

**APPLICATION FOR AMENDMENT OF PLAN
UNDER SECTION 12A OF THE TOWN PLANNING ORDINANCE**

APPLICATION NO. Y/TP/37

<u>Applicant</u>	: Fancy Lotus Limited represented by Vision Planning Consultants Limited
<u>Site</u>	: Lots 738 S.C and 738 S.C ss.1 in D.D. 6 and adjoining Government Land (GL), 74-75 Kam Shan Road, Tai Po, New Territories
<u>Site Area</u>	: About 159.99m ² (including about 72.9m ² of GL)
<u>Lease</u>	: Lots No. 738 S.C and 738 S.C ss.1 in D.D. 6 subject to General Conditions of Sale published in Government Notification (GN) 365 of 1906 which restricts building(s) to 2-storey high
<u>Plan</u>	: Approved Tai Po Outline Zoning Plan (OZP) No. S/TP/30
<u>Zoning</u>	: “Village Type Development” (“V”)
<u>Proposed Amendment</u>	: Rezoning from “V” to “Government, Institution or Community(3)” (“G/IC(3)”)

1. The Proposal

- 1.1 The applicant proposes to rezone the application site (the Site) from “V” to “G/IC(3)” to regularize the current columbarium use on Site under the name “Cheung Ha Ching Shea” (祥霞精舍) (**Plan Z-1**). The applicant also proposes a new set of Notes for the proposed “G/IC(3)” zone at **Appendix II** with ‘Columbarium’ use put under Column 1 (permitted as of right), subject to a maximum gross floor area (GFA) of 87.09m², site coverage (SC) of 54.43%, building height (BH) of one storey, and total number of niches of 1,700 with detailed breakdown of niche types stipulated in the Remarks of the proposed Notes.
- 1.2 The Site is currently occupied by a single-storey building for columbarium use without a valid planning permission. To confine all visitors’ activities within the Site, the vacant area and existing ramp within GL connecting to Kam Shan Road will be divided into two ramps by fencing off the part included within the Site with metal railings/fences to provide an independent access with a minimum width of 1.5m to the columbarium. As claimed by the applicant, the ‘independent access’ will also be shared by the representatives of the Yau’s Ancestral Hall (邱氏祠堂) (73 Kam Shan Road) and village houses No. 71 and 72 Kam Shan Road adjoining the Site. A waiting area of 30m² on the GL within the Site is proposed with a capacity of 25 visitors (**Drawing Z-5**).
- 1.3 According to the applicant, the columbarium has come into existence since 2007 and was converted from an existing old village house. The applicant states that

there is a total of 1,700 niches provided in the columbarium with three different types (i.e. single-urn, double-urn and family-urn (up to 4 urns)), of which 162 niches have already been sold before 30.6.2017 and 1,538 niches are available for sale. A breakdown of the columbarium niches is shown as follows:

Classification	Single-urn	Double-urn	Family (up to 4 urns)	Total
Total No. of Niches	272	1,062	366	1,700
No. of Sold Niches	162	--	--	162
• <i>Occupied</i>	• 66			• 66
• <i>Not Yet Occupied</i>	• 96			• 96
No. of Niches Available for Sale	110	1,062	366	1,538

- 1.4 According to the applicant, the columbarium would operate and open to the public from 9am to 5pm daily. In view of the critical traffic conditions and illegal parking situation in the surrounding areas during festival days, the applicant proposes a mandatory closure of the columbarium at Ching Ming and Chung Yeung Festivals and their shadow weekends (i.e. Saturdays, Sundays and public holiday(s) two weeks before and two weeks after each festival days), as well as the 1st to 14th day of Lunar New Year.
- 1.5 The applicant has submitted a Traffic Impact Assessment (TIA) report and a Management Plan in support of the rezoning application (**Appendix Ia** and **Id**). The crowd management and admission control measures are summarized as below:
 - (a) 'visit-by-appointment' system will be adopted to control the visitor number to a maximum of 48 persons per hour (i.e. a holding capacity limits to 24 persons at the columbarium at any time with maximum of 2 sessions per hour);
 - (b) no parking facility will be provided within the Site, and the applicant has committed to notify visitors of the alternative parking facilities in the vicinity;
 - (c) under the existing house rules, no burning of offerings or incense sticks is allowed within the subject columbarium; and
 - (d) two full-time staff will be employed to operate, manage and maintain the entire facility.
- 1.6 Upon agreement of the rezoning application by the Board, the applicant will submit to the Lands Department (LandsD) an application for a Short Term Tenancy (STT) to use, manage and maintain the GL within the Site. All the above-mentioned management measures will be incorporated in the future Management Plan of the columbarium development for obtaining the private columbarium licence application from the Private Columbaria Licensing Board (PCLB) under the Private Columbaria Ordinance (PCO) thereafter.
- 1.7 For toilet facility, the applicant proposes to use, with the owners' consent, the toilets currently provided in the nearby village houses at No. 71 and 72 Kam Shan

