

Mayor
Elise Partin

Mayor Pro-Tem
James E. Jenkins

Council Members
Phil Carter
Tim James
Hunter Sox

City Manager
Tracy Hegler

Assistant City Manager
James E. Crosland



**City of Cayce
Regular Council Meeting
Wednesday, April 20, 2022
6:00 p.m. – Cayce City Hall – 1800 12th Street
www.caycesc.gov**

I. Call to Order

- A. Invocation and Pledge of Allegiance

II. Public Comment Regarding Items on the Agenda

III. Presentations

- A. Presentation of Whole Sole Award

IV. Ordinances

- A. Discussion and Approval of Ordinance 2022-03 to Establish a Consent Fee or Franchise Fee for Certain Uses of Public Streets or Public Places in the Absence of a Consent Agreement or Franchise Agreement with the City – Second Reading
- B. Discussion and Approval of Ordinance 2022-06 Amending the Zoning Map and Rezoning Properties Located at 1810 Airport Boulevard, Lots B & C (Tax Map Numbers 005717-07-020 and 005717-07-013) from M-1/RS-3 to C-4 – Second Reading

V. Items for Discussion and Possible Approval

- A. Consideration and Approval to Endorse the SCDOT Proposal for Addressing Speeding in Parts of the Avenues
- B. Discussion and Motion to Ratify Action of Assistant City Manager for Emergency Sewer Repairs

VI. City Manager's Report

VII. Council Comments

VIII. Executive Session

- A. Receipt of legal advice relating to claims and potential claims by and against the City and other matters covered by the attorney-client privilege
- B. Discussion of possible contractual arrangements concerning sewer rates

C. Discussion of Dominion's proposed Franchise Agreement

IX. Reconvene

X. Possible actions by Council in follow up to Executive Session

A. Other

XI. Adjourn

SPECIAL NOTE: Upon request, the City of Cayce will provide this document in whatever form necessary for the physically challenged or impaired.

Memorandum

To: Mayor and Council

From: Tracy Hegler, City Manager

Date: April 20, 2022

Subject: Second reading of an Ordinance to establish a consent fee or franchise fee for certain uses of public streets or public places in the absence of a consent agreement or franchise agreement with the City

Issue

Adoption of an Ordinance that amends current Code provisions and sets a "default" consent fee or franchise fee for utilities that use public streets and public places within the City for lines, structures and facilities but do not have a valid consent agreement or franchise agreement with the City.

Discussion

The State Constitution (in Article VIII, section 15) recognizes the right of municipalities to consent to the use by utilities of public streets or public property for lines, mains, and facilities. The "general powers" State statute for municipalities (S.C. Code section 5-7-30) expressly confers upon municipalities the power, among other powers, to "grant franchises for the use of public streets and make charges for them". This Constitutional right and this State statutory power are recognized in our City Code in current sections 12-52 and 12-53, as well as in section 17 of the 2022 Business License Ordinance that is to become effective on May 1, 2022. (Copies of these Code sections, as now worded, are reproduced on page 2.)

Traditionally, the amounts of consent fees or franchise fees to be paid by utilities for the use of public streets and public places for their lines and facilities are established by the terms of mutually agreed upon consent agreements or franchise agreements between utilities and the City (or, as with telecommunication companies and cable providers, are set by State law). However, after several years of negotiations, the City and the electric and natural gas utility providers within the City (SCE&G/Dominion and Mid-Carolina Electric Cooperative) have been unable to agree on the terms of new franchise agreements, and the expiration dates for their current franchise agreements are approaching. Consequently, the City needs to establish the fees by general ordinance in the event the current franchise agreements terminate. The proposed Ordinance sets those "default" fees for electric energy, natural gas, and for the "communication lines and facilities" for unspecified purposes described in the latest franchise agreements presented for negotiation by those utilities. The proposed Ordinance intends to exclude telecommunications and cable television which are subject to franchise fees addressed by other provisions of State law.

Recommendation

Staff and the City Attorney recommend Council give second reading approval to this proposed Ordinance.

COPIES OF CITY CODE SECTIONS

Current City Code sections effective until May 1, 2022

Sec. 12-52. - Permission to use streets required.

It shall be unlawful for any person to construct, install, maintain or operate in, on, above or under any street or public place under control of the Municipality any line, pipe, cable, pole, structure or facility for utilities, communications, cablevision or other purposes without a consent agreement or franchise agreement issued by the Council by ordinance that prescribes the term, fees and conditions for use.

