

Mayor
Elise Partin

Mayor Pro-Tem
Tim James

Council Members
Phil Carter
Hunter Sox
Byron Thomas

City Manager
Tracy Hegler

Deputy City Manager
Jim Crosland
Assistant City Manager
Michael Conley



**City of Cayce
Regular Council Meeting
Wednesday, May 15, 2024
5:00 p.m. – Cayce City Hall – 1800 12th Street
www.caycesc.gov**

**To Access Council Meeting Livestream, click
<https://www.youtube.com/@cityofcayce1137/streams>**

I. Call to Order

A. Invocation and Pledge of Allegiance

II. Public Comment Regarding Items on the Agenda

III. Presentation

A. Presentation of a Key to the City to Mr. A.G. Dantzler

V. Ordinances and Resolution

A. Discussion and Approval of Ordinance 2024-04 to Amend the City Code of Ordinances to Add Section 28-27 Entitled “Hate Intimidation” – Second Reading

B. Discussion and Approval of Ordinance 2024-05 Authorizing Sale of the City-Owned Portion of Real Property at 800 Lexington Avenue – Second Reading

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 including:

IX. Reconvene

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

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: May 15, 2024
Subject: Ordinance Entitled "Hate Intimidation"

Issue

City Council's approval is needed to amend the City's Code of Ordinances to add section 28-27 entitled "Hate Intimidation."

Discussion

Currently, the State of South Carolina does not have a state law prohibiting the commission of a crime for the sole purpose of their race, color, creeds, religions, ancestries, sexual orientation, gender, gender identities, physical and mental disabilities, and or national origins.

The City of Cayce desires to enact a new section of its Code of Ordinances in order to protect its residents and visitors and deter crimes motivated by bias or hate towards any persons or persons, in whole or in part, because of the actual or perceived race, color, creed, religion, ancestry, sexual orientation, gender, gender identity, physical or mental disability, or national origin of any person, and provide separate appropriate penalties in addition to the punishment for the underlying violation of the ordinances of the City.

Recommendation

Staff recommends City Council approve second reading of an amendment of the code of ordinances to add section 28-17 entitled "Hate Intimidation".

STATE OF SOUTH CAROLINA)	ORDINANCE 2024-04
)	
CITY OF CAYCE)	AN ORDINANCE TO AMEND THE CITY
)	CODE OF ORDINANCES TO ADD
)	SECTION 28-27 ENTITLED "HATE
)	INTIMIDATION"

WHEREAS, the residents and visitors of the City of Cayce are a diverse collection of individuals representing a multitude of races, colors, creeds, religions, ancestries, sexual orientations, genders, gender identities, physical and mental disabilities, and national origins; and

WHEREAS, the City of Cayce values and wishes to protect its residents and visitors irrespective of their race, color, creed, religion, ancestry, sexual orientation, gender, gender identity, physical or mental disability, or national origin; and

WHEREAS, crimes that are motivated by bias or hate towards any person or persons, in whole or in part, because of the actual or perceived race, color, creed, religion, ancestry, sexual orientation, gender, gender identity, physical or mental disability, or national origin of any person are an affront to the commonly held values of the citizens of the City; and

WHEREAS, the State of South Carolina has yet to adopt a statewide Hate Crime Legislation, and is only one of two states in the United States who have yet to adopt such protections for its citizens and visitors; and

WHEREAS, the City of Cayce also desires to enact a new section of its Code of Ordinances in order to protect its residents and visitors and deter crimes motivated by bias or hate towards any persons or persons, in whole or in part, because of the actual or perceived race, color, creed, religion, ancestry, sexual orientation, gender, gender identity, physical or mental disability, or national origin of any person, and provide separate appropriate penalties in addition to the punishment for the underlying violation of the ordinances of the City; and

WHEREAS, the City Council has determined that it is in the interest of the City and the public, to enact a new Section 28-27 of the City Code of Ordinances entitled "Hate Intimidation";

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the City of Cayce, in Council, duly assembled, that the City of Cayce Code of Ordinances is hereby amended, in Article II ("Offenses against the Person") of Chapter 28 ("Offenses and Miscellaneous Provisions"), to add a new Section 28-27 ("Hate Intimidation") to read as follows:

Section 28-27.- Hate intimidation

(a) A person who violates another section of this chapter with the intent to intimidate another person or persons, in whole or in part, because of the actual or perceived race, color, creed, religion, ancestry, sexual orientation, gender, gender identity, physical or mental disability, or national origin of the other person or persons, including any act of antisemitism, is also guilty of the separate offense of hate intimidation and shall be punished as provided by subsection (c) of this section. For purposes of this section, "antisemitism" refers to the definition set forth by the International Holocaust Remembrance Alliance (IHRA).