Road (**Plans Z-2**) to serve visitors to the columbarium.

- 1.8 The floor plan of the columbarium, public transport and car parking facilities in the vicinity, pedestrian access routes, proposed modification of the existing ramp connecting to Kam Shan Road; proposed waiting area, and the licensing area submitted by the applicant are shown in **Drawings Z-1** to **Z-7**.
- 1.9 The Site is the subject of two previous applications (No. Y/TP/18 and Y/TP/27) which were rejected by the Rural and New Town Planning Committee (the Committee) of the Board on 8.11.2013 and 26.5.2020. Details of the previous applications are set out in paragraph 5 below.
- 1.10 A comparison of the major development parameters of the last rejected application (No. Y/TP/27) and the current application is as follows:

Development Parameters	(a) Y/TP/27 (Previous Rejected Application)	(b) Y/TP/37 (Current Application)	(b) – (a) Difference
Proposed Rezoning	“V” to “G/IC(3)”	“V” to “G/IC(3)”	No change
Site Area (about)	87.09m ²	159.99m ² (including 72.9m ² GL)	+72.9 m ² (+84%)
GFA	87.09m ²	87.09m ²	No change
SC	100%	54.43%	-45.57%
No. of block	1	1	No change
No. of storey	1	1	No change
Number of niches (*) • Single-urn • Double-urn • Family	1,700 (162) • 272 (162) • 1,062 (0) • 366 (0)	1,700 (162) • 272 (162) • 1,062 (0) • 366 (0)	No change

* Number of niches already sold

- 1.11 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with supplementary information received on 28.10.2022 **(Appendix I)**
 - (b) Planning Statement attached to the Application Form **(Appendix Ia)**
 - (c) Further information (FI) received on 30.12.2022 ^ **(Appendix Ib)**
 - (d) FI received on 17.5.2023 **(Appendix Ic)**
 - (e) FI received on 28.7.2023 ^ **(Appendix Id)**
 - (f) FI received on 25.9.2023 **(Appendix Ie)**

(^ accepted but not exempted from publication and recounting requirements)

- 1.12 On 17.3.2023, the Committee of the Board agreed to defer a decision on the

application for two months as requested by the applicant.

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the Planning Statement (**Appendix Ia** and FIs at **Appendices Ib to Ie**). They can be summarized as follows:

- (i) the subject columbarium is in line with the prevailing government's policy of providing more columbarium facilities to meet future demand for new columbarium niches in the local community;
- (ii) a metal fenced-off ramp with a minimum width of 1.5m as an independent pedestrian entrance to the subject premises to confine all visitors' activities within the Site is proposed in order to minimize potential nuisance caused by columbarium to the neighborhood community;
- (iii) the columbarium was converted from an existing old village house. Negative impact on the land supply for new Small House development in the area as a result of the applied use is not anticipated;
- (iv) the columbarium can provide an alternative to local indigenous villagers other than cremation and burial. A total of 50 twin-niches will be offered to the indigenous villagers of Kam Shan Village at the average selling prices of public columbarium niches in the same year;
- (v) the planning intention of "V" is not solely for Small House development, but also for compatible community uses, including private columbarium uses. The subject "V" zone has been intermixed with various community facilities including schools, shop and services, recreational areas, ancestral halls, religious institutions and private columbaria;
- (vi) the existing private columbarium development under the current application is small in scale and supported by nearby users/owners/residents of the Site. It is not incompatible with its surroundings as there is no interface problem from land use planning and other technical considerations;
- (vii) the approved rezoning scheme is enforceable and will be monitored closely by PCLB under PCO in future;
- (viii) closure of the operation during the festival periods and the proposed 'visit-by-appointment' system are proposed in the TIA report to avoid additional traffic pressure on the local area. In fact, the MTR Tai Wo Station is within 5 to 10 minutes walk and ample car parking spaces are available within 400m radius of the Site;
- (ix) burning of offerings is prohibited (and if needed, burning of a small amount of smoke-free incense inside the columbarium may be permitted) and no burning facility will be provided on site. Therefore, adverse environmental impact is not anticipated; and
- (x) the proposed scheme under the current application is committed to adhere to all

planning requirements, proposed operation modes, scale of development, number of niches by types and mitigation measures.

