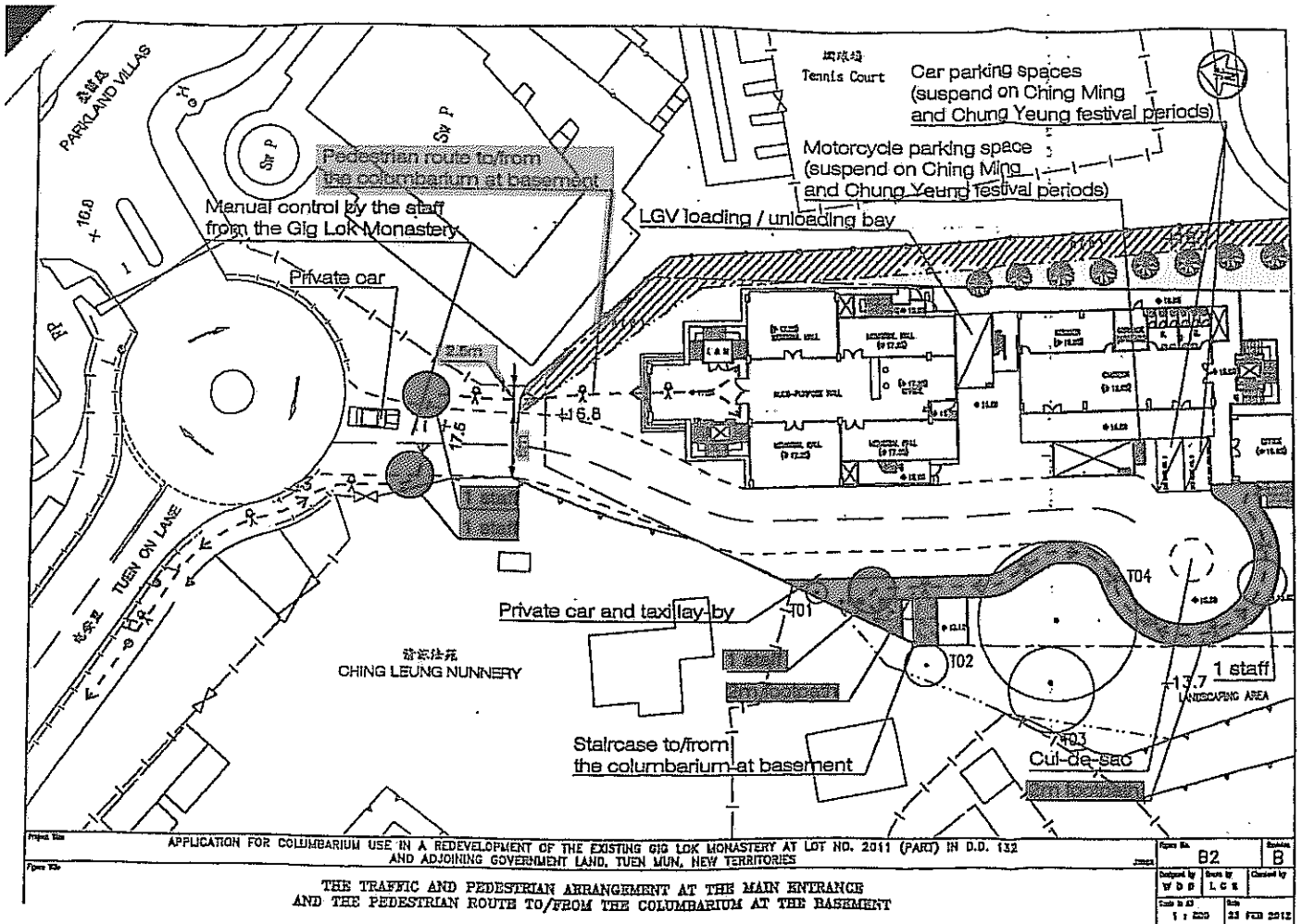




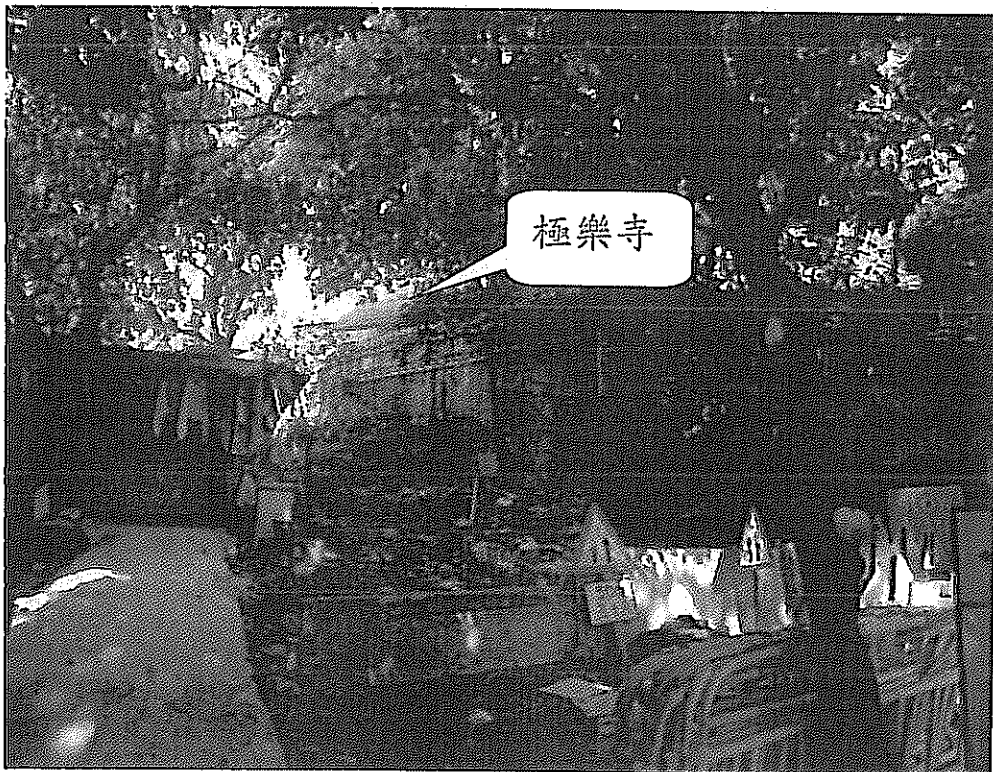
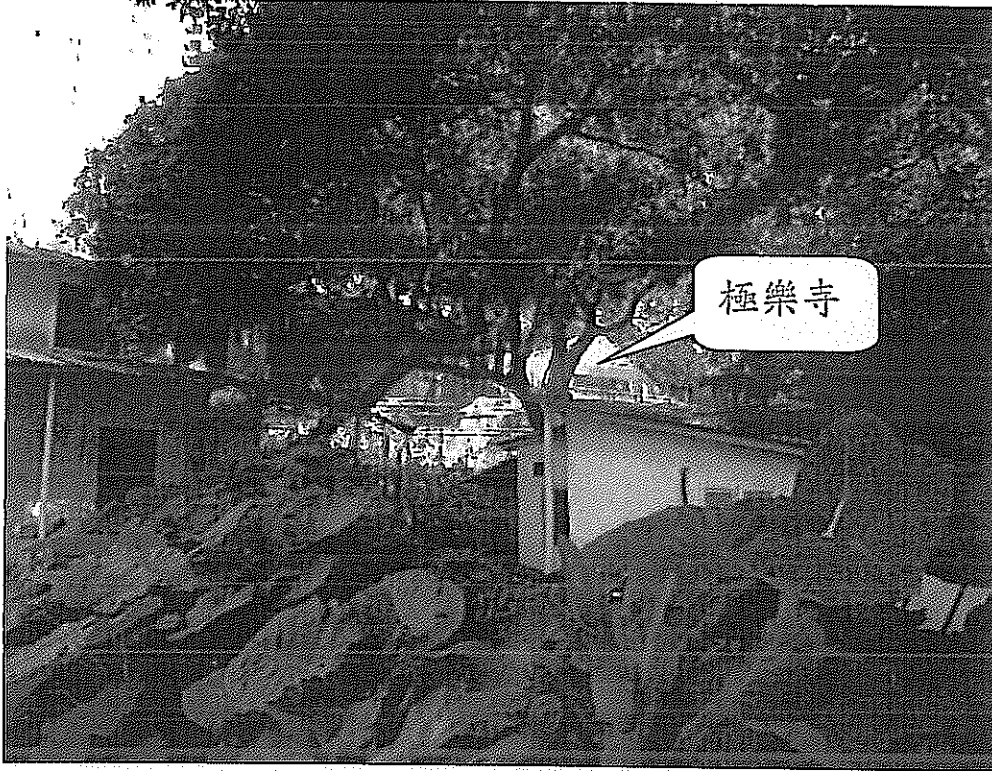
屯安里是唯一通往「疊茵庭」與「極樂寺」的道路，本苑業主及訪客車輛、學童校巴及屋苑邨巴及緊急車輛均靠此唯一道路進出本屋苑，而屯安里為「盡頭路」，絕不能承受重建項目和春秋二祭所帶來的額外交通流量，若有任何阻塞，緊急車輛便不能駛入本苑，嚴重影響居民的生命和財產安全。



