
APPENDIX B NYS CEMETERY BOARD MATERIALS

APPENDIX B-1
Pinelawn New York State Cemetery Board
Resolution & Application Background
April 2023

DIVISION OF CEMETERIES

STATE OF NEW YORK
DEPARTMENT OF STATE
ONE COMMERCE PLAZA
99 WASHINGTON AVENUE
ALBANY, NY 12231-0001
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KATHY HOCHUL
GOVERNOR

CEMETERY BOARD
ROBERT J. RODRIGUEZ
SECRETARY OF STATE
CHAIR

LETITIA JAMES
ATTORNEY GENERAL

JAMES V. McDONALD, M.D., M.P.H.
COMMISSIONER OF HEALTH

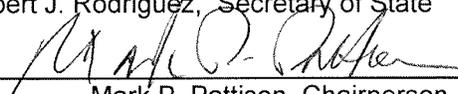
The New York State Cemetery Board (Board) has reviewed the materials submitted by Pinelawn Cemetery d/b/a Pinelawn Memorial Park and Arboretum (Pinelawn) to lease land and construct an office park pursuant to Article 15 of the Not-for-Profit Corporation Law (N-PCL) and 19 NYCRR section 201.16. The Board conducted this review in accordance with 6 NYCRR section 617.5(c)(34) to determine compliance with technical requirements and resolves that:

1. the Board's determination on this application is subject to Article 8 of the Environmental Conservation Law, the State Environmental Quality Review Act (SEQRA), and its implementing regulations;
2. pursuant to SEQRA the Board shall participate in a coordinated review of Pinelawn's application as an involved agency with the Town of Babylon as anticipated lead agency;
3. the Board cannot make a determination on this application until completion of the SEQRA review process;
4. the Board desires to provide an unredacted copy of Pinelawn's proposal to the Town of Babylon and, pursuant to a prior Freedom of Information Law decision on appeal and Public Officers Law § 89(5), directs counsel to provide Pinelawn with the requisite ten business days to respond; and
5. subject to modifications to Pinelawn's proposal required by, and any additional information learned as a result of, the SEQRA process the Board finds that Pinelawn has thus far complied with the technical requirements of an application to lease land pursuant to N-PCL section 1506-e and undertake a major alteration pursuant to 19 NYCRR section 201.16.

NEW YORK STATE CEMETERY BOARD

Robert J. Rodriguez, Secretary of State

BY


Mark P. Pattison, Chairperson

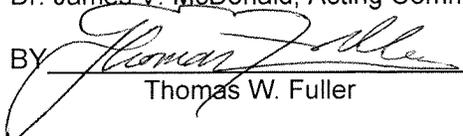
Letitia James, Attorney General

BY


Jill F. Faber, Esq.

Dr. James V. McDonald, Acting Commissioner of Health

BY


Thomas W. Fuller



Department
of State

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TO: NEW YORK STATE CEMETERY BOARD

FROM: LEWIS A. POLISHOOK, Director

CC: ROBERT VANDERBLES, Office of General Counsel

SUBJECT: PINELAWN MEMORIAL PARK AND ARBORETUM, NO. 52-044

RE: NOTICE OF INTENT TO SERVE AS LEAD AGENCY AND
COORDINATED SEQRA REVIEW

DATE: MARCH 19, 2024

On February 27, 2024, the Town of Babylon (the Town) issued materials to the Cemetery Board regarding a proposed office park and associated lease and related subdivision approval and zoning changes on property that Pinelawn Memorial Park and Arboretum (the Cemetery) owns. On March 11, 2024, the Town emailed the Cemetery Board additional materials. The Town seeks status as lead agency for the purposes of the State Environmental Quality Review Act (SEQRA)¹ and the comments of the New York State Cemetery Board (the Cemetery Board) on the materials. The Cemetery Board has until March 27, 2024, to reply. The Division and counsel have reviewed the Town's materials and counsel has drafted a proposed resolution (Exhibit A) for the Cemetery Board's consideration.

SEQRA Review

The Town's correspondence includes part 1 of the full Environmental Assessment Form (EAF) and is the first step in a coordinated SEQRA review. Counsel to the Board has explained the legal aspects of SEQRA review in a separate memorandum, which I understand to be subject to attorney-client privilege. As part of the SEQRA process, the Division has reviewed the materials from the Town and requests that the Cemetery Board adopt the accompanying resolution stating that it does not object to the Planning Board serving as lead agency and setting forth the Cemetery Board's jurisdiction, observations, and concerns.²

Background

By application dated March 16, 2022, subsequently supplemented, the Cemetery sought Cemetery Board approval of a lease and major alteration, by which the Cemetery would lease approximately 100 acres of property to a developer for a light industrial park. The property in question is across the street from developed areas of the Cemetery and, except for a small section in its southeast corner, has no existing interments.