3. Compliance with the “Owner’s Consent/Notification” Requirements

The applicant is the sole “current land owner” of the private land within the Site. Detailed information would be deposited at the meeting for Members’ inspection. The “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) is not applicable. For GL, the requirements as set out in TPB PG-No. 31A are not applicable.

4. Background

The Site falls within an area zoned “V” on the first statutory plan (i.e. draft OZP No. LTP/47) covering the Tai Po area gazetted on 12.12.1980, and the zoning has been remained unchanged since then. Furthermore, there has been no provision for ‘Columbarium’ use within “V” zone.

5. Previous Applications (Plan Z-1)

- 5.1 The Site is the subject of two previous applications (No. Y/TP/18 and Y/TP/27) submitted by the same applicant for the same rezoning proposal. Under the previous applications, the applicant proposed to close the columbarium during Ching Ming and Chung Yeung Festival days and their shadow weekends and a 'visit-by-appointment' arrangement was proposed. The latest previous application (No. Y/TP/27) was rejected by the Committee on 26.5.2020 mainly on the grounds of being not compatible with the existing village setting of the area, and setting of undesirable precedent for other similar applications within the “V” zone.
- 5.2 Compared to the latest previous application (No. Y/TP/27), development parameters including the total number of niches under the current application remains unchanged except for the changes in site area and SC. In addition, the applicant proposes an independent pedestrian access and additional closure of the columbarium during Lunar New Year period. As for the proposed schedule of uses, ‘Columbarium’ use was proposed to be a Column 2 use that may be permitted on application to the Town Planning Board (the Board) in application No. Y/TP/27, whereas it is proposed to be a Column 1 use (permitted as of right) under the current application.
- 5.3 The Site is also the subject of two previous applications (No. Y/TP/14 and Y/TP/32) submitted by the same applicant for rezoning from “V” to “Other Specified Uses” annotated “Columbarium” and from “V” to “G/IC(3)” respectively which were withdrawn by the applicant on 4.6.2012 and 12.3.2021.

6. Similar Application

There is a similar application (No. Y/TP/29) within the same “V” zone for rezoning from

“V” to “G/IC(3)” to regularize existing temple-cum-columbarium structures (佛教長霞淨院) involving 13,426 niches (with 5,508 niches already sold) and 3,268 memorial tablets and one 3-storey ancillary office building (**Plans Z-1** and **Z-2**). It is located adjacent to the Site under the current application and they share the same vehicular access, i.e. Kam Shan Road. The application was rejected by the Committee on 4.9.2020 mainly on the grounds of being not compatible with the existing village setting of the area and setting of undesirable precedent for other similar applications within the “V” zone. The same applicant has submitted another application No. Y/TP/35 with reduced number of niches (i.e. 11,726) which was withdrawn by the applicant on 6.3.2023.

7. **The Site and its Surrounding Areas** (**Plans Z-1** to **Plans Z-4b**)

7.1 The Site is:

- (a) currently occupied by a single-storey building on an elevated platform being used by Cheung Ha Ching Shea as a columbarium without any valid planning permission;
- (b) located within the village proper of Kam Shan Village and immediately adjoins existing residential dwellings;
- (c) within the village ‘environs’ (‘VE’) of Kam Shan Village; and
- (d) accessible by vehicles via Kam Shan Road and by a sloping footpath to the elevated platform.

7.2 The surrounding areas have the following characteristics:

- (a) to the immediate west and south of the Site are mainly village houses. The Yau’s Ancestral Hall is sandwiched between the Site and the proposed toilet facilities at village houses No. 71 and 72. The Site shares the same footpath access with the adjoining ancestral hall and village houses No. 71 and 72 to the east as well as the village houses No. 78 and 79 to the west (**Plan Z-2**);
- (b) to the immediate southeast of the Site is Buddhist Cheung Ha Temple (佛教長霞淨院) (No. 43 to 45 Kam Shan Village), as mentioned in paragraph 6 above (**Plan Z-2**);
- (c) to the further northwest of the Site on the opposite side of Kam Shan Road is Kam Shek New Village;
- (d) to the further north of the Site across Lam Tsuen River is a public housing development, namely Tai Wo Estate; and
- (e) MTR Tai Wo Station is about 250m away from the Site.