「極樂寺」申請文件中，顯示入口位置有 6 米闊車路，而 2.5 米闊行人路則規劃在政府土地上



「極樂寺」位置於斜坡上，萬一批准重新興建，將會增加危險性。



「疊茵庭」與鄰近宗教機構位置圖

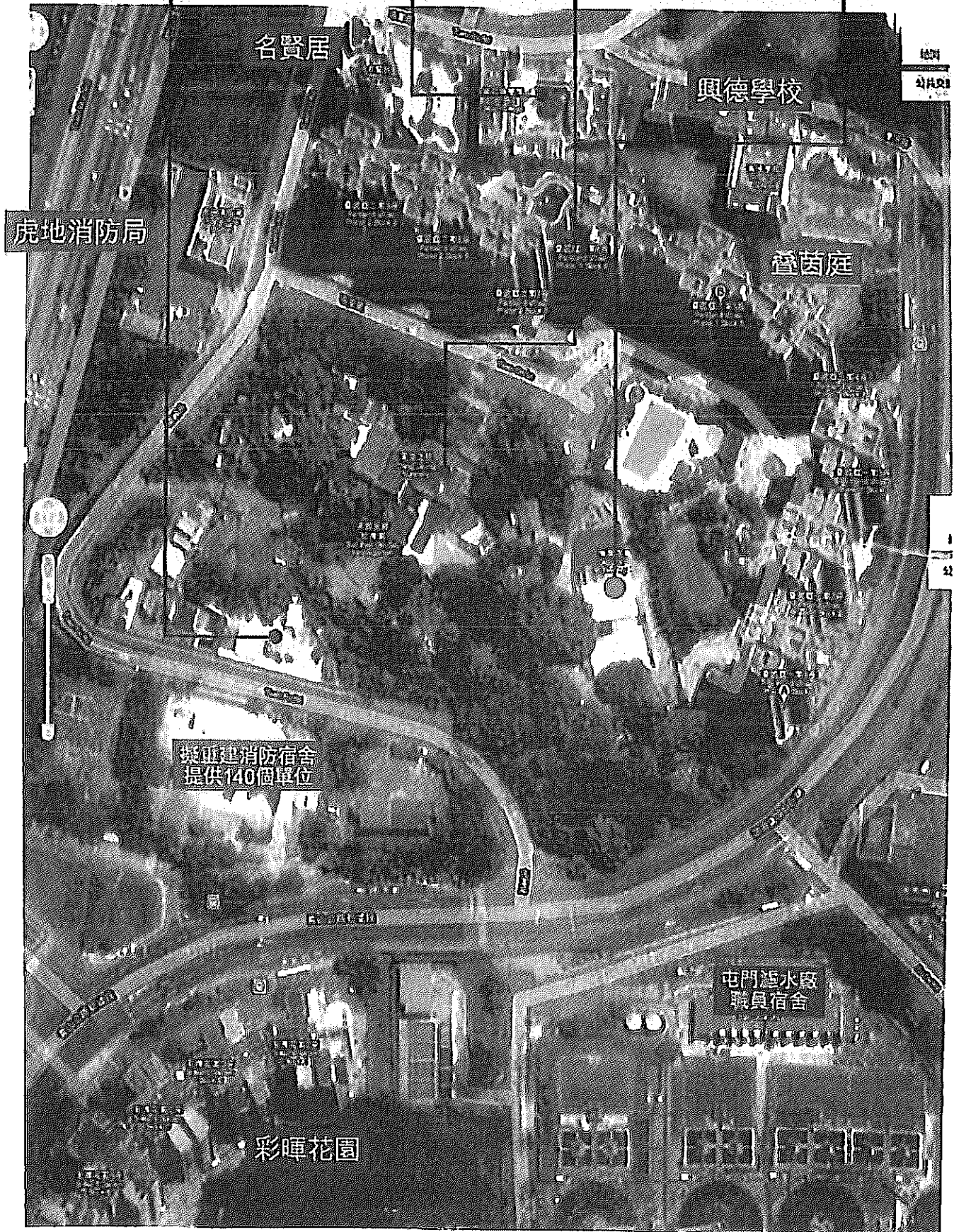
附件 七

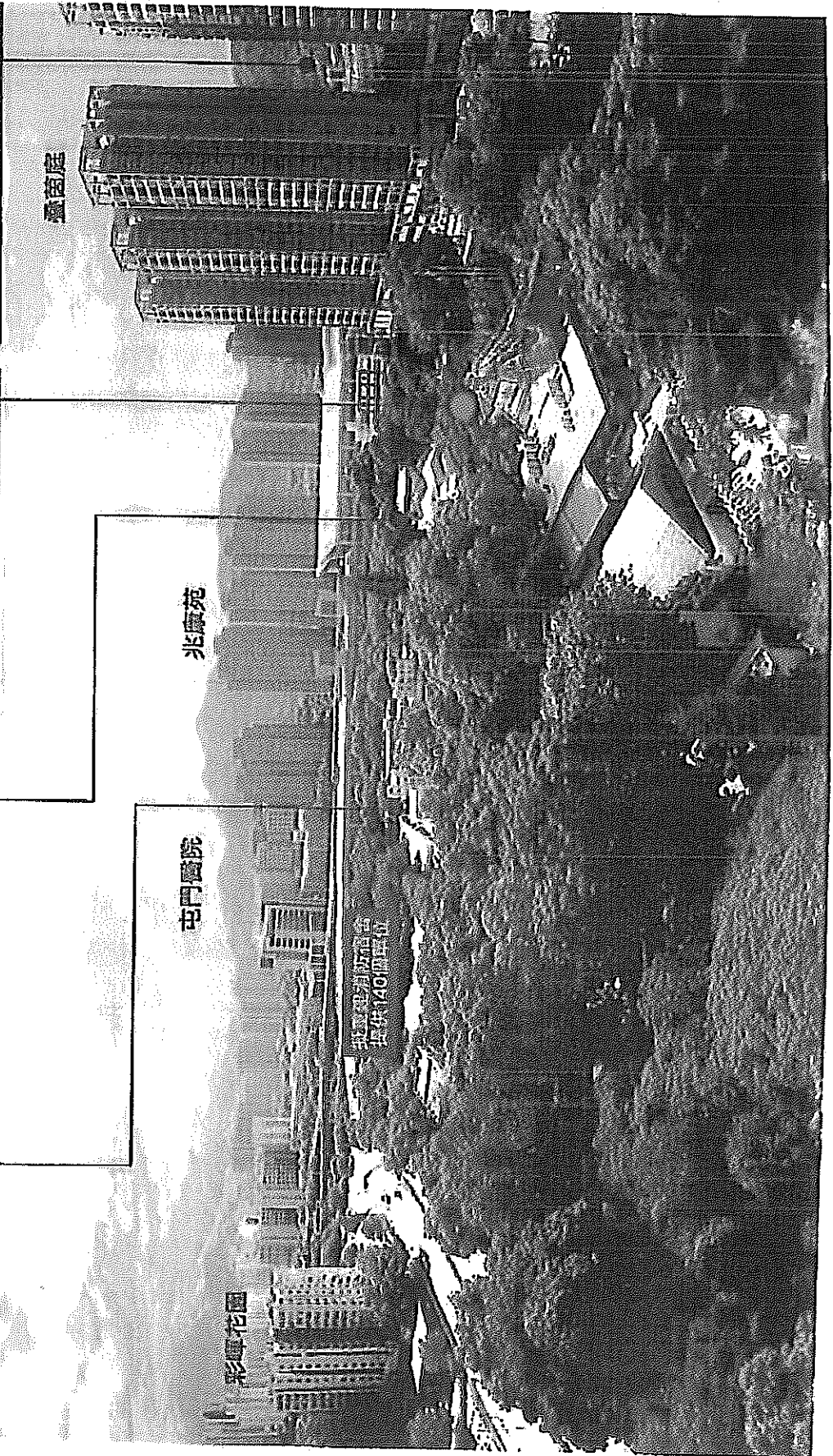
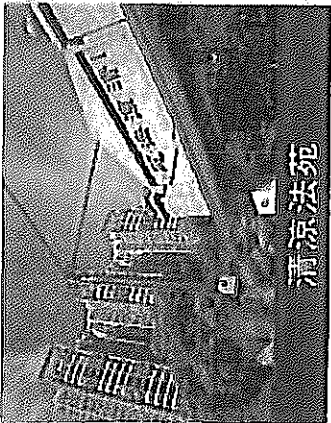