(b) In addition, no person shall disseminate hate materials on any public property or on any commercial property or on any residential property without the express permission of the owner of the residential property within the incorporated area of the City of Cayce. For purposes of this section, "hate materials" refers to writings intended to intimidate another person or persons on a basis as described in subsection (a) of this section.

(c) A person who violates this section shall be punished as provided in Section 1-6 of the City Code. The sentences for the separate offenses shall run consecutive to one another unless the court specifies on the record the reason why they should run concurrently.

This Ordinance shall be effective from the date of second and final reading.

DONE IN MEETING DULY ASSEMBLED, this _____ day of _____, 2024.

Elise Partin, Mayor

ATTEST:

Mendy C. Corder, 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

Date: May 15, 2024

Subject: Ordinance 2024-05 Sale of City-owned portion of 800 Lexington Avenue – Second Reading

Issue

City Council's consideration is being requested to sell the City-owned portion of 800 Lexington Avenue.

Discussion

In September of 2017, the City purchased approximately 0.43 acres consisting of a portion of TMS 005769-04-001 at 800 Lexington Ave. This was done with the use of Tax Increment Financing (TIF) revenues and included the demolition of a portion of a derelict building that was previously burned in a fire and the remediation of any environmental issues on that portion of the property. These actions were taken to improve the health, safety and property values of the surrounding area and the nearby TIF Redevelopment Area and to clear the way for redevelopment of the remainder of the buildings on the site and the adjacent properties.

The remaining portion of 800 Lexington Avenue was purchased by its current owner. The owner of that portion is requesting to purchase the City-owned portion as described in the attached ordinance and draft Purchase and Sale Agreement.

Recommendation

Staff recommends giving second reading approval to Ordinance 2024-05 authorizing the sale of the City-owned portion of the real property at 800 Lexington Avenue and to authorize the City Manager to negotiate the final version of the Purchase and Sale Agreement for the property and to execute and deliver all necessary agreements, deeds, papers, instruments, certificates, and other documents as may be necessary to carry out such sale and conveyance.

STATE OF SOUTH CAROLINA)	ORDINANCE 2024-05
)	
CITY OF CAYCE)	AUTHORIZING SALE OF THE CITY-
)	OWNED PORTION OF REAL PROPERTY
)	AT 800 LEXINGTON AVENUE

WHEREAS, the City is the owner of a portion of the real property that was the site of the old Cayce Grammar School located at 800 Lexington Avenue; and

WHEREAS, the City Council has determined that it is in the interest of the City to sell the property owned by the City at 800 Lexington Avenue so that the property can be developed; and

WHEREAS, S.C. Code Section 5-7-260(6) and City Code Section 2-90(6) require that the City act by ordinance to sell or contract to sell any lands of the City,

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

1. The City Council approves the sale of all of the real property owned by the City at 800 Lexington Avenue that was a portion of the site of the old Cayce Grammar School. The sale is approved on such terms as are set out in the draft Purchase and Sale Agreement attached to this Ordinance (or in the final version of an amended Agreement of substantially similar terms that will be attached to this Ordinance on final reading).

2. The City Manager is authorized to negotiate the final version of the Purchase and Sale Agreement for the property and to execute and deliver all necessary agreements, deeds, papers, instruments, certificates, and other documents as may be necessary to carry out such sale and conveyance.

This Ordinance shall take effect upon the second and final reading.

DONE IN MEETING DULY ASSEMBLED, this _____ day of _____ 2024.