Sec. 12-53. - Consent, franchise or business license fee required.

The annual fee for use of streets or public places authorized by a consent agreement or franchise agreement shall be set by the ordinance approving the agreement and shall be consistent with limits set by State law. Existing franchise agreements shall continue in effect until expiration dates in the agreements. Franchise and consent fees shall not be in lieu of or be credited against business license fees unless specifically provided by the franchise or consent agreement.

Business License Ordinance section effective May 1, 2022 (City Code section numbers to be provided by Municode when published)

Section 17. Consent, franchise, or license required for use of streets.

A. It shall be unlawful for any person to construct, install, maintain, or operate in, on, above, or under any street or public place under control of the Municipality any line, pipe, cable, pole, structure, or facility for utilities, communications, cablevision, or any purposes without a consent agreement or franchise agreement issued by the Council by ordinance that prescribes the term, fees, and conditions for use.

B. The annual fee for use of the streets or public places authorized by a consent agreement or franchise agreement shall be set by the ordinance approving the agreement and shall be consistent with limits set by state law. Existing franchise agreements shall continue in effect until expiration dates in the agreements. Franchise and consent fees shall not be in lieu of or credited against business license taxes unless specifically provided by the franchise or consent agreement.

STATE OF SOUTH CAROLINA	)	ORDINANCE 2022-03
)	
COUNTY OF LEXINGTON	)	AN ORDINANCE TO ESTABLISH A CONSENT
	)	FEE OR FRANCHISE FEE FOR CERTAIN USES
CITY OF CAYCE	)	OF PUBLIC STEEETS OR PUBLIC PLACES IN
	)	THE ABSENCE OF A CONSENT AGREEMENT OR
	)	FRANCHISE AGREEMENT WITH THE CITY

WHEREAS, the City Council, pursuant to the State statutory and State Constitutional authorities granted to and in favor of municipalities, including but not limited to, Article VIII, Sections 15 and 17 of the State Constitution and S.C. Code section 5-7-30, desires to establish by Ordinance a consent fee or franchise fee for certain uses of public streets and public places within the City to apply in the absence of a valid consent agreement or franchise agreement,

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Cayce, in Council, duly assembled, as follows:

1. Section 17 ("Consent, franchise, or license required for use of streets") of the 2022 Business License Ordinance adopted by the Council by second reading on November 9, 2021, of Ordinance 2021-23, is hereby amended to read as follows:

Section 17. Consent or franchise agreement or fee required for use of streets for certain purposes.

A. It shall be unlawful for any person, business or organization to construct, install, maintain, operate, or continue to operate, in, on, above, or under any public street or public place under control of the City, any line, pipe, cable, pole, structure, or facility for utilities, communications, cablevision, or other purposes without (1) a valid consent agreement or franchise agreement pursuant to S.C. Code sections 58-9-2230 or 58-12-5 et seq. or issued by the Council by ordinance that prescribes the term, fees, and conditions for such use, or without (2) timely payment of any consent fee or franchise fee that is required in the absence of a valid consent agreement or franchise agreement as described in subsection C of this section or by other ordinance.

B. The fee for use of public streets or public places authorized by a consent agreement or franchise agreement by ordinance shall be set by the ordinance approving the agreement and shall be consistent with limits set by state law. Existing consent agreements or franchise agreements shall continue in effect until the expiration dates in the agreements. Franchise or consent fees shall not be in lieu of or be credited against business license taxes unless specifically so provided by the franchise or consent agreement. The consent fee or franchise fee that is required in the absence of a valid consent agreement or franchise agreement by ordinance shall be as provided in subsection C of this section or by other ordinance.

C. (1) Any utility or other person, business or organization providing electric energy service or natural gas service by use of any public street or public place as described in subsection A of this section within the City that does not have a valid consent

agreement or franchise agreement in effect with the City shall pay a consent fee or franchise fee to the City, on a calendar quarterly basis as described below, equal to five (5) percent of its gross revenue (without deductions) from the sale or distribution within the City of electric energy or natural gas to all residential, commercial, and industrial customers, for the preceding calendar quarter. Payment of the fee shall be made within thirty (30) days after the end of each calendar quarter.