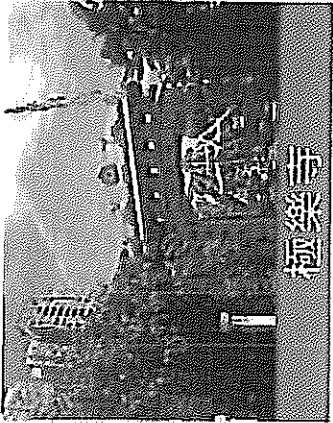
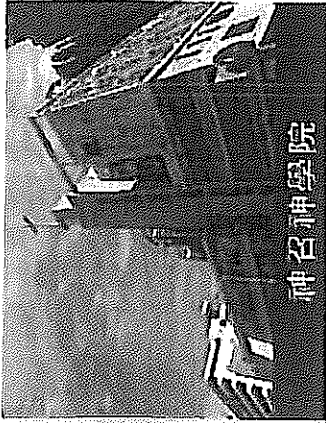
天濟善堂
地盤面積與
極樂寺相約

神召神學院
地盤面積與
極樂寺相約

清涼法苑
地盤面積較
極樂寺大

極樂寺
申請興建4,900個
骨灰龕位



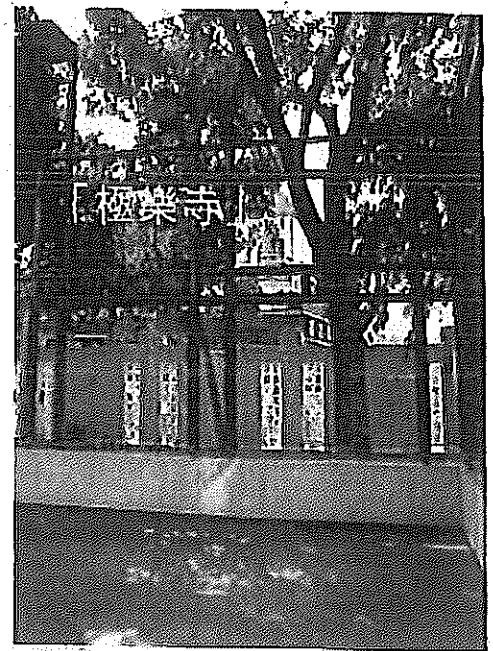


「疊茵庭」與「極樂寺」位置相近之圖片

附件 (1)



