

1 Introduced by the Land Use and Zoning Committee:  
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4 **ORDINANCE 2019-638**

5 AN ORDINANCE APPROVING SIGN WAIVER APPLICATION  
6 SW-19-07 FOR A SIGN LOCATED IN COUNCIL  
7 DISTRICT 8 AT 1338 DUNN AVENUE, BETWEEN  
8 BISCAYNE BOULEVARD AND HAVERFORD ROAD (R.E.  
9 NO. 042668-0060) AS DESCRIBED HEREIN, OWNED BY  
10 ABACO PROPERTY INVESTMENT, LLC, REQUESTING TO  
11 REDUCE THE MINIMUM SETBACK FROM 10 FEET TO 1  
12 FOOT 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 Abaco Property Investment, LLC, the owner of property  
23 located in Council District 8 at 1338 Dunn Avenue, between Biscayne  
24 Boulevard and Haverford Road (R.E. No. 042668-0060) (Subject  
25 Property), requesting to reduce the minimum setback from 10 feet to  
26 1 foot 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-19-07 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-19-07 is hereby  
27 **approved.**

28 **Section 2. Owner, Property and Sign Description.** The  
29 Subject Property is owned by Abaco Property Investment, LLC, and is  
30 legally described in the **Legal Description On File** dated August 26,  
31 2019, and graphically depicted in the **Subject Property Map On File.**

1 The agent is Ali Abufouz, 4626 Swilcan Bridge Lane South,  
2 Jacksonville, Florida 32224; (904) 502-4014.

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

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

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

1 Form Approved:

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3           /s/ Shannon K. Eller          

4 Office of General Counsel

5 Legislation Prepared By: Kaysie Cox

6 GC-#1303327-v1-Rez\_-\_SW-19-07