(2) Any utility or other person, business or organization providing any service through communication lines and facilities by use of any public street or public place as described in subsection A of this section within the City that does not have a valid consent agreement or franchise agreement in effect with the City shall pay a consent fee or franchise fee to the City, on a calendar quarterly basis as described below, equal to five (5) percent of its gross revenue (without deductions) from the sale or distribution of its service through communication lines and facilities to all residential, commercial, and industrial customers, for the preceding calendar quarter. Payment of the fee shall be made within thirty (30) days after the end of each calendar quarter.

(3) This subsection is reserved.

2. Section 12-52 ("Permission to use streets required") in Article II ("Licenses") of Chapter 12 ("Businesses") of the City Code is hereby amended to read:

Sec. 12-52.- Consent or franchise agreement or fee required for use of streets for certain purposes.

A. It shall be unlawful for any person, business or organization to construct, install, maintain, operate, or continue to operate, in, on, above, or under any public street or public place under control of the City, any line, pipe, cable, pole, structure, or facility for utilities, communications, cablevision, or other purposes without (1) a valid consent agreement or franchise agreement pursuant to S.C. Code sections 58-9-2230 or 58-12-5 et seq. or issued by the Council by ordinance that prescribes the term, fees, and conditions for such use, or without (2) timely payment of any consent fee or franchise fee that is required in the absence of a valid consent agreement or franchise agreement as described in subsection C of this section or by other ordinance.

B. The fee for use of public streets or public places authorized by a consent agreement or franchise agreement by ordinance shall be set by the ordinance approving the agreement and shall be consistent with limits set by state law. Existing consent agreements or franchise agreements shall continue in effect until the expiration dates in the agreements. Franchise or consent fees shall not be in lieu of or be credited against business license taxes unless specifically so provided by the franchise or consent agreement. The consent fee or franchise fee that is required in the absence of a valid consent agreement or franchise agreement by ordinance shall be as provided in subsection C of this section or by other ordinance.

C. (1) Any utility or other person, business or organization providing electric energy service or natural gas service by use of any public street or public place as described

in subsection A of this section within the City that does not have a valid consent agreement or franchise agreement in effect with the City shall pay a consent fee or franchise fee to the City, on a calendar quarterly basis as described below, equal to five (5) percent of its gross revenue (without deductions) from the sale or distribution within the City of electric energy or natural gas to all residential, commercial, and industrial customers, for the preceding calendar quarter. Payment of the fee shall be made within thirty (30) days after the end of each calendar quarter.

(2) Any utility or other person, business or organization providing any service through communication lines and facilities by use of any public street or public place as described in subsection A of this section within the City that does not have a valid consent agreement or franchise agreement in effect with the City shall pay a consent fee or franchise fee to the City, on a calendar quarterly basis as described below, equal to five (5) percent of its gross revenue (without deductions) from the sale or distribution of its service through communication lines and facilities to all residential, commercial, and industrial customers, for the preceding calendar quarter. Payment of the fee shall be made within thirty (30) days after the end of each calendar quarter.

(3) This subsection is reserved.

3. Section 12-53 ("Consent, franchise or business license fee required") in Article II ("Licenses") of Chapter 12 ("Businesses") of the City Code is hereby repealed.

4. If any section, subsection, or clause of this Ordinance shall be deemed or determined to be unconstitutional or otherwise invalid, the validity of the remaining section, subsections, and clauses shall not be affected thereby.

This Ordinance shall become effective upon approval on second and final reading.

DONE IN MEETING DULY ASSEMBLED, this _____ day of _____ 2022.

Elise Partin, Mayor

Attest:

Mendy Corder, CMC, Municipal Clerk

First Reading: _____

Second Reading and Adoption: _____

Approved as to form: _____
Danny C. Crowe, City Attorney

Memorandum

To: Mayor and Council

From: Tracy Hegler, City Manager
Monique Ocean, Planning & Zoning Tech

Date: April 20, 2022

Subject: Second Reading of Ordinance 2022-06 to re-zone two properties located at 1810 Airport Boulevard, Lots B & C (TMS# 005717-07-020 and 005717-07-013) from M-1/RS-3 to C-4.

Issue

Council approval is needed for the Second Reading of an Ordinance to re-zone two properties located at 1810 Airport Boulevard, Lots B & C (TMS# 005717-07-020 and 005717-07-013) from split zoning M-1/RS-3 to C-4.