7.3 There are other five private columbaria in the vicinity. Apart from the columbarium mentioned in paragraph 6, three columbaria were approved and one rejected by the Committee (**Plan Z-1**). Details are as follows:

- (a) s.16 application No. A/TP/657 for columbarium use under the name of Poh Yea Ching Shea (般若精舍) within the “G/IC” zone and providing a total of 5,302 niches was approved with conditions by the Committee on 29.11.2019 mainly on consideration that the applied use was not incompatible with the existing religious institution use; the application site was located at a secluded and tranquil location, shielded by roadside slopes and tall trees and separated from village houses; the development was not expected to cause significant visual and landscape impacts and would not pose adverse traffic and environmental impacts on surrounding areas;
- (b) s.16 applications No. A/TP/652 and 681 for columbarium within a religious institution under the name “Siu Ling Shan (Ling Hin Fat Yuen)” (小靈山 (靈顯法院)) providing a total of 757 niches and “Pun Chun Yuen” (半春園) providing a total of 3,834 niches both within the same “Green Belt” (“GB”) zone were approved with conditions by the Committee on 19.7.2019 and 26.8.2022 respectively, as they were generally in line with the Town Planning Board Guidelines No. 10 and on similar considerations as application No. A/TP/657; and
- (c) Ever Rest Temple (常寂園) under s.12 application No. Y/TP/23 within “Open Space” zone was rejected by the Committee on 6.2.2015 mainly for reasons of failure to demonstrate the acceptability of the proposed traffic arrangement and adverse traffic impact on the surrounding areas. The latest application No. Y/TP/36 is under processing and will be considered by the Committee on 10.11.2023 tentatively.

8. Planning Intention

The planning intention of the “V” zone is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by government projects. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on the ground floor of a New Territories Exempted House.

9. Comments from the Relevant Government Departments

- 9.1 The following government departments have been consulted and their views are summarized as follows:

Licensing Requirement

- 9.1.1 Comments of the Director of Food and Environmental Hygiene (DFEH):

General Comments

- (a) Under PCO, only private columbarium that have obtained a licence may sell or newly let out niches. Any private columbarium which applies for a licence must comply with the Town Planning Ordinance (Cap. 131) and other requirements prescribed in PCO or specified by PCLB, including land-related, building-related, right to use the columbarium premises, deed of mutual covenant (if applicable), fire safety, etc;
- (b) section 18(2) of PCO stipulates that PCLB may grant a licence only if a management plan submitted by the applicant has been approved by PCLB. The management plan submitted to PCLB should cover matters including traffic and public transport arrangement or management, crowd management, manpower deployment on peak grave sweeping days or periods and other days or periods, etc. For cases in which planning permission has been given by the Board, the management plan should include the crowd and traffic management measures accepted (and the conditions imposed) by the relevant departments and the Board when the Board approved the planning application. In considering the management plan submitted by a licence applicant, PCLB will take into account comments provided by concerned departments including Transport Department (TD), Hong Kong Police Force (HKPF), Fire Services Department (FSD) and Planning Department (PlanD). If such management plan and the associated licence application are approved by PCLB, Private Columbaria Affairs Office (PCAO) will oversee the monitoring of the licensee's implementation of the approved management plan within the site boundary covered by the licence in coordination with other concerned departments;

Site-specific Comments

- (c) a set of the specified instrument (SI) application (viz. a licence and TSOL) in respect of a pre-cut-off columbarium for the Site was received by PCLB. An Approval-in-Principle of TSOL was granted on 29.12.2021 and valid until 19.12.2024 whereas the application for licence is being processed by PCAO. Based on the niche information submitted by the applicant in support of her SI applications, it was preliminarily noted that the total number of niches, types of niches, its breakdown and general location apparently tally with that as shown in the planning statement submitted in support of this planning application. Having said that, PCAO is still in the course of detailed checking of niche information to verify its accuracy and subject to on-site verification; and
- (d) with regards to the applicant's proposed measures to close the proposed columbarium development during festive periods and 'visit-by-appointment' system, PCAO will have no comments subject to conditions as detailed at **Appendix III**.