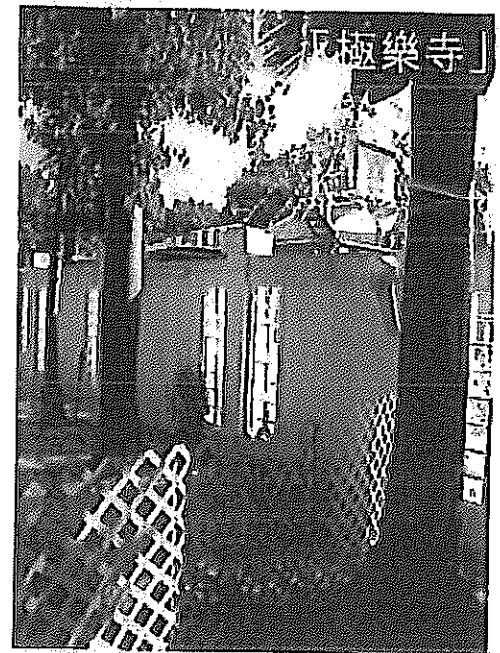
「疊茵庭」出入口位置



「疊茵庭」網球場



「疊茵庭」游泳池



「疊茵庭」寵物樂園



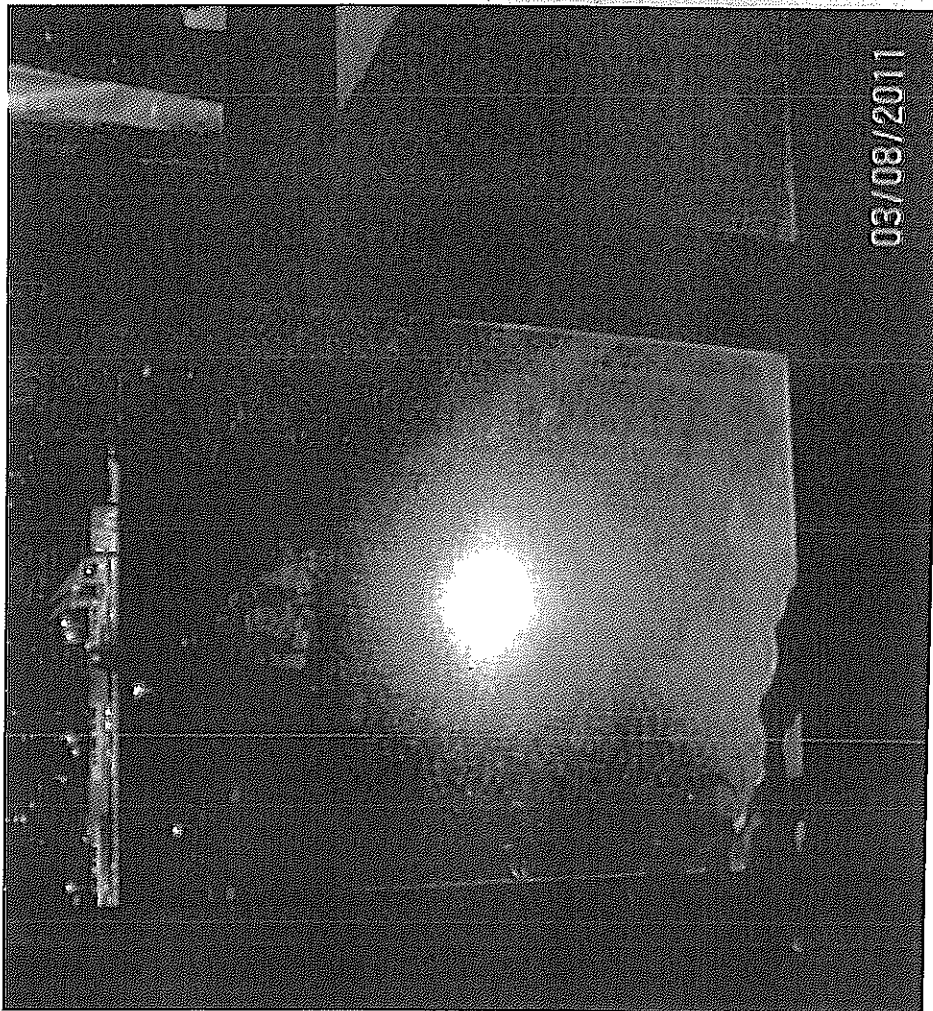
「疊茵庭」寵物樂園



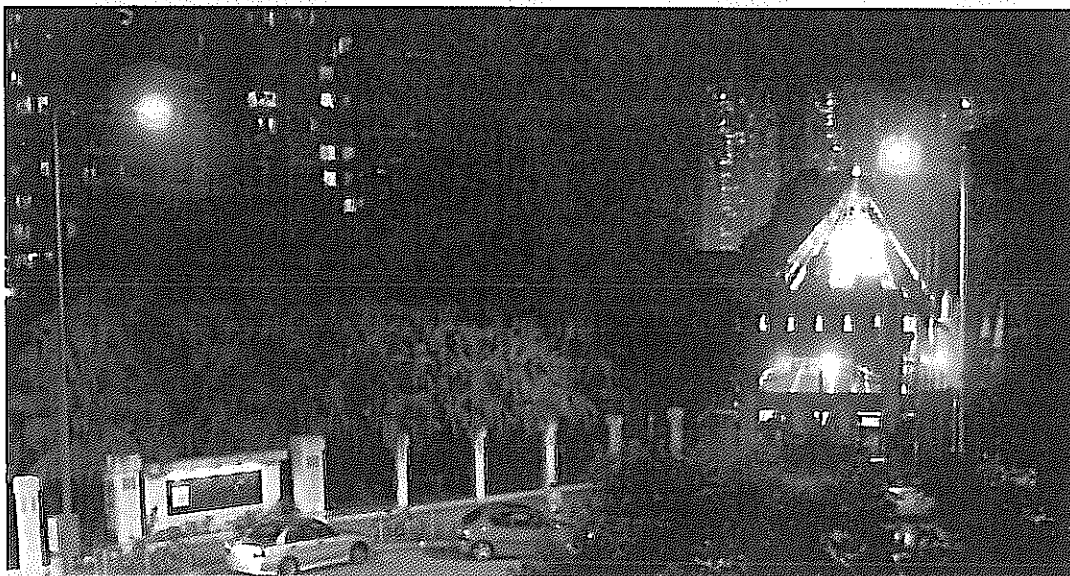
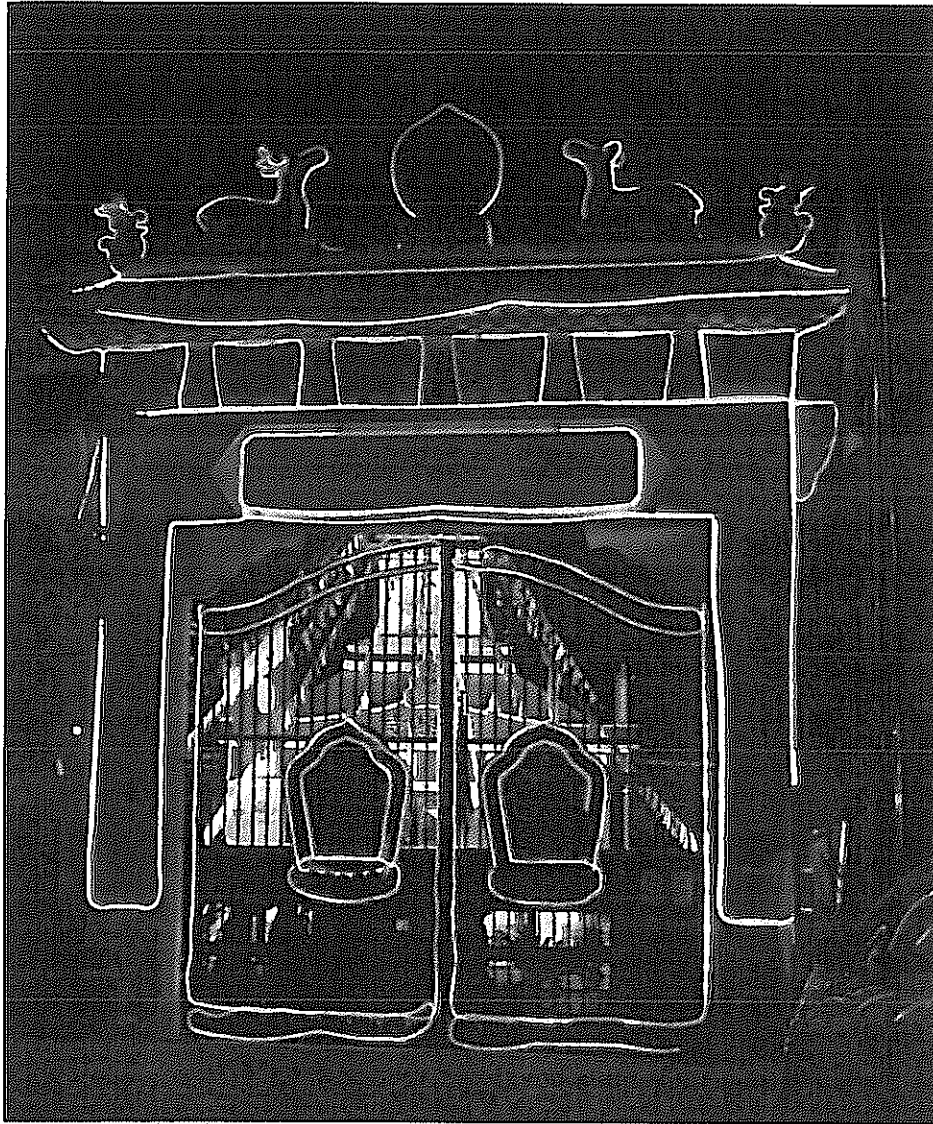
「疊茵庭」出入口位置