Discussion

The owner wishes to rezone two properties to C-4 Highway Commercial. The subject properties consist of a split zoning of M-1 (Light Industrial) and RS-3 (Single Family Residential). The properties are located on Airport Boulevard which is home to a mixture of uses including retail, gas stations, and restaurants. The C-4 zoning district is intended to accommodate commercial development catering to the needs of the traveling public, and highway dependent commercial and business uses.

The owner is requesting to re-zone the properties to C-4 (Highway Commercial) because the current zoning of M-1 and RS-3 creates an element that may make it difficult to receive zoning approval for development.

The subject properties are located adjacent to other zoned C-4 properties and RS-3 properties.

The requested zoning is in compliance with the Cayce Comprehensive Plan.

The Planning Commission voted on the requested re-zoning from M-1/RS-3 to C-4 at the Planning Commission meeting on February 28, 2022. No one spoke for or against the rezoning but two owners of neighboring properties were present to inquire about the request for rezoning.

Recommendation

The Planning Commission unanimously recommends Council approve Second Reading of an Ordinance to re-zone two properties located at 1810 Airport Boulevard, Lots B & C (TMS# 005717-07-020 and 005717-07-013) from split zoning M-1/RS-3 to C-4 (Highway Commercial).

STATE OF SOUTH CAROLINA	)	ORDINANCE 2022-06
	)	Amending the Zoning Map and Rezoning
COUNTY OF LEXINGTON	)	Properties Located at 1810 Airport
	)	Boulevard, Lots B & C (Tax Map Numbers
CITY OF CAYCE	)	005717-07-020 and 005717-07-013) from
	)	M-1/RS-3 to C-4

WHEREAS, the Owner/Applicant requested that the City of Cayce amend the Zoning Map to re-designate the properties comprising and shown at 1810 Airport Boulevard, Lots B & C (Tax Map Numbers 005717-07-020 and 005717-07-013) from a split zoning M-1 (Light Industrial) and RS-3 (Single Family, Small Lots) to C-4 (Highway Commercial), and

WHEREAS, the Planning Commission held a public hearing on this request to receive comments from the public and adjacent property owners, and

WHEREAS, the Planning Commission met on February 28, 2022, to receive public comments and vote on whether to recommend the rezoning request, and has decided, by a unanimous vote, that it does recommend this change to the existing zoning,

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the City of Cayce, in Council, duly assembled, that the properties hereinafter listed, and as shown on the attached sketch, are hereby rezoned and reclassified on the Zoning Map of the City of Cayce as C-4 (Highway Commercial):

Tax Map Numbers 005717-07-020 and 005717-07-013
1810 Airport Boulevard, Lots B & C

This Ordinance shall be effective from the date of second reading approval by Council.

DONE IN MEETING DULY ASSEMBLED, this _____ day of _____ 2022.

Elise Partin, Mayor

Attest:

Mendy Corder, CMC, Municipal Clerk

First Reading: _____


Second Reading and Adoption: _____

Approved as to form: _____
Danny C. Crowe, City Attorney

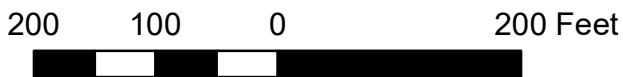
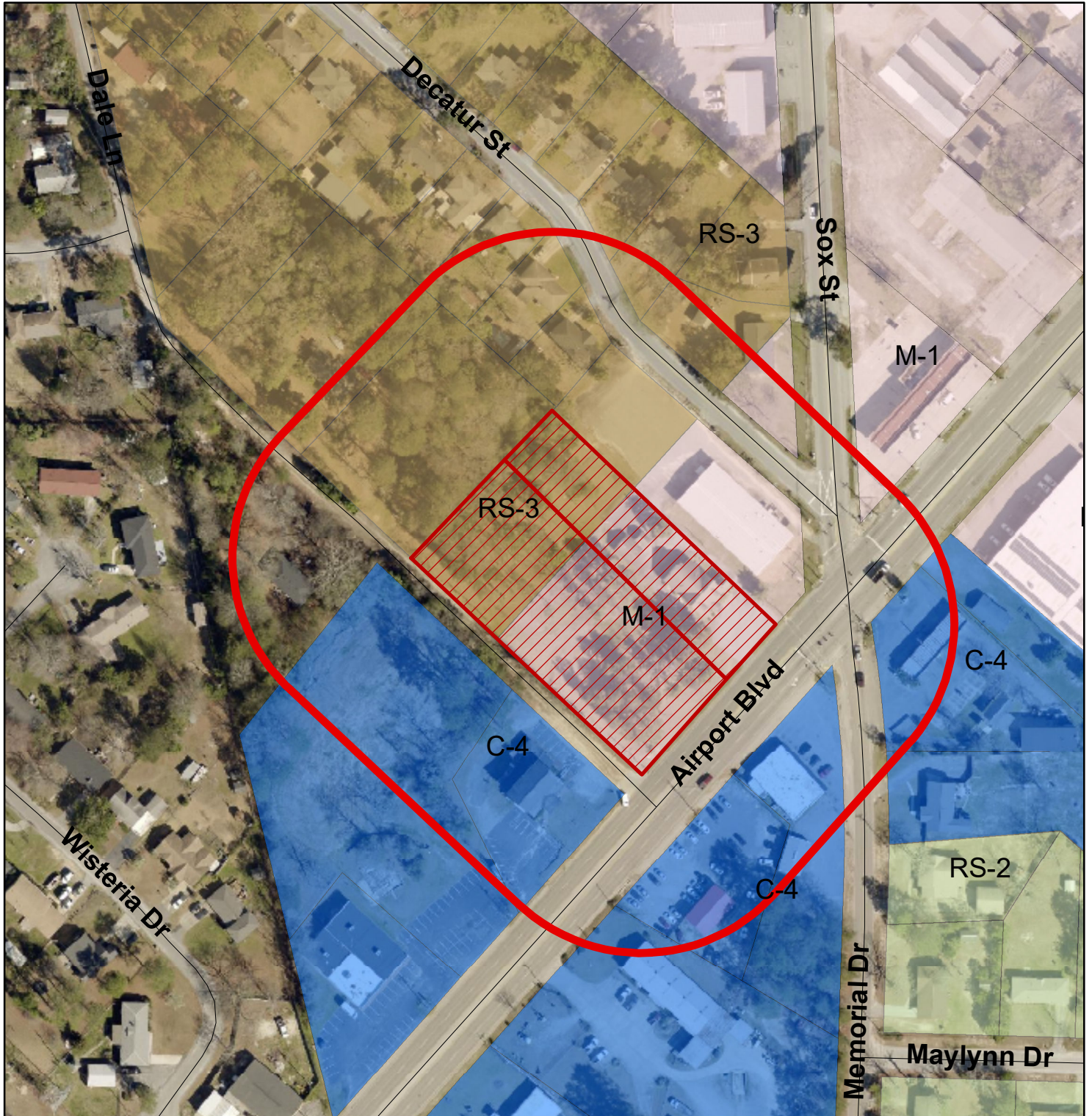
Re-Zoning Request MA002-22
1810 Airport Blvd Lots B & C
Current Zoning

Legend

Map Amendment 002-22

 Re-Zoning Request 1810 Airport Lot B&C

 200 ft Buffer



Memorandum

To: Mayor and Council

From: Tracy Hegler, City Manager

Date: April 20, 2022

Subject: Acknowledge and endorse SCDOT proposal for solutions to address speeding in parts of the Avenues

ISSUE

Speeding is the number one complaint reported to law enforcement. City Officers routinely spend time and resources conducting education and awareness campaigns (social media, traditional media, speed deterrent devices and community events), as well as on enforcement efforts. Cities, counties and SCDOT frequently receive requests for speed hump installation, speed limit signs and traffic control device installation (stop lights and stop signs). The City's Police Department has received numerous complaints about speeding on the long Avenue streets in Cayce. A resident presented these concerns to City Council at a meeting in October 2021 and helped spearhead a working group that the City was able to meet with, along with the SCDOT, to prepare a plan to help address this localized speeding.

BACKGROUND/DISCUSSION

In addition to the routine and increased education, awareness and enforcement of traffic laws, the Police Department and City Administration met with SCDOT to ask for their assistance in developing long term solutions for speed control. Several conversations and meetings occurred that included additional crosswalks and a traffic control matrix, noting that discussions did not center solely on the Avenues. A meeting was also held at the Woman's Club of Cayce that provided citizens the opportunity for input into the proposed plan.