Land Administration

9.1.2 Comments of the District Lands Officer/Tai Po, LandsD (DLO/TP, LandsD):

- (a) the application site comprises Lot Nos. 738 S.C and 738 S.C. ss.1 in D.D. 6 and GL. The original lease of the mother lot, Lot No. 738, is untraceable. However, according to his records, it seems that the mother lot is a building lot subject to General Conditions of Sale published in GN No. 365 of 1906 with development restricted to 2 storeys. Under the said GN, there is no prohibition against the lot being used as a columbarium. If the application is approved by the Board, the applicant is not required to seek a lease modification from LandsD to implement it. Therefore, any planning conditions, if imposed by the Board, cannot be written into the lease through lease modification;
- (b) no permission is given for occupation of GL included in the application site. Any occupation of GL without the Government's prior approval is not allowed. The applicant is required to apply for STT in respect of the GL within the application site if the proposed amendment to the OZP is approved by the Board. If STT is approved by LandsD, the tenant was obligated for the management/maintenance of the site covered by the STT;
- (c) regarding the proposed STT, it is noted that the said GL would also lead to the neighbouring private lots. Hence, comments from relevant departments including TD, District Officer/ Tai Po (DO/TP) and PCAO on the need and extent of GL for accessibility and operation of columbarium development are required;
- (d) application for a STT will be considered by LandsD acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such an application will be approved. If such STT application is approved, it will be subject to such terms and conditions, including among others the payment of rent or fee, as may be imposed by LandsD; and
- (e) the number of outstanding Small House applications and the number of 10-year Small House demand for the four villages sharing the same "V" zone (Kam Shan, Shek Kwu Lung, Pan Chung and Pan Chung San Tsuen) are 10 and 135¹ respectively.

Traffic

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

¹ The figures of 10-year Small House demand are provided by the Indigenous Inhabitant Representatives (IIRs) of concerned villages and the information so obtained is not verified by LandsD.

- (a) the proposed crowd and traffic management measures including the 'visit-by-appointment' and proposes closure during the festival days and their shadow weekends are important assumption of TIA, they should be included in the Management Plan for approval by PCLB and monitored and enforced by PCAO;
- (b) it is noted that the applicant proposes to install railing on the existing ramp, and the existing ramp will be divided into two ramps and being narrowed down and that the proposed railings are not necessary from traffic engineering point of view. Nevertheless, as the ramp is on unallocated GL, comments from the management/ maintenance parties of the access shall be consulted; and
- (c) the proposed waiting area is an important crowd management measure proposed by the applicant to contain visitors arriving earlier than the pre-booked time slot and to avoid visitors spilling out to the public road managed by TD. It is noted that the proposed waiting area falls outside of the site boundary of the licence area and PCAO will oversee the monitoring of the licensee's implementation of the approved management plan within the site boundary covered by the licence only. Therefore, PCAO will not enforce the monitoring of implementation of waiting area as proposed by the applicant. Without the monitoring and enforcement, site users may spill out to the public road (i.e. Kam Shan Road) managed by TD which is unacceptable. Under such circumstance, the applicant shall provide further assessment to substantiate that the proposed columbarium use would not bring adverse traffic impact without the proposed waiting area.

Environment

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

- no objection to the application on the understanding that the columbarium would operate and open to the public from 9am to 5pm daily; there is a mandatory closure of the columbarium during festive periods; 'visit-by-appointment' system will be adopted; and burning of offerings is prohibited at the Site.

Urban Design and Landscape

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

Urban Design

- (a) the proposal mainly involves an existing columbarium development in a single-storey building and provision of a new standalone entrance access point with a 1.5m-high metal fence along the boundary of the Site with an area of about 159.99m².

In view of the small scale of the proposal, there are no particular comments from the urban design and visual impact perspectives; and

Landscape

- (b) no objection to the application from landscape planning perspective. The Site is situated in an area of urban peripheral village landscape character comprising cluster of trees and village houses. The proposed rezoning for columbarium use is considered not incompatible with the existing landscape character in the proximity. Since the Site is consisted of an existing private columbarium with single-storey old house and a small piece of vacant land in front of the house, no significant landscape resource is observed within the Site. Significant adverse landscape impact arising from the development is not anticipated.

