

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

4 **ORDINANCE 2019-460**

5 AN ORDINANCE APPROVING SIGN WAIVER APPLICATION
6 SW-19-05 FOR A SIGN LOCATED IN COUNCIL
7 DISTRICT 6 AT 9950 SAN JOSE BOULEVARD, BETWEEN
8 CROWN POINT ROAD AND SAN JOSE PLACE (R.E. NO.
9 149002-0010) AS DESCRIBED HEREIN, OWNED BY
10 NATIONAL RETAIL PROPERTIES, LP, REQUESTING TO
11 REDUCE THE MINIMUM SETBACK FROM 10 FEET TO 0
12 FEET IN ZONING DISTRICT COMMERCIAL
13 COMMUNITY/GENERAL-1 (CCG-1), AS DEFINED AND
14 CLASSIFIED UNDER THE ZONING CODE; PROVIDING A
15 DISCLAIMER THAT THE WAIVER GRANTED HEREIN
16 SHALL NOT BE CONSTRUED AS AN EXEMPTION FROM
17 ANY OTHER APPLICABLE LAWS; PROVIDING AN
18 EFFECTIVE DATE.

19
20 **WHEREAS**, an application for a waiver of requirements for
21 signs, **On File** with the City Council Legislative Services Division,
22 was filed by National Retail Properties, LP, the owner of property
23 located in Council District 6 at 9950 San Jose Boulevard, between
24 Crown Point Road and San Jose Place (R.E. No. 149002-0010) (Subject
25 Property), requesting to reduce the minimum setback from 10 feet to
26 0 feet in Zoning District Commercial Community/General-1 (CCG-1);
27 and

28 **WHEREAS**, the Planning and Development Department has
29 considered the application and all the attachments thereto and has
30 rendered an advisory recommendation (Staff Report); and

31 **WHEREAS**, the Land Use and Zoning Committee, after due notice,

1 held a public hearing, and having duly considered both the
2 testimonial and documentary evidence presented at the public
3 hearing, has made its recommendation to the Council; and

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

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

11 **Section 1.** The Council has considered the sign waiver
12 criteria pursuant to Sec. 656.133(c), *Ordinance Code*, the
13 recommendation of the Land Use and Zoning Committee, and has
14 reviewed the Staff Report of the Planning and Development
15 Department concerning sign waiver Application SW-19-05 and finds
16 that the waiver is in harmony with the spirit and intent of the
17 Zoning Code, considering the following criteria, as applicable:

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

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

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

30 (4) The waiver will not have a detrimental effect on vehicular
31 or pedestrian traffic or parking conditions, or result in the

1 creation of objectionable or excessive light, glare, shadows, or
2 other effects, taking into account existing uses and zoning in the
3 vicinity;

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

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

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

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

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

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

26 Therefore, sign waiver Application SW-19-05 is hereby
27 **approved.**

28 **Section 2. Owner, Property and Sign Description.** The
29 Subject Property is owned by National Retail Properties, LP, and is
30 legally described in **Exhibit 1, attached hereto**, dated June 13,
31 2019, and graphically depicted in **Exhibit 2, attached hereto.** A

1 graphic depiction of the sign is **attached hereto** as **Exhibit 3**. The
2 agent is General Sign Service Corporation, 1940 Spearing Street,
3 Jacksonville, Florida 32206; (904) 355-5630.

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

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

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

1 Form Approved:

2

3 /s/ Shannon K. Eller

4 Office of General Counsel

5 Legislation Prepared By: Erin Abney

6 GC-#1288209-v1-SW-19-05