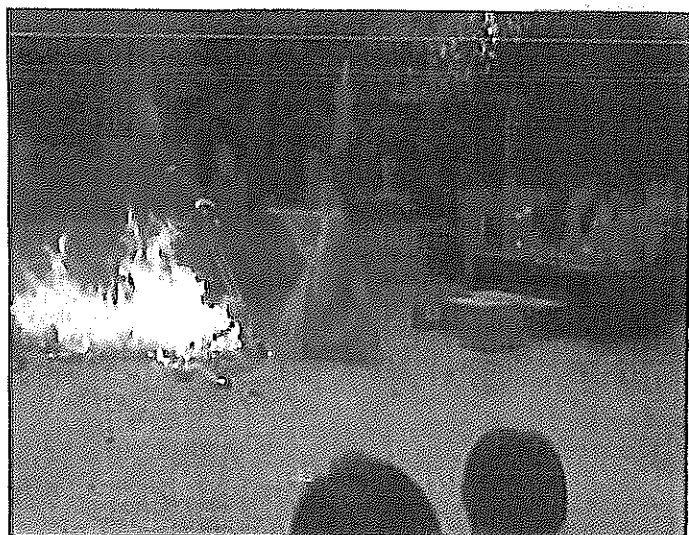
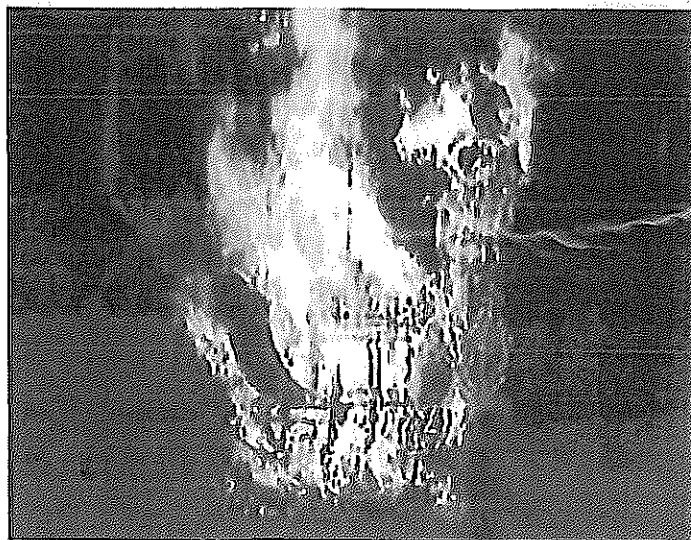
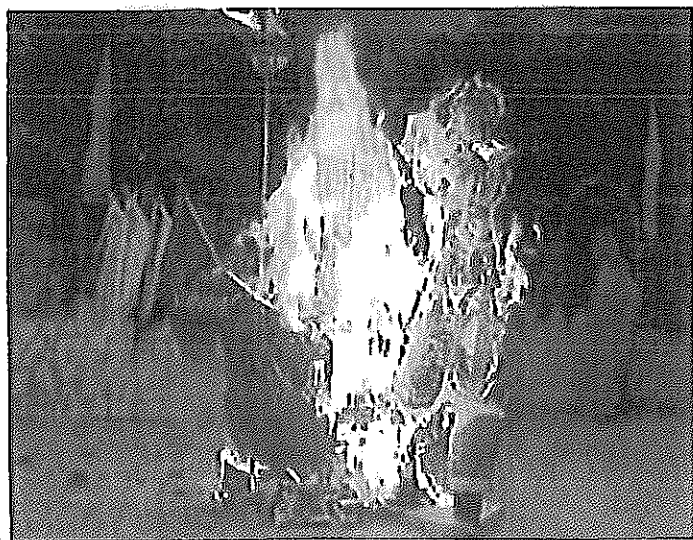
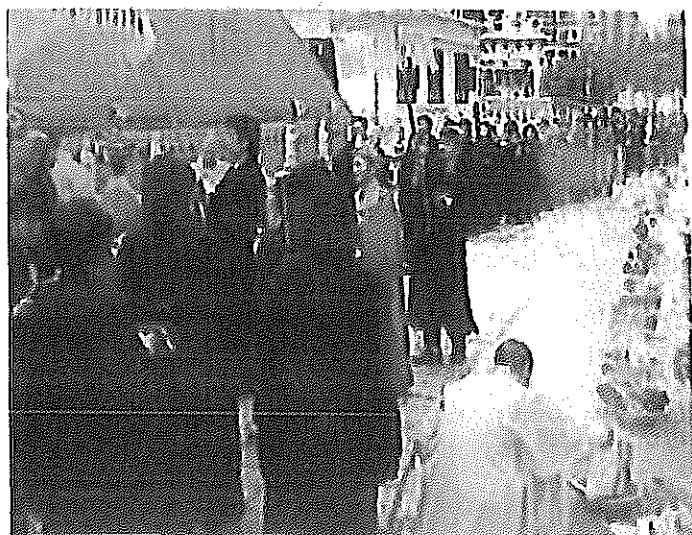


7月31日下午4時35分「極樂寺」產生大量濃煙

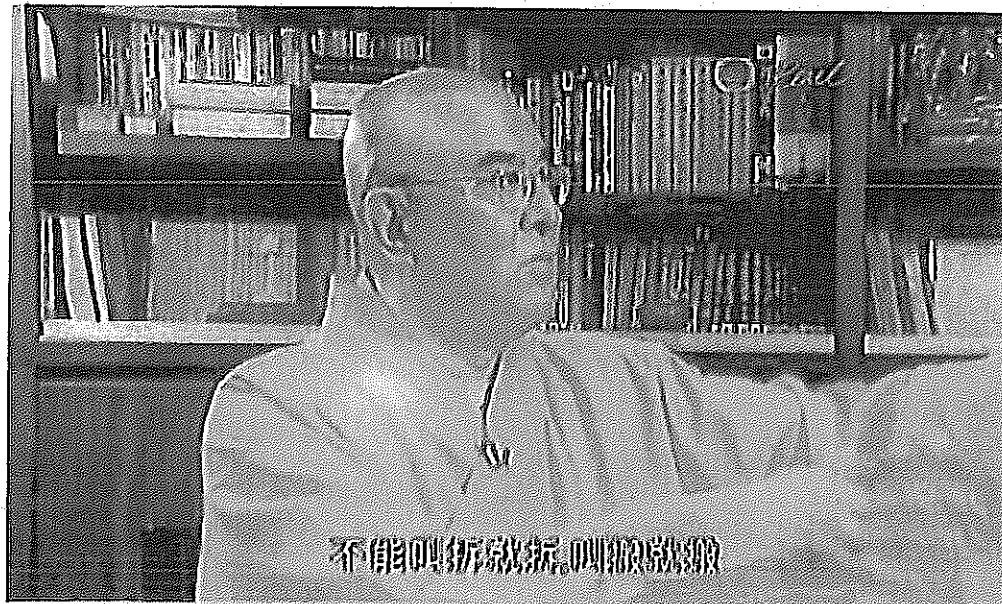


「極樂寺」晚上開啟的燈光影響本苑居民，亦造成光污染





「極樂寺」現任住持接受無線明珠檔案訪問



三般抗爭



民在竹園村內懸掛橫額，抗議政府強迫又不作賠償。(受訪者提供)



村民姚仁發將全副身家用來裝修家居後，政府要求拆卸，令家人面臨家園被毀的困境。

房，曾任地產中介，後來失業，並與妻子離婚，並無子女，目前任職保安員。據目擊者表示，事發時梁從北小學門口過馬路，在馬路上被一輛經過的小貨車撞倒在地，頭部流血，昏迷不醒。昨晚轉送回本港沙田威爾斯親王醫院後，目前仍然留院。

行人道紅綠燈無運作

記者在卑北小學門口看到，經過該路車輛多，但小學正門口行人道紅綠燈卻並無運作，形成了路人與車輛搶道現象，學生過馬路也需要交通導員指揮。

上案例。今次召回約三十萬四千輛房車，廿七萬三千輛在美國出售，加拿大七萬七千輛，日本亦有二萬輛，其他地區約有二萬輛。

卡田音德代理碼，會發信通知涉事汽車的水機車主安排更換安全氣球，設立熱線2216 8183供查詢。

另外，國家質量監督檢驗檢疫總局前公布，汽車公司雷諾(Renault SA)卡田音德一千四百輛汽車，因車輛電子控制器模塊存在問題，召回於本月十六日開始。

極樂寺提地庫置龕樓

侵佔官地 屯門區

司法覆核地政總署清拆令敗訴後，寺內的骨灰龕令臨清拆，極樂寺為解決困境及舒緩反對聲浪，提出新的原寺重建計劃，將原本獨立一座三層、提供近五千個骨灰龕位的骨灰龕樓，全部移至寺前大道的地庫，或成為全港首個地庫骨灰龕。不過，有資深工程師指地庫興建骨灰龕高風險，「萬一發生火警，由排煙喉噴出大火，喇孝子豈係好難走！」

