

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

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

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

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

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

12 **Section 1.** The Council has considered the sign waiver
13 criteria pursuant to Sec. 656.133(c), *Ordinance Code*, the
14 recommendation of the Land Use and Zoning Committee, and has
15 reviewed the Staff Report of the Planning and Development
16 Department concerning sign waiver Application SW-19-07 and finds
17 that the waiver is in harmony with the spirit and intent of the
18 Zoning Code, considering the following criteria, as applicable:

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

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

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

31 (4) The waiver will not have a detrimental effect on vehicular

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

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

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

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

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

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

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

27 Therefore, sign waiver Application SW-19-07 is hereby
28 **approved.**

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

1 2019, and graphically depicted in the **Subject Property Map On File.**
2 The agent is Ali Abufouz, 4626 Swilcan Bridge Lane South,
3 Jacksonville, Florida 32224; (904) 502-4014.

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.

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Form Approved:

 /s/ Shannon K. Eller

Office of General Counsel

Legislation Prepared By: Kaysie Cox

GC-#1303327-v1-Rez_-_SW-19-07