Elise Partin, Mayor

Attest:

Mendy Corder, CMC, Municipal Clerk

First Reading: _____

Second Reading and Adoption: _____

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

Buyer's inspections. Buyer shall restore any disturbance of the Property caused by its inspections into the same condition that existed prior to the Effective Date in the event Buyer fails to close or terminates this Agreement. If Buyer has not terminated this Agreement by the expiration of the Inspection Period, the Earnest Money shall become non-refundable but applicable to the Purchase Price.

5. TITLE AND SURVEY OBJECTIONS. Buyer, at its sole expense, shall have the right to order a current survey of the Property ("Survey"). Buyer shall notify Seller of any objections revealed by the Survey within the Inspection Period. With respect to title and survey matters, if Buyer disapproves any particular item Buyer shall provide written notice to Seller of such objections prior to the end of the Inspection Period. Seller may cure or attempt to cure Buyer's objections to such item within fifteen (15) days after Buyer's notice of disapproval but shall not be required to do so. If Seller is unable to cure or chooses not to cure any one or more of Buyer's objections, Seller shall notify Buyer within such fifteen (15) day period, and Buyer shall have five (5) days from receipt of such notice to notify Seller as to whether Buyer intends to: (i) waive the particular objection and continue under the terms of this Agreement, provided, however, that the Purchase Price shall be not reduced; or (ii) terminate this Agreement and be refunded the Earnest Money. The term "Permitted Exceptions", as used herein, shall mean (i) the title exceptions listed in Schedule B of the title commitment which Buyer approves or is deemed to approve pursuant to this Section 5; and (ii) any general exceptions and exclusions contained in the standard owner's policy that are not deleted pursuant to the delivery of a standard owner's title affidavit.

6. CLOSING/CLOSING DOCUMENTS. The closing ("Closing") shall within ten (10) business days from the expiration of the Inspection Period. At Closing, Seller agrees to convey the Property by limited warranty deed. Seller shall also provide such documents as Buyer or Buyer's title insurance company may reasonably require to issue title insurance and documents typically needed in connection with a commercial real estate closing. At Closing, Buyer agrees to pay Seller the balance of the Purchase Price in immediately available funds.

7. POSSESSION/"AS-IS" CONDITION. Seller shall deliver possession of the Property to Buyer at Closing. Buyer acknowledges and agrees that the Property is sold in its "where is, as is" condition existing at the time of Closing.

8. PRORATIONS. Seller shall pay all past due taxes, if any, applicable to the Property. Any and all real or personal property taxes and assessments, utility bills, or similar charges or credits for the year 2024 shall be prorated at Closing. Any and all roll back taxes relating to the change of use and development of the Property shall be the responsibility of Buyer.

9. CLOSING COSTS. Seller shall pay all applicable property transfer costs and Seller's attorneys' fees. Buyer shall pay the cost of the title examination, title insurance, the recording of the deed, all inspections, and Buyer's attorneys' fees.

10. BUYER'S DEFAULT. In the event of a default by Buyer, Seller may, as its sole remedy, retain the Earnest Money as liquidated damages but not as a penalty; provided, however, if Buyer shall breach any indemnification obligations of Buyer under this Contract, Seller may pursue all rights and remedies available to it at law and in equity necessary for Seller to enforce Buyer's obligation to indemnify. Buyer and Seller agree that it would be impracticable or difficult to establish damages if Buyer should default and that the amount of the Earnest Money is a reasonable, negotiated and liquidated estimation thereof.

11. SELLER'S DEFAULT. In the event of a default by Seller, Buyer may, as its sole remedy, (i) terminate this Contract by written notice to Seller, whereupon the Earnest Money shall be returned to Buyer or (ii) institute proceedings to obtain Seller's specific performance of this Contract as long as legal action commences within sixty (60) days of such default.

12. NOTICES. All notices required hereunder will be in writing and delivered by a recognized overnight courier or by certified mail, return receipt requested, postage prepaid, or hand delivered at the addresses shown below, until notification of a change of such addresses. Each party agrees that its attorney shall be authorized to deliver notices on its behalf, and each party agrees to accept notice from the other party's attorney in the same manner as if the other party had given such notice. Notice by other methods, such as e-mail transmission, shall be valid if receipt is acknowledged in writing by the receiving party.