On the following pages you will find the SCDOT proposal, which includes a stop sign matrix and three (3) crosswalk locations. Crosswalks are proposed for 2000 State Street, 6th Street and Lafayette Avenue, 7th Street at Lafayette Avenue and Julius Felder at Frink Street for pedestrian safety.

The proposed plan is a proactive step in making the Avenues safer. The plan includes law enforcement recommendations, SCDOT experts' assessments, and takes into account the specific requests from the community meeting in February. Changes from the initial plan include reversing stop signs at an additional intersection on Oakland and installing an all-way stop at Lafayette & 13th. SCDOT crossed the 12th Street border due to the connectivity Lafayette provides between Charleston Highway and 12th Street. This plan does not include the concerns expressed about the Axtell Drive area, at this time, as the SCDOT is making further assessments of that specific location.

RECOMMENDATION:

Staff recommends Council acknowledge and endorse the plan that SCDOT has provided for speed reduction, for the Cayce Avenues.



WORK REQUEST #548566, 548568

SCDOT
 Post Office Box 191
 Columbia, South Carolina 29202

This intersection border drawing including the information blocks contained within, is intended only for the specific purpose and client for which it was prepared. Reuse of and improper reliance on the sheet without written authorization from the SCDOT Traffic Engineering office is prohibited.

DATE	REVISIONS	SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION ENGINEERING DIVISION COLUMBIA, S.C.	
		SCDOT	
		SUBJECT TITLE: Markings and signing	
		PROJECT LOCATION: SC Route 2 Frink Street at Julius Felder Road S-609	
		CITY: Cayce	COUNTY: Lexington
DESIGNED		APPROVED BY: _____ ENGINEER	
DRAWN		DISTRICT # TRAFFIC ENGINEER	
CHECKED		SCALE: 1" = 40'	DATE: 12/21/21
REVIEWED		SHEET NO. _____	INDEX NO. _____
RECOMMENDED		of _____	



Work request #548659, 548661

DATE	REVISIONS

SCDOT		SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION ENGINEERING DIVISION COLUMBIA, S.C.	
SUBJECT TITLE Crosswalk Markings and Signing			
PROJECT LOCATION SC Route 2 State Street at Holland Ave. Road S-32			
CITY	Cayce	COUNTY	Lexington
DESIGNED	APPROVED BY		
DRAWN			
CHECKED	DISTRICT #	TRAFFIC ENGINEER	ENGINEER
REVIEWED	SCALE	DATE	SHEET NO. INDEX NO.
RECOMMENDED	1" = 20'	12/21/21	OF

SCDOT
Post Office Box 191
Columbia, South Carolina 29202

This intersection border drawing including the information blocks contained within, is intended only for the specific purpose and client for which it was prepared. Reuse of and improper reliance on the sheet without written authorization from the SCDOT Traffic Engineering office is prohibited.

DISTRICT #1 MEMORANDUM

COUNTY LEXINGTON

CITY CAYCE

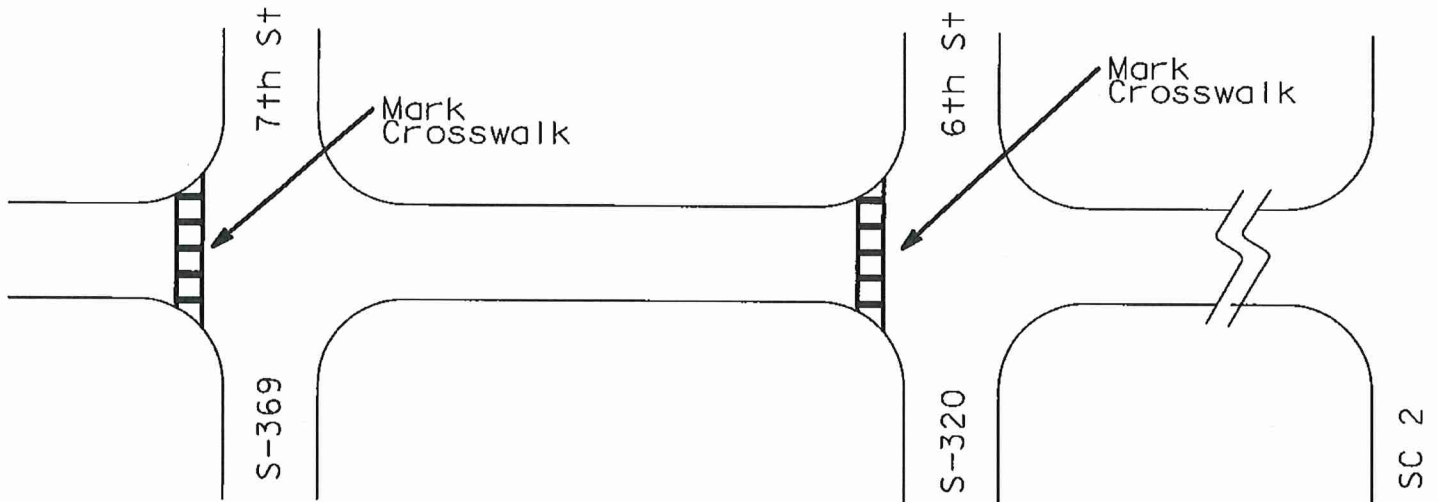
SUBJECT PAVEMENT MARKINGS ROAD S-41 (L AVE.)