¹ Environmental Conservation Law Article 8.

² Although the Planning Board addressed the Notice to the Division, the Cemetery Board is the agency with jurisdiction here; the Division serves as the Cemetery Board's administrative arm and makes recommendations to the Cemetery Board on matters within the Cemetery Board's jurisdiction.

On April 18, 2023, the Cemetery Board reviewed the Cemetery's application to lease land and construct an office park and adopted a resolution that:

1. The Cemetery Board's determination on the application is subject to SEQRA and its implementing regulations;
2. Pursuant to SEQRA, the Cemetery Board shall participate in a coordinated review of the Cemetery's application as an involved agency with the Town as anticipated lead agency;
3. The Cemetery Board cannot make a determination on the Cemetery's application until completion of the SEQRA review process;
4. The Cemetery Board desired to provide the Town with an unredacted copy of the Cemetery's proposal to the Town and directed counsel to provide the Cemetery with ten business days to respond; and
5. Subject to modifications to the Cemetery's proposal required by, and any additional information learned as a result of, the SEQRA process the Cemetery Board found that the Cemetery had thus far complied with the technical requirements of an application to lease land and undertake a major alteration.

On April 25, 2023, counsel wrote to the Cemetery regarding the intention to provide an unredacted copy of the Cemetery's application to the Town. On May 4, 2023, the Cemetery responded that it did not object. On August 29, 2023, counsel provided the Town with the Cemetery's unredacted application in the same form as was provided to the Cemetery Board prior to the April 18, 2023, meeting and a link to a recording of that meeting, including public comments the Cemetery Board received. The Town's February 27, 2024, letter and e-mail follow-up on March 11 are the latest exchange between the Town and Cemetery Board.

Consistent with the guidance found in the *SEQR Handbook*, counsel have drafted a proposed resolution setting forth the Cemetery Board's jurisdiction, observations, and concerns. The Division's April 3, 2023 memorandum concerning the Cemetery's application to the Cemetery Board explains the Cemetery Board's jurisdiction. The Division has made the following observations and identified the following potential areas of concern based on submissions received to date:

1. The Cemetery Board recommends that, to ensure compliance with N-PCL 1506-a(a)(1), the draft municipal zoning code should prohibit funeral homes, either through an amendment to section 213-573(A)(5) ("Offices, but not including medical offices or funeral homes") or a new section 213-573(C)(6) ("funeral homes");
2. The draft municipal zoning code, section 213-578(c) permits underground parking which may negatively impact the ability to use the land for cemetery purposes in the future, as N-PCL section 1510(m) prohibits the use of construction or demolition debris for burial, and may increase the cost of removing structures at the end of the lease as contemplated by N-CPL section 1506-e;
3. The proposal may negatively impact adjacent cemetery operations through stormwater runoff. Part 1 of the EAF expresses a plan to develop a recharge basin at the eastern edge of the office park and the Cemetery Board desires to ensure that stormwater runoff and any stormwater management structures not negatively impact the grounds and monuments of adjacent cemetery operations;
4. The draft municipal zoning code, section 213-574, permits buildings to a height of 50 feet and Part 1 of the EAF contemplates buildings as high as 46 feet. The Cemetery Board lacks information as to whether these heights will visually impact cemetery operations and whether they differ from the Cemetery's prior plans that buildings would be single story and would not be visible from existing cemetery operations; and

5. The siting of the proposed project may negatively impact adjacent cemetery operations in Lot 2 through noise and visual impacts. The draft municipal zoning code, section 213-575, sets forth yard depths with setbacks as little as 65 feet with greater depths adjacent to residential uses. Part 1 of the EAF, expanded project narrative, suggests noise walls are proposed to abate noise at adjacent residential uses and installation of double or triple rows of evergreen trees adjacent to residential uses and the Lot 2 cemetery. Prior representations from the Cemetery have indicated buffers of at least one hundred feet between the proposed buildings and the adjacent Lot 2 cemetery. It is unclear whether the enhanced setbacks and noise walls proposed for adjacent residential uses apply to adjacent cemetery uses.

Both the Division's April 3, 2023, memorandum and the Cemetery Board's April 2023 resolution, noted that the Division and Cemetery Board's observations and concerns could change given the likelihood that the proposed project might change during the SEQRA review and local approval process. As further information becomes available, the Cemetery Board may have additional observations or concerns including but not limited to traffic impacts and the potential for the generation, treatment, storage, or disposal of hazardous waste.