

**ORDINANCE NO. 2019-\_\_\_\_\_**

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

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, ABANDONING PORTIONS OF THE RIGHT-OF-WAY ON MAGNOLIA DRIVE (SW 11<sup>th</sup> STREET) LOCATED WEST OF SOUTH DIXIE HIGHWAY; PROVIDING FOR SEVERABILITY; PROVIDING FOR RECORDATION; PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City Commission has received a request for the abandonment of portions of the right-of-way on Magnolia Drive (SW 11<sup>th</sup> Street) located west of South Dixie Highway, legally described and depicted in Exhibit “A,” attached and incorporated in this Ordinance (“Abandonment Area”); and

**WHEREAS**, the Planning and Zoning Board, at a public hearing held on August 22, 2018, in P & Z Case No. 18-1800003, unanimously recommended that the Right-of-Way abandonment request regarding Magnolia Drive (SW 11<sup>th</sup> Street) be approved in order to develop a 129-unit mixed use Project with affordable workforce housing (“Aloha Project”), conditioned on the recordation of necessary easements; and

**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; now, therefore,

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

**SECTION 1.** It is found and determined by the City Commission that the public health, welfare, safety and necessity no longer requires retention of an interest by the public in certain portions of the right-of-way, as more fully described below, except for the continued use of such Abandonment Area as to allow fire apparatus to provide emergency services to the Aloha Project and Captiva Cove Developments.

**SECTION 2.** It is further found and determined by the City Commission that abandonment and vacation of the Abandonment Area, except for the continued use of such area as a Fire Department Apparatus Access Road, will not have a detrimental effect upon the surrounding property or area.

**SECTION 3.** The City of Pompano Beach, in light of its findings, abandons and vacates the right-of-way area as described in Exhibit “A.”

**SECTION 4.** The abandonment and vacation of the right-of-way by the City of Pompano Beach is conditioned on the preparation and recordation of a perpetual easement over the Abandonment Area to allow fire apparatus to provide emergency services to the Aloha Project and Captiva Cove Developments, and a perpetual nonexclusive utility easement over the abandonment area to install, operate, repair and maintain utility facilities and accessories.

**SECTION 5.** Upon such abandonment, that portion of the water main system existing within the Abandonment Area will be privately owned by ALOHA 1, LLC, which shall be solely responsible for its maintenance. ALOHA 1, LLC shall install master meters with backflow at each end of the water main line within the Abandonment Area as determined and directed by the City.

**SECTION 6.** Further, upon such abandonment, ALOHA 1, LLC shall grant the City a 15’ perpetual non-exclusive utility easement to install, operate, repair and maintain in perpetuity wastewater facilities and accessories within the Abandonment Area as may be necessary to provide

the respective utility services in, on, over, under, through, and across the Easement Area, with the full and free right of ingress and egress over the Easement Area.

**SECTION 7.** Further, upon such abandonment, that portion of the stormwater system existing within the Abandonment Area will be privately owned by ALOHA 1, LLC, which shall be responsible for its maintenance. ALOHA 1, LLC may, at its sole cost, separate the abandoned stormwater system from the City's stormwater system, which shall be done at the City's direction.

**SECTION 8.** The City Clerk is instructed to record this Ordinance in the public records of Broward County, Florida.

**SECTION 9.** If any provision of this Ordinance or its application 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 \_\_\_\_\_, 2019.

**PASSED SECOND READING** this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

---

**REX HARDIN, MAYOR**

**ATTEST:**

---

**ASCELETA HAMMOND, CITY CLERK**

JES:jrm  
6/12/19  
L:ord/2019-25