覆核敗訴 倡重建 專家憂火警高危

地政總署發言人表示，在上訴期限屆滿前，仍無收到寺方就司法覆核官司提出上訴，地政總署會研究進行行動。

已有五十年歷史的屯門區極樂寺，○六年修繕「極樂堂」，設有四千九百個供信眾及其親友使用，其中一千四百個已被撥放骨灰，不過，地政總署指地庫位於官地上，○七及○九年兩度向寺方發出通知要求處理，但未獲回應。地政總署今年六月發出清拆令，要求寺方今年十月十日前清拆官地上建築，寺方入稟司法覆核但敗訴。

本報昨致電極樂寺，職員指負責人不在，並無回應如何處理被指違規的骨灰龕及重建極樂寺事宜。

區議會向城市規劃委員會申請修改土地用途，將現址「政府、機構或社區」用途土地，改劃為骨灰安置所及住宅用途，以重建極樂寺。寺方原本提出興建二幢寺前大樓，一幢三層骨灰龕及一幢四層高的宿舍，涉及地盤面積約三千二百

七十五平方米，其中住用部分的地積比率為零點二九，非住用部分地積比率一點三三，寺方最近大幅修訂重建發展，將三幢建築物擴至兩幢，並增建骨灰龕位，為數四千九百個骨灰龕全部移往寺前大樓佔地的六百四十一平方米的地庫，為極低消防風險，寺方取消原擬擴建。

人流眾多 控制須小心

資深工程師黃澤恩表示，骨灰龕位於地庫，有潛在消防及人流控制風險，因為春秋二祭將有近萬人拜祭，「四千九百個骨灰龕位，若一半龕位有人埋葬，每個家庭三、四個人，都有成為萬人，人流控制要格外小心」。他又指，即使寺方有限制市民攜帶香燭，但有市民或會偷香，仍容易造成消防危險，「一喇細煙地方咁多人，萬一有火警，唔曉死咁多條死，他認為除非寺方能提供完善的人流及消防控制，否則應小心考慮開闢地庫骨灰龕。」

圖記者張景芳



不少居民早前詣廟反對極樂寺佔用官地興建骨灰龕場。(資料圖片)

極樂寺司法覆核被駁回 周一嶽：正確決定

第1頁，共1頁

極樂寺司法覆核被駁回 周一嶽：正確決定

推薦

2011-11-03 HKT 15:42

正在北京的食物及衛生局局長周一嶽，回應有私營骨灰龕場司法覆核被駁回的案件，周一嶽認為，法庭作出正確決定，他重申，任何骨灰龕場，如果違反地政規劃條例，都不會獲得承認。

至於已在違規龕場購買龕位的苦主，周一嶽說，必須與經營者磋商跟進方法，政府不會特別處理。明年在和合石會新增四萬多個龕位，相信屆時供應不足的情況會有所紓緩。他重申，村屋住宅不可興建私營骨灰龕場。

周一嶽到訪北京，出席與內地及澳門衛生部門的三地高層會議，討論慢性疾病、醫院認證、醫療人才培訓及控煙工作等。



周一嶽在北京回應極樂寺司法覆核遭駁回（朱錫君攝）

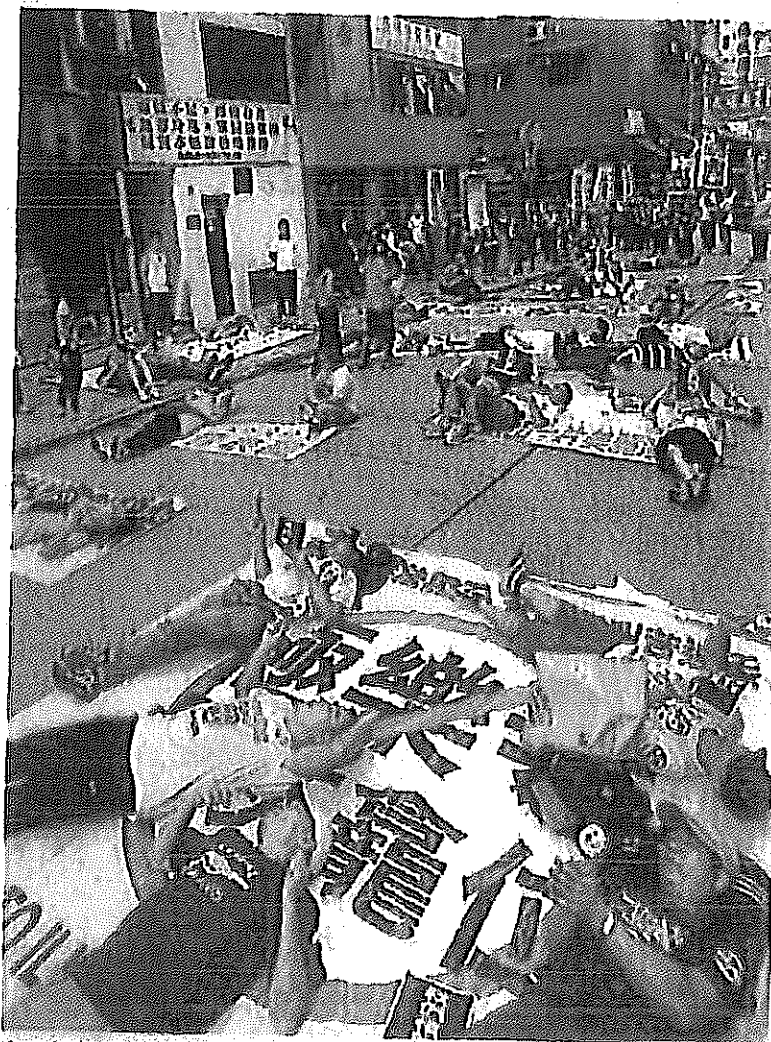
列印新聞

寄給朋友

分享工具



»香港電台新聞主頁



各界關注骨灰龕法案大聯盟昨在紅磡老龍坑街一帶的行車路「鬧街」，抗議政府縱容違規龕場，並促請當局盡快立法監管。（林振東攝）

市民遊行兩度「鬧街」 促政府監管違規龕場

【明報專訊】數十名市民不滿政府縱容違規龕場，昨日發起遊行並在紅磡老龍坑街及金鐘道政府合署對出的馬路「鬧街」，促請政府立法監管違規骨灰龕場，並盡快公布公營龕位數量及時間表。

遊行由各界關注骨灰龕法案大聯盟發起，數十名示威者在紅磡蕪湖街出發，推着兩個貼上食物及衛生局長周一焜及發展局長林鄭月娥頭像的紙製骨灰龕，沿途高叫口號吹哨子，邊播喪樂邊敲銅鑼，經過殯儀商舖林立的老龍坑街及必嘉街一帶時，更「鬧馬路」3分鐘以示不滿。

示威者其後乘旅遊巴到灣仔修頓球場，沿軒尼斯道遊行至政府總部遞交請願信，警方封鎖一條

行車線，遊行人士在金鐘政府合署對出金鐘道再「鬧馬路」3分鐘。

指違規龕場「遍地開花」

各界關注骨灰龕法案大聯盟召集人謝世傑表示，沿途播喪樂是要讓市民體會活在龕場附近之苦。他批評周一焜、林鄭月娥及民政事務局長曾德成拖延立法，令違規骨灰龕場「遍地開花」。

謝促請政府立法監管，拒絕他們向城規會改變土地用途的申請，並公布公營龕位數量及時間表。他表示不少長者擔心公營龕位不足，冒險買入違規龕位，「十幾萬買個位但無保障，一旦執管可能無得時」。

TPB PG-No. 32

**TOWN PLANNING BOARD GUIDELINES ON
SUBMISSION OF FURTHER INFORMATION
IN RELATION TO APPLICATIONS FOR AMENDMENT OF PLAN,
PLANNING PERMISSION AND REVIEW
MADE UNDER THE TOWN PLANNING ORDINANCE**

(Important Note :-

The Guidelines are intended for general reference only.