TO SELLER: Tracy Hegler, City Manager
1800 12th Street
Cayce, South Carolina 29033

with a copy to:

Lanneau Wm. Lambert, Jr.
Turner, Padgett, Graham & Laney, P.A.
1901 Main Street, 17th Floor
Columbia, South Carolina 29201

TO BUYER: Broad Broad-CT, LLC
3101 Devine Street
Columbia, South Carolina 29205

13. BROKERAGE COMMISSIONS. Seller and Buyer represent to each other that neither has dealt with any brokers/agents in connection with this transaction. Buyer and Seller each agree to indemnify and hold each other harmless from any damages or causes of action which result, directly or indirectly, from a breach of the above representation. Such agreement to indemnify shall survive the termination of this Agreement or the closing of the sale and purchase contemplated by this Agreement.

14. SUCCESSORS AND ASSIGNS/ASSIGNMENT. This Agreement shall be binding upon and shall inure to the benefit of the respective parties, and to their respective successors and assigns. Buyer may not assign this Agreement without the prior written consent of Seller.

15. ENTIRE AGREEMENT; MODIFICATIONS; COUNTERPARTS. This Agreement constitutes the entire and complete agreement between the parties hereto and supersedes any prior oral or written agreements between the parties with respect to the Property. It is expressly agreed that there are no verbal understandings or agreements which in any way change the terms, covenants and conditions herein set forth, and that no modification of this Agreement, and no waiver of any of its terms and conditions shall be effective unless made in writing and duly executed by the parties hereto. This Agreement may be signed in counterparts. The parties intend that facsimile and scanned signatures shall constitute original signatures and that a facsimile or scanned copy of this Agreement or any document to be executed and delivered pursuant to this Agreement, containing the signature of each party shall be binding upon the parties hereto.

16. BINDING EFFECT. All covenants, agreements, warranties and provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto, their respective successors and assigns.

17. CAPTIONS. The section headings or captions appearing in this Agreement are for convenience only, are not part of this Agreement, and are not to be considered in interpreting this Agreement.

18. SEVERABILITY. If any provision of this Agreement is held to be illegal, invalid or unenforceable (the "Offending Provision"), the Offending Provision shall be fully severable; this Agreement shall be construed and enforced as if the Offending Provision had never comprised a part of this Agreement; and the remaining provisions

of this Agreement shall remain in full force and effect and shall not be affected by the Offending Provision or by its severance from this Agreement. Furthermore, in lieu of the Offending Provision, there shall be added automatically as part of this Agreement, a provision as similar in terms to the Offending Provision as may be possible and be legal, valid and enforceable.

19. NO ADVERSE PRESUMPTION. The parties acknowledge that this Agreement arose as the result of arms-length negotiations between them and that this Agreement is the product of input by both parties. Accordingly, any ambiguity or uncertainty is not to be construed against either party.

20. TIME OF THE ESSENCE. Time shall be of the essence with respect to all provisions of this Agreement.

21. CONTROLLING LAW. This Agreement shall be governed, enforced and construed in accordance with the laws of the State of South Carolina and the parties hereto specifically agree to submit to and be bound by the jurisdiction of the courts, either federal or state, of the State of South Carolina. Venue for any action brought to enforce this Agreement shall lie in Lexington County, South Carolina.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

SIGNATURE PAGE FOLLOWS

SIGNATURE PAGE OF PURCHASE AND SALE AGREEMENT

IN WITNESS WHEREOF, Seller and Buyer have executed the foregoing Agreement as of the Effective Date.

BUYER:

CYPRESS DEVELOPMENT PARTNERS, LLC

Witness
May __, 2024

By: _____
Print Name: _____
Title: _____

SELLER:

CITY OF CAYCE

Witness
May __, 2024

By: _____
Tracy Hegler, City Manager

EXHIBIT A

Escrow Provisions

1. In performing any of its duties hereunder, Escrow Agent shall not incur any liability to anyone for any damages, losses, or expenses in connection with its actions as Escrow Agent including, without limitation, (i) any action taken or omitted upon advice of its legal counsel given with respect to any questions relating to the duties and responsibilities of Escrow Agent under this agreement; (ii) any action taken or omitted in reliance upon any instrument, including any written notice or instruction provided for in this agreement; or (iii) any loss or delay caused by or due to the bank in which the escrowed funds are deposited. Escrow Agent may rely upon any instrument pursuant to clause (ii) in the preceding sentence as being duly executed, valid, and effective, and as containing accurate information and genuine signatures.

