

1 Introduced by the Land Use and Zoning Committee:
2
3

4 **ORDINANCE 2020-136-E**

5 AN ORDINANCE APPROVING SIGN WAIVER APPLICATION
6 SW-20-01 FOR A SIGN LOCATED IN COUNCIL
7 DISTRICT 5 AT 0 UNIVERSITY BOULEVARD WEST AND
8 5140 UNIVERSITY BOULEVARD WEST, BETWEEN
9 PHILIPS HIGHWAY AND RICHARD STREET (R.E. NOS.
10 153054-0020 AND 153055-0020) AS DESCRIBED
11 HEREIN, OWNED BY STORE MASTER FUNDING XI, LLC,
12 REQUESTING TO INCREASE THE MAXIMUM SIZE OF A
13 SIGN FROM 61 SQUARE FEET TO 70.75 SQUARE FEET
14 IN ZONING DISTRICT PLANNED UNIT DEVELOPMENT
15 (PUD) (2006-1116-E), AS DEFINED AND CLASSIFIED
16 UNDER THE ZONING CODE; PROVIDING A DISCLAIMER
17 THAT THE WAIVER GRANTED HEREIN SHALL NOT BE
18 CONSTRUED AS AN EXEMPTION FROM ANY OTHER
19 APPLICABLE LAWS; PROVIDING AN EFFECTIVE DATE.
20

21 **WHEREAS**, an application for a waiver of requirements for
22 signs, **On File** with the City Council Legislative Services Division,
23 was filed by Store Master Funding XI, LLC, the owner of property
24 located in Council District 5 at 0 University Boulevard West and
25 5140 University Boulevard West, between Philips Highway and Richard
26 Street (R.E. Nos. 153054-0020 and 153055-0020) (Subject Property),
27 requesting to increase the maximum size of a sign from 61 square
28 feet to 70.75 square feet in Zoning District Planned Unit
29 Development (PUD) (2006-1116-E); and

30 **WHEREAS**, the Planning and Development Department has
31 considered the application and all the attachments thereto and has

1 rendered an advisory recommendation (Staff Report); and

2 **WHEREAS**, the Land Use and Zoning Committee, after due notice,
3 held a public hearing, and having duly considered both the
4 testimonial and documentary evidence presented at the public
5 hearing, has made its recommendation to the Council; and

6 **WHEREAS**, taking into consideration the above recommendations
7 and all other evidence entered into the record and testimony taken
8 at the public hearings, the Council has considered the criteria for
9 sign waivers pursuant to Sec. 656.133(c), *Ordinance Code*, and finds
10 that the request is in harmony with the spirit and intent of the
11 Zoning Code and should be approved; now, therefore

12 **BE IT ORDAINED** by the Council of the City of Jacksonville:

13 **Section 1.** The Council has considered the sign waiver
14 criteria pursuant to Sec. 656.133(c), *Ordinance Code*, the
15 recommendation of the Land Use and Zoning Committee, and has
16 reviewed the Staff Report of the Planning and Development
17 Department concerning sign waiver Application SW-20-01 and finds
18 that the waiver is in harmony with the spirit and intent of the
19 Zoning Code, considering the following criteria, as applicable:

20 (1) The effect of the sign waiver is compatible with the
21 existing contiguous signage or zoning and consistent with the
22 general character of the area considering population, density,
23 scale, and orientation of the structures in the area;

24 (2) The result will not detract from the specific intent of
25 the Zoning Code by promoting the continued existence of
26 nonconforming signs that exist in the vicinity;

27 (3) The effect of the proposed waiver will not diminish
28 property values in, or negatively alter the aesthetic character of
29 the area surrounding the site, and will not substantially interfere
30 with or injure the rights of others whose property would be
31 affected by the same;

1 (4) The waiver will not have a detrimental effect on vehicular
2 or pedestrian traffic or parking conditions, or result in the
3 creation of objectionable or excessive light, glare, shadows, or
4 other effects, taking into account existing uses and zoning in the
5 vicinity;

6 (5) The proposed waiver will not be detrimental to the public
7 health, safety or welfare, and will not result in additional public
8 expense, creation of nuisances, or cause conflict with any other
9 applicable law;

10 (6) The Subject Property exhibits specific physical
11 limitations or characteristics which are unique to the site and
12 which would make imposition of the strict letter of the regulation
13 unduly burdensome;

14 (7) The request is not based exclusively upon a desire to
15 reduce the costs associated with compliance and is the minimum
16 necessary to obtain a reasonable communication of one's message;

17 (8) If the request is the result of a violation that has
18 existed for a considerable length of time without receiving a
19 citation, whether the violation that exists is a result of
20 construction that occurred prior to the applicant's acquisition of
21 the property, and not as a direct result of the actions of the
22 current owner;

23 (9) The request accomplishes a compelling public interest,
24 such as, for example, furthering the preservation of natural
25 resources by saving a tree or trees; and

26 (10) Strict compliance with the regulation will create a
27 substantial financial burden when considering cost of compliance.

28 Therefore, sign waiver Application SW-20-01 is hereby
29 **approved.**

30 **Section 2. Owner, Property and Sign Description.** The
31 Subject Property is owned by Store Master Funding XI, LLC, and is

1 legally described in **Exhibit 1, attached hereto**, dated November 22,
2 2019, and graphically depicted in **Exhibit 2, attached hereto**. A
3 graphic depiction of the sign is **attached hereto** as **Exhibit 3**. The
4 agents are Steve Diebenow, Esq., and Cyndy Trimmer, Esq., One
5 Independent Drive, Suite 1200, Jacksonville, Florida 32202; (904)
6 301-1269.

7 **Section 3.** Legislative Services is hereby directed to
8 mail a copy of this legislation, as enacted, to the applicant and
9 any other parties to this matter who testified before the Land Use
10 and Zoning Committee or otherwise filed a qualifying written
11 statement as defined in Section 656.140(c), *Ordinance Code*.

12 **Section 4. Disclaimer.** The sign waiver granted herein
13 shall **not** be construed as an exemption from any other applicable
14 local, state, or federal laws, regulations, requirements, permits
15 or approvals. All other applicable local, state or federal permits
16 or approvals shall be obtained before commencement of the
17 development or use and issuance of this sign waiver is based upon
18 acknowledgement, representation and confirmation made by the
19 applicant(s), owner(s), developer(s) and/or any authorized agent(s)
20 or designee(s) that the subject business, development and/or use
21 will be operated in strict compliance with all laws. Issuance of
22 this sign waiver does **not** approve, promote or condone any practice
23 or act that is prohibited or restricted by any federal, state or
24 local laws.

25 **Section 5. Effective Date.** The enactment of this
26 Ordinance shall be deemed to constitute a quasi-judicial action of
27 the City Council and shall become effective upon signature by the
28 Council President and Council Secretary. Failure to exercise the
29 waiver, if herein granted, by commencement of the use or action
30 herein approved within one year of the effective date of this
31 Ordinance shall render this waiver invalid and all rights arising

1 therefrom shall terminate.

2

3 Form Approved:

4

5 /s/ Shannon K. Eller

6 Office of General Counsel

7 Legislation Prepared By: Bruce Lewis

8 GC-#1340981-v1-SW-20-01.docx