Any enquiry on this pamphlet should be directed to the Secretariat of the Town Planning Board (15th Floor, North Point Government Offices (NPGO), 333 Java Road, North Point, Hong Kong – Tel. No. 2231 4810 or 2231 4835) or the Planning Enquiry Counters of the Planning Department (Hotline : 2231 5000) (17th Floor, NPGO and 14/F, Sha Tin Government Offices, 1 Sheung Wo Che Road, Sha Tin).

The Guidelines are subject to revision without prior notice.)

1. Purpose

These Guidelines set out the general practices adopted by the Town Planning Board (the Board) in dealing with further information submitted by an applicant to supplement an:

- (a) application for amendment of plan made under s.12A of the Town Planning Ordinance (Ordinance) (s.12A application);
- (b) application for planning permission made under s.16 of the Ordinance (s.16 application); or
- (c) application for review of the Board's decision on a s.16 application made under s.17 of the Ordinance (s.17 review).

2. Delegation of the powers of the Board

Pursuant to s.2(5)(c) of the Ordinance, the Board has delegated to the Secretary of the Board (Secy/Board) its powers to determine acceptance of further information, to exempt it from the requirements in respect of publication for public comments and recounting of the statutory time limit for consideration of the application from the

receipt of the further information (i.e. the publication and recounting requirements).

3. Processing of further information

- 3.1 It is the duty of the applicant to provide sufficient information when making an application to the Board. This would facilitate the Board's consideration and avoid delay in processing the application. However, an applicant may submit further information to the Secy/Board to supplement his application before the application is considered by the Board. Such submission shall preferably be made at least **one week** before the scheduled meeting of the Board. The Secy/Board will determine whether the information could be accepted and, if accepted, whether the information would be exempted from the publication and recounting requirements. In submitting any further information, the applicant should clearly indicate whether he would proceed with the original application (i.e. without the further information) in case the Secy/Board decides that the further information is not accepted, or such information is accepted but not exempted from the publication and recounting requirements.

Whether the information could be accepted

- 3.2 If the further information does not result in a "material change" of the nature of the application, it will be accepted by the Secy/Board for inclusion into the application and be processed as part of the application in accordance with the relevant provisions of the Ordinance. If the further information is accepted as not resulting in a material change of the nature of the application, then the effect of submitting further information is that the statutory time limit for consideration of the application, i.e. 2 months for a s.16 application and 3 months for a s.12A application and s.17 review, will be automatically restarted, unless an exemption under sections 16(2L), 12A(15) and 17(2J) respectively is granted.
- 3.3 Further information resulting in a material change of the nature of the application will not be accepted by the Secy/Board. Under such circumstances, the submitted further information will not be processed. If the applicant wants to proceed with the further information that resulting in a material change of the nature of application, a fresh application will need to be submitted. If the applicant chooses to proceed with the original application, then he must do so

without the further information. In that case, the statutory time limit will run from the original application date and the further information will be ignored. The choice of proceeding without the further information will not prejudice the applicant's submission of another application in future.

- 3.4 All accepted further information will be published for public comment, unless an exemption as mentioned below has been granted by the Secy/Board.

Whether the accepted information could be exempted

- 3.5 If the Secy/Board accepts the further information, he will simultaneously consider whether the accepted information can be exempted from the publication and recounting requirements. If the further information need not be published for public comments, the application, together with the further information, will be submitted to the Board for consideration as originally scheduled. On the other hand, if the further information could not be exempted, the statutory time limit for consideration of the application will be automatically restarted, unless the applicant has indicated at the outset that the original application should be proceeded with.
- 3.6 All accepted further information will be deposited at the Planning Enquiry Counters of the Planning Department at 17/F, North Point Government Offices, 333 Java Road, Hong Kong, and 14/F, Sha Tin Government Offices, 1 Sheung Wo Che Road, Sha Tin for public inspection until the application has been considered by the Board.

4. Types of information that constitute "a material change"

What constitutes a material change of the nature of the application is a matter of fact and degree and should be assessed on the individual merits of each case. In general, a material change is involved if the further information will lead to, for a s.12A application, a major change in site area/boundary in question, the proposed zoning, uses and development restrictions and, for a s.16 application and s.17 review, a major change in the area and configuration of the application site (e.g. enlargement of site to include additional lot), proposed use (e.g. from office to hotel), design and layout of the proposed scheme (e.g. substantial change in built-form and disposition of building blocks) and nature of approval sought (e.g. from temporary to permanent). For these

types of applications, a change in the proposed plot ratio, gross floor area, site coverage or building height under application exceeding 10% would generally be considered as “material”.

5. Types of information that could be exempted

Whether an exemption is to be granted should be assessed on the circumstances of each case. In general, an exemption may be granted to the following types of information:

- (a) minor change in the proposed scheme under application without changing the major development parameters of the proposed scheme such as site area, plot ratio, gross floor area, site coverage, building height. Minor change in the following aspects may be exempted:
 - internal layout/disposition of premises;
 - the location of open space (on the same level only) and ancillary major utility installation;
 - the form of the building blocks;
 - increase in the provision of open space;
 - reduction in car parking spaces with no change in the car parking ratio;
 - location and size of non-building area;
 - Landscape Master Plan regarding preservation and/or planting of more trees;
 - the provision of private indoor recreational facilities; and
 - phasing and implementation.

In considering whether the changes are minor or not, the Secy/Board may make reference to the relevant categories of amendments as set out in the “Schedule of Class A Amendments” published by the Board.

- (b) clarification of the background information of the application, e.g. applicant’s identity, site area/boundary, lot number, existing conditions of the site/premises, owner’s consent, notification means, operational aspects of the applicant’s business, lease conditions, application history, compliance with other relevant legislation and Government requirements, surrounding land uses and implementation schedule;
- (c) technical clarification/responses to comments of relevant Government departments without changing the scheme or involving the submission of a new or revised

technical assessment;

- (d) rectification of editorial and transcription errors and miscellaneous minor information; and
- (e) other information which, in the opinion of the Secy/Board, could be exempted.

6. Notification of Secy/Board's decision

The applicant will be informed of the Secy/Board's decision on whether the further information could be accepted and exempted, as soon as practicable. Unless the applicant has clearly indicated his intention whether to proceed with the original application at the time of submitting the further information, the statutory time limit for processing the application will be recounted and the applicant will be informed of the rescheduled date for consideration of the application, if the further information is accepted but not exempted from the publication and recounting requirements. For further information that is not accepted, the original application (i.e. without the further information) will continue to be processed, unless the applicant has indicated otherwise at the time of submission.

7. Further Information for Representation, Comment, Further Representation

Representation to a draft plan, comment on representation and further representation to amendments proposed by the Board shall be made to the Board within the relevant statutory time limits stipulated in the Ordinance. Representation, comment and further representation made to the Board after the expiration of the relevant time limits shall be treated as not having been made. Under the Ordinance, there is no provision for the Board to accept further information for representation, comment and further representation submitted to the Board after the expiry of the relevant statutory time limits for making submission.

TPB PG-No. 33

**TOWN PLANNING BOARD GUIDELINES
ON DEFERMENT OF DECISION ON REPRESENTATIONS,
COMMENTS, FURTHER REPRESENTATIONS AND APPLICATIONS
MADE UNDER THE TOWN PLANNING ORDINANCE**

(Important Note :-

The Guidelines are intended for general reference only.

Any enquiry on this pamphlet should be directed to the Secretariat of the Town Planning Board (15th Floor, North Point Government Offices (NPGO), 333 Java Road, North Point, Hong Kong – Tel. No. 2231 4810 or 2231 4835) or the Planning Enquiry Counters of the Planning Department (Hotline : 2231 5000) (17th Floor, NPGO and 14/F, Sha Tin Government Offices, 1 Sheung Wo Che Road, Sha Tin).

The Guidelines are subject to revision without prior notice.)