MESSAGE TO Mike Bagley FROM D1-Traffic DATE 12/21/321

PLEASE HAVE WORK DONE AS SHOWN BELWO.

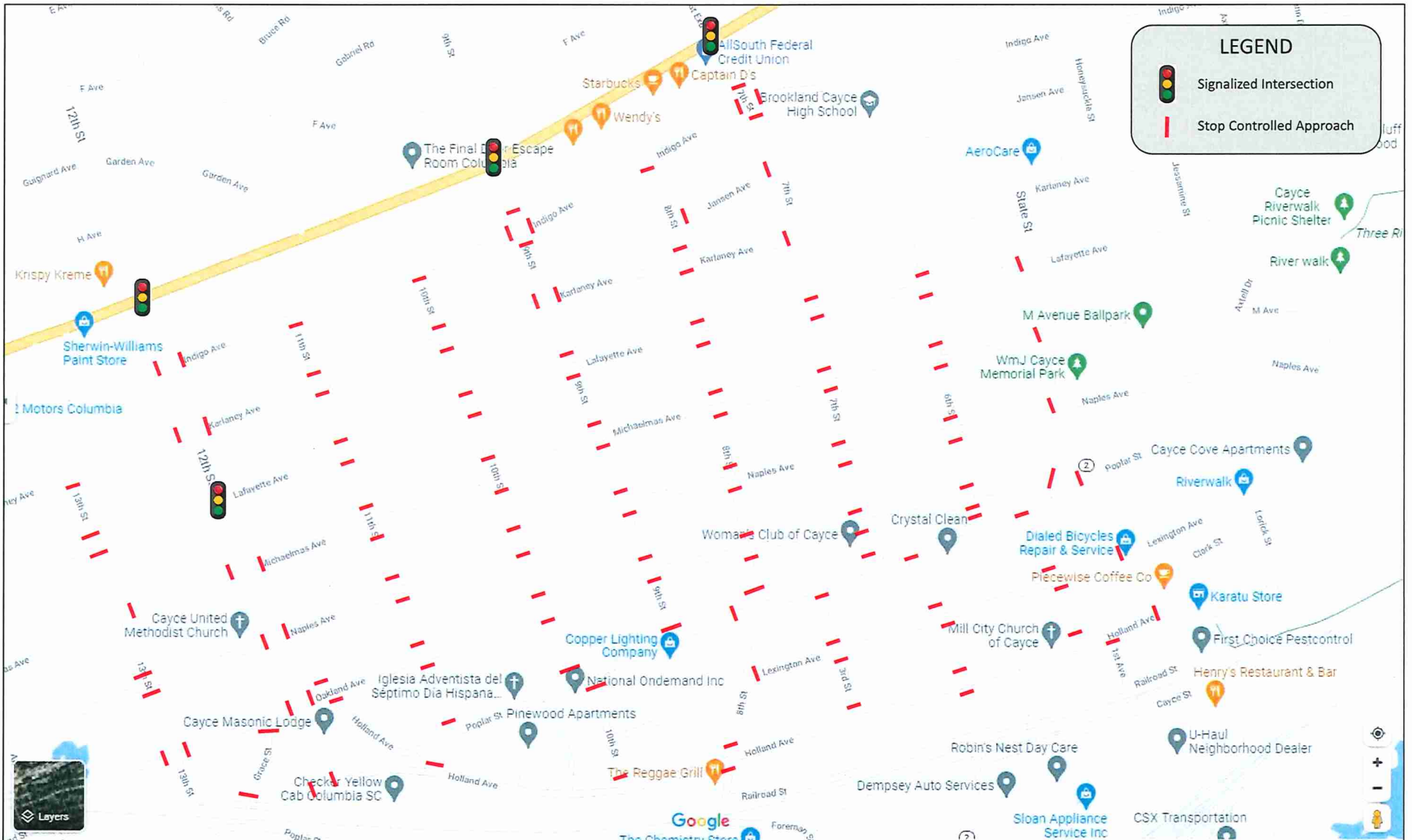
* School crossing signs are in place

WORK REQUEST #548683



REPLY TO _____ FROM _____ DATE _____

Cayce Avenues – Existing Conditions



Cayce Avenues – Proposed Conditions



Memorandum

To: Mayor and Council

From: Tracy Hegler, City Manager

Date: April 20, 2022

Subject: Ratification of Assistant City Manager Action for Emergency Sewer Repairs

Issue

Council approval is needed in order to ratify an agreement approved by the Assistant City Manager, in the absence of the City Manager who was on leave, under the Emergency Powers of Sec. 2-146, with G.H Smith Construction, Inc. on April 8, 2022, for the emergency repair of a collapsed sewer main.

Discussion

The City of Cayce had to take immediate action in response to a collapsed (failed) sewer main behind Henry's Restaurant between Cayce Street and Frink Street. G.H. Smith provided a quote and the necessary Certificates of Insurance for the needed repair work and a price was agreed upon for the needed equipment, materials, and labor to complete the job. The project generally consisted of pipe-bursting 170 linear feet of old 10" concrete sewer pipe and the replacement with new 10" HDPE pipe from manhole to manhole. The emergency repair work was started and completed on Saturday, April 9, 2022, and was witnessed by the City's Engineer. The total price quote for the emergency repair work is \$30,720.

The Assistant City Manager approved the quote using the Emergency Powers established by City of Cayce ordinance.

Sec. 2-146. - Emergency powers.

In case of accidents or other circumstances creating an emergency, the city manager may, with the consent of the council, award contracts and make purchases for the purpose of repairing damages caused by such accidents or meeting such public emergency; but he shall file promptly with the council a certificate showing such emergency and necessity for such action, together with an itemized account of all expenditures.