Drainage

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

- (a) no in-principle objection to the application from public drainage viewpoint; and
- (b) other detailed comments on the application are at **Appendix III**.

Fire Safety

9.1.7 Comments of the Director of Fire Services (D of FS):

- (a) no specific comment on the proposed rezoning application; and
- (b) as regards the subject columbarium, fire safety requirements for the licensing of private columbarium were issued to the applicant on 21.2.2019 and subsequently complied with on 23.1.2020.

Building Matters

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

- (a) no comment on the application under the Buildings Ordinance (BO);
- (b) there is no record of approval by the Building Authority for the existing structures including the solid fence wall at the Site and BD is not in a position to offer comments on their suitability for the use related to the application; and
- (c) other detailed comments on the application are at **Appendix III**.

Local Views

9.1.9 District Officer/Tai Po, Home Affairs Department (DO(TP), HAD):

- (a) no comment on the application;
- (b) according to his record, there was strong opposition from residents of Kam Shan Village and members of Yau Ancestral Hall on the columbarium activities. Complaints have been lodged to LandsD and reported on media. While the opposing sentiments have quieted down recently, it is still expected that there will be grave local concerns and objections from residents, especially those living near the Site; and
- (c) Planning Housing and Works Committee (PHWC) under Tai Po District Council (TPDC) passed a motion on 19 September 2023 to reject the application with reasons similar to the public comments as detailed in paragraph 10.2.

9.2 The following government departments have no objection to/ adverse comment on the application:

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (b) Director of Agriculture, Fisheries and Conservation (DAFC);
- (c) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD);
- (d) Project Manager/North, Civil Engineering and Development Department (PM(N), CEDD);
- (e) Head of the Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD);
- (f) Comments of the Commissioner of Police (C of P); and
- (g) Director of Electrical and Mechanical Services (DEMS).

10. Public Comments Received During Statutory Publication Period

10.1 The application and the FIs were published for public inspection on 4.11.2022, 20.1.2023 and 4.8.2023 respectively. During the statutory public inspection periods, a total of 126 public comments were received, of which 55 raising objection to the application and 71 supporting the application.

Supporting Views

10.2 The 71 supporting views are from an IIR of Kam Shan village, the local villagers/residents and other individuals. All the 71 supporting comments are in the form of 18 types of standard letters. Their supporting views are summarized as follows:

- (a) the proposed fencing off of the access to the columbarium can clearly separate visitor activity area from local residences;

- (b) there are similar applications approved in other areas;
- (c) there is a keen demand for columbarium in the society. The subject columbarium provides the much-needed niches supply to the local community;
- (d) the subject columbarium is easy to access for worshippers as the Site is well connected by public transportation network;
- (e) proposed prohibition of burning joss paper can minimize the potential environmental impacts on the surroundings;
- (f) by implementing the proposed crowd management measures such as “visit-by-appointment” system and the mandatory closure of the columbarium at Ching Ming and Chung Yeung Festivals and their shadow weekends, the operation of the columbarium will not create nuisance to the villagers; and
- (g) the subject columbarium would not cause adverse traffic impact to the residents/villagers.

Objecting Views

10.3 The 55 opposing comments are received from the Alliance for the Concern over Columbarium Policy, another IIR of Kam Shan village, the local villagers/residents and other individuals. Their objecting views are summarized as follows:

- (a) the subject columbarium is incompatible with the residential use in the surrounding areas and the adjoining “tsz-tong”. The operation of the subject columbarium will cause nuisance to the nearby residents/villagers;
- (b) the subject columbarium is considered an aversive use and it will destroy the “fung shui” and the indigenous culture of the village concerned;
- (c) the subject land lots should be reserved for the development of New Territories Exempted Houses by indigenous villagers. The village house supply to indigenous villagers is reduced as part of the Site was a traditional village house but now occupied by the subject columbarium;
- (d) there is already a lot of private columbaria in the vicinity, the subject columbarium will cause traffic congestion, road safety and parking problems in Kam Shan, and the subject columbarium will increase pedestrian flow, attract strangers to the area and create public security problems;
- (e) the mitigation measures and traffic management proposals such as 'visit-by-appointment' system and no burning offerings in the subject area proposed by the applicant are not practical and enforceable;

- (f) as the subject columbarium is located next to the existing village dwellings, it will pose adverse environmental impacts on the surrounding areas, especially air pollution resulting from burning of incense, paper offerings or other stuff; and
 - (g) the previous use of the lots was a traditional village house for residential purpose. The applicant has altered the building illegally by changing its use to columbarium. Such practice of “breach first, apply later” should not be encouraged. The approval of the application will set an undesirable precedent for similar use in the “V” zone.
- 10.4 A full set of the public comments received is deposited at the meeting for Members’ inspection. Samples of the public comments are at **Appendix IV** for Members’ reference.

