

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

4 **ORDINANCE 2023-369**

5 AN ORDINANCE APPROVING SIGN WAIVER APPLICATION
6 SW-23-06 FOR A SIGN LOCATED IN COUNCIL DISTRICT
7 14 AT 2063 OAK STREET, BETWEEN GOODWIN STREET
8 AND OAK STREET (R.E. NO. 090689-0000), AS
9 DESCRIBED HEREIN, OWNED BY OHTULK, LLC,
10 REQUESTING TO REDUCE THE MINIMUM SETBACK FROM 25
11 FEET TO 2 FEET AND 10 FEET TO 2 FEET IN ZONING
12 DISTRICT COMMERCIAL, RESIDENTIAL AND OFFICE
13 (CRO), AS DEFINED AND CLASSIFIED UNDER THE
14 ZONING CODE; PROVIDING FOR NOTICE; PROVIDING A
15 DISCLAIMER THAT THE WAIVER GRANTED HEREIN SHALL
16 NOT BE CONSTRUED AS AN EXEMPTION FROM ANY OTHER
17 APPLICABLE LAWS; PROVIDING AN EFFECTIVE DATE.
18

19 **WHEREAS**, an application for a waiver of requirements for signs,
20 **On File** with the City Council Legislative Services Division, was
21 filed by Ohtulk, LLC, the owner of property located in Council
22 District 14 at 2063 Oak Street, between Goodwin Street and Oak Street
23 (R.E. No. 090689-0000) (the "Subject Property"), requesting to reduce
24 the minimum setback from 25 feet to 2 feet and 10 feet to 2 feet in
25 Zoning District Commercial, Residential and Office (CRO); and

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

29 **WHEREAS**, the Land Use and Zoning Committee, after due notice
30 held a public hearing and having duly considered both the testimonial
31 and documentary evidence presented at the public hearing, has made

1 its recommendation to the Council; and

2 **WHEREAS**, taking into consideration the above recommendations and
3 all other evidence entered into the record and testimony taken at the
4 public hearings, the Council has considered the criteria for sign
5 waivers pursuant to Section 656.113(c), *Ordinance Code*, and finds
6 that the request is in harmony with the spirit and intent of the
7 Zoning Code and should be approved; now, therefore

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

9 **Section 1. Sign Waiver Approved.** The Council has considered
10 the sign waiver criteria pursuant to Section 656.133(c), *Ordinance*
11 *Code*, the recommendation of the Land Use and Zoning Committee, and
12 has reviewed the Staff Report of the Planning and Development
13 Department concerning sign waiver Application SW-23-06 and finds that
14 the waiver is in harmony with the spirit and intent of the Zoning
15 Code, considering the following criteria, as applicable:

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

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

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

28 (4) The proposed waiver will not have a detrimental effect on
29 vehicular or pedestrian traffic or parking conditions, or result in
30 the creation of objectionable or excessive light, glare, shadows, or
31 other effects, taking into account existing uses and zoning in the

1 vicinity;

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

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

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

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

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

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

23 Therefore, Sign Waiver Application SW-23-06, is hereby approved.

24 **Section 2. Owner, Property and Sign Description.** The
25 Subject Property is owned by Ohtulk, LLC, and is legally described
26 in **Exhibit 1**, attached hereto, dated April 12, 2023, and graphically
27 depicted in **Exhibit 2**, attached hereto. A graphic depiction of the
28 sign is attached hereto as **Exhibit 3**. The applicant is John Allmand,
29 2063 Oak Street, Jacksonville, Florida 32204; (904) 537-3992.

30 **Section 3. Notice.** Legislative Services is hereby directed
31 to mail a copy of this legislation, as enacted, to the applicant and

1 any other parties to this matter who testified before the Land Use
2 and Zoning Committee or otherwise filed a qualifying written statement
3 as defined in Section 656.140(c), *Ordinance Code*.

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

16 **Section 5. Effective Date.** The enactment of this Ordinance
17 shall be deemed to constitute a quasi-judicial action of the City
18 Council and shall become effective upon signature by the Council
19 President and Council Secretary. Failure to exercise the waiver, if
20 herein granted, by the commencement of the use or action herein
21 approved within one (1) year of the effective date of this Ordinance
22 shall render this waiver invalid and all rights arising therefrom
23 shall terminate.

24
25 Form Approved:

26
27 /s/ Shannon K. Eller

28 Office of General Counsel

29 Legislation Prepared By: Bruce Lewis

30 GC-#1568400-v2-2023-369_(SW-23-06).docx