(Code 1975, § 2-57)

Recommendation

Staff recommends Council ratify the Assistant City Manager's action, under the Emergency Powers of Sec. 2-146, executing an agreement with G.H. Smith Construction, Inc. on April 8, 2022, for \$30,720.00.

STATE OF SOUTH CAROLINA)
)
)
)
CITY OF CAYCE)

CERTIFICATE

I, James Crosland, Assistant City Manager of the City of Cayce, at the times of the events described below, in accord with Cayce City Code Sec. 2-146, do hereby certify the following:

1. On Friday, April 8, 2022, I was acting as City Manager in the absence of the City Manager who was on leave. On that date, I was informed by City staff of the collapse of a 10-inch sewer line between Cayce and Frink Streets that necessitated emergency repair by outside forces.
2. City staff arranged for a quotation for repair charges from GH Smith Construction. The quotation for equipment, materials and labor was \$30,720. I considered the situation as an emergency requiring an immediate procurement of services. I authorized the repair work, which was performed on Saturday, April 9. City staff stayed in close contact with nearby property owners that were impacted.
3. Use of the emergency power provision was required to enter into an agreement with the outside construction company for the sewer line repair. A copy of the e-mail agreement with GH Smith Construction is attached.

James Crosland

Date: _____

Betsy Catchings

From: GH Smith Construction, Inc <ghsmithconst@aol.com>
Sent: Friday, April 8, 2022 3:17 PM
To: Betsy Catchings
Subject: State st. pipebursting

To : City of Cayce
From : GH Smith const
Quote for pipebursting 170 lf of 10" with hdpe

Equipment , materials , and labor
Total ; \$30,720.00

GH Smith Construction
430 Shuler Ct
Columbia, SC 29 212
Contact: Jerry Smith

Start : 4/9/22
Complete By : 4/11/22 (estimated)

Approved
[Signature]
Acme