11. Planning Considerations and Assessments

The proposal

- 11.1 The applicant proposes to rezone the Site from “V” to “G/IC(3)” in order to regularize the “pre-cut-off” columbarium providing a total of 1,700 niches. Under the applicant’s proposed schedule of Notes for the “G/IC(3)” zone (**Appendix II**), ‘Columbarium’ is a Column 1 use (permitted as of right) under the “G/IC(3)” zone, subject to a maximum GFA of 87.09m², SC of 54.43%, BH of one storey, and total number of niches of 1,700. Amongst the 1,700 niches under the application, the applicant advises that 162 were sold before 30.6.2017, of which 66 niches have been occupied. In other words, there are still 1,538 niches available for sale in the columbarium (i.e. about 90% of the total niches).

Land Use Compatibility

- 11.2 The Site is currently occupied by a single-storey building for columbarium use which was converted from an existing old village house without planning permission and has been in operation since 2007. Apart from the columbarium, the Site also involves unallocated GL proposed as an independent access to the columbarium as well as the waiting area for visitors (**Plan Z-2** and **Drawings Z-5** and **Z-6**).
- 11.3 The Site is situated in an area of urban peripheral village landscape character comprising village houses and tree clusters, and immediately adjoins existing residential dwellings. It falls within the ‘VE’ of the recognized village of Kam Shan and forms an integral part of the village setting where village office and village houses are found to its immediate west and south. The applicant proposes an independent pedestrian ramp access with metal fence that will solely serve the visitors to the Site, representative/owners of the adjoining Ancestral Hall and village houses No. 71 and 72 and will not be shared with other nearby villagers. However, Kam Shan Road is the only vehicular and pedestrian access serving the nearby villages of Kam Shan, Kam Shek New Village and Shek Kwu Lung. The activities associated with the columbarium use in the proposed “G/IC(3)” zone will inevitably cause nuisance to the surrounding residential dwellings. Moreover,

the proposed fencing off the pedestrian ramp is not justified as if it is also shared by other village houses. C for T considers the proposed railing is not necessary from the traffic engineering point of view. The subject columbarium located in close proximity to the surrounding residential use would result in close juxtaposition of columbarium use and residential use as well as intermixing of grave sweepers and villagers in the locality, which is not desirable. The columbarium use is considered not compatible with the existing village setting of the area.

Traffic Impact and Crowd Management

- 11.4 The Site is accessible via Kam Shan Road, which is a two-way single-lane road. To address the potential traffic problems caused by the development and the illegal parking problems in the area, the applicant has submitted a TIA report and proposed to close the subject columbarium during Ching Ming and Chung Yeung Festival days and their shadow weekends, as well as the 1st to 14th day of the Lunar New Year. The applicant also proposes to adopt a 'visit-by-appointment' system to control the maximum number of visitors up to 48 visitors per hour on non-festival days. In addition, a waiting area of 30m² on the vacant GL outside the columbarium is also proposed to confine all visitors' activities within the Site.
- 11.5 C for T considers that the proposed crowd management measures are important assumptions of the TIA to contain visitors arriving earlier than the pre-booked time slot and to avoid visitors spilling out to the public road managed by TD, which should be included in the Management Plan for approval by PCLB and monitored and enforced by PCAO. However, the proposed independent access and waiting area fall outside the licence area and PCAO will oversee the monitoring of the licensee's implementation of the approved Management Plan within the site boundary covered by the licence only. Without the monitoring and enforcement, site users may spill out to the public road (i.e. Kam Shan Road) managed by TD which is unacceptable. C of P has no comment on the application subject to the applicant's implementation of the Management Plan as detailed in the TIA report.

