

ORDINANCE NO. 2024-01

AN ORDINANCE AUTHORIZING THE SALE OF LOT 15 IN BLOCK 41 (ALSO KNOWN AS 29 WEST ESSEX AVENUE, HARVEY CEDARS, NJ, 08008) AS SHOWN ON THE TAX MAP OF THE BOROUGH OF HARVEY CEDARS AND GRANTING THE ACCEPTANCE OF SEALED BIDS TO SELL SUCH LAND IN THE BOROUGH OF HARVEY CEDARS, COUNTY OF OCEAN, AND STATE OF NEW JERSEY.

THE BOARD OF COMMISSIONERS OF THE BOROUGH OF HARVEY CEDARS, IN THE COUNTY OF OCEAN, NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring), **DOES ORDAIN, AS FOLLOWS:**

Section 1. The Borough has determined that the real property designated as Bock 41, Lot 15, on the Borough Tax Map and also known as 29 West Essex Avenue (collectively “Property”) is not needed for public use and that it is in the best interest of the Borough to sell the Property at public auction, in accordance with provisions of N.J.S.A. 40A:12-13, et seq.

Section 2. Following final adoption of this Ordinance, the sale of the Property shall be conducted as a public auction to the highest bidder, after advertisement, with such auction to be held at the Borough of Harvey Cedars, Borough Hall, 7606 Long Beach Blvd., Harvey Cedars, NJ, 08008, on, February 15th, 2024, at 11:00 am or such adjourned date as may be determined by the Harvey Cedars Commissioners.

Section 3. The following conditions of sale shall apply:

(a) The successful bidder shall submit a certified check made payable to the “Borough of Harvey Cedars” in the amount of ten (10%) percent of the purchase price, which check shall be submitted in the sealed envelope at the time of submission of the bid. The balance of the purchase price plus FOUR HUNDRED AND TWENTY-FIVE (\$425.00) DOLLARS to offset administrative costs shall be paid in cash or certified check within twenty (20) days after acceptance of the bid by the Borough Commissioners and authorizing the sale to the high bidder. In addition, the successful bidder shall be required to pay all of the Borough’s closing costs and legal and recording fees relating to the sale at closing. The Borough attorney’s work relating to the resolution, notice of sale, the closing documents, and all legal work relating to the transaction and closing shall be paid at the rate the Borough pays the Borough attorney.

(b) The Deed prepared by the Borough shall not be tendered until the full purchase price is paid at closing. Closing shall be required to take place within sixty (60) days from the date of the auction.

(c) Title to the Property shall be conveyed by and through a Quitclaim Deed and shall convey only the right, title, and interest of the Borough to the Property. No warranties and

covenants are or shall be made by the Borough and in no event shall there be any liability on the part of the Borough by reason thereof. Title to the Property shall be good, marketable, and insurable, at regular rates, by any title insurance company licensed to do business in New Jersey, subject only to the claims and rights described in this Paragraph. The right, title, and interest of the successful bidder, as purchaser, to the Property shall be subject to all recorded restrictions and the following conditions, covenants, restrictions, easements, and exceptions which shall run with the land and shall also become part of the Deed granted to the purchaser for the recording:

(1) Easement of utility companies and of governmental agencies or bodies;

(2) Any encroachments, prescriptions, easements, or other state of facts pertaining to said land which may be ascertained upon a visual examination and inspection of the land and the lands surrounding said land and any restrictions and covenants of record; and

(3) All existing federal, state, county and municipal laws, statutes, ordinances, rules, and regulations including, by of description and not by limitation, existing zoning, health, and planning board rules and regulations.

(d) Potential bidders are advised:

(1) To conduct all necessary title searches prior to the date of the auction and that there shall be no inspection, financing, or any other transaction contingencies;

(2) No representations of any kind are made by the Borough as to the conditions of the Property, including habitability or usability;

(3) The successful bidder shall have the right, at its sole cost and expense, to obtain a new survey of the Property. Provided such survey depicts the Property and is certified to be correct by the Borough, the Borough shall utilize the legal description drawn in accordance with such survey in the Deed of conveyance, provided the successful bidder provides such legal description and a copy of the certified survey to the Borough not less than five (5) days prior to the date set for closing of title. In the event a survey is not prepared, the Borough shall convey title to the Property based upon the prior recorded legal description of the Property and/or by Block and Lot.

(e) In the event that the Borough cannot convey good and marketable title to the Property, subject to the above, the purchaser will be entitled to the return of the deposit, without interest, and the Borough will not be responsible or liable in any other manner and for any other amount.

(f) In the event that the purchaser defaults in making payment to the Borough and/or closing within the time period required, as set forth above, or if the purchaser cannot make settlement in accordance with the terms thereof, the deposit made by the successful bidder on account of the purchase will be retained by and disbursed to the Borough as and for its liquidated damages and the land may be resold. This remedy shall be in addition to the Borough's right to compel specific performance of the purchaser's obligation hereunder. Time is of the essence.

(g) The property is being sold "as is". No representations of any kind are made by the Borough as to the conditions of the property, and the descriptions of the property are intended as general guide only and may not be accurate. The property is being sold in the present "as is" and "where is" condition with all faults.

(h) The Board of Commissioners reserves the right in its sole and absolute discretion to withdraw this offer to sell, or upon completion of the bidding to accept or reject any or all bids for said properties or to waive any informality in relation thereto for any or no reason.

(i) All bidders currently owning property within the Borough shall have their taxes, as well as all municipal utility charges, if applicable, paid to date in order to be a qualified bidder. In the event the bidder's taxes or municipal utility charges are delinquent, the bidder shall be deemed unqualified and

(j) Upon the award of the Property to the successful bidder at auction, the terms of this Ordinance shall comprise the complete and entire agreement and understanding between the Borough and the successful bidder and supersedes all previous understandings and agreements between the Parties, whether oral or written. The successful bidder agrees that it has not relied on any representation, assertion, guarantee, warranty, collateral contract, or other assurance, except those set forth in this Ordinance. The successful bidder waives all rights and remedies, at law or in equity, arising or which may arise as the result of the successful bidder's reliance on such representation, assertion, or any other assurance shall be rejected.

Section 4. The minimum bid established for the Property (in addition to the additional costs and fees required by this Ordinance) is as follows:

Block 41/LOT 15 - 50'x110' - 29 West Essex Avenue - NINE HUNDRED FIFTY THOUSAND (\$950,000.00) DOLLARS minimum bid.

Section 5. SPECIAL CONDITIONS: none

Section 6. All Ordinances and parts of Ordinances of Harvey Cedars heretofore adopted that are inconsistent with any of the terms and provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

Section 7. If any section, paragraph, subsection, clause, or provision of this Ordinance shall be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this Ordinance as a whole or any part thereof.

Section 8. A copy of this Ordinance shall be posted on the bulletin board or other conspicuous place in the Borough of Harvey Cedars Municipal Building. Notice of adoption of this Ordinance shall be made in the official Borough newspaper within five (5) days following the enactment of the Ordinance. Notice of public sale shall be published in the official newspaper of the Borough of Harvey Cedars by two (2) insertions at least once a week during two (2) consecutive weeks, the publication shall be within seven (7) days prior to the sale.

Section 9. This Ordinance shall take effect immediately upon its publication after final passage as required by law.

MOTION TO ADOPT: Mayor Imperiale
SECOND: Commissioner Gieger
ROLL CALL:
AYES: Gieger, Imperiale
NAYS: Rice
ABSENT: None
ADOPTED ON: February 2, 2024

John M. Imperiale, Mayor

Joseph F. Gieger, Commissioner

Paul G. Rice, Commissioner