2. In the event of a dispute between Seller and Buyer arising prior to or at the time of the delivery or other disposition of the Earnest Money by Escrow Agent pursuant hereto, which dispute shall be sufficient, in the sole discretion of Escrow Agent, to justify its doing so, Escrow Agent shall be entitled to tender the Earnest Money into the registry or custody of any court of competent jurisdiction, together with such legal pleadings as it may deem appropriate, and thereupon Escrow Agent shall be discharged from all further duties and liabilities under this agreement. Any such legal action may be brought in such court as Escrow Agent shall determine to have jurisdiction thereof. Escrow Agent's determination of whether a dispute exists between Seller and Buyer shall be binding and conclusive upon all parties hereto, notwithstanding any contention that no dispute exists. All costs and expenses incurred by Escrow Agent in taking any action pursuant to this paragraph shall be covered by and paid pursuant to the indemnification of Escrow Agent contained in the following paragraph.

3. Buyer and Seller shall, and do hereby, jointly and severally indemnify, defend, and hold Escrow Agent harmless from, against, and in respect of: (i) any and all demands, judgments, expenses, costs, losses, injuries, or claims of any kind whatsoever whether existing on the date hereof or hereafter arising, incurred by Escrow Agent by reason of, from, or in connection with this agreement or any action taken or not taken by Escrow Agent under or in connection with this agreement; and (ii) any and all counsel fees, expenses, disbursements of counsel, amounts of judgments, demands, assessments, costs, fines, or penalties, and amounts paid in compromise or settlement, incurred or sustained by Escrow Agent by reason of, in connection with, or as a result of any claim, demand, action, suit, investigation, or proceeding (or any appeal thereof or relating thereto or other review thereof) incident to the matters covered by the immediately preceding clause (i).

4. If Escrow Agent shall notify Seller and Buyer of its desire to be relieved of any further duties and liabilities hereunder, then Escrow Agent shall deliver the Earnest Money to a successor escrow agent designated by Seller and Buyer. If Seller and Buyer shall fail to agree upon and designate a successor escrow agent within ten (10) days after having been requested by Escrow Agent to do so, then Escrow Agent shall in its discretion designate the successor escrow agent. The successor escrow agent designated by Seller and Buyer or by Escrow Agent, as the case may be, shall be a bank or trust company having trust powers in good standing and located in Columbia, South Carolina, and shall agree to be bound by all the terms and conditions of this agreement. Immediately upon agreement by the successor escrow agent to be bound by all the terms and conditions of this agreement, the original Escrow Agent shall be relieved of any and all duties and liabilities under or in connection with this agreement; provided, however, that no successor escrow agent shall assume any liability for the acts or omissions of its predecessor escrow agent(s) hereunder.

5. The agency created in Escrow Agent hereby is coupled with an interest of Seller and Buyer and shall be binding upon and enforceable against the respective heirs, successors, legal representatives and assigns of Seller and Buyer. This escrow shall not be revoked or terminated by reason of the death, incompetency, dissolution, or liquidation of Seller or Buyer, but shall continue to be binding upon and enforceable against the respective heirs, successors, legal representatives and assigns of Seller and Buyer in the manner provided herein. In the event of the

death, incompetency, dissolution, or liquidation of Seller or Buyer, Escrow Agent may rely and act upon any notices permitted or required to be given hereunder from any person, firm, partnership, or corporation believed by Escrow Agent in good faith to be the heir, successor, legal representative or assign of such dissolved or liquidated party.

6. The address for the receipt of notices and other communications by Escrow Agent hereunder is as follows:

Turner Padget Graham & Laney, P.A.
Attn: Lanneau Wm. Lambert, Jr., Esquire
1901 Main Street, Suite 1700
Columbia, SC 29201
Telephone: 803-227-4248
Email: llambert@turnerpadget.com

7. Buyer hereby expressly consents to Escrow Agent's acting both as legal counsel for Seller and as Escrow Agent hereunder, including, without limitation, in connection with any dispute regarding the disbursement of the Earnest Money hereunder.