

**ORDINANCE NO. 2017-\_\_\_\_\_**

**CITY OF POMPANO BEACH  
Broward County, Florida**

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, ABANDONING A CERTAIN FIFTY-FIVE FOOT WIDE PORTION OF THE RIGHT-OF-WAY FOR RIVERSIDE DRIVE LYING SOUTH OF ATLANTIC BLVD., EAST OF THE INTRACOASTAL AND NORTH OF SE 2<sup>ND</sup> STREET; PROVIDING FOR AN ALLEY AND SIDEWALK DEDICATION TO THE CITY OF A PORTION OF THE PROPERTY LOCATED AT 105 HIBISCUS AVE.; PROVIDING FOR THE APPROVAL OF A UTILITY AGREEMENT WITH TSATAS ACQUISITIONS, LLC OUTLINING THE MAINTENANCE AND OWNERSHIP OBLIGATIONS OF THE EXISTING UTILITIES; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, pursuant to law, ten (10) days' notice has been given by publication in a paper of general circulation in the City notifying the public of this proposed Ordinance and of a public hearing in the City Commission Chambers of the City of Pompano Beach; and

**WHEREAS**, a public hearing before the City Commission was held pursuant to the published notice described above, at which hearing the parties in interest and all other citizens so desiring had an opportunity to be and were, in fact, heard; and

**WHEREAS**, the City Commission has received a request for the abandonment of a fifty-five foot wide portion of the right-of-way on S. Riverside Drive lying south of Atlantic Blvd., east of the Intracoastal and north of SE 2<sup>nd</sup> Street; and

**WHEREAS**, the City reserves the right to retain a utility easement over the above described property; and

**WHEREAS**, for consideration of the City abandoning the fifty-five foot portion of right-of-way, the adjacent fee simple property owner, Tsatas Acquisitions, LLC, has agreed to grant the City a Sidewalk Easement over and above said portions of property abutting said right-of-way and dedicate an alley to the City for vehicular and pedestrian public use ; and

**WHEREAS**, the City has agreed to grant to Tsatas Acquisitions, LLC a Temporary Construction Easement over said portions of property dedicated to City as an alley for purposes of facilitating construction of improvements on City property; and

**WHEREAS**, the City and Tsatas Acquisitions LLC have entered into a Utility Agreement for the maintenance and ownership obligations of the utilities located in the above described fifty-five foot right-of-way; and

**WHEREAS**, the Planning and Zoning Board has made its recommendation upon said request; now, therefore,

**BE IT ENACTED BY THE CITY OF POMPANO BEACH, FLORIDA:**

**SECTION 1.** It is hereby found and determined by the City Commission that the public health, welfare, safety and necessity no longer require retention of any interest by the public in that certain portion of the right-of-way as more fully described below.

**SECTION 2.** It is hereby further found and determined that abandonment and vacation of that certain portion of the right-of-way will not have a detrimental effect upon the surrounding property or area.

**SECTION 3.** That the City of Pompano Beach hereby abandons and vacates the following described right-of-way at such time after the City of Pompano Beach Development Services approves the final inspection for Tsatas Acquisitions, LLC's construction of the traffic circle and alley a portion of which is more particularly described in the attached Exhibit C:

**See Exhibit “A” attached hereto and incorporated herein as if set forth in full.**

**SECTION 4.** That the City Clerk is hereby instructed to record this Ordinance in the Public Records of Broward County, Florida.

**SECTION 5.** The City of Pompano Beach reserves for its own purposes, and for the purposes of all recognized public utility companies offering public utility services in the City to its customers including, but not limited to, Florida Power & Light Company, AT&T, TECO Peoples Gas, and Comcast Cable, the reservation of an easement forever for the construction, operation and maintenance of overhead and underground electric facilities (including wires, poles, guys, cables, conduits, buried cables, cable terminals, markers, splicing boxes and pedestals, manholes, amplifier boxes, pipes, gas transmission lines, water and sewer lines and all appurtenant devices and equipment) to be installed from time to time; with the right to construct, reconstruct, improve, add to, enlarge, change the voltage, change pressure, as well as the size of, and to remove such facilities or any of them, together with the right to permit any other person, firm or corporation to attach wires to any facilities hereunder and lay cable and conduit within the easement and to operate the same for communication purposes, the right of ingress and egress to said premises at all times; the right to clear the land and keep it cleared of all trees, undergrowth and obstructions within the easement area; the right to trim and cut and keep trimmed and cut, all dead, weak, leaning or dangerous trees or limbs outside of the easement area which might interfere with or fall upon the lines of systems of communication or power or telephone or gas transmission or distribution; the City of Pompano Beach also is granted a sidewalk easement forever for use by the public to allow for pedestrian ingress and egress over the property as more particularly described **in Exhibit “B”, Access Easement Agreement**; and further reserves to the fullest extent, the right and power to grant, if at all, the rights herein

granted on the land heretofore described, over, along, under and across the roads, streets or highways adjoining or through said property. The utility and sidewalk easement are both described in Exhibit “B” attached hereto and incorporated herein by reference as if set forth in full.

**SECTION 6.** That the fee simple owner of the below described property, Tsatas Acquisitions, LLC, does hereby abandon, vacate, dedicate and grant to the City of Pompano Beach the following described alley for vehicular public use and sidewalk for pedestrian public use and grants same fee simple :

**See Exhibit “C” attached hereto and incorporated herein as if set forth in full.**

**SECTION 7.** That as consideration for granting and dedicating the above described property to the City of Pompano Beach, the City hereby grants a Temporary Construction Easement to Tsatas Acquisitions, LLC and allows same to retain the right to utilize said property to facilitate construction of the Improvements on the above described City property and adjacent property owned by Tsatas Acquisitions, LLC:

**See Exhibit “D” attached hereto and incorporated herein as if set forth in full.**

**SECTION 8.** That a Utility Agreement providing for the maintenance and ownership obligations between the City of Pompano Beach and Tsatas Acquisitions, LLC, a copy of which Agreement is attached hereto **as Exhibit “E”** and incorporated herein by reference as if set forth in full, is hereby approved.

**SECTION 9.** If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect any provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

**SECTION 10.** This Ordinance shall become effective upon passage.

**PASSED FIRST READING** this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

**PASSED SECOND READING** this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

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**LAMAR FISHER, MAYOR**

**ATTEST:**

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**ASCELETA HAMMOND, CITY CLERK**

CLS:jrm  
4/14/17  
L:ord/2017-200