Other Technical Aspects

- 11.6 DEP has no objection to the rezoning application on the understanding that the applicant proposes operational arrangements including no burning facility will be provided within the Site, no burning of joss papers and paper offerings in the columbarium, closure of columbarium during festive periods, etc.
- 11.7 Other government departments consulted including CE/MN of DSD, CE/C of WSD, CHE/NTE of HyD, D of FS, PM/N and H(GEO) of CEDD, CBS/NTW of BD and CTP/UD&L of PlanD have no objection to/no adverse comment on the application.

Previous Applications

- 11.8 The Site is the subject of two previous applications (No. Y/TP/18 and Y/TP/27) for the same rezoning proposal from "V" to "G/IC" sub-area. They were rejected on 8.11.2013 and 26.5.2020 respectively mainly on the grounds of being not compatible with the existing village setting of the area and setting of undesirable precedent for other similar applications within the "V" zone.

- 11.9 As compared with the previous application No. Y/TP/27, major development parameters including the total number of niches under the current application remain unchanged except for the change in site area and SC. In addition, the applicant proposes an ‘independent pedestrian access’ but C for T still has concern, and additional closure of the columbarium during Lunar New Year period.

Setting of Undesirable Precedent

- 11.10 There is a similar rezoning application (No. Y/TP/29) within the same “V” zone (**Plans Z-1 and Z-2**) which was rejected by the Committee in 2020 mainly on the grounds of being not compatible with the existing village setting of the area and setting of undesirable precedent for other similar applications within the “V” zone. The approval of the current application would set an undesirable precedent and may encourage other similar applications for columbarium development in the same “V” zone. The cumulative effect of approving such applications would result in further proliferation of columbarium use in the “V” zone, thereby aggravating the land use incompatibility in the village environment. As far as land use compatibility is concerned, the planning circumstances of the current application are similar to application No. Y/TP/29.

Public Comments and Local Views

- 11.11 There are public comments supporting and objecting the applications as detailed in paragraph 10.2 and 10.3. The 71 supporting public comments are noted. For the 55 objecting public comments as well as local views conveyed by DO(TP), HAD on the application as detailed in paragraph 9.1.9, the planning assessment and comments of government departments above are relevant. The public comment relevant to “fung shui” is not a material planning consideration.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 above and having taken into account the public comments mentioned in paragraph 10 and local objections conveyed by DO(TP), HAD, the Planning Department does not support the proposed rezoning of the Site from “V” to “G/IC(3)” for the following reasons:
- (a) the Site falls within an area zoned “Village Type Development” (“V”) with the planning intention primarily for development of Small Houses by indigenous villagers. The proposed columbarium use is considered not compatible with the existing village setting of the area, particularly the residential dwellings located to its immediate west and south. There is no strong planning justification for piecemeal rezoning of the Site from “V” to “G/IC(3)” zone to make provision for application for columbarium use. The current “V” zone for the Site is considered appropriate; and
 - (b) the approval of the application would set an undesirable precedent for other similar rezoning applications within the “V” zone. The cumulative effect of approving such similar applications would result in sporadic columbarium development leading to a deterioration of the village setting and a general degradation of the environment of the area.

- 12.2 Alternatively, should the Committee decide to agree/partially agree to the subject application, PlanD will recommend zoning amendments to the OZP for the consideration of the Committee. The proposed amendments to the OZP, together with revised Notes and Explanatory Statement, would be submitted to the Committee for approval prior to gazetting under section 5 of the Town Planning Ordinance.

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to agree, partially agree, or not to agree to the application.
- 13.2 Should the Committee decide not to agree to the application, Members are invited to advise what reason(s) for the decision should be given to the applicant.

14. Attachments

Appendix I	Application form with supplementary information received on 28.10.2022
Appendix Ia	Planning Statement attached to the application form
Appendix Ib	FI received on 30.12.2022
Appendix Ic	FI received on 17.5.2023
Appendix Id	FI received on 28.7.2023
Appendix Ie	FI received on 25.9.2023
Appendix II	Proposed schedule of uses for the “G/IC(3)” zone
Appendix III	Detailed Comments from Relevant Government Departments
Appendix IV	Samples of public comments
Drawings Z-1 to Z-7	Drawings submitted by the applicant
Plan Z-1	Location plan
Plan Z-2	Site plan
Plan Z-3	Aerial photo
Plans Z-4a to 4b	Site photos

**PLANNING DEPARTMENT
OCTOBER 2023**