1. Purpose

These Guidelines set out the general procedures and practices adopted by the Town Planning Board (the Board) in considering requests for deferment of a decision on:

- (a) representations to a draft plan (representations) and any comment on them;
- (b) further representations to amendments proposed by the Board to meet a representation (further representations);
- (c) an application for amendment of plan made under s.12A of the Town Planning Ordinance (the Ordinance) (s.12A application) and any comment on it;
- (d) an application for planning permission made under s.16 of the Ordinance (s.16 application) and any comment on it;
- (e) an application for amendments to planning permission made under s.16A of the Ordinance (s.16A application); and
- (f) an application for review of the Board's decision on a s.16 or s.16A application made under s.17 of the Ordinance (s.17 review).

2. General principles in processing request for deferment

- 2.1 Upon receipt of representations, comments, further representations, applications and reviews lodged in accordance with the Ordinance (hereafter collectively referred as "the submissions"), the Secretary of the Board (Secy/Board) will notify the representers/further representers/commenters/applicants of the date of the Board's meeting to consider the submissions. The Board may, under various circumstances and/or upon request of the representers, further representers, commenters, applicants or the Planning Department, defer making a decision on the submissions and reschedule the relevant meeting to another date.
- 2.2. Any request for deferment should be addressed in writing to the Secy/Board. As a prerequisite, reasonable grounds must be provided to support the request and the proposed deferment period should not be indefinite. In considering a request for deferment, the Board will take into account all relevant factors and whether the right or interest of other concerned parties will be affected and may specify the maximum period for deferment as it deems appropriate. Normally, the applicant or relevant parties will be given two months for preparation of submission of further information (if required). The case will then be re-submitted to the Board within two months in case of a s.16 application or within three months in case of a s.12A application/s.17 review upon receipt of the further information. The rescheduled date for consideration of the relevant submissions should be adhered to and no further deferment should be granted except under very special circumstances.

3. Request for deferment in respect of applications and reviews

Reasons for deferment

- 3.1 Each request for deferment will be considered by the Board based on its merits. The Board may, upon consideration of such request or of its own volition, decide to defer a decision on the applications for the following reasons:

(a) Need to Consult Other Relevant Government Departments

Further consultation with relevant Government departments is required to resolve major technical issues directly associated with the case in question.

(b) Provision of Important Supplementary Information

Information which is essential for the consideration of the submissions by the Board is not available but is required to be provided by the relevant parties or Government departments, e.g. assessment to address certain technical issues like Traffic Impact Assessment, Environmental Impact Assessment and Drainage Impact Assessment and refinement to the application to address public comments.

(c) Awaiting Recommendations of Major Government Planning-Related Study or Infrastructure Proposal

A major Government planning-related study due to be completed shortly or a decision on a major infrastructure proposal due to be released soon which might have significant planning implications on the subject site and would affect the decision of the Board.

3.2 Non-planning related reasons (such as the need to assess/re-assess the financial or economic viability of the proposal, or awaiting a better “economic climate”) should normally not be accepted.

3.3. Notwithstanding the above, a decision on the relevant submissions may be deferred under other circumstances. These include:

(a) where the Board accepts any further information to supplement a s.12A application, s.16 application or s.17 review, the meeting arranged to consider the application may need to be rescheduled to allow time for further processing of the information. The Secy/Board will inform the relevant parties of the arrangement accordingly. The general practices are set out in the “Town Planning Board Guidelines on Submission of Further Information in Relation to Applications for Amendment of Plan, Planning Permission and Review Made under the Town Planning Ordinance”;

(b) a decision on a s.16 application or s.17 review would be deferred if the zoning of the subject site is still subject to outstanding adverse representation yet to be submitted to Chief Executive in Council (CE in C) for consideration and the substance of the representation is relevant to the subject application/review; and

- (c) any other reasonable grounds as the Board thinks fit.

Procedures for handling request for deferment

- 3.4 If deferment of decision on the application would not affect the right or interest of the concerned parties, deferment requested by the applicant would normally be granted if reasonable grounds are given. Under such circumstances, the applicant will normally be given two months for preparation of submission of further information. The case will then be re-submitted to the Board within two months in case of a s.16 application or within three months in case of a s.12A application/s.17 review. No further deferment would be granted unless very strong justifications are given by the applicant and the right and interest of the concerned parties are not affected.
- 3.5 For request with reasonable grounds (i.e. those set out in paragraph 3.1 above), if it is received by the Secy/Board before the issue of agenda of the meeting and the relevant paper on the application (normally one week before the scheduled meeting date), a simple paper will be prepared by the Planning Department to seek the Board's agreement to the request. Should the request be received after the issue of the agenda, the Planning Department will report the case at the scheduled meeting. The applicant and/or his/her representative(s) will not be required to attend the meeting in case of a s.12A application/s.17 review. If the Board agrees to the deferment, the applicant will be notified of the two-month period for submission of further information and the rescheduled meeting date. However, if the Board decides not to accede to the request, it may proceed to make a decision on the application at the scheduled meeting if it is a s.16 application, or adjourn the meeting for consideration of the application to the following meeting if it is a s.12A application/s.17 review. The applicant will be informed of the Board's decision on the application or will be invited to attend the rescheduled meeting as the case may be.
- 3.6 However, for request without reasonable grounds, it will be submitted together with the relevant paper on the application to the Board for consideration, regardless of whether the request is received before or after the issue of agenda. In case of s.12A application and s.17 review, the applicant and/or his/her representative(s) will be required to be present before the Board to explain the reasons for the proposed deferment. Should the Board consider that a

deferment is not warranted, it may proceed to make a decision on the application/review. If the applicant and/or his/her representative(s) fails to attend the scheduled meeting, the Board may proceed with the meeting in their absence.

S.16A applications

- 3.7 Pursuant to s.2(5)(b) of the Ordinance, the Board has delegated to the Director of Planning (D of Plan) the power to consider s.16A applications. Any request for deferment of decision on such applications shall be submitted to the Secy/Board as early as possible before D of Plan has made a decision on the application. D of Plan will decide on the request in accordance with these Guidelines.

4. Request for deferment in respect of representations, comments and further representations

- 4.1 According to the Ordinance, the Board shall submit a draft plan to the CE in C within a statutory time limit of nine months (or with an extension of up to six months granted by the CE) from the expiration of the exhibition period of the draft plan. Deferment of consideration of representations, comments and/or further representations may affect the submission of the plan to CE in C and other parties involved in the hearing. Hence, such request would not be entertained unless with the consent of other concerned parties and there are very strong reasons to do so. If it is absolutely unavoidable, the Board may only adjourn the meeting for a period up to a maximum of 4 weeks (counting from the original hearing date) taking into account all relevant considerations and circumstances of each case.
- 4.2 To meet the statutory time limit on submission of a draft plan to the CE in C, any request for deferment should be submitted to the Secy/Board as soon as possible but in any case not later than two weeks before the scheduled meeting date. Upon receipt of a request for deferment, the Planning Department will circulate a simple paper to seek the views of the Board on the request and inform the relevant parties of the decision of the Board on the request accordingly. If the request is not acceptable to the Board, the hearing of the representation/further representation will proceed as scheduled.

- 4.3 If the request is received after the two-week deadline, it will be submitted to the Board for consideration together with the relevant paper on the representations/further representations at the scheduled meeting. The relevant parties and/or their representative(s) will be required to be present before the Board to explain the reasons for the proposed deferment. Should the Board consider that a deferment is not warranted, the hearing of the representation/further representation will proceed as scheduled. If the relevant parties and/or their representative(s) fail to attend the meeting, the Board may proceed with the meeting in their absence.

5. Notification of request for deferment

It is a statutory requirement that the Board's meetings to consider the relevant submissions, except the part on deliberation of the submissions, shall be open to public. To facilitate the public in tracking the progress of the case, the receipt of a request for deferment will be notified on the Board's website.

TOWN PLANNING BOARD
APRIL 2005